

January 2021

**Jim Rossi**  
**Judge D.L. Lansden Chair in Law**

---

Vanderbilt University Law School  
131 21st Avenue South  
Nashville, Tennessee 37203

Telephone: 615/343-6620  
Email: [j.rossi@vanderbilt.edu](mailto:j.rossi@vanderbilt.edu)

**AREAS OF EXPERTISE**

**Administrative Law,  
Energy Law and Regulation,  
Federalism (preemption and dormant Commerce Clause),  
Public Utilities,  
Renewable Energy,  
State Constitutions (primarily separation of powers),  
Tort Law**

***Courses Taught:* Administrative Law, Antitrust Law, Energy Law, Energy Markets, Tort Law, Life of the Law: Introduction to the Study of Law (required orientation course for first year J.D. and LL.M. students). *Seminars:* Interest Groups in Public Law, Renewable Power, Energy Markets**

**PERMANENT ACADEMIC APPOINTMENTS**

- **Vanderbilt University Law School (current)**
  - Judge D.L. Lansden Chair in Law, 2018-present
  - Associate Dean for Research, 2017-2020
  - Professor, 2012-present (tenured)
  - Director, Law & Government Program, 2015-2017
  - Fed Ex Research Professor, 2013-14
- **Florida State University College of Law (2003-2012; 1995-2002)**
  - Associate Dean for Research, 2003-2012
  - Harry M. Walborsky Professor, 2003-2012; promoted to full Professor (with tenure), 2004; tenure and promotion to Associate Professor, 1999; Patricia A. Dore Professorship, 1996-2002; Assistant Professor, 1995-99
  - Taught in Summer Programs at Oxford University, St. Edmund Hall (2009); Charles

University (2000)

- **University of North Carolina at Chapel Hill (2002-2003)**

-Professor of Law (tenured)

## **VISITING ACADEMIC APPOINTMENTS**

- **Harvard Law School - Visiting Professor (full semester, Spring 2009)**
- **Vanderbilt Law School - Visiting Professor (full semester, Spring 2007)**
- **University of Texas School of Law - Visiting Professor (full academic year, 2000-01)**
- **Chicago-Kent College of Law - Visiting Assistant Professor (legal writing instructor, full academic year, 1994-95)**

## **PUBLICATIONS** (available for download at <http://ssrn.com/author=55977>)

### *Academic Journal Articles/Essays/Reviews*

*Energy Federalism's Aim*, 134 HARVARD LAW REVIEW FORUM 228-49 (2021) (response essay)

*The Gap-Filling Role of Private Environmental Governance*, 38 VIRGINIA ENVIRONMENTAL LAW JOURNAL 1-57 (2020) (with Michael P. Vandenberg & Ian Faucher)

*Energy Exactions*, 104 CORNELL LAW REVIEW 643-713 (2019) (with Chris Serkin)

-winner of the Morrison Prize, for the most impactful sustainability-related article published in 2019

-selected one of the top 4 articles of the year for the Environmental Law Institute's 2020 *Environmental Law and Policy Annual Review*

*Hydraulic Regulatory Exchange in Energy Markets*, 67 DUKE LAW JOURNAL 1687-1728 (2018) (annual administrative law symposium) (with Hannah Wiseman)

*Revisiting the Public Utility*, 35 YALE JOURNAL ON REGULATION 711-19 (2018) (foreword, with Morgan Ricks – special issue edited by Rossi and Ricks)

*Carbon Taxation by Regulation*, 102 MINNESOTA LAW REVIEW 277-342 (2017)

-received "Honorable Mention" in the Environmental Law Institute's 2019 *Environmental Law and Policy Annual Review*

*Reconstituting Federalism Battles in Energy Transportation*, 41 HARVARD ENVIRONMENTAL LAW REVIEW 423-92 (2017) (with Alexandra B. Klass)

-named one of the top 16 articles of the year in the Environmental Law Institute's 2018 *Environmental Law and Policy Annual Review*

*Stranded Costs and Grid Decarbonization*, 80 BROOKLYN LAW REVIEW 645-91 (2017) (symposium) (with Emily Hammond)

*The Brave New Path of Energy Federalism*, 95 TEXAS LAW REVIEW 399-466 (2016)

*Dynamic Incorporation of Federal Law*, 77 OHIO STATE LAW JOURNAL 457-505 (2016)

*FERC v. EPSA and Adjacent State Regulation of Customer Energy Resources*, 40 HARVARD ENVIRONMENTAL LAW REVIEW FORUM 23-31 (2016) (with Jon Wellinoff)

*Federalism and the Net Metering Alternative*, 29 (issue 1), ELECTRICITY JOURNAL, Jan./Feb. 2016, at 13-18

*Revitalizing Dormant Commerce Clause Review for Interstate Coordination*, 100 MINNESOTA LAW REVIEW 129-216 (2015) (with Alexandra B. Klass)

*When Do State Transmission Line Siting Laws Violate the U.S. Constitution?*, 28 (issue 7) ELECTRICITY JOURNAL, Aug./Sept. 2015, at 6-18 (with Alexandra B. Klass)

*"Maladaptive" Federalism: Addressing the Structural Barriers to Interstate Coordination in Sustainability Initiatives*, 64 CASE WESTERN RESERVE LAW REVIEW 1759-89 (2014)

*Electric Power "Resource Shuffling" and Subnational Carbon Regulation: Looking Upstream for a Solution*, 5 SAN DIEGO JOURNAL OF ENERGY & CLIMATE LAW 43-67 (2013-14) (with Andrew J.D. Smith)

*Federal Preemption and Clean Energy Floors*, 91 NORTH CAROLINA LAW REVIEW 1285-1358 (2013) (with Thomas Hutton)

*Agency Coordination in Shared Regulatory Space*, 125 HARVARD LAW REVIEW 1131-1211 (2012) (with Jody Freeman)

