

2019

# RENEWABLE ENERGY LAW



January 28–29, 2019  
AT&T Conference Center ■ Austin, Texas

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 [Live Webcast January 28–29, 2019](#)

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2019

# RENEWABLE ENERGY LAW

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Texas Professional Accreditation Approved for Accounting CPE, Professional Engineer, and Real Estate Commission (TREC)

## MONDAY MORNING, JAN. 28, 2019

### Presiding Officer:

Laura Caspari, Director of Origination  
ENGIE Distributed Solar, SoCore  
Energy, LLC, Chicago, IL

### 7:30 a.m. Registration Opens

Includes continental breakfast.

### 8:20 a.m. Welcoming Remarks

### 8:30 a.m. .50 hr

#### What's New?

Hear a lively update on developments affecting the renewable energy market.

Keith Martin, Partner and Co-head of Projects,  
Norton Rose Fulbright US LLP, Washington, DC

### 9:00 a.m. 1.00 hr

#### Federal Energy Policy – Panel

An esteemed group of Washington experts discusses the many issues in play in Washington. Topics will include: how the November elections will affect the policy agenda, what to expect on import tariffs, where the renewable energy trade associations are directing their firepower, what is likely to happen on federally-mandated payments by RTOs to coal-fired and nuclear power plants to keep them operating, revisions to PURPA, the cloud over future PJM capacity auctions, possible new incentives to deploy storage and rebuild transmission, and more.

#### Moderator:

Keith Martin, Partner and Co-head of Projects,  
Norton Rose Fulbright US LLP, Washington, DC

#### Panelists:

Hon. Richard A. Glick, Commissioner, Federal Energy  
Regulatory Commission, Washington, DC  
Abigail Ross Hopper, President & CEO, Solar Energy  
Industries Association, Washington, DC  
Tom Kiernan, CEO, American Wind Energy  
Association, Washington, DC

### 10:00 a.m. .50 hr

#### Renewable Energy: Updates from the Courts

A discussion of important renewable energy related federal and state court decisions across the U.S. during the past year.

Melissa Powers, Director, Green Energy Institute,  
Lewis & Clark Law School, Portland, OR

### 10:30 a.m. Break

### 10:45 a.m. .75 hr

#### 86<sup>th</sup> Texas Legislative Session Update and Outlook

A panel discussion of anticipated key renewable energy related bills likely to be considered in upcoming Texas, Oklahoma, California and other key state legislative sessions.

#### Moderator:

Michael J. Jewell, Partner, Stratus Energy Group,  
Austin, TX

#### Panelists:

Suzanne L. Bertin, Executive Director, Texas  
Advanced Energy Business Alliance, Austin, TX  
Jeff Clark, President, The Wind Coalition, Austin, TX  
Charlie Hemmeline, Executive Director, Texas Solar  
Power Association, Austin, TX

### 11:30 a.m. .50 hr

#### State Policy Trends in Renewable Energy

An overview of anticipated issues and opportunities in upcoming state legislative sessions, with a primary focus on midwestern and western states where renewable energy development is underway.

Vanessa Tutos, Director - Government Affairs, EDP  
Renewables North America, Houston, TX

### 12:00 p.m. .50 hr

#### Renewable Energy Developments in Mexico

At the end of 2018, the Energy Regulatory Commission (CRE) will issue the permanent electricity rate methodology, CENACE will begin with monthly FTR auctions, and clean energy should be at a minimum of 5%. In 2019, we will be able to see in more detail the energy policy of the new administration that begins on December 1, 2018.

Nicolas Borda, Partner, Haynes and Boone, LLP,  
Mexico City, Mexico

### 12:30 p.m. Pick Up Lunch

Included in registration.

## MONDAY AFTERNOON

### Presiding Officer:

Brent Stahl, Partner, Stahl, Davies,  
Sewell, Chavarria & Friend LLP,  
Austin, TX

### LUNCHEON PRESENTATION

### 12:50 p.m. .50 hr

#### 100% Renewables in a City Near You

This summer Georgetown began receiving power from a solar farm in West Texas. The solar farm, in conjunction with a wind farm in the Texas Panhandle, makes Georgetown one of the few cities in the U.S. with 100 percent renewable energy. The decision to go with renewables was predominantly a financial one, but the City has been fortunate to receive coverage from across the world regarding our energy portfolio.

