



**ENERGY**  
BAR ASSOCIATION®

EBA PRIMER SERIES:  
AN INTRODUCTION TO FEDERAL REGULATION OF  
THE NATURAL GAS INDUSTRY FOR LAWYERS



November 28-29, 2018

Kansas City, MO

# Summary

The goal of this primer is to provide an overview of the federal regulation of the natural gas industry by the Federal Energy Regulatory Commission. Taught by industry practitioners and regulators from FERC, the course begins with a brief overview of the natural gas industry, including the production, gathering, transportation, distribution, and storage of natural gas. The course describes key statutes governing and affecting the interstate transportation of natural gas and discusses key legal milestones. Instructors explain important regulatory concepts, pipeline services, and the scope and limits of FERC jurisdiction. The class covers key sections of the NGA, including imports and exports under Section 3; construction and abandonment under section 7; ratemaking under sections 4 and 5; and enforcement issues.

# Agenda

WEDNESDAY, NOVEMBER 28, 2018

Noon – 1:00 pm	<b>Boxed Lunch and Networking Hour</b>
1:00pm – 1:10pm	<p><b>Welcome and Introductions</b>  <b>Frank A. Caro</b>, Shareholder Practice Chair, Polsinelli PC  <b>Matthew Rudolphi</b>, President, Energy Bar Association, Shareholder, Duncan, Weinberg, Genzer &amp; Pembroke, P.C.</p>
1:10pm – 2:00 pm	<p><b>What is Natural Gas?</b>  <b>Janna Chesno</b>, Cheniere Energy, Inc.</p> <ul style="list-style-type: none"> <li>• Where is it produced?</li> <li>• How is it used?</li> </ul> <p><b>Historical Perspective and Industry Overview</b></p> <ul style="list-style-type: none"> <li>• Who's who in the industry</li> <li>• What is FERC?</li> <li>• Physical and Financial Markets</li> </ul> <p><b>Legal Overview: Key Statutes</b></p> <ul style="list-style-type: none"> <li>• Natural Gas Act</li> <li>• Natural Gas Policy Act of 1978</li> <li>• Wellhead Decontrol Act of 1989</li> <li>• Energy Policy Act of 2005</li> <li>• Pipeline Safety Act</li> </ul>
2:00pm – 2:40pm	<p><b>Pipeline Services</b>  <b>Scope and Limits of FERC Jurisdictions</b>  <b>David D'Alessandro</b>, Stinson Leonard Street LLP</p> <ul style="list-style-type: none"> <li>• Traditional bundled pipeline services</li> <li>• Pipeline services unbundle</li> </ul> <p><b>Anatomy of a FERC Pipeline Tariff</b></p> <ul style="list-style-type: none"> <li>• Pipeline configurations (long-line vs. reticulated)</li> </ul> <p><b>Scope and Limits of FERC's Jurisdiction</b></p> <ul style="list-style-type: none"> <li>• Natural Gas Act: FERC's regulation of "natural gas companies" and what FERC does not regulate</li> <li>• FERC's jurisdiction under § 311 of the Natural Gas Policy Act</li> </ul>

2:40pm–3:00pm	<b>Networking Break</b>
3:00pm–3:45pm	<b>Regulation of Pipeline Safety/PHMSA</b> <b>Susan Olenchuk</b> , Van Ness Feldman, LLP <ul style="list-style-type: none"> <li>• Pipeline and Hazardous Materials Safety Administration (PHMSA)</li> <li>• Current rules and recent history</li> <li>• Pending or upcoming rules</li> <li>• State regulation of pipeline safety</li> </ul>
3:45pm–4:25pm	<b>Natural Gas Act Section 3: Imports and Exports</b> <b>Katie Liberty</b> , Federal Energy Regulatory Commission (FERC), Office of General Council <ul style="list-style-type: none"> <li>• Role of FERC</li> <li>• Role of Department of Energy</li> <li>• Statutory Standard</li> <li>• LNG Exports</li> </ul>
4:25pm–5:20pm	<b>Natural Gas Act Section 7: Constructing and Abandoning Pipelines</b> <b>Michael Diamond</b> , Van Ness Feldman, LLP <ul style="list-style-type: none"> <li>• Statutory Standards</li> <li>• Construction Policy Statement</li> <li>• Pre-Application Requirements (open Seasons, pre-filing requirements)</li> <li>• Initial Rate-Setting Authority</li> <li>• Abandonment issues</li> <li>• Storage</li> </ul>
5:20pm–5:35pm	<b>Q &amp; A</b>
5:30pm	<b>Networking Reception sponsored by:</b>  
7:00pm	<b>Dinner on your own</b>