*Of Dialogue – and Democracy – in Administrative Law*, 112 COLUMBIA LAW REVIEW SIDEBAR 147-57 (2012) (response to Emily Meazell)

*Judge Cudahy and the Deference Tension in U.S. Energy Law*, 29 YALE JOURNAL ON REGULATION 371-85 (2012) (with Thomas Hutton)

*Good for You / Bad for Us: The Financial Disincentive for Net Demand Reduction*, 65 VANDERBILT LAW REVIEW 1527-64 (2012) (with Michael Vandenberg)

*Introduction – Supply and Demand: Barriers to a New Energy Future*, 65 Vanderbilt Law

*Review*, 65 VANDERBILT LAW REVIEW 1447-53 (2012) (symposium introduction) (with J.B. Ruhl & Michael Vandenberg)

*Clean Energy and the Price Preemption Ceiling*, 3 SAN DIEGO JOURNAL OF ENERGY & CLIMATE LAW 247-70 (2011-12)

*Assessing the State of State Constitutionalism*, 109 MICHIGAN LAW REVIEW 1145-1161 (2011) (book review essay)

*The Shaky Political Economy Foundations of a National Renewable Electricity Requirement*, 2011 ILLINOIS LAW REVIEW 361-80

*Siting Transmission Lines in a Changed Milieu: Evolving Notions of the 'Public Interest' in Balancing State and Regional Considerations*, 81 COLORADO LAW REVIEW 705-770 (2010) (with Ashley C. Brown)

*Limits of a National Renewable Portfolio Standard*, 42 CONNECTICUT LAW REVIEW 1425-1450 (2010) (solicited response)

*The Trojan Horse of Transmission Line Siting Authority*, 39 ENVIRONMENTAL LAW 1015-1048 (2009)

*The Political Economy of Energy and Its Implications for Climate Change Legislation*, 84 TULANE LAW REVIEW 379-428 (2009)

*Antitrust Process and Vertical Deference: Judicial Review of State Regulatory Inaction*, 93 IOWA LAW REVIEW 185-245 (2007)

*Constitutional Isolationism and the Limits of State Separation of Powers as a Barrier to Interstate Compacts*, 90 MARQUETTE LAW REVIEW 721-738 (2007)

*Politics, Institutions and Administrative Procedure: What Exactly Do We Know from the Study of State-Level APAs, and What More Can We Learn?*, 58 ADMINISTRATIVE LAW REVIEW 961-980 (2007)

*State Executive Lawmaking in Crisis*, 56 DUKE LAW JOURNAL 237-276 (2006) (annual administrative law symposium)

*The Puzzling Legal Status of State Constitutions in a Federalist System*, 54 BUFFALO LAW REVIEW 211-234 (2006) (book review essay)

*Political Bargaining and Judicial Intervention in Constitutional and Antitrust Federalism*, 83 WASHINGTON UNIVERSITY LAW QUARTERLY 521-573 (2005)

*How the Filed Rate Doctrine Wreaks Havoc on Deregulated Energy Markets – And What Courts Can Do About It*, ELECTRICITY JOURNAL, April 2005, at 60-67

*Empirical Measures of Judicial Performance: An Introduction to the Symposium*, 32 FLORIDA STATE UNIVERSITY LAW REVIEW 1001-1014 (2005) (with Steven Gey) (symposium foreword)

*The Demise of Market Power in State Power Plant and Transmission Line Siting: A New Challenge for Environmental Regulation*, 15 DUKE ENVIRONMENTAL LAW & POLICY FORUM 315-239 (2005)

*Moving Public Law Out of the Deference Trap for Regulated Industries*, 39 WAKE FOREST LAW REVIEW 617-676 (2005)

*Dual Constitutions and Constitutional Duels: State Separation of Powers and the Implementation of Federal Programs*, 45 WILLIAM & MARY LAW REVIEW 1343-1284 (2005)

*The New Frontier of State Constitutional Law*, 45 WILLIAM & MARY LAW REVIEW 1231-1243 (2005) (with James Gardner) (symposium foreword)

*Final, But Often Fallible: Acknowledging the Problems with ALJ Finality*, 56 ADMINISTRATIVE LAW REVIEW 53-76 (2004)

*Lowering the Filed Tariff Shield: Judicial Enforcement for a Deregulatory Era*, 56 VANDERBILT LAW REVIEW 1591-1659 (2003)

*Beyond Goldwasser: Ex Post Enforcement in Deregulated Markets*, 2003 LAW REVIEW OF THE MICHIGAN STATE UNIVERSITY-DETROIT COLLEGE OF LAW 717-726

*The Electric Power Deregulation Fiasco: Looking to Regulatory Federalism to Promote a Balance Between Markets and the Provision of Public Goods*, 100 MICHIGAN LAW REVIEW 1768-1790 (2002) (book review essay)

*Bargaining in the Shadow of Administrative Procedure: Rulemaking Settlement and the Public Interest*, 51 DUKE LAW JOURNAL 1015-1058 (2001) (annual administrative law symposium)

*Overcoming Parochialism: Institutional Design and State Administrative Procedure*, 53 ADMINISTRATIVE LAW REVIEW 551-574 (2001)

*Respecting Deference: Conceptualizing Skidmore Within the Architecture of Chevron*, 42 WILLIAM & MARY LAW REVIEW 1105-1147 (2001)

*Disentangling Deregulatory Takings*, 86 VIRGINIA LAW REVIEW 1435-1495 (2000) (with Susan Rose-Ackerman)

*Government Litigant Advantage, The Rule of Law, and the Unitary Executive*, 28 FLORIDA STATE UNIVERSITY LAW REVIEW 459-469 (2000) (symposium on Regulatory Theory & Administrative Law)

*The False Promise of the “New” Nondelegation Doctrine*, 76 NOTRE DAME LAW REVIEW 1-19 (2000) (with Mark Seidenfeld)

*Universal Service in Competitive Retail Electric Markets: Whither the Duty to Serve?*, 21 ENERGY LAW JOURNAL 27-49 (2000)

