

Implementing Policies, Protecting Communities.

Stay ahead of changes in employment law, federal communications compliance, environmental regulations, ethics and transmission cost concerns for public power.



October 13 - 14
2020

THE ACADEMY

Legal & Regulatory
Virtual Conference

AMERICAN
PUBLIC POWER
ASSOCIATION

Agenda at a Glance

Tuesday, Oct. 13

- 10:30 – 11:15 am CEO's Address: The State of Public Power
Keynote Address: Transforming After the Crisis
- 11:30 am – 12:30 pm Labor and Employment Law in the Time of COVID-19
- 1 – 1:45 pm FERC's Transmission Incentives Policy
- 2 – 2:45 pm **BREAKOUT SESSIONS**
- Energy and Administrative Law in the Supreme Court
 - COVID 19: Preparing for the Next Crisis
- 3:15 – 4 pm **BREAKOUT SESSIONS**
- SPP's Western Energy Imbalance Service
 - What Does the New WOTUS Rule Mean for Your Facilities and Projects?
- 4:15 – 5:15 pm FERC Order No. 2222
- 5:15 – 6:15 pm GINspiration History & Cocktails at Home

Wednesday, Oct. 14

- 10 – 11 am Online Networking
- 11 am – Noon Federal Regulatory and Legislative Update
- 12:15 – 1 pm **BREAKOUT SESSIONS**
- PURPA Re-envisioned
 - Compliance 101: Demystifying the Federal Communications Laws
- 1:30 – 2:15 pm **BREAKOUT SESSIONS**
- 100% Emission-Free By 2050
 - Recent Developments in NERC Compliance
- 2:30 – 3:15 pm **BREAKOUT SESSIONS**
- Market Monitoring and FERC Regulatory Oversight
 - Three Recent Cases with Implications for Public Power
- 3:30 – 4:30 pm Ethics for Super Stressed Lawyers

Visit www.PublicPower.org/Legal for updates and to register.

Tuesday, October 13

(All times Eastern)

10:30 – 11:15 a.m.

Opening General Session

9:30 – 10:15 a.m. CT / 8:30 – 9:15 a.m. MT / 7:30 – 8:15 a.m. PT

The State of Public Power

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

As we reflect on 80 years of being connected as a public power community, we also reflect on how we have endured the recent pandemic and other crises throughout our history. Get the latest update on how APPA is working to protect the interests of public power in Washington, D.C., and helping our members to navigate an increasingly complex industry.



Transforming After the Crisis: Becoming Reputationally Resilient, Crisis Ready, and Risk Aware

Bill Coletti, *CEO, Kith, Austin, Texas*

You have a problem and you might not even know it. Your utility's good reputation is the beating heart that allows you to bounce back from a crisis quickly. But if it isn't properly cared for, the arteries of goodwill get clogged and a reputation heart attack hits. Bill Coletti will reveal a reputation resiliency plan for your utilities, including how to empower general counsel and attorneys to be among your reputation's primary caregivers.



11:15 – 11:30 a.m.

Break

10:15 – 10:30 a.m. CT / 9:15 – 9:30 a.m. MT / 8:15 – 8:30 a.m. PT

11:30 a.m. – 12:30 p.m.

GENERAL SESSION

10:30 – 11:30 a.m. CT / 9:30 – 10:30 a.m. MT / 8:30 – 9:30 a.m. PT

Labor and Employment Law in the Time of COVID-19

Labor and employment law continue to evolve in reaction to the dramatic changes within our society, including new operational challenges posed by the COVID-19 pandemic. Accordingly, in-house counsel are navigating an ever-changing legal landscape, with issues such as maintaining a safe workplace, following new paid sick leave and expanded FMLA requirements and changing ADA accommodation laws. Review these issues and hear how other developments, such as protections for LGBTQ workers, accommodations for opioid and marijuana use, and presidential appointments will likely impact your year ahead.

Jonathan Mook, *Partner, DiMuro Ginsburg PC, Alexandria, Virginia*

12:30 – 1 p.m.

Break

11:30 – Noon CT / 10:30 – 11 a.m. MT / 9:30 – 10 a.m. PT

1 – 1:45 p.m.

GENERAL SESSION

Noon – 12:45 p.m. CT / 11 – 11:45 a.m. MT / 10 – 10:45 a.m. PT

Is the Juice Worth the Squeeze? A Look at FERC's Transmission Incentives Policy

Amid an era of increased transmission investment, FERC proposes significant revisions to its transmission incentives policy. Panelists will debate how proposed reforms might resolve or exacerbate the challenges posed by FERC's current incentives policy, how customers might be affected, and what public power can do to ensure necessary transmission investments are made at reasonable costs.