## THURSDAY, NOVEMBER 29, 2018

7:30am–8:00am	<b>Continental Breakfast</b>
8:00am–8:30am	<b>Key Regulatory Concepts</b> <b>Moderator: Dan Frank</b> , Eversheds Sutherland, Primer Dean Coordinator <b>David D'Alessandro</b> , Stinson Leonard Street LLP <ul style="list-style-type: none"> <li>• Just and reasonable</li> <li>• Undue preferences</li> <li>• Undue discrimination</li> <li>• Similarly situated</li> </ul>
8:40am–10:05am	<b>Natural Gas Act Sections 4 &amp; 5: Setting Rates and Terms and Conditions of Service</b> <b>Michael Goldenberg</b> , Federal Energy Regulatory Commission (FERC) <ul style="list-style-type: none"> <li>• Sections 4 &amp; 5</li> <li>• Filed Rate and Mobile-Sierra Doctrines</li> <li>• Rate setting objectives</li> <li>• Cost-based rates vs. Market-based rates</li> <li>• Recourse rates, discounted rates and negotiated rates</li> </ul>
10:05am–10:25am	<b>Morning Break</b>
10:25am–11:25am	<b>Cost of Service Ratemaking</b> <b>Richard Smead</b> , Managing Director, Advisory Services, RBN Energy LLC <ul style="list-style-type: none"> <li>• Determining regulated rates</li> <li>• Revenue Requirement</li> </ul>

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	<ul style="list-style-type: none"> <li>• Cost Functionalization</li> <li>• Cost Classification and FERC Uniform System of Accounts</li> <li>• Cost Allocation</li> <li>• Rate and Tariff Design</li> </ul>
11:25 am – 12:25 pm	<p><b>Key Rate Case Issues (DEPR, ROR, Cost Allocation for Expansions)</b>  <b>David D'Alessandro</b>, <i>Stinson Leonard Street LLP</i></p> <ul style="list-style-type: none"> <li>• Depreciation</li> <li>• Rate of Return/Impact of MLPs</li> <li>• Cost Allocation for System Expansions</li> </ul> <p><b>Emerging Rate Case Issues</b></p> <ul style="list-style-type: none"> <li>• Impact of Shale</li> <li>• Recovery of Regulatory Compliance and Infrastructure Upgrade Costs</li> </ul>
12:25 pm – 1:40 pm	<p><b>Lunch, EBA Mid-West Chapter Update</b>  <b>David D. Streicker</b>, Shareholder, <i>Polsinelli PC</i>, EBA Mid-West Chapter President</p>
1:40 pm – 2:40 pm	<p><b>Enforcement Issues</b>  <b>James (Jay) M. Costan</b>, <i>Dentons US LLP</i>  <b>Robert Fleishman</b>, <i>Kirkland &amp; Ellis LLP</i></p> <ul style="list-style-type: none"> <li>• Secondary Market Issues (shipper must have title requirement, prohibition on flipping and buy/sells)</li> <li>• Market Manipulation and Jurisdictional Issues</li> </ul>
2:40 pm – 3:00 pm	<p><b>Roundtable Re-Cap Discussion and Q&amp;A</b></p>

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## Continuing Legal Education (CLE) Credit

MCLE accreditation approval to be submitted for VA, NY, MO, CA. For questions email [eba-cle@eba-net.org](mailto:eba-cle@eba-net.org).

## Hotel Information

EBA does not have a block for this meeting, however, if you need hotel accommodations, the following hotels are located near Polsinelli PC. Please contact the hotels directly for rates and availability.

**The Fontaine**- Closest location to Polsinelli PC.

901 W. 48th Place  
 Kansas City, MO 64112  
 (816)753-8800

<https://www.thefontainehotel.com/>

**The Intercontinental Hotel**- Two blocks from Polsinelli PC with shuttle service available.

401 Ward Parkway  
 Kansas City, MO 64112  
 (816)756-1500

<https://www.intercontinental.com/hotels/us/en/kansas-city/mkcha/hoteldetail>

**Courtyard by Marriott**- Furthest from Polsinelli, still within 4 blocks with shuttle service available.

4600 J.C. Nichols Parkway  
 Kansas City, MO 64112  
 (816)285-9755

<https://www.marriott.com/hotels/travel/mcicp-courtyard-kansas-city-country-club-plaza/>

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### About the EBA Primer Series

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One of the goals of the Energy Bar Association's Strategic Plan is to promote excellence in the practice of energy law by enhancing educational programming opportunities. To further this goal, EBA has established a "primer program," focused on teaching core regulatory and legal concepts and basic industry fundamentals that every energy law practitioner must understand. The overall goal of this course is to provide attorneys new to the electric industry a foundational understanding of the industry and how it is organized and regulated, so they can better approach, research, and evaluate the issues their clients face.

