ENERGY LAW
Syllabus
Fall Term 2012 (LAW 6062; CLASS #34183)
University of Minnesota Law School

Professor Osofsky

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Class Time: T/W, 2:30–3:55 pm
Class Location: Law School Rm. 35
Office Hours: Tuesday, following the end of class at 3:55 pm, or by appointment

COURSE MATERIALS:
● Additional On-Line Materials for Download through Syllabus

COURSE WEBSITE:
I will be maintaining a website for this course through The West Education Network (TWEN). This website will include the syllabus and other course materials, as well as the class list serves.

SUMMARY OF COURSE:
This course provides an introduction to U.S. energy law and does not have prerequisites. It is designed to overview many key topics in energy law, rather than focusing in-depth on single topics, so that students emerge from the course with a foundational understanding of this area. Part I of the course provides the overall context for energy regulation. It begins by providing an overview of the interplay between the physical grid, energy markets, and regulation. It considers the historical and economic context in which energy law and regulation takes place, with an emphasis on the way in which the physical characteristics of energy resources and markets led to their treatment as natural monopolies and the regulatory consequences of that treatment in public utility law. It also introduces the multi-level, cross-cutting legal framework that regulates energy and its separation from environmental law. Part II of the course turns to the primary sources of energy in the United States. Because legal fragmentation has led to divergent approaches to different sources of energy, the course examines the legal regime for each of the major sources of energy: coal, oil, natural gas, nuclear, hydropower, and renewables (wind, solar, biofuels, and geothermal). Part III of the course considers how these sources are used in electricity production. It discusses the federal, state, and local law relevant to generation, transmission, and distribution and the increasingly important role that regional transmission organizations play in this regulatory framework. The discussion will include hot topics such as transmission siting and cost-sharing, integrating renewables onto the grid, energy efficiency and conservation, and smart grid. Part IV of the course focuses on the use of these sources in transportation. This part discusses vehicle and fuel regulation, including ways in which the Obama Administration’s implementation of Massachusetts v. EPA is impacting fuel efficiency and tailpipe emissions standards. The course concludes in Part V with an analysis of the future of energy regulation that draws from the previous parts, reflecting upon we might bridge the energy/environment divide and approach multi-level energy governance in a more functional fashion.
COURSE REQUIREMENTS:

1. Attendance, Preparation, and Participation: All students are expected to attend class regularly and to come to class prepared to contribute knowledgeably and thoughtfully to the day’s discussion. Both in-class and listserv participation will count towards your grade. Class participation will count 5% of your final grade, which can make a difference to students at the border of two grades; the emphasis of this grade will be on the quality rather than the quantity of your classroom contributions. I understand that medical necessity, family emergencies, or important scheduling conflicts (such as job interviews) may prevent you from attending class from time to time. You are not required to notify me of absences in advance but repeated failure to attend class may result in a lowering of your class participation grade.

2. Hot Topics Presentations: After the first two weeks, we will begin class with 3-5 minute student hot topics presentations, which will count as 5% of your grade. These presentations are an opportunity for you to share information on the class on a topic in energy law that interests you. Any topic that you can connect to energy law in a reasonable fashion is acceptable. You will be graded on substantive preparation and the quality and organization of your presentation. Powerpoint is not required and please keep in mind that these presentations are very brief; you will be asked to conclude at the end of 5 minutes.

3. Exam: There will be a 3-hour open book examination on Dec. 19, 2012, at 1 pm. I will provide you with a sample exam that we will discuss as part of our review on the last day of class.

ACCOMMODATION OF DISABILITIES:
Students with disabilities should consult with the University’s Office of Disability Services and the Law School’s Assistant Dean of Students Office regarding any necessary classroom or exam related accommodations.

HONOR CODE:
Students enrolled in the course are expected to at all times comply with the Law School’s Honor Code and Academic Rules, as well as the University’s Code of Student Conduct.
PART I: INTRODUCTION TO THE ENERGY SYSTEM AND ENERGY LAW

1 Sept. 4 Introduction to the Energy System and the Course: The Interaction of Physical, Markets, and Regulatory Components
   Assignment:
   --Text, p. 1–7
   Read Introduction and Part I, p. 2–28

2 Sept. 5 Physical Aspects of the Energy System: Sources and the Structure of the Grid and the Need for an Updated, “Smarter” Grid
   Assignment:
   --Text, p. 7–9
   Review Section I.A, p. 7–15

3 Sept. 11 Market Aspects of the Energy System: Natural Monopolies, Restructuring/“Deregulation,” and Interactions Across Borders
   Assignment:
   --Text, p. 51-61, 609–613
   Review Section I.B, p. 15–23

4 Sept. 12 Complexities of Federalism and Energy Regulation
   Assignment:
   --Text, p. 9-19
   Read Parts II and III, p. 27–55

