

University of Houston Law Center
ENERGY LAW & POLICY SYLLABUS
- Fall 2020-

Contact Information

Instructor:	Gina S. Warren
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Class Schedule and Location: Class is scheduled for Tuesday and Thursday afternoons from 1:00pm to 2:30pm in room TBD.

Office Hours: I am available to meet with students regularly and my office hours are Tuesdays from 11:00am-1:00pm. If this time does not work for your schedule, email me to schedule an appointment. You should feel free to call or e-mail me with any questions, concerns, or comments, or to schedule an appointment.

Required Reading Material:

- (1) Tomain, et al., ENERGY LAW IN A NUTSHELL (3d Edition 2016), West Academic publication.
- (2) Additionally, a packet of select cases and laws will be prepared by the professor and available to you prior to class.

Learning Outcomes: I have four goals for this course. First, you will learn about historical and current issues in energy law. We will look at some historical events and trends that have brought Energy Law to where it is today, and we will study current events. Second, by the end of the course, I expect you will have a good understanding of how each type of energy source is regulated in the United States, including what governmental entities are in charge of the regulation and the applicable statutes. Third, I expect you will walk away with a general understanding of the future of energy technology and regulation with an eye toward minimizing energy's negative externalities. Fourth, by the end of the semester you will have a specialized, in depth knowledge of an energy law topic of your choice.

Course Attendance and Participation: Consistent with university policy, 80 percent attendance in class is required. An attendance list will be circulated at each class session. Those individuals not satisfying the attendance requirement will be reported to UH Law Center administrative officials to be dropped from the course. Students will be expected to have read the assigned readings prior to class (you will sign up for specific panels, which hopefully coincide with your topic interests) and to be prepared to discuss the material in class.

Assessment Methods: This is a project course. After a few weeks of class you will be asked to identify an energy-related topic that you would be interested in researching more in depth. Your final grade will be based primarily on two components: (1) an oral presentation of your chosen (with approval) topic, which will count for 40% of your overall course grade; and (2) a legal article of your chosen topic (with approval), which will count for 60% of your overall course grade. [Additional details for both components

will be provided during the semester].

Use of Laptops: Given that this is a small, discussion-based class, laptops are not allowed.

Counseling and psychological services: Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Sexual Misconduct and Antidiscrimination Policies: The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system’s Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here: <http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>; http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf (antidiscrimination); http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf (sexual misconduct). Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Reading Assignments: What follows is an anticipated reading schedule. As the semester progresses, however, we may fall behind or speed ahead of the schedule requiring that the reading assignments be adjusted. **I therefore reserve the right to change and adjust the assignments based on the pace and progress of the class, the topics of particular interest to the class, and otherwise, as I deem necessary.**

Tentative Course Schedule

Date	Topic	Nutshell Readings	Case Assignments
08.25	Introduction to Energy Law	119-164	N/A
08.27	U.S. Energy Resources & Consumption	51-61	N/A
Martin Luther King Jr. Day – No Class			
09.01	Themes of Energy Law	62-107 (skim)	<ul style="list-style-type: none">• <i>Proprietors of Charles River Bridge v. Proprietors of Warren Bridge</i>, 36 U.S. 420 (1837)• <i>American Petroleum Institute v. EPA</i>, 706 F.3d 474 (D.C. Cir. 2013)• <i>Federal Power Commission (n/k/a</i>

			<p><i>FERC) v. Florida Power & Light</i>, 404 U.S. 453 (1972)</p> <ul style="list-style-type: none"> • <i>Animal Welfare Institute v. Beech Ridge Energy</i>, 675 F. Supp. 2d 540 (D. Md. 2009)
09.03	Energy Legal Tools: the Role of Regulation and Markets	168-175	<ul style="list-style-type: none"> • <i>Otter Tail Power Co. v. U.S.</i>, 410 U.S. 366 (1973) • <i>State v. Ohio Oil Co.</i>, 49 N.E. 809 (Ind. 1898) • <i>Confederated Tribes and Bands of the Yakima Indian Nation v. FERC</i>, 746 F.2d 466 (9th Cir. 1984) • <i>Competitive Enterprise Institute v. National Highway Traffic Safety Administration</i>, 956 F.2d 321 (D.C. Cir. 1992)
09.08	Traditional Energy Sources (Coal, Oil & Gas)	227-231 325-350	<ul style="list-style-type: none"> • <i>United States v. Law</i>, 979 F.2d 977 (4th Cir. 1992) • <i>Robinson Township v. Commonwealth of Pennsylvania</i>, 83 A.3d 901 (Pa. 2013)
09.10	Traditional Energy Sources (Nuclear, Hydropower)	445-470 495-519	<ul style="list-style-type: none"> • <i>Platte River Whooping Crane Critical Habitat Maintenance Trust v. FERC</i>, 962 F.2d 27 (D.C. Cir. 1992) • <i>Metropolitan Edison Co. v. People Against Nuclear Energy</i>, 460 U.S. 766 (1983) • <i>New Jersey Department of Environmental Protection v. NRC</i>, 561 F.3d 132 (3d Cir. 2009)
09.15	Presentation by Christopher Dykes Nuclear Waste	471-481	<ul style="list-style-type: none"> • <i>Skull Valley Band of Goshute Indians v. Nielson</i>, 376 F.3d 1223 (10th Cir. 2004)
09.17	Utility Regulation – Part I	185-201 384-399	<ul style="list-style-type: none"> • <i>SZ Enterprises, LLC d/b/a Eagle Point Solar v. Iowa Utilities Board</i>, 850 N.W.2d 441 (Iowa 2014) • <i>Munn v. Illinois</i>, 94 U.S. 113 (1876) • <i>Nebbia v. New York</i>, 291 U.S. 502 (1934)
09.22	Utility Regulation – Part II	482-488	<ul style="list-style-type: none"> • <i>Potomac Electric Power Company v. FERC</i>, 210 F.3d 403 (D.C. Cir. 2000) • <i>Entergy Louisiana, Inc. v. Louisiana Public Service Commission</i>, 520