Adrienne Clair, Partner, Thompson Coburn, Washington, D.C., and **Jason Gray**, Partner, Duncan & Allen, Washington, D.C.

1:45 – 2 p.m.

Break

12:45 – 1 p.m. CT / 11:45 a.m. – Noon MT / 10:45 – 11 a.m. PT

2 – 2:45 p.m.

BREAKOUT SESSIONS

1 – 1:45 p.m. CT / Noon – 12:45 p.m. MT / 11 – 11:45 a.m. PT

Energy and Administrative Law in the Supreme Court: Recent Developments and Trends

Explore how 2019 and 2020 Supreme Court administrative law decisions reflect trends with respect to judicial deference to agencies, nondelegation issues, and the development of agency records. Analyze how these trends could extend to the energy context and what could affect public power.

Hannah Wiseman, Professor of Law, Professor and Wilson Faculty Fellow in the College of Earth and Mineral Sciences, and Institutes of Energy and the Environment Co-funded Faculty Member, Penn State University Law School, University Park, Pennsylvania

COVID-19: Preparing for the Next Crisis

Take a look back at the lessons learned to date from the COVID-19 pandemic with a focus on the federal, state and local regulatory and legislative response affecting the public power industry. This session will explore Congressional, FERC, NERC, state and local actions taken in response to COVID-19 and discuss what public power utilities can expect in response to, and what steps should be taken to prepare for, future disrupting events. Review what has worked well in responding to an extended national crisis and what can be done better in the future.

Jody Finklea, General Counsel & Chief Legal Officer, Florida Municipal Power Agency, Tallahassee, Florida, **Arthur J. "Grant" Lacerte Jr.**, General Counsel, Kissimmee Utility Authority, Florida; and **Dan O'Hagan**, Assistant General Counsel, Florida Municipal Power Agency, Tallahassee, Florida

2:45 – 3:15 p.m.

Break

1:45 – 2:15 p.m. CT / 12:45 – 1:15 p.m. MT / 11:45 a.m. – 12:15 PT

3:15 – 4 p.m.

BREAKOUT SESSIONS

2:15 – 3 p.m. CT / 1:15 – 2 p.m. MT / 12:15 – 1 p.m. PT

SPP's Western Energy Imbalance Service: Design, Status, and Market Impacts

In 2020, the Southwest Power Pool (SPP) filed with FERC to offer the Western Energy Imbalance Service an alternative to the California Independent System Operator Corporation's Western Energy Imbalance Market, which is expected to serve customers in 11 states and one Canadian Province by 2022. FERC rejected, without prejudice, SPP's initial proposal and SPP has signaled its intent to file a revised proposal. Learn how FERC has responded to the differing approaches, gain perspective on what each option offers for public power, and review seams, governance, and transparency considerations.

Brad Hans, Director of Wholesale Electric Operations, NMPP Energy, Lincoln, Nebraska; **Sarah Leonard**, General Counsel, Platte River Power Authority, Fort Collins, Colorado; **Michelle Lepin**, Associate General Counsel, NMPP Energy, Lincoln, Nebraska; and **Michael Postar**, Partner, Duncan, Weinberg, Genzer & Pembroke, P.C., Washington, D.C.

What Does the New WOTUS Rule Mean for Your Facilities and Projects?

A new Navigable Waters Protection Rule went to effect in all states but Colorado on June 2020, providing a new, narrower definition of "waters of the United States." Discuss how the numerous lawsuits challenging this change might impact your operations and how the parameters of the new rule, including the waste treatment system exclusion, could affect Clean Water Act permitting for power-related facilities and infrastructure.

Kerry McGrath, Partner, Hunton Andrews Kurth LLP, Washington, D.C.

4 – 4:15 p.m.

Break

3 – 3:15 p.m. CT / 2 – 2:15 p.m. MT / 1 – 1:15 p.m. PT

4:15 – 5:15 p.m.

GENERAL SESSION

3:15 – 4:15 p.m. CT / 2:15 – 3:15 p.m. MT / 1:15 – 2:15 p.m. PT

FERC Order No. 2222: What It Means for Public Power

The Federal Energy Regulatory Commission (FERC) recently issued Order No. 2222, its long-awaited final rule addressing the participation of aggregated distributed energy resources in markets administered by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). The policies adopted in Order No. 2222 could have significant impacts on distribution utilities and other market participants in RTO/ISO regions. Get an overview of this important new rule and learn what it may mean for public power utilities.

John P. Coyle, Managing Partner, Duncan & Allen LLP, Washington, D.C., and **Randolph L. Elliott**, Partner, McCarter & English, LLP, Washington, D.C.