5 Sept. 18 The Role of Public Utilities and Public Utility Commissions (PUCs) in the Energy System: Guest Speaker Ellen Andersen
   Assignment:
PART II: LEGAL REGIMES GOVERNING PRIMARY SOURCES OF ENERGY

6  Sept. 19  Coal Part I: The Evolving Industry and the Regulation of Underground and Surface Mining (Including Mountaintop Removal)
Assignment:
--Text, p. 168–74 (through introductory paragraphs of B. Coal Mining and Transport), 180–200

7  Sept. 25  Coal Part II: Combustion and the Clean Air Act, New EPA Greenhouse Gas Emissions Regulations, Challenges to Power Plants, and the Future of the Coal Industry
Assignment:
--Text, p. 211-21, 236–38, 785–787
Browse the Project Challenges section of the Chart to see the many challenges to coal-fired power plants.

NO CLASS ON SEPT. 26 BECAUSE OF YOM KIPPUR.

8  Sept. 27  MAKEUP CLASS AT 6:15 PM—DINNER PROVIDED
Oil and Natural Gas Part I: Oil Leases and Industry, Rule of Capture & Prevention of Waste, Secondary Recovery, and Unitization
Assignment:
--Text, p. 239–50, 252–71

9  Oct. 2  Oil and Natural Gas Part II: Natural Gas Operations and Markets, Federal Regulation of Natural Gas, and Restructuring
Assignment:
--Text, p. 444-60, 489-503, 507-12, 529-42
10 Oct. 3 Oil and Natural Gas Part III: Hydraulic Fracturing
Assignment:
--Text, pp. 279–85
Read Parts I–IV, pp. 115–67
Read Part II (focus on parts on hydraulic fracturing).

11 Oct. 9 Tour of MISO (Midwestern Regional Transmission Organization)
Assignment:
--Explore MISO website, https://www.midwestiso.org/Pages/Home.aspx
Read Part IV.

12 Oct. 10 Oil and Natural Gas Part IV: Offshore Oil and Gas and the BP Deepwater Horizon Oil Spill
Assignment:
Read Introduction and Part I
Review Part II (focus on parts on deepwater drilling and oil spills).

Assignment:
--Text, p. 996–1018, 1045-55

14 Oct. 17 Nuclear Energy Part II: The Fukushima Daiichi Nuclear Disaster and Its Regulatory Implications
Assignment:
15 Oct. 23 Hydropower and Hydrokinetic Power: Federal Regulation, Licensing, Debates over Environment versus Development, and the Changing Landscape of Hydroelectic Development
Assignment:
--Text, p. 124–48; 157–67

16 Oct. 24 Other Renewable Sources Part I: Overview of Options, the Cape Wind Controversy, and State and Local Land Use Issues
Assignment:
--Text, p. 834-68

17 Oct. 30 Other Renewable Sources Part II: Federalism and Renewable Portfolio Standards, Feed-in Tarriffs
Assignment:
--Text, p. 872–84; 895–99, 905–18

PART III: ELECTRICITY

18 Oct. 31 Industry Structure, the Growth of Wholesale and Retail Competition, and the California/Enron Debacle
Assignment:

19 Nov. 6 Open Access Transmission, Independent System Operators/Regional Transmission Organizations, and Renewable Energy Grid Integration
Assignment:
--Text, p. 626-49

20 Nov. 7 Price and Reliability Issues Raised By Competitive Markets, Distributed Generation, and Computerization/Smart Grid
Assignment:
--Text, p. 657–71, 926–30

PART IV: TRANSPORTATION

21 Nov. 13 Historical Overview, Vehicle Fuels, and the Biofuels Controversy
Assignment:
--Text, p. 1067-1104
Assignment:
--Text, p. 1104–07, 1110–19, 765-78, 781-85

23 Nov. 15 MAKEUP CLASS AT 6:15 PM—Dinner Provided
The Future of Motor Vehicles and the Transportation Grid: Rethinking the Intersection of Electricity and Transportation in Hybrid and Electric Cars and the Decentralization of Transportation Networks
Assignment:
--Text, p. 1119–37

NO CLASS ON NOV. 21 TO ALLOW THOSE TRAVELING FOR THANKSGIVING TO CATCH EARLIER FLIGHTS.

PART V: THE FUTURE OF ENERGY REGULATION

24 Nov. 20 Bridging the Energy/Environment Divide
Assignment:

25 Nov. 27 Possibilities for Dynamic Energy Federalism and Hybrid Energy Governance
Assignment:

26 Nov. 28 Course and Exam Review
Assignment:
--Review Course Materials

FINAL EXAM IS ON WEDS, DEC. 19, 2012, AT 1 PM.