Dale Ross, Mayor, City of Georgetown,  
Georgetown, TX

### 1:20 p.m. Break

### 1:35 p.m. .75 hr

#### EPC Contract Considerations for Renewable Energy Projects

Engineering, procurement, and construction contracts (EPC contracts) are used for the development of renewable energy projects. This presentation will focus on key provisions in EPC contracts and issues arising thereunder, including, among others, liquidated damages, indemnity, warranties, limitations of liability, lender protections and requirements, and changed conditions. A discussion on developer and contractor competing interests and concerns, along with best practices, will also be covered.

Alan Cohen, Partner, Stahl, Davies, Sewell, Chavarria  
& Friend LLP, Austin, TX  
Spencer Preis, Vice President & Associate General  
Counsel, Southwire Company, LLC, Carrollton, GA

2:20 p.m. .75 hr

### Endangered Species and Wildlife – Mitigation as Risk Management

Endangered species and protected habitat areas can present risks to renewable projects, including potential impacts to project timing and costs. Purchasing mitigation land is one tool that can be used to manage risk in both the solar and wind energy context.

Christine Fernandez Owen, Attorney, Law Offices of Christine Fernandez, LLC, Chicago, IL  
Brooke M. Wahlberg, Partner, Nossaman LLP, Austin, TX

3:05 p.m. .50 hr

### Boilerplate Clauses in Contracts

Boilerplate clauses are seldom negotiated but are often some of the earliest clauses reviewed in the event of a dispute. Although boilerplate clauses are reused in contract after contract, they should be carefully reviewed for reliability, enforceability, and relevance each time they are used in a contract.

Ann Walker McDowell, Associate Director - Legal, EDP Renewables North America, Houston, TX

3:35 p.m. Break

3:45 p.m. .50 hr

### Best Practices for Solar Development in Resolving Mineral Estate Issues

A general overview of relevant law in selected states concerning minerals, such as limitations acts, dormant mineral interest acts, surface damage laws, and statutory notice requirements. Review the doctrine of accommodation or due regard and consider title insurance and requirements, such as surface waivers or drill site agreements for available endorsements.

James L. (Jim) Gosdin, Sr. Vice President, Associate General Counsel, Chief Underwriting Counsel & Chief Reinsurance Counsel, Stewart Title Guaranty Company, Houston, TX

4:15 p.m. 1.00 hr ethics

### That's All the News for Today. Stay Ethical, Austin!

In recent years, the news has highlighted ethics issues relating to conflicts of interest, confidentiality, the use of social media, supervision of non-lawyers, and other topics. This panel will use factual scenarios to discuss the requirements and lessons of the ABA Model Rules of Professional Conduct, including Rules 1.6, 1.7, 5.3, and 7.1 and to consider practical ways to identify and avoid ethical pitfalls. Some scenarios are ripped from current headlines; others are conceptualizations of problems worth avoiding.

**Moderator:**  
Prof. Irma Russell, Edward A. Smith/ Missouri Chair in Law, the Constitution, and Society, University of Missouri-Kansas City School of Law, Kansas City, MO

**Panelists:**  
Alison Leonard Gardner, Sr. Vice President & General Counsel, E.On Climate & Renewables, Austin, TX  
Tracy L. Kepler, Director of Center for Professional Responsibility, American Bar Association, Chicago, IL

5:15 p.m. Adjourn to Reception

### THANK YOU TO OUR RECEPTION SPONSOR



5:15 p.m. – 6:15 p.m.

Join us for drinks and hors d'oeuvres with program faculty and attendees.

TUESDAY MORNING, JAN. 29, 2019

### Presiding Officer:

**Scott D. Deatherage, Attorney & Advisor, S Deatherage Law, PLLC, Dallas, TX**

8:00 a.m. Conference Room Opens

Includes continental breakfast.

9:00 a.m. .75 hr

### Public Utility Commission of Texas and ERCOT

An overview and update of recent issues involving the PUCT and ERCOT, including summer 2018, price formation, temporary taps, TCOS schedules and potential substation regulation.

**Moderator:**  
McCall Johnson, Sr. Manager - Government Affairs, Recurrent Energy, San Francisco, CA

**Panelists:**  
Warren Lasher, Senior Director of System Planning, Electric Reliability Council of Texas, Inc., Austin, TX  
John Paul Urban, Executive Director, Public Utility Commission of Texas, Austin, TX

9:45 a.m. .75 hr

### Wind Generation in SPP: How High Can We Go?

An overview of operational challenges and market impacts as Southwest Power Pool continues to set new wind penetration records.