			<ul style="list-style-type: none"> • <i>Public Service Commission</i>, 559 U.S. 39 (2003) • <i>Jersey Central Power & Light v. FERC</i>, 810 F.2d 1168 (D.C. Cir. 1987) • <i>Duquesne Light Co. v. Barasch</i>, 488 U.S. 299 (1989)
09.24	Utility “De”regulation	401-415	<ul style="list-style-type: none"> • <i>Montana Consumer Counsel v. FERC</i>, 659 F.3d 910 (9th Cir. 2011) • <i>Zephyr Wind, LLC</i>, 141 FERC ¶ 61,113 (2012) • <i>New York v. FERC</i>, 535 U.S. 1 (2002)
09.29 Topics due by 5pm today	Electric Transmission Siting and Cost Distribution	382-384	<ul style="list-style-type: none"> • <i>Square Butte Elec. Co-Op. v. Hilken</i>, 244 N.W.2d 519 (N.D. 1976) • <i>In re Application of International Transmission Co.</i>, 827 N.W.2d 385 (Mich. Ct. App. 2012) • <i>Illinois Commerce Commission v. FERC (ICC I)</i>, 576 F.3d 470 (7th Cir. 2009) • <i>Illinois Commerce Commission v. FERC (ICC II)</i>, 721 F.3d 764 (7th Cir. 2013)
10.01	Energy Transport - Pipelines	306-313	<ul style="list-style-type: none"> • <i>Pliura Interventors v. Illinois Commerce Commission</i>, 942 N.E. 2d 576 (Ill. Ct. App. 2010) • <i>Minisink Residents for Envtl. Preservation & Safety v. FERC</i>, 762 F.3d 97 (D.C. Cir. 2014) • <i>Millennium Pipeline Co., LLC v. Seggos</i>, 860 F.3d 696 (D.C. Cir. 2017)
10.06	National Highway System		<ul style="list-style-type: none"> • <i>Citizens to Preserve Overton v. Volipe</i>, 401 U.S. 402 (1971) • <i>San Antonio Conservation v. Texas Highway</i>
10.08	Environmental Justice		<ul style="list-style-type: none"> • <i>Coalition of Concerned Citizens Against I-670 v. Damian</i>, 608 F. Supp. 110 (D. Ohio 1984) • <i>Saint Paul Branch of N.A.A.C.P. v. U.S. D.O.T.</i>, 764 F. Supp. 2d 1092 (D. Minn. 2011)
10.13	Shift to Clean Energy – Part I	205-206 363-372 564-566	<ul style="list-style-type: none"> • <i>Massachusetts v. EPA</i>, 549 U.S. 497 (2007) • <i>Colorado Renewable Portfolio</i>

Standard, CO Rev Stat § 40-2-124 (2016)

- *Village of Old Mill Creek v. Star*, 2017 WL 3008289 (N.D. Ill. July 14, 2017)

10.15 Shift to Clean Energy – 431-439
Detailed article Part II 535-542
outline due by
5pm today

- *Ecogen v. Town of Italy*, 438 F.Supp. 2d 149 (W.D.N.Y. 2006)
- *Quechan Tribe of Fort Yuma Indian Reservation v. DOI*, 755 F.Supp. 2d 1104 (S.D. Cal. 2010)
- *ARIPPA v. Pennsylvania Public Utility Comm’n*, 966 A.2d 1204 (Pa. Cmwlth. 2009)
- Application of Sierra Pacific Power Company, 2016 WL 7635932 (Nev.P.U.C.)

10.20	Student Presentations	1.
		2.
10.22	Student Presentations	3.
		4.
10.27	Student Presentations	5.
		6.
10.29	Student Presentations	7.
		8.
11.03	Student Presentations	9.
		10.
11.05	Student Presentations	11.
		12.
11.10	Student Presentations	13.
		14.
11.12	Student Presentations	15.
		16.
11.17	Student Presentations	17.
		18.
11.19	Student Presentations	19.
		20.

11.24 – 11.26 - No Classes – Thanksgiving

12.01 TBD

12.16 by 5pm Final Article Due

