



# 2021 | THE ACADEMY Legal & Regulatory Conference

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# AGENDA AT A GLANCE

## SUNDAY, OCT. 17

5:30 – 7 pm Welcome Reception

## MONDAY, OCT. 18

7:30 – 8:30 am Women in Public Power  
Networking Breakfast

7:30 – 8:30 am Networking Breakfast

8:30 – 9:30 am Welcome Address & Keynote Address

9:45 – 10:45 am Employment Law: Challenges  
With a New Normal and a  
New Administration

11:15 am – Noon **BREAKOUT SESSIONS**

- DER Market Participation:  
Implications for Public Power
- Hedging Against Natural Gas  
Price Spikes

1:30 – 2:15 pm **BREAKOUT SESSIONS**

- Glick's First 300 Days
- Compliance Basics for Public Power

2:45 – 3:45 pm **BREAKOUT SESSIONS**

- Bridging Industry Transformation  
and Environmental Justice
- Legal Challenges Surrounding  
Community Choice Aggregation

4 – 5 pm Normalizing Attorney Wellness

5 – 6:30 pm Reception

## TUESDAY, OCT. 19

7:30 – 8:30 am Networking Breakfast

8:30 – 9:30 am Federal Legislative Update

10 – 10:45 am **BREAKOUT SESSIONS**

- Cyber Attacks and Ransomware:  
Legal and Operational Risks
- How Carbon Pricing Will Affect  
Your Utility

11:15 am – Noon **BREAKOUT SESSIONS**

- Legal Considerations for Diversity,  
Equity, and Inclusion Efforts
- Navigating the Legal Complexities  
Around Distributed Generation

1:30 – 2 p.m. Federal Regulatory Update

2:30 – 3:15 pm **BREAKOUT SESSIONS**

- Transforming Transmission
- Ready for the New Wave of  
Environmental Regulations

3:30 – 4:30 pm What to Do When Board Members  
Act Badly

## WEDNESDAY, OCT. 20

7:30 – 8:30 am Networking Breakfast

8:30 – 9:15 am **BREAKOUT SESSIONS**

- Will a New FERC Usher in a  
New Dawn for FERC-Lite?
- Protecting Minority Owners in  
New Generation Development

9:30 – 10:30 am How Discrimination in Your  
Legal Department Can Result in  
Professional Discipline

10:30 am Conference Adjourns

# SUNDAY, OCTOBER 17

3 – 7 pm

## REGISTRATION & INFORMATION DESK

Salzburg Foyer

5:30 – 7 pm

## WELCOME RECEPTION

Music Terrace

Enjoy hors d'oeuvres and drinks while you reconnect with old friends, meet new people, and network with public power lawyers and professionals from across the nation.



# MONDAY, OCTOBER 18

7 am – 6 pm

## REGISTRATION & INFORMATION DESK

Salzburg Foyer

7:30 – 8:30 am

## WOMEN IN PUBLIC POWER NETWORKING BREAKFAST

Baobab Lounge

Join in a lively discussion about the growing influence of women in public power. Share challenges and opportunities with your peers.



7:30 – 8:30 am

## NETWORKING BREAKFAST

Salzburg Foyer

Get energized for the day ahead with your peers at this informal breakfast.

8:30 – 9:30 am

## OPENING GENERAL SESSION (NO CLES)

Salzburg Ballroom 1&2

### WELCOME

**Joy Ditto**, President & CEO, American Public Power Association



### BOARD CHAIR ADDRESS

**Colin Hansen**, Executive Director, Kansas Municipal Utilities; and Chair, American Public Power Association Board of Directors



### KEYNOTE ADDRESS

**Jim Robb**, President and CEO, North American Electric Reliability Corporation



**Presiding: Shelley Sahling-Zart**, Chair, American Public Power Association Legal Section, and Vice President & General Counsel, Lincoln Electric System, Nebraska