Philip Bruich, Director of Settlements, Southwest Power Pool, Little Rock, AR

10:30 a.m. Break

10:45 a.m. .50 hr

### Repowering Wind Projects

How is a repowering project different from a new wind energy project? Explore unique legal and commercial terms, federal and state incentives, contractual arrangements and technical, permitting, and environmental considerations that impact repowering projects.

Kevin Knight, Sr. Vice President, GE Energy Financial Services, Stamford, CT

11:15 a.m. .75 hr

### Opportunities and Challenges for Battery Storage Projects

A discussion addressing the opportunities and challenges in developing and financing stand-alone and "hybrid" (generation + storage) battery storage projects today, including current deal structures and tax and policy issues, and an evaluation of where future growth is expected in the battery storage market.

**Moderator:**  
Rohit Sachdev, Partner, Orrick, Herrington & Sutcliffe LLP, San Francisco, CA

**Panelists:**  
Chris Calavitta, Sr. Vice President, Macquarie Capital, Austin, TX  
Cody Hill, Director of Energy Storage, LS Power, San Francisco, CA  
Katherine Ryzhaya, Chief Commercial Officer, Lightsource Renewable Energy, San Francisco, CA

12:00 p.m. Pick Up Lunch

Included in registration.

TUESDAY AFTERNOON

### Presiding Officer:

**Maria Faconti, Associate, Husch Blackwell, Austin, TX**

### LUNCHEON PRESENTATION

12:20 p.m. .50 hr

### Commercial & Industrial Energy Procurement of Renewable Energy

In 2016, MGM Resorts completed a bold and ambitious process to separate from its local electric utility in Las Vegas and enter the wholesale power market. This action set an industry trend, enabled MGM Resorts to control its own course of energy procurement, and paved the way to one of the largest private solar development partnerships in the Country.

Cindy Ortega, Sr. Vice President & Chief Sustainability Officer, MGM Resorts International, Las Vegas, NV

12:50 p.m. Break

1:05 p.m. .75 hr

### Developer Perspective on Hedges, Traditional PPAs, and Insurance Related Products

The choice among traditional PPAs, price hedges or insurance related products as means to reduce or eliminate risk to future project revenues, is based upon energy price and non-energy price features of each type of contract and prevailing market conditions. Different regions across the North American power markets can favor different solutions at the same time.

Bruce Thompson, Director of Origination, Lendlease Energy Development LLC, Irving, TX

1:50 p.m.

.75 hr

### Tax Credits & Beyond: Financing Renewable Energy Projects – Where Do We Go From Here?

Will the pipeline for remaining 100% PTC projects get financed by end of 2020? What will happen to deal terms and structures as tax credits phase out? Has repowering gained traction? What storage project finance structures are being executed, with and without ITC? Hear a discussion of these questions and more!

#### Moderator:

Becky H. Diffen, Chair of Renewable Energy, McGuireWoods LLP, Austin, TX

#### Panelists:

Melinda Baglio, Head of Acquisitions and General Counsel, CleanCapital, New York City, NY  
Asha Gandhi, Finance Senior Manager, EDP Renewables North America, Houston, TX  
Susan Nickey, Managing Director, Hannon Armstrong, Annapolis, MD

2:35 p.m.

1.00 hr ethics

### Conflicts of Interest in Renewable Energy

Using hypotheticals, this interactive presentation will address conflicts of interest that can arise when renewable energy deal participants arrange for a joint representation, enter into a common interest agreement, create a joint venture, or otherwise work together.

Tom Spahn, Partner, McGuireWoods LLP, Tysons, VA

3:35 p.m.

Adjourn

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## AUSTIN

January 28–29, 2019

### CONFERENCE LOCATION



#### AT&T Conference Center

The University of Texas at Austin  
1900 University Avenue  
Austin, TX 78705  
877.744.8822 (reservations)

#### Special Room Rate: \$189

Good through January 4, 2019  
(subject to availability)

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\$10 daily self-parking at AT&T Conference Center garage. Separate fees apply for valet and overnight parking.

### KEY DATES

**January 18, 2019**

*Last day to order a printed binder*

**January 18, 2019**

*Last day for early registration*  
add \$50 for registrations  
received after this time

**January 22, 2019**

*Last day for full refund cancellation*

**January 23, 2019**

*Last day for partial refund cancellation*  
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**January 28, 2019, 8:20 a.m.**

*Conference begins*

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