

20TH ANNUAL
**RENEWABLE ENERGY LAW
INSTITUTE**



ESSENTIALS
February 3, 2025

INSTITUTE
February 4–5, 2025

AT&T Conference Center ■ Austin, Texas

 **Live Webcast February 3, 4–5**

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2025

RENEWABLE ENERGY LAW ESSENTIALS

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MONDAY AFTERNOON, FEB. 3, 2025

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

Overview of Renewable Project Development and Finance

An overview of (a) key development contracts, and (b) the process of raising capital to develop, construct, and operate renewable energy projects.

Eyitemi "Temi" Tagoe, Morgan, Lewis & Bockius LLP, Boston, MA

1:40 p.m. .75 hr

Planning and Efficiency Issues with Large Volume Real Estate Transactions

Discuss ways to organize and streamline the process of engaging a title insurer on projects with long ramp-up periods and large volume of commitments, reviewing and resolving title issues, and preparing your project for construction and financing. Hear about the strategic use of tracking spreadsheets, online platforms and technologies for distribution and real-time access to large volumes of data and suggestions about the best timing for the creation of comprehensive reports and proformas.

Kaitlyn E. DeYoung, K&L Gates LLP, Kansas City, MO
Jacob Schipaanboord, First American Title Company, Salt Lake City, UT

2:25 p.m. .75 hr

Empowering the Grid: Title Considerations in Renewable Energy Deals

Explore the unique title challenges in renewable energy transactions. As the demand for clean energy continues to rise, understanding the intricacies of title work in this sector is crucial. Gain valuable insights into navigating title issues in renewable projects and how they differ from the traditional commercial and residential title insurance projects.

Dawn M. Anderson, Stewart Title Guaranty Company, Houston, TX

3:10 p.m. 15-Minute Break

3:25 p.m. .50 hr

The "ALTA Survey": Definitions and Why It's Important

A discussion on the various survey aspects related to project transactions and how collaboration among survey, title, legal, and development is integral throughout the evolution of the project development process.

Sarah Petner, Invenergy, Denver, CO
John F. Watson, Surveying And Mapping, LLC (SAM), Midland, TX

3:55 p.m. .75 hr

M&A: Introduction to MIPA (Membership Interest Purchase Agreement)

Overview of key differences between early and later stage development deals, conditions to closing, and areas that can and cannot be negotiated.

Matthew Mooney, Balanced Rock Power, Denver, CO
John L. "Jake" Spilman Jr., McGuireWoods LLP, Richmond, VA

4:40 p.m. 1.00 hr

Finance: Introduction to Structure of Construction Financing & Role of Key Parties

Discuss the basics of construction finance, loan agreements and their key provisions, conditions to closing, and schedules and exhibits. Explore the role of commercial parties, counsel, and consultants and other third parties in the loan agreement negotiation process.

Charles T. Baker, Amis, Patel & Brewer, LLP, Washington, DC

5:40 p.m. .50 hr

Finance: Introduction to Structures for Tax Equity Investments in Renewable Energy Transactions

The Inflation Reduction Act has led to an uptick in tax equity investments in renewable energy transactions. Look at how these investments are structured and why, including a look at key transactions documents and new emerging hybrid structures that take advantage of tax credit transfers.

Durham C. McCormick Jr., McGuireWoods LLP, Houston, TX

6:10 p.m. Adjourn

**M
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(SAM)
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TUESDAY MORNING, FEB. 4, 2025

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

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 in Washington discusses what policy changes to expect from the new administration and Congress, what issues are being intensively lobbied and the outlooks for new tariffs, permitting reforms, further restrictions on foreign entities of concern, UFLPA detentions, and more.

