

19TH ANNUAL
**RENEWABLE ENERGY LAW
INSTITUTE**



ESSENTIALS
January 29, 2024

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January 30–31, 2024

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2024

RENEWABLE ENERGY LAW ESSENTIALS

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Times listed are in Central Time

MONDAY AFTERNOON, JAN. 29, 2024

Presiding Officer:

**Maria Faconti, K&L Gates LLP,
Austin, TX**

12:30 p.m. Registration Opens

Includes complimentary refreshments.

1:00 p.m. Welcoming Remarks

1:10 p.m. .50 hr

Lifecycle of Renewable Energy Projects

A discussion of the sequencing of the development of renewable energy projects and how lawyers and developers can best work together to mitigate project risks at each stage of development.

Jenn Goodwillie, Nova Clean Energy, Austin, TX

1:40 p.m. .75 hr

Basics of Energy Regulation and Interconnection

Introduction into the basics of the US electric grid as they relate to renewable energy resources including, what the US grid looks like; who runs, operates and owns it; and how do renewables fit in and effect its operation. Also, walk through the state and federal regulatory landscape, looking at the role and authority of FERC and state Public Utility Commissions, RTOs and ISOs. Hear an introduction to the key concepts of the wholesale and retail markets, discuss the key mechanisms for compensating distributed energy and large renewable resources for their services to the grid, and look at the examples of state renewable energy incentives (REC procurement, DG rebates etc.).

Tetyana "Tanya" Rabczak, The Accelerate Group, Chicago, IL

2:25 p.m. .75 hr

Real Estate and Title Basics for Renewable Energy Projects

A primer on real estate and title matters for wind and solar energy projects. From the lens of real estate attorneys, hear a high-level overview of project timelines and milestones, the path to securing site control, key provisions of landowner agreements, navigating title and survey matters, and providing real estate support for contracting, financing, and sale of the project. Gain insight into critical deal points and best practices to help projects proceed efficiently.

Alex Kron, Fredrikson & Byron, P.A., Des Moines, IA
Tess Pocock, Fredrikson & Byron, P.A.,
Des Moines, IA

3:10 p.m. 15-Minute Break

3:25 p.m. .50 hr

Off-Take Contracts: An Overview

A high-level overview of key power purchase agreement structures and terms and the allocation and mitigation of risk in PPA transactions.

Rochelle Rabeler, Holland & Hart, Denver, CO

3:55 p.m. .75 hr

Permitting and Siting Regulation Overview

An overview of federal, state, and local permitting and siting considerations that renewable energy project proponents should be aware of and take into account. Review the timing, cost, legal, financing, and other implications.

Brooke M. Marcus, Nossaman LLP, Austin, TX

4:40 p.m. 1.00 hr

Renewable Energy Project Finance 101

Discuss how various finance tools get stitched together to create a capital stack for a project so it can get developed and built.

Genevieve Fox, Plus Power, Santa Barbara, CA
Benjamin Huffman, SheppardMullin, Chicago, IL

5:40 p.m. .50 hr

Overview on Construction and O&M Contracts

Katie Hoepfl, RNWBL, Phoenix, AZ

6:10 p.m. Adjourn

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Times listed are in Central Time

TUESDAY MORNING, JAN. 30, 2024

Presiding Officer:

Christine Fernandez Owen, Norton Rose Fulbright US LLP, Chicago, IL

7:30 a.m. Registration Opens

Includes continental breakfast.

8:20 a.m. Welcoming Remarks

FEDERAL, STATE, AND REGULATORY UPDATES

8:30 a.m. .50 hr

What's New?

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

Keith Martin, Norton Rose Fulbright US LLP, Washington, DC

9:00 a.m. 1.00 hr

Federal Energy Policy

A group of key participants in the renewable energy policy debates discusses the issues that will be in play this year in Washington, including the potential effects of the November elections on federal energy policy, Inflation Reduction Act issues that are still being intensively lobbied, the outlook for permitting reforms and further progress on clogged interconnection queues and grid congestion, UFLPA enforcement, and more.

Moderator:
Keith Martin, Norton Rose Fulbright US LLP, Washington, DC

Panelists:
Diana Furchtgott-Roth, The Heritage Foundation, Washington, DC
Abigail Ross Hopper, Solar Energy Industries Association, Washington, DC
Ray Long, American Council on Renewable Energy (ACORE), Washington, DC
JC Sandberg, American Clean Power Association, Washington, DC

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10:00 a.m. .75 hr

Texas Legislative Update

The 88th Legislative Session saw extraordinary opposition for the renewable energy sector, including proposals that would impose onerous and unprecedented permitting mandates, increase fees for operators and Texas consumers taking advantage of renewable energy, and even full expulsion of renewable resources from the ERCOT Market. While the industry fended off the most egregious attacks, some meaningful pain was inflicted that industry participants should be aware of and take into account. Breakdown what happened, why, and what lies ahead for a flourishing industry facing political challenges in a conservative state.