*Institutional Design and the Lingering Legacy of Antifederalist Separation of Powers Ideals in the States*, 52 VANDERBILT LAW REVIEW 1167-1240 (1999)

*ALJ Final Orders on Appeal: Balancing Independence with Accountability*, 19 JOURNAL OF THE NATIONAL ASSOCIATION OF ADMINISTRATIVE LAW JUDGES 1-23 (1999)

*Statutory Nondelegation: Learning from Florida’s Recent Experience in Administrative Procedure Reform*, 8 WIDENER JOURNAL OF PUBLIC LAW 301-345 (1999) (contribution to symposium on state administrative procedure)

*Hamstringing State Agency Authority to Promulgate Rules: A Questionable Way to Improve Environmental Regulation*, 29 ENVIRONMENTAL LAW REPORTER 10735-10745 (Environmental Law Institute 1999)

*The Irony of Deregulatory Takings*, 77 TEXAS LAW REVIEW 297-320 (1998) (book review essay)

*The Common Law “Duty to Serve” and Protection of Consumers in an Age of Competitive Retail Public Utility Restructuring*, 51 VANDERBILT LAW REVIEW 1233-1321 (1998)

*Public Choice Theory and the Fragmented Web of the Contemporary Administrative State*, 96 MICHIGAN LAW REVIEW 1746-1777 (1998) (book review essay)

*Participation Run Amok: The Deliberative Costs of Mass Participation in Agency Decisionmaking*, 92 NORTHWESTERN UNIVERSITY LAW REVIEW 173-249 (1997)

*Waivers, Flexibility and Reviewability*, 72 CHICAGO-KENT LAW REVIEW 1359-1375 (1997) (comment for administrative law symposium)

*The 1996 Revised Florida Administrative Procedure Act: A Rulemaking Revolution or Counter-Revolution?*, 49 ADMINISTRATIVE LAW REVIEW 345-376 (1997)

*The 1996 Revised Florida Administrative Procedure Act: A Survey of Major Provisions Affecting Florida Agencies*, 24 FLORIDA STATE UNIVERSITY LAW REVIEW 283-307 (1997)

*Making Policy Through the Waiver of Regulations at the Federal Energy Regulatory Commission*, 47 ADMINISTRATIVE LAW REVIEW 255-297 (1995)

*Lessons from the Procedural Politics of the “Comprehensive” National Energy Policy Act*

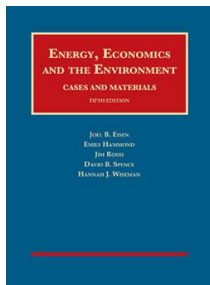
of 1992, 19 HARVARD ENVIRONMENTAL LAW REVIEW 195-240 (1995)

*Redeeming Judicial Review: The Hard Look Doctrine and Federal Regulatory Efforts to Restructure the Electric Utility Industry*, 1994 WISCONSIN LAW REVIEW 763-837

*Some Recent Ideas in Substantive Moral Philosophy and Their Relevance to Law*, 12 LAW & PHILOSOPHY 407-416 (1993) (book review)

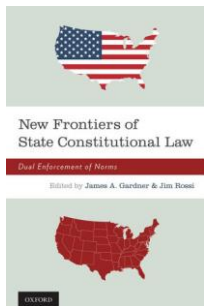
*Student Project: An Empirical Examination of the Iowa Bar's Approach to Regulating Lawyer Advertising*, 77 IOWA LAW REVIEW 179-268 (1991) (with Mollie Weighner)

## Books



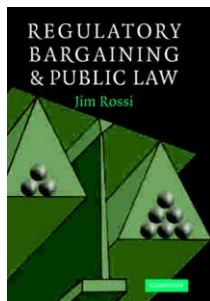
**ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS (Fifth Edition, Foundation Press – West Academic) (2020) (1298 pages; also Teacher's Manual) (law school casebook)**

- Law school casebook, with Joel Eisen, Emily Hammond, David Spence, and Hannah Wiseman
- The late Fred Bosselman and I proposed the casebook in the late 1990s based on our teaching materials, and our first edition was published by Foundation Press in 2000



**NEW FRONTIERS OF STATE CONSTITUTIONAL LAW: DUAL ENFORCEMENT OF NORMS (edited, with James A. Gardner) (Oxford University Press) (2011) (172 pages)**

- In addition to editing the collection with James Gardner, I authored chapter 8, *Dual Constitutions and Constitutional Duels*, and co-wrote an *Introduction* chapter
- Other contributors include Neal Devins, James Gardner, Helen Hershkoff, Jacob Levy, Daniel Rodriguez, Lawrence Sager, Robert Schapiro



**REGULATORY BARGAINING AND PUBLIC LAW (Cambridge University Press, 2005) (274 pages)**

- Solely authored scholarly monograph
- Paperback edition published in 2011

### ***Previous Book Editions (Out of Print)***

ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS (Fourth Edition, Foundation Press) (2015) (1089 pages; also Teacher's Manual) (with Fred Bosselman, Joel Eisen, Emily Hammond, David Spence, Jacqueline Lang Weaver & Hannah Wiseman) (law school casebook)

ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS (Third Edition, Foundation Press) (2010) (1207 pages; also 327 page Teacher's Manual) (with Fred Bosselman, Joel Eisen, David Spence & Jacqueline Lang Weaver) (law school casebook)

ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS (Second Edition, Foundation Press) (2006) (1331 pages; also 249 page Teacher's Manual) (with Fred Bosselman, Joel Eisen, David Spence & Jacqueline Lang Weaver) (law school casebook)

ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS (Foundation Press) (2000) (1318 pages; also 200 page Teacher's Manual) (with Fred Bosselman & Jacqueline Lang Weaver) (law school casebook)

### ***Book Chapters***

*Electricity Background and Trends* (with Hannah Wiseman), chapter in GLOBAL CLIMATE CHANGE AND U.S. LAW (Michael Gerrard, Jody Freeman & Michael Burger eds.) (ABA Press 3d ed, 2022) (forthcoming)

