Energy Law

L8452
Columbia Law School
Fall 2012

Prof. Michael B. Gerrard

Class hours: Tuesday, 4:20 pm - 6:10 pm
Classroom: Jerome Greene Hall Room 105
Two credit hours

Instructor’s office: JGH 517
Office hours: Tuesday and Thursday, 10:45 a.m. - 12:00 p.m. or by appointment
Contact michael.gerrard@law.columbia.edu for appointment

This course concerns the regulation of energy, energy resources, and energy facilities. Among the topics will be the regulation of rates and services; the roles of the Federal Energy Regulatory Commission and the state public utility commissions; and the interaction with environmental law. Attention will be devoted to energy resources (such as oil, natural gas and coal) and to generating, transmission and distribution facilities. The current and future roles of renewable energy, energy efficiency, and nuclear energy will receive special attention, as will the regulation and deregulation of electricity. Though there is some discussion of international issues, the focus is on U.S. law and policy.

Course grades will be based on a final exam, but they may be adjusted up or down a notch to reflect the quality of class participation. The final exam will be open book and will consist of a series of essay questions, most or which will require applying the law covered in the course to specified factual situations.

Additional materials or problem exercises may be assigned during the course of the semester, primarily as a result of recent developments. In that event, they will be posted on Courseweb.

Columbia University is dedicated to facilitating equal access for students with disabilities and to cultivating a campus culture that is sensitive and responsive to the needs of students. To request an accommodation for a disability during the course, students are welcome to reach out to the Office of Disability Services, to the Academic Counselors in Student Services, or to the instructor. (In general, students may decide whether or not to inform their professors of any accommodations, as they prefer. But note that individual exam arrangements are generally not discussed with the professor.)
Readings

Joseph P. Tomain and Richard D. Cudahy, Energy Law (Thomson/West Nutshell Series, 2011 edition). Readings from this text are designated as “Tomain”.

Michael B. Gerrard, ed., The Law of Clean Energy: Efficiency and Renewables (American Bar Association 2011). Readings from this text are designated as “Gerrard”.

There are additional readings for many sessions; they are all provided in the Coursepack that is available for purchase in the Columbia University bookstore, and most but not all can be found on-line.

Class Topics and Readings

VOLUME I

Class 1 -- September, 2012
Basic energy facts

Gerrard, Chapter 1


Class 2 -- September 11, 2012
Basics of rate regulation


Tomain, pp. 10-51


Class 3 -- September 18, 2012
Rate regulation procedures

Tomain, pp. 165-204

Guest speaker/in-class exercise (Judge Eleanor Stein)

Additional readings to be posted on Courseweb

**Class 4 -- September 25, 2012**
**Federal/state jurisdiction**

Tomain, pp. 140-161

Gerrard, Chapter 22


Connecticut Department of Public Utility Control v. Federal Energy Regulatory Commission, 569 F.3d 477 (D.C. Cir. 2009) (first seven pages only)………………………………………...198


**Class 5 -- October 2, 2012**
**Natural Gas**

Tomain, pp. 269-315

Massachusetts Institute of Technology, The Future of Natural Gas: An Interdisciplinary MIT Study (2010), pp. 1-72……………………………………………………………………...220


Guest speaker: Mitchell Hertz (Kirkland & Ellis)

**Class 6 -- October 9, 2012**
**New sources of natural gas: Shale formations**

Secretary of Energy Advisory Board, Shale Gas Production Subcommittee 90-Day Report (August 18, 2011), pp. 1-33……………………………………………………………………...297


Deyi Hou, Jian Luo & Abir Al-Tabbaa, “Shale gas can be a double-edged sword for climate change,” 2 Nature Climate Change 385 (June 2012)……………………………………………….338

From The New York Times:
Ian Urbina, “Pressure Limits Efforts to Police Drilling for Gas,” March 3, 2011………………...341
Ian Urbina, “Insiders Sound an Alarm Amid a Natural Gas Rush,” June 25, 2011………………349
Ian Urbina, “Rush to Drill for Natural Gas Creates Conflicts With Mortgages,” October 19, 2011……………………………………………………………………………………………………………………………364
Joe Nocera, “How to Extract Gas Responsibly,” February 27, 2012…………………………370
Joe Nocera, “About My Support for Natural Gas,” April 15, 2012……………………………..372
Arthur Riley, “Shale Gas to the Climate Rescue,” August 13, 2012……………………………376

From Council on Foreign Relations:

Steve Everley, “Misinformation Campaign Targets Hydraulic Fracturing,” Washington Legal
Foundation, July 13, 2012…………………………………………………………………………………..387

VOLUME II

Class 7 -- October 16, 2012
Oil

Tomain, pp. 218-259

Michael J. Graetz, “Energy Policy: Past or Prologue?” Daedalus, pp. 31-44 (Spring 2012)……..7

Foreign Relations, May 2009…………………………………………………………………………….21

Paul W. Parfomak et al., “Keystone XL Pipeline Project: Key Issues,” Congressional Research
Service, May 9, 2012……………………………………………………………………………………61

Class 8 -- October 23, 2012
Electricity Regulation

Michael H. Brown & Richard P. Sedano, Electricity Transmission: A Primer (National Council
on Electricity Policy, 2004), pp. 1 – 38…………………………………………………………………94

Tomain, pp. 369-408

Gerrard, chapter 9
Class 9 -- October 30, 2012
Electricity Capacity Markets

Tomain, pp. 408-425

Guest speaker (Robert Grey, General Counsel, PPL)

Additional readings to be posted on Courseweb

Class 10 -- November 6, 2012
Nuclear power

Tomain, pp. 426-469

Massachusetts Institute of Technology, “The Future of Nuclear Power” (2003), Executive Summary (pp. ix-x) and Chapter 1 (pp. 1-16)……………………………………………………………..133

Massachusetts Institute of Technology, “The Future of the Nuclear Fuel Cycle” (2010) (Executive Summary)…………………………………………………………………………………..152


Class 11 -- November 13, 2012
Energy efficiency

Gerrard, chapters 2 and 3

McKinsey Global Energy and Materials, Unlocking Energy Efficiency in the U.S. Economy (July 2009), Executive Summary…………………………………………………………………………………..189


Amanda R. Carrico et al., Energy and Climate Change: Key Lessons for Implementing the Behavioral Wedge, 2 Journal of Energy & Environmental Law 61 (2011)……………………………..230
Class 12 -- November 20, 2012
Renewables


Gerrard, chapter 16

Class 13 -- November 27, 2012
Integrated resource planning


Synapse Energy Economics, Inc., *Portfolio Management: How to Procure Electricity Resources to Provide Reliable, Low-Cost, and Efficient Electricity Services to All Retail Customers* (2003), pp. ES-1 to ES-7…………………………………………………………………………303


Class 14 -- December 4, 2012
Pricing for Renewables: Renewable portfolio standards, feed-in tariffs, carbon tax

Gerrard, chapter 4