Moderator:

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

Panelists:

Neil Chatterjee, KKR, Washington, DC
Emily Domenech, Boundary Stone Partners,
Washington, DC
David Kautter, RSM US LLP, Washington, DC
JC Sandberg, American Clean Power Association,
Washington, DC

10:00 a.m. .75 hr

Federal Regulatory Update

Review what changes may be in store for generator interconnection reforms; transmission planning, permitting, and cost allocation; greenhouse gas limits; and public lands. Will the Trump Administration reverse Biden's efforts to facilitate the clean energy transition?

Richard A. Glick, GQ New Energy Strategies,
Washington, DC
Suede G. Kelly, Jenner & Block, Washington, DC

10:45 a.m. 15-Minute Break

11:00 a.m. .75 hr

Texas Legislative Review Update

The 89th Texas Legislature is in session, and the Texas electric market is expected to receive significant attention again. Hear a breakdown of what lies ahead for a flourishing industry facing political challenges in a conservative state including key legislative issues that are expected to be addressed this session.

Aaron C. Gregg, Capitol Law Group, Austin, TX

11:45 a.m. .50 hr

Case Update: U.S. vs. Osage Wind LLC and the Outcome

Learn about an 11-year legal odyssey involving the Osage Nation's challenge to a large wind farm, including 84 wind turbines situated on fee land within the Osage Reservation in Oklahoma, without a "mining" permit. After a significant Tenth Circuit reversal, a federal judge granted a permanent injunction, found the project to be a continuing trespass and ordered a trial on damages and conversion. It's a cautionary tale about tribal sovereignty, land use requirements, the need for community engagement and building support for renewable energy projects.

Logan C. Hibbs, Crowe & Dunlevy, Tulsa, OK

12:15 p.m. .50 hr

Case Update: In re Winter Storm Uri

Winter Storm Uri had an impact across all 254 counties, and the ensuing Multi-District Litigation has seen several phases and appeals. Review the history of the case and update of its current status.

David E. Harrell Jr., Troutman Pepper Locke,
Houston, TX

12:45 p.m. Pick Up Lunch

Included in registration.

TUESDAY AFTERNOON

Presiding Officer:

Brent Stahl, Stahl, Sewell, Chavarria, Friend & Cohen, LLP, Austin, TX

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KEYNOTE LUNCHEON PRESENTATION

1:05 p.m. .75 hr

Seeking Energy Truth

Energy and climate are often presented as a binary choice between "clean and dirty." Of course, this does not represent reality and the complex global trade offs that go on at the intersection of Energy, the Economy, and the Environment. Only by understanding these trade offs will we be able to address the challenge of affordable, reliable energy for all global citizens, with lower emissions and a cleaner environment.

Dr. Scott W. Tinker, Chairman, Switch Energy Alliance
& Director Emeritus, Bureau of Economic Geology,
UT Austin, Austin, TX

1:50 p.m. 15-Minute Break

2:05 p.m. .75 hr | .25 hr ethics

Major and Practical Deal Considerations for Project-Level M&A

Cover deal considerations in project-level renewable energy M&A, including both development-stage MIPAs and later stage Build Transfer Agreements. Briefly touch on deal structuring considerations and look at certain key provisions in the primary transaction documents for each deal type.

Charles P. Ciaccio Jr., KO Law PC, Denver, CO
Carson Haddow, Morgan, Lewis & Bockius, LLP,
Boston, MA

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2:50 p.m. .75 hr | .25 hr ethics

Procurement and Construction in Energy Projects

Explore key considerations and potential pitfalls in structuring and carrying out procurement and construction for energy projects, including competitive bid processes, early design and engineering, and key contractual provisions, such as financing and tariff considerations and UFLPA and IRA requirements.

Luke Edney, Norton Rose Fulbright US LLP, Austin, TX
Jeremy Tripp, Norton Rose Fulbright US LLP, Houston, TX

3:35 p.m. 10-Minute Break

3:45 p.m. .75 hr

Flexible Structures for Renewable Energy Construction Financing

Explore how construction financing differs from other types of project financing and discuss case studies to accommodate variable tax equity investment structures (ITCs, PTCs, and direct sponsor transfers).

