

BUILDING A BRIDGE TO NEW REGULATION

36th ANNUAL NATIONAL CONFERENCE OF REGULATORY ATTORNEYS

HOLIDAY INN FISHERMAN'S WHARF - SAN FRANCISCO, CALIFORNIA

JUNE 16 -19, 2013

SUNDAY, JUNE 16, 2013

12:00 – 6:00 p.m. Registration-Mezzanine

3:00 – 4:00 p.m. NCRA Alumni Association Meeting-Sonoma Room

4:00 – 5:00 p.m. Subcommittee on Law Meeting-Sonoma Room

5:00 – 6:00 p.m. Subcommittee on ALJ Meeting-Sonoma Room

6:00 – 8:00 p.m. Reception - Waterfront Terrace
145 Jefferson Street, Suite 100
San Francisco, CA 94133

Opening Remarks: Karen Clopton, Chief Administrative
Law Judge, California Public Utilities Commission

MONDAY, JUNE 17, 2013-Pacific Ballroom

7:30 – 8:30 a.m. Continental Breakfast- Mezzanine

8:30 – 8:45 a.m. Introduction to Conference, Welcoming Remarks

Jason Zeller, President, 2013 NCRA
California Public Utilities Commission

Angela Hawkins, Legal Director Ohio PUC
Invitation to the 37th NCRA Conference in Columbus, OH

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, Independent Consultant and Senior Fellow with the Institute of Public Utilities

9:30 – 10:15 a.m.

SESSION II – PIPELINE SAFETY AFTER THE SAN BRUNO DISASTER AND EXPLOSIONS IN OTHER STATES

One of the Assistant Chief Counsels of the California Public Utilities Commission, Jason Zeller, will discuss 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. Ms. Scott will discuss the federal role in gas safety regulation and how the San Bruno explosion has affected federal regulation. How should consumer advocates and Commissions respond? How can we avoid saddling ratepayers with replacement and infrastructure upgrade costs that they have already allegedly paid for in existing rates? We will also hear about how the federal government regulates pipeline safety.

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

Bizunesh Scott, Partner
Steptoe & Johnson LLP

Christine Pirik, Section Chief of Gas and Power Siting with the Ohio Public Utilities Commission

Wayne Scott, First Deputy Chief Prosecutor, Pennsylvania
Public Utilities Commission

Wendell Holland, Former Chair of the Pennsylvania Public
Utilities Commission

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***

Speakers will address 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: Gary Weatherford, Active Administrative Law Judge, California

Panelists: Amanda Rasmussen, Former Engineer with the Division of Ratepayer Advocates, California Public Utilities Commission

Susan Simms Marsh, Corporate Counsel, American Water Company

Dawn White, Golden State Water Company

Jennifer Clary, Clean Water Action (California)

12:15 - 1:30 p.m.

LUNCH (Pacific Ballroom) - 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

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

Noel Obiora, Staff Counsel, California Public Utilities Commission

3:00- 3:30 p.m.

Washington Report: Holly Rachel Smith, Assistant General Counsel NARUC

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

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: Jason Zeller, California Public Utilities Commission, Assistant Chief Counsel for Transportation and Water

Panelists: Jim Fielder, P.E. Chief Operating Officer, Water Utility Enterprise, Santa Clara Valley Water District

Richard Mills, California Department of Water Resources

6:30 p.m.

Conference Banquet – Scoma’s Restaurant
47 Al Scoma Way
San Francisco, CA 94133

TUESDAY, JUNE 18, 2013-Pacific Ballroom

7:30 – 8:15 a.m.

Continental Breakfast-Mezzanine

8:15 – 9:45 a.m.

SESSION VI - 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, Former Administrative Law Judge, Illinois Commerce Commission

Panelists: Michael Jung, Policy Director, Silver Springs Network

Ross Hemphill, Vice-President of Regulatory Policy and Strategy, Commonwealth Edison

Becky Harsh, Retail Electric Policy, Edison Electric Institute

Dave Erickson, Energy Division Analyst, California Public Utilities Commission: 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 Assoc.

Dave Conn, Vice President, State Regulatory, T-Mobile USA

Genny Morelli, President, ITTA

Doug Garrett, Vice President, Regulatory Affairs,
Western Region, Cox Communications

Chris Witteman, Lead Communications Enforcement
Attorney, California Public Utilities Commission

12:00 – 5:00 p.m.

Box Lunch-Mezzanine

BREAKOUT SESSIONS-- Field Trips to Alcatraz, Muir
Woods or Sonoma Wine Country

WEDNESDAY, JUNE 19, 2013-Pacific Ballroom

7:30 – 8:30 a.m.

Continental Breakfast-Mezzanine

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., Retired Research Specialist, The Ohio
State University

10:30 – 10:45 a.m.

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10:45 – 12:15 p.m.

***SESSION IX – 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.

Moderator: Cheryl Walker Davis, Pennsylvania Public Utilities Commission

Panelists: Charles M. Davidson, Director Advanced Communications Law and Policy Institute, New York Law School

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 - Bristol Bar & Grill

1:30 – 3:30 p.m.

***SESSION X – 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 provide the underlying rationale for the Rules as well as the applicable 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 & *The Not Ready for Ex Parte Players*

3:15 – 3:30 p.m.

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3:30 – 5:00 p.m.

SESSION XI - THE CHANGING REGULATORY PARADIGM

Moderator: California PUC Commissioner Advisor Charlyn Hook – Advisor to Commissioner Mark Ferron

Panelists: Dr. Janice Beecher, Professor & Director, The Institute of Public Utilities, Michigan State University

Robert Burns, Esq., Retired 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?