GINspiration History & Cocktails at Home

4:15 – 5:15 p.m. CT / 3:15 – 4:15 p.m. MT / 2:15 – 3:15 p.m. PT

Are you ready to turn some simple ingredients into some truly tasty drinks and pick up some facts about this versatile spirit along the way? Join us for the most unique gin tasting you'll ever go on, where you'll make (and drink) some great cocktails while learning the tipsy history of gin — the perfect way to wrap up the first day of the conference

!

Wednesday, October 14

10 – 11 a.m.

Online Networking

9 – 10 a.m. CT / 8 – 9 a.m. MT / 7 – 8 a.m. PT

Conference networking takes on a new format this year. Reconnect with old friends, meet new people and network with other public power lawyers, managers and s. Join your peers for coffee and conversation to celebrate successes and share challenges.

11 a.m. – Noon

GENERAL SESSION

10 – 11 a.m. CT / 9 – 10 a.m. MT / 8 – 9 a.m. PT

Federal Regulatory and Legislative Update

Get a rundown of the latest significant court decisions, legislative actions in Congress, and FERC regulatory issues of interest to public power. Also preview what's on the table for public power in the upcoming election.

John McCaffrey, Senior Regulatory Counsel, and **Desmarie Waterhouse**, V.P., Government Relations & Counsel, American Public Power Association

Noon – 12:15 p.m.

Break

11 – 11:15 a.m. CT / 10 – 10:15 a.m. MT / 9 – 9:15 a.m. PT

12:15 p.m. – 1 p.m.

BREAKOUT SESSIONS

11:15 a.m. – Noon CT / 10:15 – 11 a.m. MT / 9:15 – 10 a.m. PT

PURPA Re-envisioned

FERC substantially revised its regulations implementing PURPA in July 2020 – the first wholesale change to these rules in over 40 years. FERC states that the revisions address, in part, concerns over the adequacy of existing mandatory purchase obligations to address a new wave of qualifying facility applications. The rule will limit utility-purchaser risk, take a market-based approach to purchasing practices, and restrict what FERC sees as the opportunities its former rules provided for QFs to game the system. Opponents of the rule have argued that it will constrain the development of renewable resources in contravention of Congressional intent. Join this session to review which regulations were revised, what these new rules mean for PURPA compliance programs, and examine other issues associated with public power and PURPA implementation.

Harvey Reiter, Partner, and **Jon Trotta**, Partner, Stinson LLP, Washington, D.C.

Compliance 101: Demystifying the Federal Communications Laws

Communications service providers can be subject to a tangle of federal regulations. Learn which rules are of greatest interest to public providers of communications services - such as those governing universal service reporting and contributions, support of law enforcement agencies, protection of customer privacy, and transparent disclosures of broadband service features. Get a handy primer that analyzes rules in depth and a compliance checklist that includes pertinent deadlines and links to agency guidelines and forms to keep up with recordkeeping and reporting requirements.

Jim Baller, President, and **Sean Stokes**, Principal, Baller Stokes & Lide PC, Washington, D.C.

1 – 1:30 p.m.

Break

Noon – 12:30 p.m. CT / 11 – 11:30 a.m. MT / 10:30 – 10 a.m. PT

1:30 – 2:15 p.m.

BREAKOUT SESSIONS

12:30 – 1:15 p.m. CT / 11:30 a.m. – 12:15 p.m. MT /
10:30 – 11:15 a.m. PT

100% Emission-Free By 2050: What Public Power Counsel Need To Know About State 100% Renewable Energy Mandates, Compliance Options, and Opportunities

States and municipalities across the country have adopted mandates requiring a transition to 100% renewable or non-emitting energy by mid-century. This massive shift in the nation's energy mix has profound implications for utilities, whether directly impacted by a mandate or not. Learn how you can reduce your utility's risk of noncompliance by examining the precise language of these goals, finding "off-ramps" for cost or reliability concerns, or identifying alternate routes to compliance. Discuss likely effects on utility operations and the markets as well as opportunities brought by this dramatic transition.

Eric Christensen, Of Counsel, Beveridge & Diamond, Seattle, Washington, and **Brook Detterman**, Principal, Beveridge & Diamond, Boston, Massachusetts

Recent Developments in NERC Compliance

As utilities' obligations under the mandatory reliability standards promulgated by the North American Electric Reliability Corporation continue to evolve, make sure you understand and have the latest guidance. Review recent actions, such as on supply chain risk mitigation, critical infrastructure protection standards, and other developments. Check in on the status of proposals related to Phases 1 and 2 of NERC's Standards Efficiency Review Initiative.

Rebecca Baldwin, Of Counsel, Spiegel & McDiarmid, Washington, D.C., and **Jon Schneider**, Partner, Stinson LLP, Washington, D.C.