9:30 – 9:45 am

## BREAK

# MONDAY, OCTOBER 18

9:45 – 10:45 am

## EMPLOYMENT LAW: CHALLENGES WITH A NEW NORMAL AND A NEW ADMINISTRATION

Salzburg Ballroom 1&2

As employees start coming back to a shared workplace, and as employees' expectations continue to shift, new challenges in employment law are coming to the fore. Walk through the suite of potential sticky situations, from instituting vaccination requirements to accommodating COVID-19 long-haulers, handling requests for flexible scheduling and telework, and responding to pushback. Also review how the Biden administration's expanded focus on discrimination and diversity, racial justice, pay equity and family-friendly workplaces has led to significant labor and employment law developments that are, and will be, affecting your operations in the coming year.

**Jonathan Mook**, Partner, DiMuro Ginsberg, P.C.

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

10:45 – 11:15 am

## BREAK

11:15 a.m. – Noon

## DER MARKET PARTICIPATION: IMPLICATIONS FOR PUBLIC POWER

Salzburg Ballroom 1&2

Get an overview of FERC's landmark Order No. 2222, which will allow greater participation of distributed energy resources in regional wholesale power markets. Examine how this order will shift public power operations and planning, including numerous compliance requirements, and what clarifications are still needed for public power utilities.

**Gerit Hull**, Deputy General Counsel – Regulatory Affairs, American Municipal Power, Inc., Columbus, Ohio; and  
**Terry Jarrett**, Partner, Healy Law Firm

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

## HEDGING AGAINST NATURAL GAS PRICE SPIKES

Salzburg Ballroom 3

Winter Storm Uri in February 2021 caused some public power utilities to incur such extraordinary natural gas costs that the utilities sought legislation to mitigate the customer rate shock. Among other takeaways, the widespread event highlighted the need to revisit hedging policies and operating procedures to balance the competing goals of reasonable fuel costs and reliability. Explore purchasing options and strategies that natural gas and electric utilities can consider to avoid a crisis arising from future, and possibly more frequent, extreme weather conditions.

**Tammie Ptacek**, Partner, Stinson LLP and **Kurt Strunk**, Managing Director, NERA Economic Consulting

**Presiding: Maurice Moss**, Vice-Chair, American Public Power Association Legal Section, and Senior Legal/Regulatory Counsel, City Utilities of Springfield, Missouri

Noon – 1:30 pm

## LUNCH (ON YOUR OWN)

1:30 – 2:15 pm

## BREAKOUT SESSIONS

### GLICK'S FIRST 300 DAYS

Salzburg Ballroom 1&2

Take a look back at the slate of initiatives undertaken since Richard Glick was confirmed as FERC Chairman on January 21, 2021 – and consider how his actions and decisions to date might predict the future for public power utilities. Revisit orders to which Commissioner Glick dissented in the past, including natural gas pipeline certificates and buyer-side market power rules, and review topics that might resurface to advance the Biden administration's energy agenda.

**Adrienne Clair**, Partner and **Matthew Rudolphi**, Partner, Thompson Coburn LLP

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

## COMPLIANCE BASICS FOR PUBLIC POWER

### Salzburg Ballroom 3

Cover the basics of building a strong compliance program, including essential components of a code of conduct, establishing whistleblower protection, procurement best practices, and creating a robust internal investigation response plan. Discover what the U.S. Justice Department guidelines tell us about what makes a good or weak compliance program and why it's important to public utilities.

**James Miskiewicz**, Deputy General Counsel, Long Island Power Authority, New York

**Presiding: Maurice Moss**, City Utilities of Springfield

2:15 – 2:45 pm

## BREAK

2:45 – 3:45 pm

## BREAKOUT SESSIONS

### BRIDGING INDUSTRY TRANSFORMATION AND ENVIRONMENTAL JUSTICE

#### Salzburg Ballroom 1&2

Examine how recent environmental justice legislation on the federal and state levels affects public utilities and swap strategies for adopting business practices to accommodate these changes. Explore the tensions that can and have arisen between the Biden administration and environmental justice advocates as federal and state efforts to quickly develop renewable energy intensify.