Moderator:
Judd Messer, Advanced Power Alliance, Austin, TX

Panelists:
Aaron C. Gregg, Balch & Bingham LLP, Austin, TX
Michael J. Jewell, Jewell & Associates, PLLC, Austin, TX

10:45 a.m. 15-Minute Break

11:00 a.m. .75 hr

Texas Regulatory Update: ERCOT & PUCT

Overview and discussion on recent and relevant PUCT proceedings and ERCOT market changes and initiatives.

Carlos Carrasco, Haynes Boone, LLP, San Antonio, TX

11:45 a.m. .75 hr

Nothing Has Changed, and Everything Has Changed: A 2024 Update on Texas Property Tax Incentives

In response to the sunset of the Chapter 313 program at the end of 2022, the Legislature adopted the new JETI program for 2024. Learn the details of the new JETI statute and review other available tax incentive programs.

David J. Sewell, Stahl, Sewell, Chavarria, Friend & Cohen, LLP, Austin, TX

12:30 p.m. Pick up Lunch

Included in registration.

TUESDAY AFTERNOON

Presiding Officer:

Becky H. Diffen, Norton Rose Fulbright, Austin, TX

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LUNCHEON PRESENTATION

12:50 p.m. .75 hr

Techniques for Negotiating With Difficult Counterparties

Hear advice on how to negotiate contracts with difficult counterparties, and explore the importance of our own mindset and how to manage our emotions in these situations. Walk through five types of outrageous negotiation positions and effective responses to defuse and reset the tone of the discussions.

Laura Frederick, How to Contract, Austin, TX

1:35 p.m. 15-Minute Break

ENERGY STORAGE

1:50 p.m. .75 hr

Key State and Federal Laws and Regulations Affecting Energy Storage Projects

Federal and state policy makers have begun to incentivize storage connected to distributed generation for virtual powerplant and microgrid applications. New laws and programs have been created to encourage storage adoption, but regulatory hurdles remain.

Sterling Clifford, Sunnova Energy, League City, TX

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HYDROGEN ENERGY

2:35 p.m. .75 hr

Hydrogen Energy: Unique Considerations for Transaction Documents

As an emerging technology, clean hydrogen presents a number of considerations and issues that differ from existing legal paradigms for renewable energy projects. Address contract terms and considerations that are specific to clean hydrogen projects in both commercial and financing transactions.

John C. Crossley, K&L Gates LLP, Kansas City, MO
Nathan C. Howe, K&L Gates LLP, Newark, NJ

3:20 p.m. 10-Minute Break

3:30 p.m. .75 hr

Hydrogen Energy Transactions: Transportation and Storage Issues

Substantive discussion of the existing hydrogen pipeline and storage system and the development, regulatory, policy, and legal issues shaping the growing clean hydrogen ecosystem, from the critical midstream perspective. Key topics will include: an overview of hydrogen incentives, production pathways, use cases and physical delivery mechanisms; real property issues in subsurface storage and pipeline development; regulatory and permitting uncertainty; and how commercial transactions are being structured.

Sam Porter, NeuVentus, Austin, TX

ETHICS

4:15 p.m. 1.00 hr ethics

Hot Button Ethics Issues in the Renewables Industry

Look at under-the-radar ethical issues affecting companies and the lawyers who represent them.

Geoff Gannaway, Beck Redden LLP, Houston, TX
Madison Young Moore, Beck Redden LLP, Houston, TX

5:15 p.m. Adjourn to Reception

THANK YOU TO OUR RECEPTION SPONSOR



5:15 p.m. – 6:15 p.m.

Join us for a networking opportunity with faculty and colleagues.

WEDNESDAY MORNING, JAN. 31, 2024

Presiding Officer:
Matthew Arth, ERCOT, Austin, TX

8:00 a.m. Conference Room Opens
Includes continental breakfast.

FINANCING

8:30 a.m. .75 hr

In the Trenches: Constructing Renewable Energy Debt Agreements From the Inside Out

Go behind the curtain to discuss common pitfalls in renewable energy financing agreements, where different deal team members (commercial, legal, specialist) should most focus their review, and which provisions typically have long lead times during negotiation.

Christa L. Maiorano, Amis, Patel & Brewer, LLP, Washington, DC

9:15 a.m. .75 hr

Mergers & Acquisitions

A detailed look at the key provisions in M&A agreements involving energy transition projects, including risk allocation around IRA benefits, earn-out provisions, change in law and key diligence items for a buyer.

Eli M. Katz, Latham & Watkins LLP, New York, NY

10:00 a.m. 15-Minute Break

10:15 a.m. .75 hr

Tax Credit Transfer (sale) Transactions

Discuss requirements for properly executing a sale of tax credits under Section 6418 of the Code and current issues in these transactions from both the buyer and seller perspective.

Tori Roessler, Foley & Lardner LLP, Washington, DC
Adam Schurle, Foley & Lardner LLP, Milwaukee, WI

ETHICS

11:00 a.m. 1.00 hr ethics

Ethics and Cybersecurity in the Virtual Practice of Law

Explore some of the ethical hazards associated with practicing law virtually including unauthorized practice of law, confidentiality and cybersecurity, and the challenges of remote supervision.