### About the Energy Bar Association:

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The Energy Bar Association is an international, non-profit association of attorneys, non-attorney professionals, and students active in all areas of energy law. The EBA promotes the professional excellence and ethical integrity of its members in the practice, administration, and development of energy laws, regulations and policies. The EBA provides superior educational programming, networking opportunities, and information resources.

Find more information at [www.eba-net.org](http://www.eba-net.org).

### Cancellation Policy

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Refunds will be given to registrants who submit written cancellation to the address shown on the registration form by 11/4/2018, less a \$50 administrative fee. The cancellation policy also applies to registration forms that are received and accepted after the deadline date. No refunds will be given after 11/4/2018. (If cancellation is requested after deadline and accepted, there will be a \$100 administrative fee). Substitutions are acceptable (non-members substituting for members will be charged the difference between member and nonmember fees). Please note that regardless of the date the cancellation notice is received, no refunds will be processed until after the program.

### EBA Hardship Policy

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EBA offers eligible student, government, and academic members' discounts on the rates for most EBA programs which carry CLE credits, including EBA's Annual and Mid-Year meetings. EBA will, on a case-by-case basis, consider requests from members to attend EBA programs at discounted rates. Discount requests must be made to EBA's office at least fifteen days prior to the close of regular registration for the program in question. Requests will be considered by EBA if timely and complete. Discount requests must demonstrate a substantial financial hardship. Please submit your request to [llevine@eba-net.org](mailto:llevine@eba-net.org).

### Photographs

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By registering for this conference, you authorize EBA the right to use any photographs taken of you during the course of the conference. Photographs may be used in promotional materials or stories that appear in professional publications and websites.

### Badges

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Please wear your badge at all times when attending official EBA functions. Badges are a security measure to identify people who have a legitimate reason to be in meeting areas.

# 2018 EBA Primer: An Introduction to Federal Regulation of the Natural Gas Industry

November 28-29, 2018

## REGISTRATION FORM

### ❖ PARTICIPANT INFORMATION

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ M.I. \_\_\_\_\_

Firm/Company/Agency \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Registrant Email (Confirmations will be sent via email to registrant)

### ❖ REGISTRATION FEES

Unless otherwise noted, registration fees include all meals, networking breaks, and handouts.

Written materials will be emailed to all attendees before the meeting.

Attorney	\$350
Energy Professional	\$350
Young Attorney – Private*	\$275
Gov't/Academic	\$300
Student	\$100
Solo Practitioner/Small Firm	\$350
NON-MEMBERS	\$395

*\*Those who graduated from law school within the last three (3) years, that is January 1, 2015.*

### ❖ PAYMENT METHOD (TAX ID #52-6054231)

Check enclosed (payable to the EBA) **Total Enclosed (USD):** \$ \_\_\_\_\_

Government Purchase Order Enclosed \_\_\_\_\_

VISA  MASTERCARD  AMERICAN EXPRESS  DISCOVER

Cardholder name: \_\_\_\_\_

Signature of cardholder: \_\_\_\_\_

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### ❖ CONTINUING LEGAL EDUCATION

I plan to apply for Continuing Legal Education (CLE) credit in the following states: (Only provide ID if credit is required as fees are involved with many states.)

State: \_\_\_\_\_ ID# \_\_\_\_\_

State: \_\_\_\_\_ ID# \_\_\_\_\_

### ❖ FOR EBA USE ONLY

Check #: \_\_\_\_\_

Check Amount: \_\_\_\_\_

## General Information

### Registration

- 1) Register Online at the secure EBA website: [www.eba-net.org](http://www.eba-net.org)
- 2) FAX your completed registration form with credit card payment (no checks or money orders) to 202-833-5596. Please do not both fax and mail, as this may result in duplicate charges.
- 3) MAIL your completed registration form with payment to: Energy Bar Association, 2000 M Street, N.W., Suite 715, Washington, D.C. 20036. **\*You may send one check for multiple registrants.**

The deadline for receipt of advance registration is 11/2/2018. Conference registrations will only be accepted when accompanied by a check, money order, government purchase order/training form or credit card information and may be limited by the capacity of the facility. Registrations will not be held without payment.

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### Continuing Legal Education

MCLE accreditation has been (or will be) requested from states with general MCLE requirements. Each state has its own rules and regulations defining "CLE". For questions on CLE email [nferreira@eba-net.org](mailto:nferreira@eba-net.org).

*\*To assume accreditation, the necessary CLE information must appear on your registration form.*

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