**Hilary Jacobs**, Associate, and **Julius Redd**, Principal, Beveridge & Diamond PC

**Presiding: Maurice Moss**, City Utilities of Springfield

### LEGAL CHALLENGES SURROUNDING COMMUNITY CHOICE AGGREGATION

#### Salzburg Ballroom 3

As the energy industry continues to transform, community choice aggregators have grown exponentially. CCAs now serve more than a quarter of the regulated load in California and have been established or are being considered in other

states including New Hampshire, Illinois, and New York. Get insight into how, as CCAs gain purchasing power and clout, they have created jurisdictional friction with state regulators on issues including resource adequacy and participation in organized wholesale markets. Also explore some of the legal concerns between CCAs and investor-owned utilities and how the CCA model compares and contrasts with various public power models.

**Sean Neal**, Shareholder, Duncan, Weinberg, Genzer & Pembroke

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

3:45 – 4 pm

## BREAK

4 – 5 pm

## NORMALIZING ATTORNEY WELLNESS

### Salzburg Ballroom 1&2

Learn how to support a culture of wellness in your legal department – and across your organization. Review the framework for "wellness" to break down what the term encompasses, with a focus on mental well-being, and get strategies for normalizing conversations about mental health and substance use among your legal team. Grow your awareness of how certain language and actions can produce a detrimental effect on mental well-being in the workplace and even hinder an individual's recovery.

**Lynn Garson**, Counsel, Baker & Hostetler LLP

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

5 – 6:30 pm

## RECEPTION

### Salzburg Terrace

Make connections, relax with your colleagues, and have a drink with the experts.

# TUESDAY, OCTOBER 19

7 am – 5 pm

## REGISTRATION & INFORMATION DESK

Salzburg Foyer



7:30 – 8:30 am

## NETWORKING BREAKFAST

Salzburg Foyer

Power up with coffee and connections at this informal networking breakfast.

8:30 – 9:30 am

## FEDERAL LEGISLATIVE UPDATE

Salzburg Ballroom 1&2

Deliberations around the infrastructure bill have included a flurry of discussions in Washington about legislative priorities on addressing climate change, cybersecurity, and more areas that could have significant effects on public power. Get an up-to-date insider look at the latest legislative developments in the nation's capital and how federal actions will affect what's happening in your state and community.

**Desmarie Waterhouse**, Vice President, Government Relations & Counsel, American Public Power Association

**Presiding: Maurice Moss**, City Utilities of Springfield

9:30 – 10 am

## BREAK

10 – 10:45 am

## BREAKOUT SESSIONS

### CYBER ATTACKS AND RANSOMWARE: LEGAL AND OPERATIONAL RISKS

Salzburg Ballroom 1&2

Cybersecurity and ransomware events continue to happen at an alarming rate. While the news typically only focuses on the major events — such as the Colonial Pipeline hack — entities of all sizes and sophistication levels face threats. Review several of the most recent events, including the causes and the current legal landscape around these events, and then discuss potential mitigation options and industry priorities in protecting critical infrastructure.

**Derek Dyson**, Partner, and **Barry Lawson**, Regulatory Policy Director, Duncan, Weinberg, Genzer & Pembroke

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

### HOW CARBON PRICING WILL AFFECT YOUR UTILITY

Salzburg Ballroom 3

The Federal Energy Regulatory Commission issued its policy statement on Carbon Pricing in Organized Wholesale Markets in Spring 2021, and at least 11 states have implemented some sort of carbon pricing scheme. Examine the motivations for and implications of carbon pricing and learn how FERC's actions might alter approaches to carbon pricing in the wholesale electricity markets and at the state and local levels. Discuss what the future likely holds, including challenges in imposing carbon pricing.

