New Horizons: Utility Regulation of the Future

Sunday, May 7, 2017

1:00 – 5:30 p.m.  Registration – Skyline Foyer
3:00 – 4:00 p.m.  NCRA Alumni Association Meeting – Skyline III
4:00 – 5:00 p.m.  Subcommittee on Law Meeting – Skyline III
5:00 – 6:00 p.m.  Subcommittee on ALJs Meeting – Skyline III
6:00 – 8:00 p.m.  Welcome Reception – Skyline I

4:00 – 6:00 p.m.  Sunday, May 7, 2017  Optional Introductory Session
The Structure of Utility Regulatory Law – Forum Suite 3rd Floor
Presenter: Scott Hempling – Attorney, Author, and Law Professor
Scott Hempling will present 2-hour tour of the entire body of the substantive law of utility regulation: its foundations, structure, intersections and frontiers. With this mental “file cabinet,” newer attorneys can identify legal subjects deserving more study, and veteran attorneys can structure their mentoring efforts.

Monday, May 8, 2017

7:30 – 8:30 a.m.  Continental Breakfast – Skyline Foyer
8:30 – 9:00 a.m.  Conference Kickoff by Michael Grant, 2017 NCRA President
Opening Remarks by Lisa Hardie, Chair of the Public Utility Commission of Oregon

9:00 – 10:00 a.m.  Session 1: Who's Regulating Whom?
Presenter: Scott Hempling, Attorney, Author, and Law Professor
From regulation's earliest days, regulatory attorneys have dealt with two continuous struggles: between monopoly and competition, and between regulator and regulated. Scott Hempling will open the conference and describe how two areas of regulatory law—the nature of the monopoly franchise and the regulator's duty to oversee service quality—have become battlegrounds with billions at stake.

10:00 – 10:15 a.m.  Break

10:15 – 11:15 a.m.  Session 2: Economic Perspective – Utility Regulation in a Deregulatory Climate
Presenter: Ken Rose
The current political attitude toward regulation ranges from indifference to open hostility. The reasons given for this attitude include that regulations are inefficient, costly, and ineffective. Dr. Rose will discuss how regulations can improve overall economic efficiency and can be done in cost-effective ways.
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<td>11:15 a.m. –</td>
<td><strong>Session 3: The Washington Report</strong>&lt;br&gt;&lt;em&gt;Presenter: Jennifer Murphy, Assistant General Counsel, National Association of Regulatory Utility Commissioners&lt;/em&gt;&lt;br&gt;NARUC Assistant General Counsel, Jennifer Murphy, provides an annual update on legal and regulatory happenings on Capitol Hill, in the courts, and in relevant federal agencies.</td>
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<td>12:15 p.m.</td>
<td>Lunch – Skyline II</td>
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<td>12:15 – 1:30</td>
<td><strong>Session 4a: Back to the Future – Distributed Energy Resources</strong>&lt;br&gt;&lt;em&gt;Presenter: Michael Jung, Policy Director, Silver Spring Networks&lt;/em&gt;&lt;br&gt;Distributed energy resources represent both a throwback to the vintage roots of the power industry and a leap forward to the technologies of the future. Self-proclaimed policy wonk Michael Jung will share his thoughts on how we can best realize the promised benefits of innovation without inadvertently locking ourselves into the artifacts of the past.</td>
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<td>1:30 – 2:00 p.m.</td>
<td><strong>Session 5: Does Going Green put Ratepayers in the Red?</strong>&lt;br&gt;&lt;em&gt;Moderator: Abby Gray, Executive Director, Legal Operations, Indiana Office of the Utility Consumer Counselor&lt;/em&gt;&lt;br&gt;&lt;em&gt;Panelists: Bob Jenks, Director, Oregon Citizens’ Utility Board&lt;/em&gt;&lt;br&gt;Michele Beck, Director, Office of Consumer Services, Utah Department of Commerce&lt;br&gt;Amanda Alderson, Senior Consultant, Brubaker and Associates&lt;br&gt;Ratepayers are being required to shoulder more than traditional utility operations (plant, operating expenses, and the associated profits)—they are increasingly being asked to fund programs designed to provide societal benefits such as electric vehicle programs, carbon reduction policies, solar projects and distributed generation. The panel will discuss the impacts of such programs and possible ways to implement consumer protections.</td>
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<td>2:30 – 3:30 p.m.</td>
<td><strong>Session 4b: Scanning the Horizon – Updates on Current Issues of Interest</strong></td>
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<td><strong>Session 6: The Future of Telecom Regulation Under a New Administration and a Consolidating Industry</strong>&lt;br&gt;&lt;em&gt;Moderator: Lisa Youngers, Chief Executive Officer, Nextlink Wireless&lt;/em&gt;&lt;br&gt;&lt;em&gt;Panelists: Joseph Gillan, Economist&lt;/em&gt;&lt;br&gt;Chris Witteman, Staff Counsel, California Public Utilities Commission&lt;br&gt;David Conn, Vice President – State Government Affairs, T-Mobile USA, Inc.&lt;br&gt;As the Administration changes in Washington DC and at the FCC, what kind of policy or regulatory changes face those in the telecom industry? What is the impact of this environment on the states and their approach to telecom regulation? The industry itself also has been undergoing significant changes as consolidation picks up speed and traditional players take on new faces and business plans. This panel will provide an overview of what is on tap for the telecom marketplace from the incoming Administration’s perspective and highlight some of the recently approved/pending major acquisitions. A diverse group of expert panelists will explore the following topics and make their own observations.</td>
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<td>6:00 – 8:00 p.m.</td>
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**Tuesday, May 9, 2017**