*Electric Power Mandates, Subsidies and Customer Charges for Deep Carbonization*, chapter in PATHWAYS TO DEEP DECARBONIZATION IN THE U.S. (Michael Gerrard & Jonathan Dernbach, eds.) (Environmental Law Institute 2018)

*Judicial Review of Issues of Fact* (with Ronald Levin), chapter 7 (pp. 173-94) in A GUIDE TO JUDICIAL AND POLITICAL REVIEW OF FEDERAL AGENCIES (Michael Herz, Richard Murphy & Kathryn Watts, eds.) (2d edition, ABA Section on Administrative Law & Regulatory Practice 2015)

*Nature of Electricity* (with Thomas Hutton), chapter 13 (pp. 413-59) in GLOBAL CLIMATE CHANGE AND U.S. LAW (Michael Gerrard & Jody Freeman, eds.) (ABA Press 2014)

*Public Choice, Energy Regulation and Deregulation*, chapter 13 (pp. 419-49) in PUBLIC CHOICE AND PUBLIC LAW (Daniel Farber & Anne Joseph O'Connell, eds.) (Edward Edgar Publishing, 2010)

*Dual Constitutions and Constitutional Duels*, chapter 8 (pp. 127-50) in DUAL ENFORCEMENT OF CONSTITUTIONAL NORMS: NEW FRONTIERS OF STATE CONSTITUTIONAL



LAW (with James A. Gardner) (Oxford University Press) (2010)

*Introduction* (with James A. Gardner), chapter 1 (pp. 1-14) in DUAL ENFORCEMENT OF CONSTITUTIONAL NORMS: NEW FRONTIERS OF STATE CONSTITUTIONAL LAW (with James A. Gardner) (Oxford University Press) (2010)

*Judicial Review of Issues of Fact*, chapter 7 (pp. 159-75) in A GUIDE TO JUDICIAL AND POLITICAL REVIEW OF FEDERAL AGENCIES (John Duffy & Michael Herz, eds.) (ABA Section on Administrative Law & Regulatory Practice 2005)

*Judicial Review* (with Mark Seidenfeld & Keith Rizzardi), chapter 6 (pp. 93-114) in ANNUAL DEVELOPMENTS IN ADMINISTRATIVE LAW: 2002-2003 (ABA Section of Administrative Law & Regulatory Practice 2004)

*Universal Service in Competitive Retail Electric Markets: Refin(anc)ing the Duty to Serve for a Post-Natural Monopoly Era*, chapter 7 (pp. 141-67) in THE END OF A NATURAL MONOPOLY: COMPETITION IN THE ELECTRIC POWER INDUSTRY (Peter Grossman & Daniel Cole, eds., Elsevier Science Ltd., 2003)

*Judicial Review* (with Mark Seidenfeld & William Jordan), chapter 4 (pp. 65-85) in ANNUAL DEVELOPMENTS IN ADMINISTRATIVE LAW: 2000-2001 (ABA Section of Administrative Law & Regulatory Practice 2001)

### ***Blog/Encyclopedia/Bar & Trade Journal Contributions***

*Energy Exactions* (with Chris Serkin), 50 ENVIRONMENTAL LAW REPORTER NEWS & ANALYSIS 10663 (August 2020) (selected as one of the top four articles of the year for the Environmental Law Institute 2020 *Environmental Law & Policy Annual Review*)

*Carbon Taxation by Regulation*, 49 ENVIRONMENTAL LAW REPORTER NEWS & ANALYSIS 10798 (August 2019) (Environmental Law Institute 2019 *Environmental Law & Policy Annual Review* honorable mention)

*Oneok, Inc. v. Learjet, Inc.* (three SCOTUS BLOG posts summarizing briefs, oral argument and opinion), online at <http://www.scotusblog.com/case-files/cases/oneok-inc-v-learjet-inc/> (January-April 2015)

*Teaching Energy Law* (blog post) (with Emily Hammond), ENERGY LAW PROF BLOG, online at <https://energylawprof.wordpress.com/2014/07/10/new-fourth-edition-of-energy-economics-and-the-environment-textbook/> (July 2014)

*Improving Interagency Coordination in Shared Regulatory Space*, ABA ADMINISTRATIVE & REGULATORY LAW NEWS, Summer 2013 at 11-14 (with Jody Freeman)

*Book Review of The Social Cost of Electricity: Scenarios and Policy Implications*, 3 CLIMATE LAW 455-58 (2011)

*Nondelegation Doctrine*, entry in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (David Tanenhaus, editor-in-chief) (2008)

*Why the Filed Rate Doctrine Should Not Imply Blanket Judicial Deference to Regulatory Agencies*, ABA ADMINISTRATIVE LAW & REGULATORY PRACTICE NEWS, Summer 2008, at 11

*Competition Law and Public Service in the E.U. and U.S.*, ANTITRUST SOURCE, November 2005, at <http://www.abanet.org/antitrust/source/11-05/Nov05-RossiRev11=29.pdf> (book review)

*The Dangerous Allure of Judicial Deference in Deregulated Industries*, ABA ADMINISTRATIVE LAW & REGULATORY PRACTICE NEWS, Summer 2005, at 3

*Remarks of Professor Jim Rossi, NCALJ Panel Discussion, "ALJ Decisions: Final or Fallible?"* 25 JOURNAL OF THE NATIONAL ASSOCIATION OF ADMINISTRATIVE LAW JUDGES 191-221 (2005)

*Debilitating Doctrine: How the Filed Rate Doctrine Wreaks Havoc on Deregulated Energy Markets*, PUBLIC UTILITIES FORTNIGHTLY, November 2004, at 16-21