Genevieve Fox, Plus Power, Santa Barbara, CA
Kate Geder, Bechtel Enterprises, Reston, VA

4:30 p.m. 1.00 hr ethics

Deep in the Heart of the Texas Business Courts: What Attorneys Need to Know

Hear the ins and outs of the new Texas Business Court, including its jurisdiction, its judges, and its unique procedures.

Mitch Ackal, Gray Reed, Houston, TX
Brock Niezgodka, Gray Reed, Houston, TX

5:30 p.m. Adjourn to Reception

THANK YOU TO OUR 20TH ANNIVERSARY RECEPTION AND WHISKEY TASTING SPONSOR



5:30 p.m. – 6:30 p.m.

Please join faculty, planning committee, section members and attendees for the 20th Anniversary Reception and Whiskey Tasting. The reception will start at 5:30 in the ballroom foyer, and the whiskey tasting with Still Austin Whiskey Co will start at 6 p.m.

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WEDNESDAY MORNING, FEB. 5, 2025

Presiding Officer:

Mark R. Stover, Texas Solar+Storage Association, Austin, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .75 hr ethics

AI Update

Artificial intelligence has been in the legal and cultural zeitgeist for a few years now. Explore the transformative effects (and lack thereof) of artificial intelligence on the legal industry in that time. Examine both the advancements and limitations, highlighting how AI has streamlined processes, improved efficiency, and where it still falls short in replacing human expertise.

Henson Adams, Haynes Boone, LLP, San Antonio, TX

9:15 a.m. 1.00 hr

Co-located Large Loads and Renewable Generation in Texas

Co-locating large loads behind the meter creates a win-win. Explore how the renewable generation project maximizes its production of carbon-free electricity, and how the buyer gets lower-cost green energy.

Moderator:

Carrie Collier-Brown, Husch Blackwell LLP, Austin, TX

Panelists:

Kevin Boudreaux, Monarch Energy, Houston, TX
Gabe Messercola, EDF Renewables, San Diego, CA

10:15 a.m. 15-Minute Break

10:30 a.m. .75 hr

Texas Grid Resiliency: Lessons Learned... and Yet to be Learned

The Public Utility Commission, ERCOT, transmission and distribution providers, and generation companies have made significant efforts in the last few years to increase the resiliency of the ERCOT grid. Review the progress that has been made and will discuss what still needs to be done to meet future challenges.

Moderator:

Warren Lasher, Lasher Energy Consulting, Austin, TX

Panelists:

Barksdale English, Public Utility Commission of Texas, Austin, TX
Charlie Hemmeline, American Clean Power Association, Austin, TX
David Kezell, ERCOT, Austin, TX

11:15 a.m. .75 hr

Dual Use Projects

Discuss dual-use projects, their key benefits, common challenges, and the growing universe of incentive programs.

Ed Baptista, Doral Renewables, Noblesville, IN
Tyrone Thomas, Doral Renewables, Chicago, IL

12:00 p.m. Lunch on Your Own

WEDNESDAY AFTERNOON

TRACK A: REAL ESTATE DEVELOPMENT & CONSTRUCTION

1:15 p.m. .75 hr

California Spotlight: Real Estate Planning, Diligence, and Execution

A high-level discussion of California-specific real estate issues for the renewable energy industry and how developers and other parties can address these issues in contracting, through diligence, and in preparation for financing. Topics include the interplay of lease terms and state tax regimes, mineral rights in CA, Williamson Act/FLSZ, and title insurance.

Jake W. Storms, Cox, Castle & Nicholson LLP, San Francisco, CA

2:00 p.m. .75 hr

Urban Area BESS Projects

Energy storage projects continue to play an important role in resource planning. Discuss why energy storage projects are increasingly sited in urban areas and the benefits they bring to resource planning. Also address the legal, policy, and local communications considerations related to site control, permitting, development (including procurement and installation considerations) and operation of energy storage facilities.

