

## IN MEMORIAM: CURTIS L. WAGNER, JR.

Curtis L. Wagner, Jr., Chief Administrative Law Judge at the Federal Energy Regulatory Commission, passed away on December 3, 2015 at the age of 87. A native of Tennessee, Judge Wagner received his undergraduate degree in pre-law from the Tennessee Polytechnic Institute and his law degree from the University of Tennessee in December 1951. He was admitted to the Tennessee Bar on March 31, 1952.

Judge Wagner started his legal career as a member of the law firm Kramer, Dye, McNabb & Greenwood in Knoxville, Tennessee. Shortly thereafter, he began what would become a more than 60-year career in federal service. His civil service career included time with the U.S. Department of Justice's Criminal and Civil Divisions, along with serving in a civilian capacity as Chief of the Regulatory Law Division in the U.S. Army's Office of the Judge Advocate General. While working for the U.S. Army, he represented the federal government in utility and transportation cases.

On September 8, 1974, Judge Wagner was appointed administrative law judge at the Federal Power Commission (now FERC), and Chief Administrative Law Judge on June 25, 1979. For 36 of his over 60 years of federal service, Chief Judge Wagner led FERC's Office of Administrative Law Judges. Judge Wagner adjudicated significant cases. He presided over and decided the *Public Utilities Commission of California* case—a proceeding that dealt with market power and abuse of affiliate relations.<sup>1</sup> When the Enron market manipulation and abuse cases came to FERC, it was he, along with his ALJ colleagues, who handled the hearings.

But in addition to adjudicating cases, Judge Wagner was a great proponent of settling cases. An expert in mediation and other forms of alternative dispute resolution, he was instrumental in establishing mediation alternatives at FERC. In the mid-1970s, Judge Wagner presided over a case involving Southern Natural Gas, helping the proceeding's participants reach a settlement. The Commission, impressed with his efforts, asked him to formalize the procedures he followed in obtaining a successful settlement. This settlement approach later became the basis for FERC's settlement judge process.<sup>2</sup> Of note, the then-governor of Georgia, Jimmy Carter, personally appeared at the hearing. It was around this time that Governor Carter announced his candidacy for the Presidency of the United States.

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1. *Pub. Utilities Comm'n of Cal.*, 100 FERC ¶ 63,041 (2002).

2. Judge Wagner's Initial Decision in that proceeding is attached to the Commission's Order Modifying Initial Decision in that case. See *Atlanta Gas Light Company*, 56 F.P.C. 2346 (1976).

In the *U.S. Northeast Pipelines* proceeding, a case involving five competitive applications to move natural gas from Canada to New York and other northeast states, he achieved a settlement in less than 90 days.<sup>3</sup> That case resulted in the Iroquois Pipeline System. Judge Wagner was instrumental in achieving a settlement in the proceeding that made MISO possible,<sup>4</sup> and he also mediated the dispute between MISO and the PJM operator involving seams elimination negotiations.<sup>5</sup>

Never content with the status quo, Judge Wagner moved the Office of Administrative Law Judges forward with technological innovations. Most recently, this includes FERC's paperless hearing procedures, implemented in early 2015. Judge Wagner also lent his legal expertise outside of FERC. Following the California power shortage/refunds dispute, he participated in White House Task Force meetings addressing the issue. He had the privilege of testifying before the U.S. Congress on multiple occasions. His testimony included his views on the creation of the Department of Energy (S.826, 1977), the Administrative Law Judges Bill (H.R. 865, 1977) (he was instrumental in the creation of the title Administrative Law Judges) and the Civil Service Reform Act of 1978 (H.R.11280, 1978). Working until the very end, he assigned an ALJ to a case the day he passed away.

Judge Wagner received numerous awards during his distinguished career. These awards include the Decoration for Exceptional Civilian Service (the Department of the Army's highest civilian award), the University of Tennessee's Accomplished Alumni Award in 2009 and four appearances in the publication *Who's Who*, including *Who's Who in the World*. In August 2014, FERC honored Judge Wagner with a ceremony celebrating his 60 years of government service.

Outside the office, Judge Wagner continued making contributions to the legal community. He spoke at various EBA events and wrote the first Judge's Corner article for EBA's newsletter. He was a member of the American Bar Association, serving its Judicial Administration Division and as Chairman of the Committee on Legislation. In addition, he was Chairman of the Status and Compensation Committee of the Federal Administrative Law Judge Conference. Judge Wagner also served as a Parliamentarian. Equally active in community affairs, he was Commodore of the Selby Bay Yacht Club, a member of the Northern Virginia Power Squadron and the U.S. Power Squadrons, member and past chairman of the Administrative Board of Lincolnia United Methodist Church, a past District Commissioner of the National Capital Area Council, Boy Scouts of America, a member of the Annapolis Yacht Club for 25 years, to name just a few.

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3. *Northeast U.S. Pipeline Projects, et al.*, 45 FERC ¶ 63,019 (1988).

4. *Ill. Power Co.*, 95 FERC ¶ 63,003 (2001).

5. *Midwest Indep. Transmission System Operator, Inc., et al.*, 106 FERC ¶ 63,024 (2004).

Outside of the office, traveling and photography were his two main interests. Judge Wagner's worldwide travels took him to Greece, Italy, China and Costa Rica. More recently, he visited Egypt in 2010. His photography skills were superb, having obtained a "professional photographer" certification from the New York Institute of Photography. A family man, he was very proud of his children, his grandchildren and great grandchildren.

Judge Wagner is preceded in death by his wife, Jeanne Wagner and son, Curtis L. Wagner III. He is survived by his son, Rex, daughter-in-law, Susan Wagner, three grandchildren and two great-grandchildren, and a host of other relatives and friends.

A long-time friend of the Energy Bar, Judge Wagner will always be remembered for his contributions to the field of energy law.