

BUILDING A BRIDGE TO NEW REGULATION

36th ANNUAL NATIONAL CONFERENCE OF REGULATORY ATTORNEYS

HOLIDAY INN EXPRESS FISHERMAN'S WHARF - SAN FRANCISCO, CALIFORNIA

JUNE 16 -19, 2013

SUNDAY, JUNE 16, 2013

- 12:00 - 6:00 p.m. Registration
- 3:00 - 4:00 p.m. NCRA Alumni Association Meeting
- 4:00 - 5:00 p.m. Subcommittee on Law Meeting
- 5:00 - 6:00 p.m. Subcommittee on ALJ Meeting
- 6:00 - 8:00 p.m. Reception

MONDAY, JUNE 17, 2013

- 7:30 - 8:30 a.m. Breakfast
- 8:30 - 8:45 a.m. Introduction to Conference, Welcoming Remarks
Jason Zeller, President, 2013 NCRA
California Public Utilities Commission
Commissioner Michael Florio
Ohio Representative: Invitation to the 37th NCRA
Conference in Columbus, Ohio
- 8:45 - 9:30 a.m. Session I - Why Regulation is Important

The average consumer's income is stagnant but utility rates continue to rise; how can consumer advocates and regulators help them cope with these difficult economic circumstances? Dr. Rose provides an explanation as to why the regulator is important and continues to be relevant. What regulatory initiatives are needed to make the existing system work more effectively? Can regulators do something meaningful about climate change and other environmental challenges? What do we need to do in the future?

Introduction: Cheryl Walker Davis, Pennsylvania Public Utilities Commission

Presenter: Dr. Ken Rose, Senior Fellow, Institute of Public Utilities, Michigan State University, and Lecturer, John Glenn School of Public Affairs, The Ohio State University

9:30 – 10:15 a.m.

Session II – Pipeline Safety after the San Bruno Disaster and Explosions in Other States

The lead attorney on the California Commission's investigation into record-keeping deficiencies and other violations by Pacific Gas and Electric Company that led to the San Bruno Disaster will discuss what he has learned through the investigation and the implications of his findings for all utilities. We will also hear from gas safety experts from the Ohio and Pennsylvania Commission to discuss explosions in their states and their Commission's responses to the situation. How should consumer advocates and Commissions respond? How to avoid saddling ratepayers with replacement and infrastructure upgrade costs that they have already allegedly paid for in existing rates?

Introduction: Jason Zeller, Assistant Chief Counsel, California Public Utilities Commission

Robert Cagen, California Public Utilities Commission, Staff Counsel

Representatives from the Ohio & Pennsylvania Commissions

10:15 – 10:30 a.m.

Break

10:30 a.m. – 12:15 p.m.

Session III – Recent Developments in Water and the Challenge of Water Contamination

Introduction: Gary Weatherford, Administrative Law Judge, California Public Utilities Commission

John Thorson, former Administrative Law Judge with the California Commission will discuss recent developments

affecting the water industry including increasing supply challenges, enhanced water testing requirements from the Environmental Protection Agency, and the challenge of dealing with chemical contamination in underground aquifers. Among the challenges facing this industry are significant capital needs, the expense of testing for contaminants, the lag between when contamination is discovered and the recovery of funds from the polluters, and the potential threat to public health and safety posed by contamination.

Moderator: Cheryl Walker Davis, Director, Office of Special Assistants, Pennsylvania Public Utility Commission

Panelists: John Thorson, Retired Administrative Law Judge, California
Gary Weatherford, Active Administrative Law Judge, California
Amanda Rasmussen, Former Engineer with the Division of Ratepayer Advocates, California Public Utilities Commission
Susan Sims March, Corporate Counsel, American Water Company

12:15 – 1:30 p.m.

Lunch – Address by Frank Lindh, General Counsel, California Public Utilities Commission

1:30 – 3:00 p.m.

