

## EBA's Mid-Year Meeting

### **Beyond and Within the Beltway: Comparative Treatment of Current Energy Issues**

November 2, 2006, Washington, D.C.

Tape #	Session Title
EBA11/06-01	<b>WELCOME AND INTRODUCTION:</b> Freddi L. Greenberg, Co-Chair, EBA Programs and Meetings Committee, David T. Doot, President, Energy Bar Association, Day, Berry & Howard LLP
EBA11/06-02	<b>GENERAL SESSION: CONVERSATIONS WITH THREE NEW FERC COMMISSIONERS:</b> <i>With three new Commissioners installed this summer, the EBA recognizes that its members are extremely interested in getting to know the new Commissioners and their perspectives on energy policy, law and regulation. For that reason, we begin this Mid-Year meeting with an opportunity for each new Commissioner separately to spend time with attendees telling us what he wants us to hear, and leaving some time for questions from the audience.</i> Speakers: The Honorable Philip D. Moeller, The Honorable Marc Spitzer, The Honorable Jon Wellinghoff 1
EBA11/06-03	<b>Session A: Comparative Compliance: Efficiently Combining FERC Compliance with Regional, State, ERO and General Corporate Compliance:</b> <i>The past year has seen a dramatic evolution in FERC's emphasis on compliance. EAct 2005 provided FERC with broad new penalty authority, and FERC, in its Enforcement Policy Statement, explained that the strength of a company's compliance program and compliance "culture" would be significant factors in determining the extent of punishment for rules violations. FERC's stated intent to reward companies for strong compliance programs is transforming the compliance relationship between the agency and the industry from one that historically has been highly adversarial to one that is becoming more cooperative. This heightened emphasis on FERC compliance does not take place in a vacuum. Most companies have long had centralized compliance departments charged with ensuring compliance with corporate law and ethics requirements, and many companies have or are developing programs for compliance with state or regional requirements. It is also to be expected that, as the new North American Electric Reliability Council (NERC) enforceable reliability rules are finalized and implemented, compliance with those rules will be layered onto the already confusing mix of compliance requirements. With layer upon layer of overlapping rules, a major concern is and will continue to be how to establish compliance controls that ensure compliance in the most efficient manner – that is, a manner that recognizes similarities in different sets of rules to create, where possible, a single combined set of compliance controls designed to ensure compliance with all rules while minimizing interference with business operations. This panel will explore the topic of comparative compliance, and the best means of building an effective, yet efficient, compliance program.</i> Speakers: David N. Cook, Melissa L. Lauderdale, Gregory Mocek, Moderator: John N. Estes
EBA11/06-04	<b>Session B: Climate Change Policy: How are State regulators shaping action on climate change in the U.S.?:</b> <i>A number of States are taking initiative on regulation of greenhouse gas emissions. The Regional Greenhouse Gas Initiative in the Northeast is developing a regional CO2 cap-and-trade program for the electricity sector. The California PUC is developing a cap on electric utility CO2 emissions covering both in-state generation and emissions associated with power imports. PUCs are being asked to preapprove retail cost recovery for investments in climate-friendly technology such as integrated gasification combined cycle. Some states require inclusion of a "carbon price" in their integrated resource planning. This panel will consider how emerging state and regional regulatory programs will shape the formulation of Federal policy, and how state utility commissions will shape the power sector's consideration of climate change in their investment decisions.</i> Speakers: Craig Baker, Dale Bryk, Stephen Larson, Moderator: Douglas W. Smith
EBA11/06-05	<b>LUNCHEON AND LUNCHEON SPEAKER:</b> Richard J. Pierce, Jr., Lyle T. Alverson Professor of Law, George Washington University School of Law, Introduction: Stephen A. Herman <b>Presentation of the 2006 State Regulatory Practitioner Award,</b> Presented by Kendrick R. Riggs
EBA11/06-06	<b>Session A: Issues in Natural Gas Storage Development:</b> <i>FERC's recent reform of its market-based rate pricing policies for natural gas storage projects in Order No. 678 is the latest in its efforts to promote natural gas infrastructure development. Ostensibly, by making market-based rate authorization presumptively more available, Order No. 678 will help create more development and investment opportunities in the sector. FERC-regulated natural gas companies, independent developers, financial institutions, and lenders alike will direct more capital toward storage, and areas of the country that previously have had not much storage development (such as the Southwest) should see increased activity. By the same token, this increased activity may be met by resistance from state commissions and/or consumer groups otherwise concerned about the possible effects of FERC's more liberal rate and market power standards relating to storage. This panel will explore the current and future impact of Order No. 678, five months after its issuance, from the perspective of project developers, investors, and regulators.</i> Speakers: Matt Morrow, Tom Dill, Donald Mason, Moderator: Joseph H. Fagan
EBA11/06-07	<b>Session B: Regional Issues in Transmission Siting:</b> <i>This panel explores how different regions of the country are addressing transmission siting issues from the perspective of project developers, and federal and state regulators. Consumers benefit from having an advanced interstate transmission system that (1) efficiently delivers wholesale power regionally within a competitive market and (2) enhances regional reliability. Successful transmission infrastructure development can be hampered by conflicting objectives under dual federal and state regulatory regimes. This structure impedes investors and federal policies to encourage transmission development to enhance competition and reliability. Many needed transmission projects have been held up in local siting processes. The Energy Policy Act of 2005 may offer some relief by conferring back-stop siting authority to the FERC and by directing the Department of Energy to designate National Interest Electric Transmission Corridors ("NIETC"). However, regional and state resource planning processes frequently identify the need for shorter length projects that fall outside the DOE NIETC regime leaving them subject to purely local siting regulation.</i> Speakers: David H. Boguslawski, James Avery, Poonam Agrawal, Bert Garvin, Moderator: Paul G. Afonso
EBA11/06-08	<b>Session A: State Renewable Energy Policies: What Could Be Coming Your Way?:</b> <i>States around the country have adopted an enormous range of mandates and incentive policies to promote renewable energy. For example, approximately 22 states and the District of Columbia have adopted renewable portfolio standards requiring retail suppliers to include a set percentage of renewable energy in the power they sell. Each RPS looks vastly different from each other, with different schedules for acquiring renewable energy, different definitions of renewable energy, and different devices for limiting the cost of the RPS policies. In response to those programs and other demands for renewable energy, several regions are working to develop or operate platforms for banking and trading "green credits." All of these</i>

policies continue to evolve and grow. This panel will discuss these regulatory and business trends and what they mean for attorneys representing utilities, renewable energy developers, and investors. Speakers: Stephen Kalland, Elizabeth A. Grisaru, David M. Sparby, Moderator: The Honorable Suedeen G. Kelly

EBA11/06-09

**Session B: Ethics Presentation: Current Problems in Legal Ethics and Lawyer Liability:** Brian Redding will address current problems in lawyer liability and legal ethics, including conflicts of interest, confidentiality obligations, consentability under the new ABA Rules of Professional Conduct and dangerous liability and ethics situations. Under the ABA Model Rules of Professional Conduct, practitioners must diligently and zealously advocate for the interests of their clients (Rule 1.3) while respecting the obligation to raise only meritorious claims and contentions (Rule 3.1) and maintaining candor toward the tribunal (Rule 3.3). John Moot will explore from his perspective as General Counsel of the FERC the appropriate balancing by practitioners of attorneys' roles as advocates, counselors to clients, and officers of the regulatory bar in their filings and pleadings with and presentations to the FERC in contested matters. Speakers: Brian J. Redding, John S. Moot

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