



**The ABA Section of Administrative Law and Regulatory Practice
Energy Committee**

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Presents

FERC v. Electric Power Supply Association: Implications for State and Federal Regulation

Teleconference

Tuesday, February 9, 2016
12:00 pm – 1:00 pm Eastern Time

Panelists

Joel Eisen, Professor of Law, University of Richmond School of Law
Ashley C. Parrish, Partner, King & Spalding LLP

Moderator

Robert R. Nordhaus, Partner, Van Ness Feldman LLP

Open to ABA members and the general public. NO CLE Credit is available for this program.

There is no cost associated with this program, but registration is required.

RSVP by Monday, February 8, 2016 to: Angela.Petro@americanbar.org or 202-662-1582.

On January 25th, the Supreme Court handed down what is arguably the most important electricity law opinion in over a decade. In *FERC v. EPSA*, the Court shaped the future of "demand response," or commitments to reduce electricity usage in exchange for compensation. A majority of the Court found that the Federal Energy Regulatory Commission may set prices for demand response in wholesale energy markets and upheld the agency's decision to set that price equal to the compensation for electricity generators. The Washington Post referred to the case as "beyond wonky." However, its impact on electricity regulation and the future of the grid cannot be overstated. Ashley Parrish, who argued the case on behalf of respondents at the D.C. Circuit, and Joel Eisen, who co-authored a Supreme Court amicus brief on behalf of energy law scholars in support of FERC's position, will discuss the decision and its implications for electricity market design as well as what it reveals about the Court's understanding of broader doctrines in administrative law and federalism.

Ashley Parrish -

Ashley C. Parrish is a partner in the Washington, DC office of King & Spalding LLP, and one of three partners who lead the firm's national appellate practice group. He focuses his practice on appellate, administrative, and constitutional law; on the preparation of high-risk cases for eventual appeal; and on strategic, complex litigation. In 2014, he was identified by Reuters as one of "the top handful of lawyers in America" who have had remarkable success before the US Supreme Court. His group was recognized by Legal 500 as the Supreme Court and Appellate Practice group of the year for 2015, and by Law 360 as an appellate practice of the year in 2014. Mr. Parrish is the co-author of several articles, including *Administrative Law Without Congress*, in the *George Mason Law Review* (Spring 2015). His latest article, *Administrative Law in Flux: An Opportunity for Constitutional Reassessment*, is expected to be published in 2016.

Joel Eisen -

Professor Joel Eisen teaches and writes in the areas of energy law and policy, environmental law and policy, climate change, and the Smart Grid. He is a co-author of the leading law and business school textbook on energy law, *Energy, Economics and the Environment: Cases and Materials*, as well as numerous books, book chapters, treatises, and law review articles on electric utility regulation, renewable energy, and brownfields law and policy. Professor Eisen's scholarship has appeared in law journals at Harvard, Duke, Notre Dame, Fordham, Illinois, Wake Forest, and William & Mary Law Schools, among other venues. He was awarded the University of Richmond's Distinguished Educator Award in 2010, and his article "Residential Renewable Energy: By Whom?" was voted one of the four top environmental articles of 2011 by the Vanderbilt Law School and Environmental Law Institute. From 1993-2005, he was Director of the Robert R. Merhige, Jr., Center of Environmental Law. In 2009, Professor Eisen served as a Fulbright Professor of Law at the China University of Political Science and Law in Beijing, China.

Bob Nordhaus -

Bob Nordhaus specializes in federal electric, natural gas, and environmental regulation. His work in private practice and his governmental experience have encompassed legislative, regulatory, and transactional work, administrative, and appellate litigation in these fields, and alternative dispute resolution. Bob originally joined Van Ness Feldman in 1981, after serving three years as the Federal Energy Regulatory Commission's first General Counsel. He practiced with the firm until 1993, when he was appointed General Counsel of the Department of Energy by President Clinton. He rejoined the firm in 1997. In 1977, prior to his service at FERC, Bob was a member of the Energy Policy and Planning Office in the Carter White House, and served as Assistant Administrator of the Federal Energy Administration. In 1975 and 1976, he was counsel to the House Commerce Committee, and from 1963 to 1974, he was Assistant Counsel in the Legislative Counsel's Office of the U.S. House of Representatives. He served as a member of the Electric Power Research Institute's Advisory Council and was a member of the Market Surveillance Committee of the California Independent Transmission System Operator from 1998 to 2001. Bob was an Adjunct Professor of Law at Georgetown University Law Center from 1980 to 1985 and served on the adjunct faculty of the George Washington University Law School from 2002 to 2015. Bob has authored a number of articles and reports on energy and environmental policy and climate change.