Session IV – FERC Order 1000 and its Impact on States and Transmission Planning

In October 2011, the Federal Energy Regulatory Commission issued its Order No. 1000, which fundamentally changed regional transmission planning and cost allocation, as well as the determination of who should construct new transmission projects. This panel will provide an overview of Order No. 1000, the compliance filings that have been made in response, and any subsequent FERC orders on those filings, as well as discuss the impacts all of this has on the states.

Moderator: Beth Krogel Roads, Assistant General Counsel, Legal Counsel re: RTO/FERC Issues, Indiana Utility Regulatory Commission

Panelist: Rishi Garg, General Counsel, National Regulatory Research Institute, Researcher/ Author of “FERC Order 1000: Public Utility Compliance and Impacts on States”

3:00- 3:30 Washington Report: Brad Ramsey, NARUC General Counsel or Holly Rachel Smith NARUC Staff

3:30 – 3:45 p.m. Break

3:45 – 5:15 p.m. Session V – Water Recycling: Making Better Use of Available Resources – Regulatory, Legal and Public Perception Challenges and Opportunities

Introduction:

Because of continuing supply problems in the West, Southeast, Southwest and Great Plains, water utilities are increasingly looking to alternative sources of water to supply their customers. One promising alternative is the increased use of wastewater that has been treated to near potable water standards. Orange County California has been a pioneer in water recycling and we will hear from a leader of that initiative. We will also hear a presentation on the California PUC’s water recycling rulemaking and challenges faced by communities that are looking at this source of supply. Drought conditions in the Midwest and Southern Plains have also made this an attractive alternative source of supply.

Moderator: Robert Haga, The Division of Ratepayer Advocates’ staff counsel for the California Commission’s Water Recycling Rulemaking

Panelists:

Orange County Representative
Susan Simms Marsh, Esq., Corporate Counsel, American Water Company
Robert Mills, California Department of Water Resources

6:30 p.m. Conference Banquet – Scoma’s Restaurant, Fisherman’s Wharf

TUESDAY, JUNE 18, 2013

7:30 – 8:15 a.m.

Breakfast

8:15 – 9:45 a.m.

Electricity: How Intelligent is the SMART Grid and Are Ratepayers Getting Their Money's Worth?

SMART Meters and the SMART Grid have been touted as essential to modernizing the electric grid for the 21st Century. What benefits do SMART technologies offer? Is this just another high-tech method of building ratebase? What are the challenges of making SMART Meters capable of reading gas and water meters? What was broken that SMART Grid technologies can fix? How can consumer advocates protect ratepayers' interests in light of the pressure to adopt SMART Grid technology? Where are the elusive "savings" this new technology is supposed to offer? How do cybersecurity issues affect the SMART grid and what can states do enhance cybersecurity for the utilities they regulate?

Moderator: Eve Moran

Panelists: Chris Villareal, Analyst California Public Utilities Commission, Policy and Planning Division: Cybersecurity and SMART Meters

9:45 – 10:00 a.m.

Break

10:00 a.m. – 12:00 p.m.

Session VII – Telecommunications The Internet Protocol Transition: Key Legal and Policy Issues

The on-going transformation of the U.S. telecommunications infrastructure to IP-based networks is well underway, teeing up several legal and policy issues facing us all. In late 2012, AT&T and NTCA filed separate petitions asking the FCC to open new comprehensive proceedings to address the IP Transition. AT&T also urged the FCC to render much of the current regulatory regime as obsolete. This CLE will feature an informative discussion from groups on all sides of this critical policy debate and will examine the legal and policy impacts of the IP transition. Some of the issues to be explored include: whether a new comprehensive proceeding is necessary to address the IP transition or if the FCC can address several transition-related issues through matters

already before the agency? Does the current 251/252 regulatory regime appropriately apply to an IP-based world or are such regulations no longer needed? How should the FCC address calls for an IP Interconnection regime? Does it fit under the current regulatory structure? Several other issues will be explored as part of the expert panel.

