

## PRESIDENT'S MESSAGE

As I write this, the Russia-Ukraine war enters its 65<sup>th</sup> day, and it is hard to imagine focusing on anything else. There are many implications for energy. Russia has cut off natural gas to Poland and Bulgaria, using energy resources as a weapon while it attacks cities and civilians in eastern Ukraine. As a result of the conflict, commodity prices are soaring. But the humanitarian crisis is the real story, and it is heartbreaking. Sitting here today, it is hard to fathom how this war ends.

The Energy Bar has a small but important role to play. Through our Charitable Foundation, we are raising money at the Annual Gala for the World Central Kitchen's efforts to feed refugees and communities that have returned to their newly liberated but devastated towns and cities. Through our programming and publications, we will continue to help our members, policy makers, and leaders understand the implications of the crisis on our national energy needs and policies. And most importantly, through you as members of the Energy Bar, we will continue to represent clients, companies and communities as they navigate the myriad issues swirling in this volatile moment.

In the last issue of the Energy Law Journal, the President's Message remarked on the work that the Energy Bar Association is doing on better understanding the challenge of Energy Insecurity in the United States and Canada. Energy Insecurity is the loss or threatened loss of energy required for our modern lives.<sup>1</sup> Today, real time, we are reminded once again across the world stage how important access to energy is for life and civilization. On this topic, I am exceptionally excited to announce that the Energy Bar Association is going to be working with the Columbia University School of International and Public Affairs Center on Global Energy Policy, the Columbia University Mailman School of Public Health, and the Columbia University Law School's Sabin Center for Climate Change Law on an initiative to reduce energy insecurity in the United States and Canada. This initiative supports the EBA's tradition of doing well by doing good and will create opportunities for our young attorneys and professionals, our regional chapters, and our exceptional educational programming.

There also are many opportunities for scholarship, research, and analysis around energy insecurity, and as always, the Energy Law Journal is ahead of the curve having focused on this topic in past issues. I expect continued opportunities for future articles that pull from the EBA's Energy Insecurity Initiative.

In this edition, the Energy Law Journal is publishing a transcript from a symposium titled "Past the Tipping Point: How regulators and Utilities Are and Will be Looking at Ways to Mitigate the Inevitable Impacts of Climate Change." Moderated by the ELJ's very own Editor-in-Chief, Harvey Reiter, and featuring panelists Roshi Nateghi, Judsen Bruzgul, Heather Payne, and Michael Craig, the

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1. SONAL JESSEL, SAMANTHA SAWYER & DIANA HERNÁNDEZ, ENERGY, POVERTY, AND HEALTH IN CLIMATE CHANGE: A COMPREHENSIVE REVIEW OF AN EMERGING LITERATURE 1-2 (2019), <https://www.frontiersin.org/articles/10.3389/fpubh.2019.00357/full>

panel examined what policy makers and utilities already are doing and still can do to mitigate various impacts of climate change on the reliability, resiliency, and affordability of utility services. The panel also focused on legal and practical limits on regulatory change and available tools and strategies that can be used to decarbonize the grid.

In the article “Reform of Legal and Regulatory Impediments to Foreign Investment and Cross-Border Energy Trading by Nepal and Other South Asian Nations,” Madhab Raj Ghimire, Deepshikha Wagle, Sukhyati Malla, Brian Barkdoll, and Narayan Ghimire explore the fascinating energy dynamic between Nepal and its giant, populous neighbors China and India. Nepal’s vast hydro-power resources offer foreign, sprawling population centers the promise of clean, renewable energy, but with great cost and uncertainty. The authors highlight challenges from conflicting national laws, uneven bargaining power, and the difficulty of implementing legal reforms in the region.

Closer to home, we have a pair of articles that focus on different aspects of regional electric markets. In “How Does Restructuring of Electricity Generation Affect Renewable Power,” authors Shelley He, Eric Biber, Helen Aki, Maribeth Hunsinger, and Stephanie Phillips take a comprehensive historic look through decades of data to show the impact of restructuring efforts on divestiture and siting across the country. The authors conclude that certain forms of generation markets can advance renewable energy development, whether a utility system is public or private may not drive outcomes. In “Too Much is Never Enough: Constructing Electricity Capacity Market Demand,” authors Todd Aagaard and Anrew N. Kleit explore their findings on the drivers of capacity markets, arguing that they are influenced more by politics and regulators’ personal judgement than by competition, and that this leads to customers paying billions of dollars for excess capacity the system does not need.

Finally, William G. Bolgiano investigates how hydrogen pipelines can and should be regulated in “FERC’s Authority To Regulate Hydrogen Pipelines Under The Interstate Commerce Act.” Surveying legislative history and precedent to distill a test to delineate jurisdictional boundaries created by the Natural Gas Act, the Interstate Commerce Act, and the Interstate Commerce Commission Termination Act, the author argues that the Federal Energy Regulatory Commission would be the more appropriate and abler regulator.

Once again, I want to thank Journal’s leadership and its volunteers for putting together another wide-ranging, yet deep and serious series of articles. Editor-in-Chief Harvey Reiter, Executive Editor Caileen Gamache, and Administrative Editor Nicholas Cicale continue to devote countless hours from initial conversations with authors to vetting, testing, and editing articles with the help of the Journal’s all-volunteer editorial board. I also want to thank the University of Tulsa College of Law, our student editors there, and faculty advisor Professor Warigia Bowman, who do such great work issue after issue. Through your efforts and dedication, this publication continues to be the premier journal in energy law and a source of great pride for EBA.

Sincerely,

/s/ Mosby G. Perrow  
Mosby G. Perrow  
President, Energy Bar Association