*American Rivers, Inc. v. Federal Energy Regulatory Commission: Second Circuit Further Restricts FERC's Authority to Reject State Water Conditions*, 6 RIVERS: STUDIES IN THE SCIENCE, ENVIRONMENTAL POLICY, AND LAW OF INSTREAM FLOW 204-09 (1998) (with Rachel Peterkin)

*Florida's 1996 Revised APA*, ABA ADMINISTRATIVE & REGULATORY LAW NEWS, Fall 1996, at 9

*Protecting the Administrative Process from Encroachment by Federal Antitrust Laws*, 17 ADMINISTRATIVE LAW SECTION NEWSLETTER 1 (May 1996)

*Overview: Tempering Special Interest Politics in Economic Restructuring*, 18 PUBLIC UTILITIES LAW ANTHOLOGY xix-xxv (Pt. I, Jan.-June 1995)

*Moving Beyond Special Interest Politics in Electric Utility Industry Restructuring*, PUBLIC UTILITIES FORTNIGHTLY, October 15, 1995 at 31-33

*Avoiding a Mistake With Corrections Day*, LEGAL TIMES, April 3, 1995, at 22 (with Harold Krent)

*'Corrections Days' Obscure the Need for Accountability*, NEW JERSEY LAW JOURNAL, April 3, 1995, at 25 (with Harold Krent)

## **SELECT PROFESSIONAL SERVICE / CONSULTING WORK**

**(serving a primary role)**

*Introductory Remarks and Filed Testimony to the Federal Energy Regulatory Commission on Carbon Pricing in Organized Wholesale Power Markets* (invited by Commission), Docket AD20-14 (filed September 2020) – available online at <https://www.ferc.gov/media/panel-1-prof-jim-rossi-vanderbilt-university>

*Comment in Opposition to Net Metering Petition* (primary author, with Ari Peskoe - filed on behalf of 25 electricity regulation scholars) (filed June 2020) – available online at <http://eelp.law.harvard.edu/wp-content/uploads/Electricity-Regulation-Scholars-Webpost.pdf>

*Amicus Brief of Interested Energy Law Scholars in Support of Petitioners, Pacific Gas & Electric Co. v. FERC*, U.S. Court of Appeals for the Ninth Circuit (filed November 2019) (primary author/coordinator) (implications of the filed rate doctrine on bankruptcy court jurisdiction over debtor’s power purchase obligations)

*Amicus Brief of Interest Energy Law Scholars in Support of the Respondents, Village of Old Mill Creek v. Anthony Star*, U.S. Court of Appeals for the Seventh Circuit (filed November 2017) (also filed with the Second Circuit in similar matter) – primary author (with Ari Peskoe), online at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3098961](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3098961) (federal preemption of state subsidies for nuclear power plants)

*Amicus Brief of Interested Energy Law Scholars in Support of the Petitioners, FERC v. Electric Power Supply Association*, U.S. Supreme Court (filed July 2015) - primary author (along with Joel Eisen, Emily Hammond & Richard Pierce), online at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2631599](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2631599) (federal agency authority to regulate demand response in wholesale power markets)

Administrative Conference of the United States: Consulted and prepared report (with Jody Freeman) on *Improving Agency Coordination Through Joint Rulemaking and Other Collaborative Mechanisms* (2012), which formed the basis for Recommendation 2012-5 adopted by ACUS.

Allstate Corporation: Expert witness regarding public utility features of Florida public health system and their implications for judicial lien proceedings (filed expert report and testified at deposition)

U.S. Department of Transportation: Consulted DOT and NHTSA on governance issues associated with implementation of standards concerning the Intelligent Transportation Systems (ITS)

World Bank: Consulted on matters of risk and direct foreign private investment in

infrastructure (prepared report)

City of Palo Alto and Northern California Power Association: Expert witness on antitrust issues, regulatory, and breach of contract issues in 2001 Pacific Gas & Electric bankruptcy proceeding (filed expert reports and testified at deposition)

NAACP: Pro bono representation on standing issues in administrative challenge by Florida chapter of NAACP to executive branch mandated end of state university affirmative action admissions program (wrote standing portion of brief, which ultimately was endorsed by the Florida Supreme Court)

Various energy/public utility consulting for regulatory commissions and consumer and environmental groups, including in California, Colorado, Florida, Illinois, Virginia, North Carolina

## **PRESENTATIONS**

*Select Academic Workshops and Symposia (since 2000)*

### **External Faculty Research Workshops**

- Florida State University (Fall 2017)
- University of North Carolina Law School (Spring 2017)
- University of Miami Law School (Spring 2016)
- Boston College Law School (April 2013)
- Tulane Law School (October 2012)
- University of Minnesota Law School (May 2011)
- Vanderbilt Law School (March 2011)
- University of Virginia School of Law (November 2010)
- University of Texas School of Law (February 2010)
- Suffolk Law School (February 2009)
- University of Tulsa Law School (November 2007)
- University of Illinois School of Law (February 2007)
- Vanderbilt Law School (February 2007)
- Loyola-LA Law School (November 2006)
- University of Iowa College of Law (October 2006)
- University of Georgia School of Law (February 2006)
- Emory Law School (October 2004)
- George Mason University Law School (April 2004)
- University of Florida College of Law (March 2004)
- University of Indiana-Indianapolis School of Law (February 2004)
- Pepperdine Law School (October 2003)
- University of North Carolina School of Law (September 2002)
- University of San Diego School of Law (September 2002)
- University of North Carolina School of Law (December 2001)
- Washington & Lee University School of Law (October 2001)

- University of Houston Law Center (April 2001)
- University of Iowa College of Law (February 2001)
- Case Western Reserve University School of Law (November 2000)
- University of Texas School of Law (October 2000)

**External Graduate/Student Seminars**

- Stanford Law School (February 2020)
- Louisiana State University (March 2017)
- Tulane Law School (October 2012)
- Stanford Law School (April 2010)
- Harvard Law School (February 2009)
- New York University Department of Economics (April 2005)
- University of Houston Law Center (April 2004)
- University of Southern California Law School (September 2002)
- Georgetown University Law Center (November 2001)