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| 8:30 – 9:45 a.m. | **Session 7: The Trump Administration’s First 100 Days – What has Happened, and What is Next?**  
*Moderator:* Claudia Earls, Chief Counsel, NIPSCO  
*Panelists:*  
- Daniel Larcamp, Partner, Troutman Sanders, Washington, D.C.  
- Michael McKenna, President, MWR Strategies  
- Jennifer Murphy, Assistant General Counsel, National Association of Regulatory Commissioners  
This year the NCRA falls just after the first 100 days of President Trump’s administration. During his campaign, President Trump promised big changes – this panel will present an insider’s report on the changes made thus far affecting the regulated industries, as well as what future changes we can expect for the utilities, their ratepayers, and the regulators. |
| 9:45 – 10:00 a.m.| Break                                                                |
| 10:00 – 11:00 a.m.| **Session 8: Regulatory 101, A View from the Bench – Tips on Effective Advocacy from Commissioners and Administrative Law Judges**  
*Moderator:* Steven Denman, Administrative Law Judge, Colorado Public Utility Commission  
*Panelists:*  
- Stephen Bloom, Commissioner, Public Utility Commission of Oregon  
- Diane Munns, Senior Director of External Affairs, Environmental Defense Fund (former Commissioner, Iowa Utilities Board)  
- Gregory Kopta, Director, Administrative Law Division, Washington Utilities and Transportation Commission  
- Dwight Nodes, Chief Administrative Law Judge, Arizona Corporation Commission  
How can you tell what a Commissioner or Administrative Law Judge really thinks of your case? What distinguishes effective advocacy from mere argument? This panel, comprised of current and former Commissioners and ALJs, will lead a candid discussion of life on the bench and provide tips on how to build credibility and present cogent oral and written arguments. |
| 11:00 a.m. – 12:00 p.m. | **Session 9: Transportation Network Companies: Motor Carriers of Passengers Have Been “Uber-ized”**  
*Moderator:* Cheryl Walker Davis, Director, Office of Special Assistants, Pennsylvania Public Utility Commission  
*Panelists:*  
- Nancy Allred, Senior Regulatory Counsel, Uber Technologies, Inc.  
- Ray F. Middleman, Managing Partner, Malone Middleman, P.C., Pennsylvania  
- John Herzog, Deputy Chief Counsel, Pennsylvania Public Utility Commission  
Transportation network companies (TNCs), such as Uber and Lyft, have dramatically altered the for-hire, common carrier transportation industry. Most of the states, 43 and counting, have enacted legislation regulating safety. Additionally, there are more regulatory challenges on the horizon as driverless vehicles are tested for future emergence. This panel will discuss the impact of these laws and developments from an industry, regulatory, and public policy perspective. |
12:00 – 5:00 p.m.  Breakout Sessions (boxed lunch provided)