Anthony Hendricks, Crowe & Dunlevy, Oklahoma City, OK
Paige A. Masters, Crowe & Dunlevy, Oklahoma City, OK

12:00 p.m. Lunch on Your Own

WEDNESDAY AFTERNOON

TRACK A: REAL ESTATE DEVELOPMENT & CONSTRUCTION

Presiding Officer:
Lisa Chavarria, Stahl, Sewell, Chavarria, Friend & Cohen, LLP, Austin, TX

1:15 p.m. .75 hr

Ownership and Leasing of Real Property by Foreign-Owned Entities

Discuss the various restrictions, reporting requirements and approvals required by certain Federal (i.e., AFIDA and CFIUS) and state laws.

Theresa Carroll, Norton Rose Fulbright US LLP, Chicago, IL
Tyrone Thomas, Doral LLC, Chicago, IL
John F. Young, Norton Rose Fulbright US LLP, Chicago, IL

2:00 p.m. .75 hr

Mineral Issues Impact on Real Estate Documents, Siting and Planning: Texas vs. California

Understanding the interplay of the mineral estate to the surface estate, and site control agreement and title insurance issues and strategies for securing financeable renewable energy surface rights in Texas and California, and more generally.

Dirk R. Mueller, Farella Braun + Martel LLP, San Francisco, CA
Will Russ, Barnes & Thornburg LLP, Dallas, TX

2:45 p.m. 15-Minute Break

3:00 p.m. .75 hr

Unique Issues of the West: Tribal Land Issues and Oklahoma

An overview of the federal, state and tribal laws specifically affecting real estate and mineral aspects of Wind & Solar Energy Projects in Oklahoma.

Kari Hoffines, Crowe & Dunlevy, Oklahoma City, OK
Sarah Roubidoux Lawson, Schwabe, Seattle, WA

3:45 p.m. .75 hr

Construction Liens: Resolving the Guerrilla Tactics of Contractors and Subcontractors

Construction liens provide leverage for parties seeking payment for construction services, labor and supplies. Lien laws were created in the 19th century when tangible real estate was a more effective security for payment. In today's world liens are seldom processed through foreclosure, but they remain an effective mechanism to get people's attention. Review the lien basics, contract clauses to shift the risk of liens and practical ways to respond to and resolve lien-related disputes.

Kyle Hermanson, Invernergy LLC, Chicago, IL
Joshua B. Levy, Husch Blackwell LLP, Milwaukee, WI

4:30 p.m. Adjourn

**TRACK B: PERMITTING,
REGULATORY & ENVIRONMENTAL**

Presiding Officer:

**Tony Gius, McGuireWoods LLP,
Austin, TX**

1:15 p.m. .75 hr

**Oklahoma Renewable Energy Projects:
Permitting Considerations**

Focus on various environmental and related permitting considerations under Oklahoma law for wind, solar, battery, and hydrogen projects. Matters discussed include an overview of applicable statutes, regulations, required permits, notices, and public meetings.

Joel P. Johnston, Hall Estill, Denver, CO

Co-Author:

Bailey B. Betz, Hall Estill, Tulsa, OK

2:00 p.m. .75 hr

Texas ERCOT Market Reform and Redesign

Explore recent initiatives to modify the market design in ERCOT with a focus on the technical aspects of proposed changes and how they could affect market participants. Also explore project implementation issues and the likely need for regulatory guidance to resolve contentious technical issues.

Warren Lasher, Lasher Energy Consulting, Austin, TX
Wen Zhang, Potomac Economics, Austin, TX

2:45 p.m. 15-Minute Break

3:00 p.m. .75 hr

**Public Utility Commission of Texas:
Rulemaking Update**

A candid discussion between industry and commission staff on the significance of, and challenges implementing, legislation from the 88th Session of the Texas Legislature.

Carrie Collier-Brown, Locke Lord LLP, Austin, TX
David Smeltzer, Public Utility Commission of Texas,
Austin, TX

3:45 p.m. .75 hr

**Market Reform and Redesign to Remove
Barriers of Entry for Clean Energy and the
Build Out a Robust Transmission Grid**

Increased load and extreme weather continue to create consternation in the energy markets. Clean energy resources can be a major part of the solution as long as the markets are functioning properly. Hear a discussion of the work being done to remove barriers and advocate for a well-functioning energy markets and a robust buildout of the transmission grid.

Carrie Zalewski, American Clean Power Association,
Chicago, IL

4:30 p.m. Adjourn

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- Track B: Permitting, Regulatory & Environmental

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January 29, 30–31, 2024

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Special Room Rate: \$199

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KEY DATES

January 17, 2024

Last day for early registration rates

January 22, 2024

Last day for full refund cancellation

January 25, 2024

Last day for partial refund cancellation
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January 29, 2024, 1:00 p.m., CT

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January 30, 2024, 8:20 a.m., CT

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