**Academic Symposia/Group Workshops/Conferences (invited to present a paper, or served on or moderated a panel)**

- Presenter, Plenary Session of Harvard Electricity Policy Group (San Francisco, CA, March 2019)
- University of Texas Interdisciplinary (Engineering, Law, Business) Energy Conference (April 2018)
- Presenter, Plenary Session of Harvard Electricity Policy Group (Washington, D.C., March 2018)
- Duke Law Journal* Symposium on Regulatory Exit (February 2018) (published item in *Duke Law Journal*, above)
- Northwestern University Law School Searle Energy and Federalism Roundtable (November 2017)
- Florida State University College of Law Environmental Forum (November 2017)
- University of Wisconsin Conference on State Governance (Spring 2017)
- Vanderbilt Law School Roundtable on Revisiting the Public Utility (Spring 2017) (organizer)
- George Washington University Energy Law Conference (March 2016)
- Brooklyn Law School Trager Symposium (February 2016) (item to be written for *Brooklyn Law Review*)
- University of Texas Interdisciplinary (Engineering, Law, Business) Energy Conference (April 2016)
- Harvard Electricity Policy Group Conference, Washington, D.C. (June 2015)
- University of Texas Interdisciplinary (Engineering, Law, Business) Energy Conference (April 2015)
- Ohio State University State Constitutions Symposium (March 2015) (published item in *Ohio State Law Journal*, above)
- University of Wisconsin Law/Political Science Conference on Empirical Studies of Agency Rulemaking (February 2015)

- Northwestern University Law School Searle Energy and Federalism Roundtable (November 2014)
- University of San Diego Symposium on California Climate Regulation (November 2013) (published item, above)
- Northwestern University Law School Searle Energy and Federalism Roundtable (November 2013)
- Case Western Law School Conference on Energy and Federalism (October 2013) (published item in *Case Western Reserve Law Review*, above)
- University of Texas Interdisciplinary (Engineering, Law, Business) Energy Conference (April 2013)
- University of Texas Interdisciplinary (Engineering, Law, Business) Energy Conference (April 2012)
- Vanderbilt Law School Symposium on Supply and Demand in Energy (February 2012) (published items in *Vanderbilt Law Review*, above)
- University of Ottawa/University of Minnesota Interdisciplinary Workshop (Engineering, Public Policy, Business, Law) – *Constructing Smart Grids* (October 2011)
- Harvard Electricity Policy Group Annual Forum, Nashville, Tennessee (September 2011) – *Preemption Implications of FERC’s Transmission Cost Allocation Rules*
- Southeastern Association of American Law Schools Annual Meeting (July 2011), Presenter on Panel on Institutional Promotion of Scholarship
- University of San Diego Symposium on Renewable Energy (April 2011) (published item, above)
- University of Texas Smart Grid Conference (April 2011) (moderator; co-organizer)
- Florida State University College of Law Conference on Renewable Energy and Land Use (April 2011)
- University of Texas School of Law Federalism Conference (February 2011) (moderator)
- University of Utah Symposium on the Future of Energy Law (January 2011)
- Pennsylvania State University symposium on state constitutions (September 2010)
- University of Illinois Law Review* symposium on biofuel regulation (April 2010) (published item, above)
- University of California-Berkeley, Law & Politics of Crisis Roundtable (January 2010)
- Harvard Electricity Policy Group Annual Forum (Kennedy School, October 2009), *Transmission Siting and Cost Allocation*
- Northwestern University Law School Searle Roundtable on Energy, Institutions & Technology (April 2009) (co-organizer and presenter)
- Lewis & Clark Law School (April 2009), Greening the Grid conference sponsored by *Environmental Law* (published item, above)
- Northwestern Law School (April 2008), Searle Renewable Energy Roundtable
- Marquette Law School (September 2006), Symposium on Wisconsin’s Constitution sponsored by *Marquette Law Review* (published item, above)

- Duke Law School (March 2006), *Duke Law Journal* Administrative Law Conference (published item, above)
- Harvard Electricity Policy Group Annual Forum, San Diego, California (March 2005), *Transparency and Market Monitoring*
- Duke Law School (November 2004), *Duke Environmental Law & Policy Forum* Conference on Electric Power Deregulation and the Environment (published item, above)
- University of Richmond School of Law (March 2004), Conference on Electricity Blackouts
- Florida State University Law Review Symposium* on Behavioral Analysis of Legal Institutions, Commentator (March 2004) (organizer)
- College of William & Mary, Marshall-Wythe School of Law (November 2003), *William & Mary Law Review* Conference on State Constitutionalism and the Enforcement of Constitutional Norms (co-organizer) (published item, above)
- Southeastern Association of Law Schools Annual Meeting (July 2003), Panel on Publishing
- Annual Quello Center (Michigan State University) Telecommunications Conference, Washington, D.C. (March 2003) (published item, above)
- Southeastern Association of American Law Schools Annual Meeting (July 2001), Presenter on Administrative Law Panel
- Duke Law School (March 2001), *Duke Law Journal* Administrative Law Conference (published item, above)
- Florida State University College of Law (March 2001), Commentator for *Florida State University Law Review* Symposium on the Law of Presidential Elections
- AALS Annual Meeting in San Francisco (January 2001), Panelist for AALS Town Hall Meeting on the 2000 Presidential Election
- AALS Conference on Teaching Administrative Law (March 2000)
- Speaker and Facilitator; Florida State University College of Law (February 2000), Commentator for *Florida State University Law Review* Symposium on Regulatory Theory (published item, above)

*Select Continuing Legal Education and Law Reform*

**Major Lectures and Keynote Addresses**

- NYU Law State Energy & Environmental Impact Center (state attorneys general) (May 2019), *Federalism and State Climate Change Initiatives*
- Tennessee Valley Public Power Association Annual Meeting (February 2019), *Federalism and Energy Markets*
- American Public Power Association Annual Meeting (June 2018), *Federalism and Energy Markets*
- Louisiana State University Liskow & Lewis Visiting Professor Lecture (March 2017), *Federalism Battles in Energy Transportation*

