

## **GUEST EDITORIAL**

### **THE REVOLUTION IN THE PRACTICE OF ENERGY LAW**

*Honorable W. Henson Moore\**

The practice of energy law has changed dramatically over the past decade. This is not surprising because it has paralleled the equally dramatic revolution in energy regulation which has taken place over the same period. Let's review just a few of these changes.

President Reagan removed oil controls in 1981. The natural gas industry underwent a fundamental restructuring throughout the 1980s. The Federal Energy Regulatory Commission provided open access transportation for natural gas pipelines; end use restraints on gas were repealed; and President Bush signed wellhead decontrol legislation in 1989. The electric utility industry explored new power generation options, including independent power production and cogeneration, and many changes took place in electric transmission and hydroelectric licensing. Our vast coal resources faced new environmental challenges, and the future contribution of nuclear energy became a subject of active debate.

Dramatic regulatory changes in virtually every energy sector have given the term "energy law" new cohesion and weight. In the past, the term "energy lawyer" had little generic meaning. Rather, there were production-oriented "oil and gas" or "natural resource" lawyers, working at the wellhead or minemouth side of the business and drafting leases and contracts. At the other end of the energy stream, there were "public utility lawyers" and others handling retail energy transactions.

Today, those neat divisions have broken down. For example, no longer is the gas industry rigidly divided into three separate segments—producers, pipelines and distributors—each required to sell only in prescribed downstream order. Today, local distribution companies and industrial end-users can buy directly from producers, with pipelines or distributors providing transportation. Today, all segments of the energy business enjoy a wider range of market choices.

Energy law has evolved to meet evolving regulatory standards and market conditions. In the process, it has become highly complex. For example, drafting an energy contract now requires far more than just contract expertise. The energy lawyer must also know tax, finance, antitrust, environmental, and other related fields. In short, energy law is becoming a distinct, comprehensive body of knowledge, derived from many interrelated disciplines.

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As we move into the 1990s, the Department of Energy is in the process of developing a comprehensive national energy strategy that, for the first time ever, seeks to integrate energy policy with the economic, environmental, and strategic interests of the country. This strategy will provide a common frame of reference, so the American people can better understand the full range of energy choices and the consequences of those choices. And in this entire strategy process, the new breed of energy lawyers will play a critical role in facilitating public debate, formulating consensus, and implementing effective national energy policies for the longer-term.