This seminar 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, natural gas and coal) 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.

Two credits. Minor writing credit; major writing credit with instructor's permission

Four things are required of each student, in addition to doing all the assigned reading: 1) writing a research paper; 2) one formal class presentation; 3) two short current events reports; and 4) participation in class discussions. Grades will be based 45% on the paper, 30% on the formal classroom exercise, 15% on the current events reports, and 10% on other class participation. No student will be eligible for an A who has not participated in class discussions beyond the formal class presentation and the current events reports. Each of these four requirements is discussed below.

1. Paper

Each student will be required to write a paper of 6500-8000 words. A set of sample topics for papers will be posted on Courseweb; any of these may be chosen, but students are also encouraged to come up with their own topics not found on this list. I am happy to discuss papers and paper topics with each student. Drop by during my office hours (Tuesdays and Thursdays, 10:45 a.m. to noon) or send me an e-mail to set up an appointment -- michael.gerrard@law.columbia.edu.

Once you have selected a paper topic, but no later than October 10, please send me a note with the topic and a paragraph describing how you plan to approach it. This will help me make sure that the topic is acceptable and that there is no duplication -- two students should not write on the same topic. Students may not write on substantially the same topic as their formal class presentation.

Each paper needs to have a substantial legal component and should be based on significant research, which should be reflected in the footnotes. Each paper should have a title that describes its topic.
2. **Formal class presentation**

Each student will be required to make one formal presentation in class. There will be a classroom exercise for most class sessions; each will be led by a team of 2-3 students (depending on the final enrollment). The topics are shown in the syllabus below. Each team should meet as soon as possible and divide up tasks. The team members will need to do research beyond the assigned readings; the purpose of the exercise is not to repeat what is in these readings, for that would not be a productive use of time (since everyone is presumed to have read all of them), but rather to go beyond them, both in terms of sources and analysis. Presentations will be expected to address, pick apart and analyze the question presented rather than simply summarize the relevant body of facts or law.

Each team should meet with me at least a week -- preferably longer -- before its assigned presentation to discuss how it plans to present its topic. The purpose of these meetings is to allow me to make sure you are on the right track and are addressing the relevant questions. When you know when you will be ready to meet, please send me an e-mail with several suggested meeting times, and we’ll schedule the meeting.

I will score each classroom exercise presentation by the following criteria:

1. Did it respond to the specific question(s) posed, as opposed to merely providing general background information?

2. Did it identify the issues involved in responding to the specific question(s)?

3. Did it, as it should, assume that everyone in the class has read the assigned materials, and involve research and analysis beyond the assigned materials?

4. Was it presented clearly and within the established time limitations?

Each student should complete and return to me the student questionnaire that is posted on Courseweb. Based in part on the questionnaires, I will assign each student to a presentation team. If you know that will not be able to attend a particular class session, please let me know right away so that I won’t assign you to a presentation on that date.

3. **Current events reports**

Twice during the semester, each student will be required to make a very brief presentation (less than five minutes) about some current event relating or relatable to energy and at least one legal implication of that event. (To pick an example, the current event might be a tornado that knocks out electricity service in an area; the legal implication might be public utility commission regulatory requirements concerning utility reliability.) The schedule I prepare of formal class presentations will also indicate the dates when each student will make these current events reports.
4. Class participation

As noted above, each student will be expected to participate actively in class discussions.

Readings

Joseph P. Tomain and Richard D. Cudahy, Energy Law (Thomson/West Nutshell Series, 2011 edition). Readings from this text are designated as “Tomain”.

Michael B. Gerrard, ed., The Law of Clean Energy: Efficiency and Renewables (American Bar Association 2011). Readings from this text are designated as “Gerrard”.

There are additional readings for many sessions; they are all provided in the Coursepack that is available for purchase, and most but not all can be found on-line.

Class Topics and Readings

Class 1 -- September 6, 2011
Basic energy facts

Gerrard, Chapter 1


Class 2 -- September 13, 2011
Basics of rate regulation


Tomain, pp. 10-51

Class 3 -- September 20, 2011
Rate regulation procedures

Tomain, pp. 165-204

Guest speaker/in-class exercise (Judge Eleanor Stein)

Class 4 -- September 27, 2011
Federal/state jurisdiction

Tomain, pp. 140-161

Gerrard, Chapter 22


Discussion question: Should the federal government be given more or less power in the siting of electricity transmission lines?

**Class 5 -- October 4, 2011**

**Natural Gas**

Tomain, pp. 269-315

Massachusetts Institute of Technology, The Future of Natural Gas: An Interdisciplinary MIT Study (2010), pp. 1-72

Discussion question: Should the U.S. adopt a policy of converting as many uses as possible from coal and oil to natural gas? What legal measures would be necessary to accomplish that?

**Class 6 -- October 11, 2011**

**New sources of natural gas: Shale formations**

Secretary of Energy Advisory Board, Shale Gas Production Subcommittee 90-Day Report (August 18, 2011), pp. 1-33


Discussion question: Should New York State allow widespread hydraulic fracking? If so, what conditions should be attached?

**Class 7 -- October 18, 2011**

**Electricity Regulation**


Tomain, pp. 369-408

Gerrard, chapter 9

Guest speaker (Commissioner Suedeen Kelly)
Class 8 -- October 25, 2011
Electricity Capacity Markets

Tomain, pp. 408-425

Additional readings to be assigned

Guest speaker (Robert Grey -- General Counsel, PPL)

Class 9 -- November 1, 2011
Oil

Tomain, pp. 218-259


Discussion question: What should U.S. policy be towards future oil drilling in the Gulf of Mexico?

Class 10 -- November 8, 2011
Nuclear power

Tomain, pp. 426-469

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


Discussion question: Should the Indian Point nuclear power plant north of New York City be shut down permanently?

Class 11 -- November 15, 2011
Energy efficiency

Gerrard, chapters 2 and 3

McKinsey Global Energy and Materials, Unlocking Energy Efficiency in the U.S. Economy (July 2009), Executive Summary
Discussion question: To what extent, and in what way, can energy conservation and efficiency measures reduce the need for new electric generating stations and transmission lines? How legally can this effect be maximized?

**Class 12 – November 22, 2011**

**Renewables**


Gerrard, chapter 16

Discussion question: What potential does wind energy have to replace fossil fuels? What regulatory measures can be taken to maximize that potential? Should those measures be adopted?

**Class 13 – November 29, 2011**

**Integrated resource planning**


Synapse Energy Economics, Inc., *Portfolio Management: How to Procure Electricity Resources to Provide Reliable, Low-Cost, and Efficient Electricity Services to All Retail Customers* (2003), pp. ES-1 to ES-7


Discussion question: How should Consolidated Edison Co. decide how much money to spend next year on energy conservation and renewables? What regulatory changes could the company request that could increase that amount?

**Class 14 – December 6, 2011**

**Pricing for Renewables: Renewable portfolio standards, feed-in tariffs, carbon tax**

Gerrard, chapter 4


Discussion question: What actions should Congress take to encourage greater use of renewable energy as a source of electricity? What actions should Congress avoid?