-Tulane Law School (March 2013), Provost's Lecture, *Maladaptive Federalism and Barriers to Clean Energy*

-William Mitchell School of Law (April 2005), Keynote Lecture, *Judicial Deference and Deregulation*

-Iowa Association of Administrative Law Judges Conference, Des Moines, Iowa (October 2004), Keynote Speaker: *Recent Developments in Judicial Review*

-Virginia Bar Association Seventh Annual Administrative Law Conference, Richmond (April 2003), Keynote Speaker: *Architecture and Administrative Law*

-National Association of Administrative Rules Review (Council of State Governments Annual Meeting), Honolulu, Hawaii (December 1997), Keynote Speaker: *Problems and Pitfalls in Rules Review*

### **Other External Professional Presentations**

-Overview Presentation and Discussant, George Washington University Energy Program Forum on Universal Service (Washington, D.C., October 2017)

-Discussant, Harvard/Duke Energy Law Research Forum for the National Association of Regulatory Utility Commissioners (Washington, D.C., February 2014)

-Panelist, Tennessee Environmental Law Section CLE (January 2014)

-Panelist, Tennessee Environmental Showcase (May 2014)

-Panelist, *American Academy of Arts & Sciences Panel on Climate Change and Energy* (Cambridge, October 2010)

-Panelist, Smart Grid Issues, *ABA Section on Public Utility, Communications and Transportation* (San Francisco, August 2010)

-Speaker, National Association of Administrative Law Judges Fall Meeting, Washington, D.C., *Panel on ALJ Finality* (October 2007)

-Speaker, Village Square (Tallahassee Community Outreach) (October 2007), *Economics of Electric Power Generation*

-Speaker, Pat Dore Annual Administrative Law Conference, Tallahassee, Florida (October 2006)

-Speaker, National Association of Administrative Law Judges Spring Meeting, Des Moines, Iowa (June 2006)

-ABA Section on Administrative Law & Regulatory Practice Annual Meeting, Washington, D.C., *Panel on the Revised State Administrative Procedure Act* (November 2005)

-ABA Annual Meeting, Judicial Division and Georgia Office of Administrative Hearings, Atlanta, Georgia (August 2004), Presenter, *ALJ Finality*

-ABA Section of Administrative Law & Regulatory Practice Annual Meeting, Washington, D.C. (November 2003), Presenter, *Annual Developments in Judicial Review*



- ABA Section of Administrative Law and Regulatory Practice, Philadelphia, Pennsylvania (February 2002), Presenter, *Panel on the Administrative States*
- Florida Bar Public Utility Law Program, Tallahassee, Florida (October 2001), Presenter, *Takings and Utility Regulation*
- National Association of Administrative Law Judges Annual Meeting, Charlotte, North Carolina (September 1999), Panelist, *Independence and Accountability in Central Panel Adjudication*
- Widener University School of Law (February 1999), Speaker, *Statutory Nondelegation*, Symposium on Pennsylvania's Administrative Procedure Act,
- Florida Bar Pat Dore Conference on Administrative Law, Tallahassee, Florida (October 1998), Panelist, *What Can States Learn from Federal Administrative Law?*
- Section of Administrative Law & Regulatory Practice, ABA Annual Meeting, Toronto, Canada (August 1998), Panelist, *The Strange New World of Deregulatory Takings*
- ABA Annual Meeting, Toronto, Canada (August 1998); Instructor, Various Computer Research Courses for Judges
- Florida Bar Conference on Retail Wheeling and Competition in the Electric Utility Industry (Florida Bar CLE) (February 1998), Moderator, Consumer Protection Panel
- ABA Section on Administrative Law & Regulatory Policy, Orlando, Florida (August 1996), Speaker, *Florida's Rulemaking Revolution and Counter-Revolution*
- National Association of Administrative Rules Review (Council of State Governments Annual Meeting), Cleveland, Ohio (December 1996), Panelist, *Law and Politics in Legislative Rules Review in the States*
- Florida Bar Pat Dore Conference on Administrative Law, Tallahassee, Florida (October 1996), Presenter and Panelist, *Waiver in the Administrative Procedure*

### Media

- Opinion/editorial pieces for *The Tennessean*; *St. Petersburg Times*; *Chicago Tribune*; *Des Moines Register*; *Legal Times*; *Tallahassee Democrat*
- Quoted on administrative law and regulatory (energy regulation) matters in *New York Times*; *New Republic*; *Los Angeles Times*; *Corpus Christi Caller-Times*; *Energy Users' News*; *Miami Herald*; *Orlando Sentinel*; *Raleigh News & Observer*; *Reuters*; *San Antonio Express-News*; *St. Petersburg Times*; *Sun-Sentinel*; *Tallahassee Democrat*; *Tampa Tribune*; *Washington Post*
- Quoted during 2000 presidential dispute in *Austin-American Statesman*; *Bloomberg News*; *Boston Globe*; *Charleston (WV) Gazette & Daily Mail*; *Denver Post*; *Florida Times-Union*; *Fulton County Daily Report*; *Herald Sun (Durham, NC)*; *Hotline*; *International Herald Tribune*; *Legal Times*; *Los Angeles Times*; *Miami Herald*; *Raleigh News & Observer*; *San Antonio Express News*; *Seattle Times*; *The Tennessean*; *US New & World Report* (cover story); *Washington Post*
- Broadcast media interviews for ABC News, local radio stations

## **EDUCATION**

***Yale Law School: LL.M., 1994***

-*Olin Fellow*, Yale Center for the Study of Law, Economics, and Public Policy  
(Summer 1994)

***University of Iowa College of Law: J.D., 1991, with High Distinction***

-Articles Editor, Iowa Law Review (1990-91)