**Josh Adrian**, Partner, and **Rebecca Shelton**, Partner, Thompson Coburn LLP

**Presiding: Maurice Moss**, City Utilities of Springfield

10:45 – 11:15 am

## BREAK

11:15 am – Noon

## BREAKOUT SESSIONS

### LEGAL CONSIDERATIONS FOR DIVERSITY, EQUITY, AND INCLUSION EFFORTS

Salzburg Ballroom 1&2

Many organizations want to ensure that their workplaces are as diverse, equitable, and inclusive as possible, but don't know where to begin or what is permitted under law. Discuss why the concepts are so important for organizations, how to get your DE&I program off the ground and explore the legal guideposts around implementing DE&I programs and goals.

**David Emanuel**, Chief Human Resources Officer, JEA, Jacksonville, Florida

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

### NAVIGATING THE LEGAL COMPLEXITIES AROUND DISTRIBUTED GENERATION

Salzburg Ballroom 3

With the rapid increase in distributed generation, constructs such as net metering, renewable energy credit programs, and standby charges have emerged – and brought legal challenges for nonregulated electric utilities and regulators. Review recent legal challenges that have been brought forth on net metering and standby charges, including a recent circuit court case involving a public power utility.

**Sylwia Dakowicz**, Associate and **Peter Scanlon**, Shareholder, Duncan, Weinberg, Genzer & Pembroke

**Presiding: Maurice Moss**, City Utilities of Springfield

Noon – 1:30 pm

## LUNCH (ON YOUR OWN)

# TUESDAY, OCTOBER 19

1:30 – 2 pm

## FEDERAL REGULATORY UPDATE

Salzburg Ballroom 1&2

At the center of policy debates about transmission development, resource adequacy, cybersecurity, and other matters of importance to public power utilities is the Federal Energy Regulatory Commission, or FERC. Learn about what is happening at FERC on key issues, including recent court decisions significant to public power.

**John McCaffrey**, Senior Regulatory Counsel, American Public Power Association

**Presiding: Maurice Moss**, City Utilities of Springfield

2 – 2:30 pm

## BREAK

2:30 – 3:15 pm

## BREAKOUT SESSIONS

### TRANSFORMING TRANSMISSION

Salzburg Ballroom 1&2

From security to upgrades and costs, electric transmission issues are bubbling to the top of discussions in Congress and the Federal Energy Regulatory Commission. Hear from experts on how this unprecedented attention could lead to changes in transmission law and policy affecting how utilities will operate nationwide and in your community.

**Randolph Elliott**, Partner, McCarter & English, LLP; and  
**Rob Gramlich**, President, Grid Strategies, LLC

**Presiding: Maurice Moss**, City Utilities of Springfield

## READYING FOR THE NEW WAVE OF ENVIRONMENTAL REGULATIONS

Salzburg Ballroom 3

Explore the environmental regulations the Biden administration has already proposed and get a hold on which regulations are likely to see amendments as well as what might be coming in the next year. Discuss which changes might face challenges, including before the Supreme Court, and how changes will affect public power.

**Amy McDonnell**, Of Counsel, Duncan & Allen

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

3:15 – 3:30 pm

## BREAK

3:30 – 4:30 pm

## WHAT TO DO WHEN BOARD MEMBERS ACT BADLY

Salzburg Ballroom 1&2

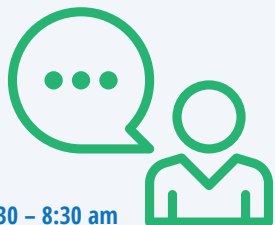
It only takes a second for "offhand comments" to travel from a board member's mouth to social media – where it can be seen by policy makers, reporters, and your community members. Walk through a fictional – yet possible – case of how a governing board member could create trouble for your utility to understand the harm a rogue board member can inflict on a public power agency's reputation, consider what you would do in a similar situation, and take away some steps for how you can mitigate that damage.

**Bill Coletti**, Founder and CEO, Kith

**Presiding: Maurice Moss**, City Utilities of Springfield



# WEDNESDAY, OCTOBER 20



7:30 – 8:30 am

## NETWORKING BREAKFAST

**Salzburg Foyer**

Take this opportunity to make some more connections so you can keep the conversations going after the conference at this final, informal breakfast.

