

2022 Fall Legal Conference Agenda

October 12-14, 2022 | The Umstead Hotel & Resort | Cary, North Carolina

FINAL Agenda – September 22, 2022

Wednesday, October 12

6:00-7:30 pm **Welcome Reception (all attendees)**
North Carolina Museum of Art
 (Buses from Umstead Hotel & Spa lobby depart at 5:45 pm and will return to hotel at the end of Welcome Reception)

Thursday, October 13

7:00-9:00 am **Breakfast** (Ballroom)

7:30-9:00 am **GC Forum (GC or Designee only)** (Sycamore Room)
 In this session, GCs (or their designees) will discuss a range of current issues facing electric companies. It also will feature an interactive discussion with Diversity Lab and member company GCs who participate in Diversity Lab projects.

9:00-10:00 am **A Conversation with Commissioner Clements** (Ballroom)
 EEI Executive Vice President, Business Operations Group and Regulatory Affairs, Phil Moeller, will lead a discussion with FERC Commissioner Alison Clements that addresses a number of key issues currently before the Commission, including the transmission planning and cost allocation Notice of Proposed Rulemaking (NOPR), the interconnection NOPR, the incentives NOPR, and the duty of candor NOPR, among others.

- *The Hon. Alison Clements, FERC*
- *Phil Moeller, EEI*

10:00-10:30 am **Coffee and Networking Break**

10:30-11:45 am **Diversity Lab: Tools for Increasing the Diversity in the Practice of Law at Firms and In-House Legal Departments** (Ballroom)
 Experts from Diversity Lab will discuss the Mansfield Rule, the earliest version of which required firms to measure and confirm that they considered candidate pools that were at least 30 percent diverse – including women and underrepresented racial and ethnic lawyers as a starting point – when hiring senior associates and partners, promoting into equity partnership, or selecting leaders for management

roles. These experts will present data looking at early adopter progress toward increasing diversity in the practice of law. Along with EEI GCs who have implemented Diversity Lab programs, they will discuss how the Mansfield Rule can also work for in-house legal departments.

- *Deneen Donnelly, Consolidated Edison*
- *Leila Hock, Diversity Lab*
- *Valerie Portillo, Diversity Lab*
- *Amanda Rome, Xcel Energy*
- *Fred Wilson, Troutman Sanders*

11:45 am-1:00 pm

Lunch

1:00-2:15 pm

Washington Update (Ballroom)

EEI staff and invited experts will discuss recent events in Washington, including expected action by the Environmental Protection Agency in light of the Supreme Court's June decision in *West Virginia v. EPA* and Administrator Regan's commitment to a "holistic" approach to traditional air, water, and waste regulations for the power sector; updates on expected SEC action on the proposed climate disclosure rule; a review of Infrastructure Investment and Jobs Act funding opportunities; and the recently-passed Inflation Reduction Act, which contained significant incentives for clean energy resources, along with additional new taxes for some electric companies.

- *Alex Bond, EEI*
- *Eric Grey, EEI*
- *Maggie Peloso, Vinson & Elkins*
- *Doug Smith, Van Ness Feldman*

2:15-2:30 pm

Coffee and Networking Break

2:30-4:30 pm

Responding to a Ransomware Threat: *An Interactive Tabletop Exercise*

(Ballroom) Cyber-attacks against electric companies are increasing and evolving—and so must the industry's incident response processes. Power outages, service disruptions, ransomware, denial of service attacks, destructive malware, theft of sensitive operational and business information, and breaches of employee or customer personal information are a growing concern to electric utility companies. Companies are getting increasingly serious about managing risks associated with cyber incidents. How should a utility company respond to a ransomware attack? What should a company do to minimize the risk of a cyber incident? What is the appropriate role for the General Counsel in incident response?

This panel will include cybersecurity tabletop exercise involving a double or triple extortion ransomware scenario involving encryption of sensitive systems, a threat to publish sensitive data, and other forms of coercion. The tabletop will be designed to help prepare the audience to take a multi-functional, coordinated and

enterprise-wide approach to a ransomware attack. It will highlight strategic decisions you may face in this situation, including those relating to the technical investigation, communications, negotiations with the extortionists, payment in cryptocurrency, legal obligations, and insurance.

- *Joanna Baltus, Exelon*
- *Jordan Kelly, FTI Consulting*
- *Evan Roberts, FTI Consulting*
- *Paul Tiao, Hunton Andrews Kurth LLP (moderator)*

5:30-8:30 pm

Reception (Terrace) & Group Dinner (Ballroom)

Friday, October 14

7:00-9:00 am

Breakfast (Ballroom)

9:00-10:15 am

Antitrust Update: What Electric Company Lawyers Should Know About Recent Federal Trade Commission and Private Plaintiff Actions (Ballroom)

Under Chair Lina Khan, the Federal Trade Commission (FTC) has taken steps to re-evaluate its merger guidance and reinvigorate antitrust enforcement across the federal government. Over the last few years, plaintiffs have been more aggressive about alleging anti-competitive behavior by electric companies, despite the protections offered by the state regulation and the state action doctrine. This panel will review the FTC antitrust and competition landscape broadly, identifying legal and policy issues for electric company counsel. It also will explore a recent case in which Duke Energy won dismissal of antitrust and unfair competition claims brought by a competitive supplier, which provides insights for how to prepare for similar claims.

- *Vijay Bondada, Duke Energy*
- *Doug Green, Steptoe*
- *Gail Levine, Mayer Brown*
- *Shevon Rockett, Exelon (moderator)*

10:15-10:30 am

Coffee & Networking Break

10:30 am-noon

***West Virginia v. EPA* (Ballroom)**

In June, on the last day of the term, the Supreme Court issued its decision in *West Virginia v. EPA*, which addressed a challenge to the Environmental Protection Agency's (EPA's) authority to regulate greenhouse gas emissions from existing stationary sources under section 111(d) of the Clean Air Act. While the decision provided some clarity about how EPA can regulate these sources going forward, the Court's use of the new Major Questions Doctrine to circumscribe EPA's authority raises some fairly major questions itself. This panel will review the Supreme Court's decision and its articulation of the Major Questions Doctrine;

what this means for EPA; and what it means more broadly for other agencies' authorities and proposed rulemakings, and administrative law in general.

- *Megan Berge, Baker Botts (moderator)*
- *Elbert Lin, Hunton Andrews Kurth*
- *Kevin Poloncarz, Covington & Burling*
- *Jeffrey Prieto, EPA*

Noon

Conference Adjourns – See you in New Orleans: April 26-28, 2023!