**BONUS TUESDAY EVENING EVENT:** Through the generosity of NCRA Presenter Michael Jung and Silver Spring Networks, conference attendees are invited to a reception from 7:00 p.m. to 9:00 p.m. at Pips and Bounce—Portland’s Ping Pong Social Club and Bar. Check them out at [Pips & Bounce](#). Come play some pong and have a drink, courtesy of Silver Spring Networks!
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| 8:30 – 10:30 a.m.| **Session 10: Old Problems, New Challenges – Guide to Ethical Regulations**  
  *Moderators:* Jason Zeller, Attorney and former Assistant Chief Counsel, California Public Utilities Commission  
  G. Harris Adams, Chief Administrative Law Judge, Colorado Public Utilities Commission  
  *Presenter:* Amber Hollister, General Counsel, Oregon State Bar  
  Ethical decision making and practice are fraught with difficulties and challenges. Through a series of skit-based scenarios based on real cases, this two-hour program will invite vigorous discussion of state ethics laws and the Model Rules of Profession Conduct. |
| 10:30 – 10:45 a.m.| **Break**                                                             |
| 10:45 – 11:45 a.m.| **Session 11: Good to the Last Drop: Current and Emerging Issues in the Water Utility Industry**  
  *Moderator:* Cheryl Walker Davis, Director, Office of Special Assistants, Pennsylvania Public Utility Commission  
  *Panelists:* Jason Zeller, Attorney and former Assistant Chief Counsel, California Public Utility Commission  
  Susan Simms Marsh, Deputy General Counsel, Pennsylvania American Water  
  Jan Beecher, Director, Institute of Public Utilities, Michigan State University  
  Susan L. Satter, Assistant Attorney General Illinois and NASUCA past Water Committee Chair  
  According to the Environmental Protection Agency (EPA), lead in water is regulated through the Lead and Copper Rule under the Safe Drinking Water Act. The EPA noted that lead and copper enter drinking water primarily through plumbing materials. More importantly, the EPA has indicated that exposure to lead and copper may cause health problems ranging from stomach distress to brain damage. The recent lead issues in Flint, Michigan, are a stark reminder of the chronic problem of lead not just in Flint but across the country. With Flint at the forefront of the issues associated with lead regulation, it is important to look beyond Flint in addressing this problem: What are the regulatory obligations to assess and address these issues; what are the ratemaking impacts of faster company-owned lead service line replacement; what are the pros and cons of utility replacement of customer-owned service lines? Our noted experts will address these issues as well as more as we look at the regulatory obligations of keeping our water good to the last drop! |
| 12:00 – 1:00 p.m. | **Lunch – *Skyline II***                                             |
| 1:00 – 2:15 p.m. | **Session 12: Things Look Different Here – Modern Grid Investments Through the Utility versus Customer Looking Glass**  
  *Moderator:* Lisa Schwartz, Electricity Markets and Policy Group, Lawrence Berkeley National Laboratory  
  *Panelists:* Steve Kihn, Principal and Chief Economist, Seventhwave  
  Jan Beecher, Director, Institute of Public Utilities, Michigan State University  
  Andy Satchwell, Principal Scientific Engineering Associate, Lawrence Berkeley National Laboratory  
  Galen Barbose, Research Scientist, Lawrence Berkeley National Laboratory  
  The electric sector in the United States is seeing significant changes in technologies, customer desires, load growth, and federal and state policies and regulations. To help guide us through these changes, this panel will highlight different views of the future of electric utility regulation and business models by exploring the following topics:  
  - Utility incentives and disincentives for grid modernization  
  - Combined impacts of high levels of energy efficiency and solar PV on utility shareholders and ratepayers  
  - Putting the cost-shifting impacts of solar PV in context (compared to other drivers of retail rate changes such as energy efficiency, natural gas prices, renewable portfolio standards, and utility capital expenditures) |
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| 2:15 – 2:45 p.m. | **Session 13: Performance-Based Regulation for U.S. Electric Utilities** | *Presenter*: Mark Newton Lowry, President of Pacific Economics Group Research LLC  
What does the move to alternative forms of regulation—beyond cost of service—mean for utilities and their ratepayers? Come hear the results of a new report that features electric utility case studies, incentive power research, and productivity research to show how performance-based regulation affects utility service, cost performance, and other indicators. |
| 2:45 – 3:00 p.m. | **Break**                                           |                                                                        |
| 3:00 – 4:00 p.m. | **Session 14: Natural Gas Pipeline Siting**        | *Moderator*: Claudia Earls, Chief Counsel, Northern Indiana Public Service Company  
*Panelists*: Andre Wright, Senior Counsel, NiSource, Inc., Merrillville, Indiana  
Paul Seby, Shareholder, Greenberg Traurig, Denver, Colorado  
The panel will provide an update on administrative and litigation developments related to several major federal energy and environmental regulations that are subject to recent Presidential Executive Orders mandating their prompt review and potential reconsideration. The Executive Orders also seek to promote energy independence and economic growth through the identification of impediments to burdens on increased domestic energy production and transmission. States may play an increased role in overseeing energy development and production in the renewed context of the cooperative federalism called for under most major federal energy and environmental laws. This panel will also explore the federal and state legal frameworks governing pipeline siting and safety and some of the practical issues that utilities confront when siting, planning and constructing energy-related infrastructure projects. |
| 4:00 – 5:00 p.m. | **Session 15: Regional Transmission Organizations (RTO) Governance Issues** | *Moderator*: Claudia Earls, Chief Counsel, Northern Indiana Public Service Company  
*Panelists*: Ann Rendahl, Commissioner, Washington Utilities and Transportation Commission  
Bill Derasmo, Partner, Troutman Sanders, Washington, D.C.  
Natalie Nelson-Marsh, Assistant Professor, University of Portland  
Stephanie Lenhart, PhD Candidate in Public Policy, Boise State University  
Panelists will present findings from a National Science Foundation research project on RTO decision-making, and discuss emerging issues associated with the governance of the California Independent System Operator and its Energy Imbalance Market initiative, other RTOs, as well as lessons learned on what individual stakeholders may want to consider when they disagree with their RTO. |

Last updated 5/2/17