8:30 – 9:15 am

## BREAKOUT SESSIONS

### WILL A NEW FERC USHER IN A NEW DAWN FOR FERC-LITE?

**Salzburg Ballroom 1&2**

Cases filed before FERC in 2021 raise the question of whether a new Commission will have a new perspective on the FERC-Lite authority granted by Congress in the Energy Policy Act of 2005. Since passage, FERC has seldomly relied upon this authority, which was established to ensure non-discriminatory transmission practices by non-jurisdictional utilities. Trace through the roots of this authority, review how FERC has interpreted it to date, and discuss how it could affect public power utilities in the future. Discussion will include interconnection orders as distinct from, or in connection with, wheeling orders and FERC oversight of rates charged by non-jurisdictional transmission owners.

**David Fitzgerald**, Shareholder, Davison Van Cleve PC; and  
**Debra Roby**, Chair, Energy Practice, Jennings Strouss

**Presiding: Maurice Moss**, City Utilities of Springfield

### PROTECTING MINORITY OWNERS IN NEW GENERATION DEVELOPMENT

**Salzburg Ballroom 3**

Minority owners in a generating facility must plan for the worst to avoid unexpected losses. Should problems arise, legal doctrines such as the economic loss rule can preclude any claims other than breach of contract. Learn how to craft and review contracts that anticipate and account for the rights and remedies available to minority owners throughout construction and operation of the facility.

**Perry Glantz**, Partner and **Dave Parry**, Partner, Stinson LLP

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

# WEDNESDAY, OCTOBER 20

9:15 – 9:30 am

## BREAK

9:30 – 10:30 am

## HOW DISCRIMINATION IN YOUR LEGAL DEPARTMENT CAN RESULT IN PROFESSIONAL DISCIPLINE

**Salzburg Ballroom 1&2**

ABA Model Rule 8.4(g) declares that behavior a lawyer "knows or reasonably should know is harassment or discrimination" is professional misconduct. If you or someone in your legal department is alleged to have discriminated against someone in violation of an applicable employment law, it could also mean you'll have to defend against professional misconduct charges. Walk through what we know about MR 8.4(g) and lay out practical strategies to avoid ethical, as well as legal, hot water.

**Delia Patterson**, SVP Advocacy & Communications and General Counsel, American Public Power Association; and  
**Todd Stanton**, Principal, Stanton Law LLC

**Presiding: Shelley Sahling-Zart**, Lincoln Electric System

10:30 am

## ADJOURN

# 2021 OFFICERS

## LEGAL SECTION

The American Public Power Association's Legal Section sponsors this annual meeting. We thank the officers who have been instrumental in planning and presenting this event.



### CHAIR

Shelley Sahling-Zart  
Vice President & General Counsel  
Lincoln Electric System, Nebraska



### VICE CHAIR

Maurice Moss  
Senior Legal/Regulatory Counsel  
City Utilities of Springfield, Missouri

# KEY FACTS

## CLE FORM AND CONFERENCE EVALUATION

A link to an online CLE form and conference evaluation will be emailed to attendees after the conference. We appreciate your valuable feedback.

## CONFERENCE PRESENTATIONS

A link to speakers' presentations will be emailed to attendees after the conference and will be made available to view for one month.

## RESTRICTED SESSIONS

The American Public Power Association reserves the right to designate any meeting or session open only to APPA regular members (public power utilities, joint action agencies and state/regional associations). Please inquire at the registration desk if you have any questions.



The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 93,000 people they employ. Our association advocates and advises on electricity policy, technology, trends, training, and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power. [www.PublicPower.org](http://www.PublicPower.org)

## ANTITRUST STATEMENT

Various state and federal laws prohibit the exchange of information among competitors regarding the matters pertaining to price, refusals to deal, markets division, tying relationships and other topics that might infringe upon antitrust laws and regulations. No such exchange or discussion will be tolerated during the meeting. A copy of the APPA's Statement of Compliance with the Antitrust Laws is available upon request.

