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CONTENTS

Editor's Page.....	vii
In Memoriam: The Honorable Max Kane	ix
Albert Rhett Simonds, Jr.	x

ARTICLES

Market Power Analysis of the Electricity Generation Sector	1
<i>William H. Hieronymous, J. Stephen Henderson,</i> <i>and Carolyn A. Berry</i>	
Measuring Market Power in the U.S. Electricity Business	51
<i>Craig R. Roach, Ph.D.</i>	
Regional Transmission Organizations: Federal Limitations Needed for Tort Liability	63
<i>Richard J. Pierce, Jr.</i>	
Legal Principles Surrounding the New Canadian and American Arctic Energy Debate.....	81
<i>Alexander J. Black</i>	
Meeting the Challenges of Environmental Imperatives: The Hydrocarbon Sector in Trinidad and Tobago.....	127
<i>Rajendra Ramlogan, Ph.D.</i>	

NOTE

<i>Niagara Mohawk Power Corp. v. FERC</i>	157
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COMMENT

The Legal Problems of Spent Nuclear Fuel Disposal	179
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BOOK REVIEWS

Energy Derivatives: Trading Emerging Markets	203
<i>Reviewed by Thomas E. Hirsch, III</i>	
The New Rules: A Guide to Electric Market Regulation.....	207
<i>Reviewed by William A. Mogel</i>	

SUBMITTED COMMITTEE REPORTS

Antitrust	211
Judicial Review.....	247
Natural Gas Regulation.....	263

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EDITOR'S PAGE

The horrific shadow of September 11 is a reminder of many things, particularly that we should not take our way of life for granted.

For the energy industries, 2001 also had its own dark spectre. Last year will be remembered for the bankruptcy filing by this country's largest utility, Pacific Gas and Electric Co. (PG&E), and the implosion of Enron. As of this writing, the latter's demise has produced bearish implications for business in general, the electric and natural gas industries, public accounting and energy policy.

From an energy perspective, does the failure of Enron, or PG&E's Chapter 11 filing mean that electricity restructuring is a failure and there must be a return to pervasive regulation? The answers are neither simple nor non-controversial. However, in the pages of the *Journal* there are thoughtful articles that illuminate aspects of the competition debate. For example, in this issue the reader will find an encyclopediac discussion of market power in two distinguished articles. If an earlier issue is perused, (Volume 22) one finds that it offers timely articles on "Chapter 11 Reorganization of Utility Companies" and "Regulating Competitive Electricity in the West."

Although there is no joy that can be derived from recent events, a certain amount of pride can be exuded by the *Journal*. Beginning its twenty-third year of publication, the *Journal* has been able to deliver timely, well researched articles that have lasting value. This has been accomplished as a result of the efforts of many people – authors, editors, law students – and, most importantly, the enthusiastic response of *Journal's* readers and supporters.

William A. Mogel
Editor-in-Chief



IN MEMORIAM

The Honorable Max Kane, who died on January 18, 2002 at the age of ninety-three, was the longest-serving member of the Administrative Law Judge corps at the Federal Energy Regulatory Commission. He will be remembered as a judge whose career bridged the development of the administrative judiciary from the enactment of the Administrative Procedure Act to the end of the twentieth century.

Judge Kane's first initial decision appears in volume 30 of the *Reports of the Federal Power Commission*.¹ His last is printed in volume 67 of the *FERC Reports*.² Between the two lies a span of more than thirty years, in which hundreds of decisions were rendered, hearings held and rulings issued.

Max Kane received his undergraduate education at City College of New York. At the height of the Great Depression, Judge Kane entered Columbia Law School. He received his law degree in 1934. When World War II began, he enlisted in the Navy, and was persuaded (much against his will at first) to attend a training program that graduated him as a commissioned officer. After the end of the War, Judge Kane joined the Civil Division of the U.S. Department of Justice.

In April 1962, Judge Kane became a Hearing Examiner with the Federal Power Commission. He was a leading figure in the successful effort to change the "Hearing Examiner" appellation to Administrative Law Judge. As an Administrative Law Judge with the FPC and the FERC, Max Kane was a much-respected and remarkably productive judge. During the 1970s, he efficiently handled a large number of natural gas curtailment proceedings. A decade later, he was charged with presiding over, and deciding, a massively complex series of proceedings involving the Trans-Alaska Pipeline System.

He presided over his cases with a twinkle in his eye, a joke on his lips and a good word for everyone. But he was no pushover. Judge Kane had an uncanny facility for adding long columns of figures in his head. Glancing across a seemingly impenetrable table of numbers for the first time, he could immediately seize on a column that did not add up correctly. A judge who was familiar with the origins of the administrative judiciary, he had a vivid sense of the need to dispense with the evidentiary formalities that afflicted court proceedings.

Judge Kane retired from FERC in 2000, after having devoted a productive and vigorous life to the service of his fellow-citizens.

1. *Columbia Gulf Transmission Co.*, 30 F.P.C. 831 (1963).
2. *Wyoming Interstate Co.*, 67 F.E.R.C. ¶ 63,015 (1994).

IN MEMORIAM

Albert Rhett Simonds, Jr., a member of our Association, since 1970, died on December 10, 2001 in Annapolis, Maryland at the age of fifty-eight.

Rhett served on the Association's Board of Directors and as its Treasurer from 1974 to 1978. He remained an active supporter of the Association throughout his career. He was born in Charleston, South Carolina, received his undergraduate degree from the University of North Carolina and his law degree from the University of Pennsylvania.

Rhett came to Washington, D.C. in 1968 as an attorney for the U.S. House Armed Services Committee. He began his career in public utility law in 1970 as an associate and subsequently a partner at Debevoise & Liberman. He was a partner in Bruder, Gentile and Marcoux for twenty-one years until his retirement in 1999. His practice of regulatory law, chiefly in the electric power area, spanned nearly thirty years during which he represented several major public utilities and made many significant contributions to the interpretation and application of the Federal Power Act.

Rhett was a skilled sailor, and with his wife Celeste, a six-time national sailing champion in the Jet 14 class. He is remembered as a resolute litigator and for his lucid writing and unwavering integrity. He was at all times a gentleman to both colleague and adversary.

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