Energy Regulation

L8452
Columbia Law School
Fall 2017

Prof. Michael B. Gerrard

Class hours: Tuesday, 4:20 pm - 6:10 pm
Jerome Greene Hall Room 101

Two credit hours

Instructor’s office: JGH 525
Office hours: Tuesday and Thursday, 10:45 a.m. - 12:00 p.m. or by appointment
Contact michael.gerrard@law.columbia.edu for appointment

Teaching assistant: Joe Margolies, jhm2160@columbia.edu

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 and natural gas) 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 of 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 Courseworks.

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


There are additional readings for many sessions; they are all posted on Courseworks.

Class Topics and Readings

Class 1 -- September 5, 2017
Basic energy facts

Gerrard, Chapter 1

Tomain, pp. 51-107


Class 2 -- September 12, 2017
Basics of utility regulation


Tomain, pp. 9-50


Class 3 -- September 19, 2017
Rate regulation procedures

Tomain, pp. 165-206


In-class ratemaking exercise; additional readings to be posted on Courseworks
Guest speaker: Eleanor Stein, Former Administrative Law Judge, New York Public Service Commission

Class 4 -- September 26, 2017
Federal/state jurisdiction

Tomain, pp. 142-164

(Note: Students who have not taken, and are not now taking, Administrative Law should also read Tomain, pp. 109-142)

Gerrard, Chapter 22


Class 5 -- October 3, 2017
Electricity Capacity Markets and Demand Response


Class 6 -- October 10, 2017
Electricity Regulation and the Smart Grid

Tomain, pp. 384-419, 431-443

Peter Fox-Penner, Smart Power: Climate Change, the Smart Grid, and the Future of Electric Utilities (2010), chapters 3, 5, 8

Gerrard, chapter 9

Guest Speaker: Suedeen Kelly (former Commissioner, Federal Energy Regulatory Commission)

Class 7 -- October 17, 2017
Energy efficiency

Gerrard, chapters 2 and 3


Zero Zone, Inc. v. U.S. Department of Energy. 832 F.3d 654 (7th Cir., 2016) (excerpts)

Class 8 -- October 24, 2017

Natural Gas

Tomain, pp. 273-316


Class 9 October 31, 2017

New sources of natural gas: Shale formations


New York State Department of Environmental Conservation, Final Supplemental Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program: Findings Statement (June 2015) (excerpts)

Class 10 -- November 7, 2017

Oil
Tomain, pp. 221-271


**Class 11 -- November 14, 2017**  
**Nuclear power**

Tomain, pp. 445-493

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


**Class 12 -- November 21, 2017**  
**Renewables**


**Class 13 -- November 28, 2017**  
**Promoting Renewables: Renewable portfolio standards, feed-in tariffs, carbon tax, stranded costs**

Gerrard, chapter 4


Energy and Environment Legal Institute v. Epel, 793 F.3d 1169 (10th Cir. 2015) (excerpts)

State of North Dakota v. Heydinger, 825 F. 3d 912 (8th Cir., 2016) (excerpts)

**Class 14 -- December 5, 2017**  
**Review Session**