## CODE OF CONDUCT

Attendees of American Public Power Association meetings agree to abide by the APPA Code of Conduct. If attendees engage in unacceptable behavior as outlined in the Code of Conduct, APPA may take any action it deems appropriate, including but not limited to, expulsion from the current and future meetings, with no warning or refund.



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## ACCREDITATION

### Continuing Legal Education (CLEs)

APPA will apply for Continuing Legal Education accreditation in the following mandatory CLE states: Alabama, Alaska\*, Arkansas, California\*, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine\*, Minnesota, Mississippi, Missouri, Montana\*, Nebraska, Nevada, New Hampshire, New Jersey\*, New Mexico, New York\*, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

States denoted by an asterisk (\*) will accept CLE credit hours for courses or activities held in and approved by other MCLE jurisdictions. APPA may not explicitly apply for CLE accreditation in these states if they have reciprocity with the state in which the meeting is being held.

The number of CLE credits varies by state and is decided by each state CLE authority. APPA will provide any necessary documentation to receive CLE credit in these states.

To receive CLE credits for conference sessions, you must complete the CLE Attendance Record form (available at the registration desk). Turn in the top (white) form before you leave; the bottom (yellow) copy is for your records. APPA will report your attendance to the CLE authorities that require sponsor reporting based on these records, and will email Certificates of Attendance after the meeting.

If you have any questions, please contact [LegalConference@PublicPower.org](mailto:LegalConference@PublicPower.org) or 202/467-2976.

### Other credits

Attendees can also earn other types of educational credits (CEUs, PDHs or CPEs) for your participation in this conference. To receive a certificate for these credits, complete the CLE Attendance Record form, and write "OTHER" at the top of the form. Turn in the form after the conference; APPA will send you a certificate listing the total CEU, PDH, and CPE value of all the sessions you attended.

### Continuing Education Units (CEUs)

The American Public Power Association is accredited by the International Association for Continuing Education and Training (IACET) and is authorized to issue the IACET CEU. One CEU = 10 hours (600 minutes) of instruction time.

### Professional Development Hours (PDHs)

APPA educational practices are consistent with the criteria for awarding Professional Development Hours (PDHs) as established by the National Council of Examiners for Engineering and Surveying (NCEES). Course eligibility and number of PDHs may vary by state. One PDH = 60 minutes of instruction time.

### Continuing Professional Education (CPE) Credits

The American Public Power Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Ave. N., Suite 700, Nashville, TN 37219-2417. Website: [www.nasbaregistry.org](http://www.nasbaregistry.org).

One CPE = 50 minutes of instruction time. Participants can earn up to 17 CPE credit hours for attending the conference (not including the preconference seminars). All sessions are intermediate-level, group-live offerings. There are no prerequisites, and no advance preparation is necessary. All CPE-eligible sessions fall into one of these Areas of study: Business Law; Management Services; Regulatory Ethics; or Specialized Knowledge. For more information regarding administrative policies, such as clarification of requirements, complaints, and refunds, contact [EducationInfo@PublicPower.org](mailto:EducationInfo@PublicPower.org).

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Participating in conferences and seminars offered by the American Public Power Association's Academy is an easy way to earn points toward the Reliable Public Power Provider (RP3®) designation.

RP3 is the Association's program to recognize and reward public power utilities that demonstrate basic proficiency in four important disciplines: reliability, safety, workforce development, and system improvement. For more information, visit [www.PublicPower.org/RP3](http://www.PublicPower.org/RP3).



THE ACADEMY  
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November 7 - 10

2022



THE BROADMOOR  
COLORADO SPRINGS, COLORADO

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RENAISSANCE SEATTLE  
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THE ACADEMY  
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Conference

Seattle, Washington

AMERICAN PUBLIC  
POWER ASSOCIATION

October 15 - 18

2023