

Agenda

New York State Public Service Commission (PSC) Rules of Practice and Procedure and Guidance Documents

K. Lang

- PSC hearing procedures
- Review of PSC guidance documents
- IURC informal procedures – mediation etc.
- Formal complaints

Permitting and Siting Approval for Large Scale Electric Generation and Transmission Facilities

J. Dax

Grid Modernization

K. Lang

Scope of PSC Jurisdiction-

G. Pond

- Definition of “electric corporation” and “electric plant”
- Exclusions from definition of “electric corporation”
 - Co-generation, alternate power and small hydroelectric facilities
 - Distribution over private property for own use and for use of tenants.
- When does PSC jurisdiction begin to apply
 - PSL section 5-b
 - Practical Interpretation of PSL 5-b

Lightened Regulation of Most Jurisdictional Wholesale Merchant Generators

G. Pond

- Granted based on finding of no market power
 - Horizontal market power
 - Vertical market power
- Lightly regulated merchant generators are exempted from rate regulation under the Public Service Law
 - But remain subject to regulation by FERC under the Federal Power Act
- Lightly regulated merchant generators must secure PSC approval under PSL 68 of any agreements with municipalities granting permission to use municipally owned property
- Lightly regulated merchant generators must secure PSC approval under PSL 69 for the issuance of any stocks, bonds or evidences of indebtedness with a term in excess of one year
- Transfers of ownership of any lightly regulated merchant generator require prior approval from the PSC under PSL 70, but transfers of ownership interests upstream of the corporation owning the facility itself may be exempted from this requirement under the “Wallkill presumption.”

New York Independent System Operators (NYISO)

S. Laniado

Role of Eminent Domain

S. Laniado

- 94-c, Article VII
- Article 10 proceedings

New York Energy and Electric Utility Regulation

Live, Interactive Webinar - Tuesday, March 5, 2024

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Learning Objectives

You'll be able to:

Review New York State Public Service Commission (PSC) hearing procedures and guidance documents.

Comply with rules on permitting and siting large-scale electric generation and transmission facilities.

Define the scope of PSC jurisdiction.

Explore lightened regulation of most jurisdictional wholesale merchant generators.

Examine the role of New York independent system operators.

Discuss the role of eminent domain in siting of utility facilities and infrastructure.



HalfMoon Education Live Webinars

New York Energy and Electric Utility Regulation

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Review New York State Public Service Commission (PSC) rules and practices

Explore permitting and siting for large-scale electric facilities

Discuss grid modernization

Consider lightened regulation of jurisdictional wholesale merchant generators

Examine New York independent system operators

Review the role of eminent domain in utility facility siting

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6.0 PDHs

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Faculty

John Dax has been practicing law since 1978 focused on energy regulation and environmental permitting. His practice and client base has evolved with the dramatic shifts the energy industry has experienced over those four and a half decades. Mr. Dax has extensive experience in energy infrastructure development and regulation, environmental permitting and compliance, administrative law, local land use law, contract negotiation, government procurement, and appellate litigation. He is active in licensing renewable electricity generation, transmission and storage facilities and counseling developers, large energy consumers, investors and lenders in the energy and utility industries on regulatory and commercial strategies and compliance issues. Mr. Dax appears before federal, state, and municipal agencies with responsibility for energy regulation and environmental protection, and local land use control as well as in New York State and federal courts. After graduating from Columbia Law School he served as an assistant counsel to the New York State Public Service Commission and as an assistant counsel in the Office of Counsel to New York Governor Hugh Carey. He has been in private practice since 1983 and a partner in Hodgson Russ LLP since 2021.

George Pond is a partner with Barclay Damon LLP. A former trial attorney in the Antitrust Division of the US Department of Justice, he primarily concentrates his practice on the interplay between regulation and competition in energy markets. Mr. Pond represents electric and gas utilities, pipeline companies, generators, and marketers in administrative proceedings before the NY Public Service Commission (PSC) and the US Federal Energy Regulatory Commission (FERC) as well as in commercial matters and proceedings before the NY Independent System Operator, Inc. (NYISO). He assists generators and transmission providers in connection with the siting of new facilities under Articles 7 and 10 of the Public Service Law and also advises generators, pipeline companies, and commercial landowners in obtaining lightened regulation from the PSC. He also obtains approvals for transfers of assets and ownership interests under the Public Service Law, counsels retail energy service providers in matters before the PSC, and assists electric-power marketers in obtaining market-based rate authority from FERC and in complying with FERC's evolving regulatory requirements for market-based rate authority.

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Kevin Lang is a partner with Couch White LLP. He assists clients in matters before state and federal energy regulatory agencies and involving utilities and electric system operators, energy procurement options, generation development and siting, asset divestiture and acquisition, and other energy-related transactions. His clients include the City of New York, State University of New York, University of Massachusetts, Cornell University, numerous Fortune 500 companies, generation owners and developers, financial institutions, and other individuals and companies participating in energy markets. Prior to joining Couch White, Mr. Lang worked for the New York State Department of Public Service as a managing attorney and before that, as an assistant counsel. While with DPS, he successfully defended the New York State Public Service Commission in court challenges to PSC decisions, led staff teams in numerous rate cases, was instrumental in maximizing the value received by New York ratepayers from the divestiture of the New York public utilities' nuclear, fossil-fueled, and hydroelectric generating facilities, and routinely advised the PSC on policy and other issues.

Sam M. Laniado is a partner with Read and Laniado, LLP. He graduated from New York University School of Law in 1976. He joined the staff of the NYS Department of Public Service (NYS DPS) in September 1976. Mr. Laniado represented Staff in environmental, transmission, and power plant siting proceedings pursuant to Articles VII and VIII of the PSL, the investigation of the extended outage at Consolidated Edison's Indian Point II Generating Station, and the development of phase-in ratemaking principles to be applied when nuclear power plants were scheduled to enter rate base. His duties also included directly advising the NYSDPS on a wide range of legal, regulatory and environmental issues. Furthermore, he provided representation of the NYS Public Service Commission and the NY Board on Electric Generation Siting and the Environment in appellate litigation proceedings (Article 78 of the Civil Practice Law and Rules). Mr. Laniado also represented the Staff in cases involving electric rates as well as gas, telephone and water rate cases. He left the NYSDPS for private practice in December 1983. Mr. Laniado leads the Firm's power plant and transmission line siting practice.

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