2:15 – 2:30 p.m.

Break

1:15 – 1:30 p.m. CT / 12:15 – 12:30 p.m. MT / 11:15 – 11:30 a.m. PT

2:30 – 3:15 p.m.

BREAKOUT SESSIONS

1:30 – 2:15 p.m. CT / 12:30 – 1:15 p.m. MT / 11:30 a.m. – 12:15 p.m. PT

The Line Between Market Monitoring and FERC Regulatory Oversight

Examine how both internal and external market monitors affect the design, justification and implementation of rules set by regional transmission organizations and independent system operators in their electricity markets, and the level of deference FERC gives to market monitoring unit analyses.

Eric Hildebrandt, Executive Director of the Department of Market Monitoring, California ISO, Folsom, California; **Seema K. Jain**, Attorney-Advisor, Office of Enforcement, Division of Investigations, Federal Energy Regulatory Commission, Washington, D.C.; and **Joe Nelson**, Partner, Van Ness Feldman, Washington, D.C.

View From the Bench: Three Recent Cases with Implications for Public Power

Anytime there are dramatic departures to rules or regulations, disputes arise, and litigation by those most affected is often the result. Explore the implications for public power in three cases: the Supreme Court's decision in *County of Maui v. Hawai'i Wildlife Fund*, the pending litigation surrounding EPA's supplemental finding regarding the Mercury and Air Toxics Standards before the U.S. Court of Appeals for the D.C. Circuit, and the challenges to EPA's Affordable Clean Energy Rule pending before the D.C. Circuit.

Amy McDonnell, Partner, Duncan & Allen, Washington, D.C.

3:15 – 3:30 p.m.

Break

2:15 – 2:30 p.m. CT / 1:15 – 1:30 p.m. MT / 12:15 – 12:30 p.m. PT

3:30 – 4:30 p.m.

ETHICS SESSION

2:30 – 3:30 p.m. CT / 1:30 – 2:30 p.m. MT / 12:30 – 1:30 p.m. PT

Ethics for Super Stressed Lawyers

Skeptical, competitive and issue-oriented lawyers can be slow to acknowledge stress, yet lawyers are among the most stressed and least healthy working professionals. Focus on how to spot and counter this threat to well-being when faced with it in the workplace – by examining case scenarios and rules of conduct. Learn some skills to recognize and reduce stress and promote sustainable high-level performance in your workplace.

Heidi K. Brown, *Director of Legal Writing and Professor of Law, Brooklyn Law School, New York, and* **Justin Martin**, *Associate General Counsel, Electric Power Research Institute, Washington, D.C.*

4:30 p.m.

Adjourn

Registration

Register online at www.PublicPower.org/Legal

Registration Fee

	Register by September 11	After September 11
Member	\$575	\$625
Nonmember	\$1,150	\$1,200

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Group Discounts

Save an additional \$50 on each registration for the Legal & Regulatory Virtual Conference when your organization registers five or more people. Contact Registration@PublicPower.org for more information and to request the group registration form to receive this special discount.

Cancellation, Refund, and Substitution Policy

Registrants who cancel in writing on or before Friday, October 9, 2020 are entitled to a refund of their registration fee, minus a \$50 cancellation fee. Registrants who cancel after October 9, 2020 will not receive a refund, but attendee substitutions will be allowed for the 2020 Legal & Regulatory Virtual Conference only. Registrants and no-shows who do not cancel on or before October 9 are responsible for the full registration fee and are not entitled to a refund of their registration fee. Requests must be made in writing to: Registration@PublicPower.org

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.

Contact Us

Visit www.PublicPower.org/Legal for program updates and to register online.

Registration Questions

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202-467-2978

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202-467-2976

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202-467-2903

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Continuing Education Units

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.

Professional Development Hours

The Association's 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.

Continuing Professional Education 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.

Earn up to 11 CPE credit hours for attending this virtual conference. All sessions are intermediate-level, group-internet based offerings with no prerequisites and no advance preparation required. Areas of study will be listed on the Verification of Attendance form. For more information regarding administrative policies, such as clarification of requirements, complaints, and refunds, contact EducationInfo@PublicPower.org.

Continuing Legal Education (CLEs)

The American Public Power Association 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, 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. We may not explicitly apply for CLE accreditation in these states if they have reciprocity with the state in which the meeting is being held. We will provide any necessary documentation to receive CLE credit in these states.

The number of CLE credits varies by state and is decided by each state bar association.

Contact LegalConference@PublicPower.org or 202-467-2976, with any questions.



80 Years of Powering Strong Communities

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

THE ACADEMY

AMERICAN PUBLIC POWER ASSOCIATION

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