Moderator: Lisa R. Youngers, Vice President and Asst. General Counsel, XO Communications

Panelists:

Joe Gillan, Economic Consultant, Gillan Associates
Dave Conn, Vice President, State Regulatory, T-Mobile USA
Roy Lathrop, Economist, National Cable and Telecommunications Association
Jeff Lanning, Vice President, Federal Regulatory, CenturyLink
Chris Witteman, Lead Communications Enforcement Attorney, California Public Utilities Commission

12:00 – 5:00 p.m.

Breakout Sessions - Box Lunch-- Field Trips to Alcatraz, Muir Woods and Sonoma Wine Country

WEDNESDAY, JUNE 19, 2013

7:30 – 8:30 a.m.

Continental Breakfast

8:30 – 10:30 a.m.

Session VIII – Gas: Consumer Advocacy in an Era of Natural Gas Surplus – Will Cheap Gas be Available for the Long Term?

Extensive use of “fracking” and other enhanced gas production techniques has markedly changed the nation’s gas supply and demand picture while presenting significant environmental and other challenges. Will inexpensive gas continue to be available in the years to come? Is inexpensive gas bad for the environment because it is impeding the development of renewables? What are the prospects for exports of liquefied natural gas? Who will have to pay for the infrastructure needed to bring “fracked” gas to market and do state Commissions have a regulatory oversight role

to play in ensuring a smooth transition to a changed gas market?

Panelists:

Bill Levis, Colorado Consumer Counsel,

Robert Burns, Esq., Research Specialist, The Ohio State University

10:30 – 10:45 a.m.

Break

10:45 – 12:15 p.m.

Session IX – Telecommunications

Federalism and the FCC’s Transformation Order: An Order Merely Transforming the Industry or Substantially Altering our Legal Structure

The Panel will examine the state – federal interaction in such areas as rate-making and federal preemption, the statutory construction theories relied upon by the FCC and opposed by the States, and what it means for the future. The panel will provide an overview on whether the bi-jurisdictional state-federal regulatory relationship over telecommunications carriers and services should be maintained and in what form as we move forward both with the implementation of the FCC Transformation Order and pending federal appeals.

Cheryl-Walker Davis Moderator

Labros E. Pilalis- Telecommunications Analyst: Office of Commissioner James H. Cawley, Pennsylvania Public Utilities Commission

Dr. Robert Loube – Vice President, Economic Research – Rolka Loube Saltzer Associates

12:15 – 1:30 p.m.

Lunch -

1:30 – 3:30 p.m.

Session X – Ethics

Ethics Fables: The High Cost of Not Playing By the Rules

A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a

public citizen having special responsibility for the quality of justice... In all professional functions a lawyer should be competent, prompt and diligent...Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship. Preamble, Model Rules of Professional Conduct.

This interactive program uses a number of comedic skits to focus attention on the ethical challenges that arise in the course of contested administrative hearings, and that show themselves in the drafting of legal briefs. These short fables touch on the misuse of social media, violations of *ex parte* laws, incivility, and other forms of misconduct that threaten the public confidence in our legal system. A renowned ethics expert will lead us to examine how we are well-guided in our professional responsibilities by the basic principles that underly the Rules as well as by substantive and procedural law, personal conscience and the approbation of professional peers.

Moderator: Michael Grant, Chief ALJ, Public Utility Commission of Oregon

Instruction: Professor Gregory L. Ogden, School of Law, Pepperdine University

Skits: Eve Moran, Eimer Stahl, LLP, & *The Not Ready for Ex Parte Players*

3:15 - 3:30 p.m.

Break

3:30 - 5:00 p.m.

Session XI - The Changing Regulatory Paradigm

Jan Beecher, Michigan State University

Robert Burns, Esq., Research Specialist, The Ohio State University

How have changes in industry structure and the increased use of competitive markets, regulatory incentive mechanisms and other changes in the utility industry modified the traditional regulatory compact including the obligation to serve and the requirement for just and reasonable rates? How should consumer advocates respond

to these changes? Should Commissions modify their regulatory requirements and decisions to reflect this new reality? What problems are the proposed new solutions going to cause?

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