***Barrett Honors College at Arizona State University, Tempe: B.S., 1988, Summa Cum Laude (Economics Major)***

-Received Outstanding Alumnus Award from the Barrett Honors College (2005)  
-*Outstanding Undergraduate in Economics* Award (1988)

**OTHER LEGAL EXPERIENCE**

Associate Attorney, *Miller, Balis & O'Neil*, Washington, D.C. (1993)  
(practiced energy law)

Associate Attorney, *Sutherland, Asbill & Brennan*, Washington, D.C. (1991-93) (practiced energy, antitrust and administrative law)

**SERVICE ACTIVITIES**

Tenure-evaluation/appointments letters:

University of Arkansas, Arizona State University, University of Buffalo Law School, University of California Los Angeles, Case Western Reserve University, Chicago-Kent College of Law, University of Colorado, University of Connecticut, University of Florida, George Washington University, Georgetown University, University of Georgia, University of Houston, University of Illinois, University of Miami, Northwestern University, University of Oregon, Southern Illinois University, Southern Methodist University, Stanford University, Texas A&M University, University of Texas, University of Toledo, Thomas Jefferson University, Tulane Law School, University of Washington, Wayne State University, William & Mary

External scholarly manuscript referee:

Aspen Publishers, Cambridge University Press, Oxford University Press, New York University Press, Springer, West Publishing, *Energy Policy*, *Harvard Law Review*, *Yale Law Journal*, *Journal of Law & Courts*, *Journal of Law, Economics & Organization*, *Public Choice*, *Publius: The Journal of Federalism*

Vanderbilt University:

- Associate Dean for Research (Vanderbilt Law School), 2017-2020
- Director of Law & Government Program (Vanderbilt Law School), 2015-17
  - Organized multiple workshop speakers
  - Provided faculty support for various public law related projects
  - Created Public Governance Seminar course
  - Organized annual Supreme Court (P)Review
  - Co-Organized Roundtable on “Revisiting the Public Utility” (February 2017)
- Member of the Law School Unified Appointments Committee (2019-20, 2017-18, 2014-15, 2013-14); Lateral Appointments Committee (2012-13)
- Chaired Mentoring Committee (2019-20, 2018-19, 2017-18); Ad Hoc Promotion Committee (2015-16); Ad Hoc Tenure Committee (2016-17)
- Served as member of university-wide committees, including Vice Chancellor for Research Committee (2019-20), Chancellor’s Research Awards Review Committee (2017-18); Library Committee (2017-19), Parking Committee (2013-1016)

Florida State University:

College of Law Service: Served as Associate Dean for Research, 2003-2012; Editor, Florida State University Public Law and Legal Theory Faculty Working Paper Series ([www.ssrn.com](http://www.ssrn.com)) (2003-2012); Chair, Curriculum Committee (2011-12); Chair, Appointments Committee (2010 calendar year, 2006 calendar year); Member, Appointments Committee (1996-97, 1997-98, 1999-2000, 2001-02, 2003-04, 2008 calendar year); Chair, Academic Enrichment Committee (2001-02, 2003-04; 2004-05; 2005-06; 2007-08; 2008-09); Grants Committee (2004-05); Academic Enrichment Committee (1997-98); Curriculum Committee (1998-99; 2004-05); Ad Hoc Diversity Committee (1995-96); Technology and Library Committee (1995-99); Faculty Advisor, *Florida State University Law Review* (2001-02); Faculty Advisor, *OutLaw* (2001-02); Associate Dean for Technology (1998-99).

Conference/Symposium Coordinator: “The Law of Presidential Elections: Issues in the Wake of Florida 2000,” symposium published at 29 *Florida State University Law Review* (2001); “Empirical Measures of Judicial Performance,” symposium published at 32 *Florida State University Law Review* (2005); and “Default Rules in Private and Public Law” (published at 33 *Florida State University Law Review* (2006).

University: Member of Steering Committee, Florida State University Institute for Energy Systems, Economics and Sustainability (IESES) (2008-2012); Pathway’s Hiring Selection Committee (2006-08); Provost’s AAU Task Force (campus-wide initiative to advance Florida State’s national stature as a major graduate research university) (2005-2006); Florida State Council on Research and Creativity (2003-

2006); Provost's Ad Hoc Committee on Technology and Libraries (1996).

University of North Carolina School of Law: Founder and Co-Editor, University of North Carolina Public Law and Legal Theory Research Paper Series ([www.ssrn.com](http://www.ssrn.com)); Chair, Web & Technology Committee (2002-03); Appointments Committee (2002-03).

State of Florida: Appointed Member, Florida Governor's State Technology Office, Privacy and Technology Task Force (2000 - 2002); Member, Project Advisory Group, Florida Conflict Resolution Consortium, State Agency Dispute Resolution Pilot Project (1998-2000).

American Bar Association: Liaison to NCCUSL on Revised MSAPA project (2005-2007); Member of Section Council, Section of Administrative Law & Regulatory Practice (2000-2004); Co-Chair, State Administrative Law Committee, Section of Administrative Law & Regulatory Practice (1998-2004) (also served as Vice-Chair, 1996-98); Co-Reporter, Blackletter Statement of Administrative Law, developed by Section of Administrative Law & Regulatory Practice and published at 54 *Administrative Law Review*1 (2002); Founder (1996) and Coordinator, *ABA Administrative Procedure Database*, on the Internet at [www.law.fsu.edu/library/admin/](http://www.law.fsu.edu/library/admin/) (first-generation Internet research tool, now largely dormant).

American Bar Foundation: Lifetime Fellow

Legal Education: Member, Technology and Distance Learning Committee, American Bar Association Section of Legal Education and Admissions to the Bar (1998-2002); Member, Advisory Committee, *Jurist - Law Professors on the Web*, on the Internet at <http://www.law.pitt.edu/hibbitts/jurist.htm> (1996-present).

Admitted to Practice Law (currently inactive): District of Columbia (1993), Virginia (1991).