Moderator:

Carolyn E. Shellman, Enoch Keever, Austin, TX

Panelists:

Caitlin Kelly, Nexamp, Boston, MA
Caitlin Smith, Jupiter Power, Austin, TX

2:45 p.m. 15-Minute Break

3:00 p.m. .75 hr

Legal Considerations in Geothermal Energy Development and Pore Space Rights in Texas

Technological advancements have broadened the potential applications for harnessing geothermal energy from wells in Texas. With applications of this technology exploring ways to combine geothermal wells with subsurface pore spaces, it is important to outline the rights of all interested parties, including the surface, mineral, and geothermal estates. The Texas legal landscape has historically evolved in two separate paths, one concerning geothermal rights and the other pore space rights. However, practitioners are now forced to consider both geothermal rights and pore space rights within the same transaction. Explore the legal complexities surrounding geothermal energy development in Texas, with a particular focus on the ownership and regulation of pore space rights.

Charles P. Hosey, Frost Bank, San Antonio, TX

3:45 p.m. .75 hr

Mechanics' Lien Coverage and Underwriting in ALTA States

A discussion around coverage over mechanics and materialman's liens in states around the country and how developers and their title insurers negotiate this coverage between them and for the benefit of lenders. Explore different states' laws, coverage forms, credit risk and lien law compliance.

Matthew Darrah, First American Title Insurance Company, Bohemia, NY
Lauren King, Invenergy LLC, Denver, CO

4:30 p.m. Adjourn

TRACK B: PERMITTING, REGULATORY & ENVIRONMENTAL

Presiding Officer:

Chris Lane, Davis Graham & Stubbs, Denver, CO

1:15 p.m. .75 hr

Texas Regulatory Update

Provide a comprehensive update of Texas regulatory changes impacting renewable energy projects including the status of the Performance Credit Mechanism (PCM), the PUC's progress in adopting a reliability standard, an updated Cost of New Entry (CONE) and a new Value of Lost Load (VOLL), ancillary service procurement updates, changes to the transmission planning process and a status report on the Permian Basin Reliability Plan, and other important ERCOT and PUC changes impacting renewable generation.

Katie Coleman, O'Melveny & Myers, Austin, TX

2:00 p.m. .75 hr

Comparison of Interstate Grids' Regulatory Treatment of Large Load Projects

Discuss the convergence of Resource Adequacy and Load Interconnection policy at a time of increasing energy demand. Explore how the central United States is meeting this challenge and how Texas may set itself apart.

Will McAdams, McAdams Energy Group, LLC and Texas Lobby Strategies, Austin, TX
Bill Moore, Enoch Keever PLLC, Austin, TX

2:45 p.m. 15-Minute Break

3:00 p.m. .75 hr

California Spotlight: New Developments in Project Permitting, Connecting to the Grid, and Energy Markets in the Golden State

Cover selected topics affecting utility- and community-scale renewable energy projects at the state level, including enhancements to the interconnection process, updates on energy markets, permitting reform at the California Public Utilities Commission, and the status of the California Energy Commission's consideration of "Opt-In" projects that move entitlement decisions to Sacramento. The speakers will prognosticate on the effects of legislation adopted in recent years, and address nascent issues including the extended day-ahead market, green hydrogen, and offshore wind.

Sarah Kozal, California Independent System Operator Corporation (CAISO), Los Angeles, CA
Dana Palmer, Allen Matkins Leck Gamble Mallory & Natsis LLP, Los Angeles, CA

3:45 p.m. .75 hr

California Spotlight: Land Related Regulatory and Permitting Considerations

Focus on some of the California-specific laws and regulatory regimes that may impact renewable energy development. Explore local land use considerations, CEQA compliance, and other California project development considerations.

Sarah A. Slack, Foley & Lardner LLP, Los Angeles, CA

4:30 p.m. Adjourn

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- Track B: Permitting, Regulatory & Environmental

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February 3, 4–5, 2025

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WRISE Austin Chapter