

**ENERGY LAW AND POLICY**  
**PROFESSOR AMY STEIN**  
**UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**  
**FALL 2023 SYLLABUS – LAW 6930 – 3 CREDITS**

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**Meeting Time:** Tuesdays and Wednesdays, 10:30 a.m. – 11:55 a.m.

**Location:** HH 359

**Office Hours:** Tuesdays, 4-5 p.m. HH311; Thursdays, 4-5pm on Zoom or by appt.

**Course Description:**

Energy is the currency of life. Without it, we struggle for essentials such as refrigeration, cooling, heating, electricity, computers, and transportation. This course recognizes that the physical resources used to produce and consume energy (e.g., coal, natural gas, nuclear, wind, solar, geothermal, oil, and alternative fuels) are ordered by specific energy markets, regulations, and environmental goals. It explores the relationships between regulation, markets, and technological innovation, the federalism issues that arise from the intersection of key stakeholders, and the challenges of a transition to cleaner energy. This introductory course covers legal and policy concepts important to understanding U.S. energy law, particularly electricity, and, to a lesser extent, transportation. Among other topics, it will expose students to important fundamentals of public utility law, cost of service, and restructured electricity markets. No prior energy or environmental background is required. Grading will be based on participation and a final exam.

**Student Learning Outcomes:**

At the end of this course, students should be able to perform the following:

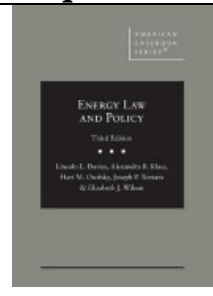
- Recognize and comprehend the terminology and major issues related to energy generation, transmission, distribution, and transportation and be able to communicate them to others;
- Analyze the tradeoffs associated with allowing different stakeholders to control different aspects of energy and the federalism implications;
- Compare and contrast the use of regulation vs. competitive markets and start to understand the implications for resource choice;
- Identify and analyze the environmental impacts of U.S. energy sources, and demonstrate an understanding of the legal challenges associated with them;
- Critically evaluate policy options associated with the nation's movement toward less dependence on carbon-based energy sources, assess their efficacy and limitations.
- Craft a persuasive legal argument using a discrete legal question.

**Compliance with UF Honor Code:**

Academic honesty and integrity are fundamental values of the University community. The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments unless expressly authorized by the professor to do so.

Students should be sure that they understand the UF Student Honor Code at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

### **Required Reading Materials:**

	<p><b>Energy Law and Policy</b>  <b>ISBN:</b> 9781647084301  <b>Authors:</b> Lincoln Davies, Alexandra Klass, Hari Osofsky, Joseph Tomain, Elizabeth Wilson  <b>Publisher:</b> West Academic Publishing  <b>Publication Date:</b> 2021-12-01          [Hard copy version recommended]</p>
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Please be sure to register for the Canvas course and have any supplemental materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

### **Optional Resources (in addition to those in the syllabus):**

- Energy Law in a Nutshell, Tomain (any edition)
- Energy Information Administration, <http://www.eia.doe.gov/>
- EIA, Electricity Primer, <http://www.eia.gov/electricity/archive/primer/>
- Utility Dive, [www.utilitydive.com](http://www.utilitydive.com)
- The Federal Power Act (FPA) (Canvas)
- Other Relevant Statutory Provisions (Canvas)
- Major FERC Orders and Regulations, <https://www.ferc.gov/major-orders-regulations>
- Podcasts: <https://www.energypolicy.columbia.edu/podcasts/>

### **Course Expectations:**

Each class session will involve a mix of lecture, exercises, and discussion focusing on the week’s assigned material. You are expected to read the assigned materials before class and be prepared to discuss them. The class will be divided in half, and you will be assigned into one of the two groups (R or S). These groups will alternate being “on call” for each class period. Everyone is on call the first and last days. This approach is intended to allow you to be better prepared so that we can have robust discussions, but everyone is expected to complete the readings each week, regardless of whether you are on call or not. There are two short assignments and four in-class practice problems that will be nearly impossible to perform well if you have failed to do the readings for that week. Substance, engagement, and timeliness are considered in participation.

**ABA Out-of-Class Hours Requirement:** ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each week is approximately 3 hours of classroom length, requiring at least *6 hours of preparation outside of class* including reading the assigned materials and preparing for the final examination.

**Class Attendance:**

Students are expected to attend and participate in class. I am assuming that each student enrolled in this course is committing to attend every class to the best of their abilities, and class attendance is required by both the ABA and the Law School. Attendance will be taken at each class meeting and each student is responsible for ensuring their own recording. You may not record attendance for someone else. The law school's policy on attendance can be found [here](#). A student who fails to meet this attendance requirement will be dropped from the course.

Nevertheless, to allow for exigencies in life, you are **permitted five class absences** without impacting your final grade. I do not make any differentiation between “excused” or “unexcused” absences, so your absences can be for any reason, including for job interviews, school activities, work tasks, illness or medical appointments, COVID-19, and life. If possible, professional courtesy encourages you to notify me if you will not be in class. Your participation grade may be impacted if you consistently miss your assigned discussion days. Please budget accordingly so that you are not left at the end of the semester with a needed absence and your budget depleted. Please notify me should you have a family or medical situation or an emergency that will require missing more than five classes, and we will discuss how to accommodate your situation.

UF Law respects students' [observance of religious holidays](#) and the five absence policy does not apply to these religious holidays.

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

Setting aside these exceptions, for each absence beyond five, your grade will be reduced by one-third of a grade (e.g., A- to B+). If you miss five or more scheduled classes, I have the discretion to render you ineligible to receive credit for the course. This policy starts on the first day of classes, not the end of the drop/add period.

**Grading Evaluation:**

Students will be evaluated based upon participation and a final exam. This course follows the Levin College of Law's grading policies found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>

<b>Class Component</b>	<b>Percent of Grade</b>
Participation (includes regular class engagement, discussion leader roles, and two assignments)	15%
Final Exam	85%
TOTAL	100%

**Information on UF Law Grading Policies:**

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

**Professional Courtesy**

As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but to your fellow students. Please do not arrive late to class or leave early absent extenuating circumstances. If you need to do so, please sit near one of the exits to minimize your disruption to others and notify me in advance. Please make sure your cell phone is turned off during class. I reserve the right to deduct points from your final grade if you engage in behavior that significantly disrupts the learning environment for your classmates. After two late arrivals, each additional late arrival will be counted as a class absence.

**Use of Laptops in Class**

Although laptops and comparable technology are not prohibited, I would encourage you to use them judiciously. I understand that you may rely on them for your readings and your notes, but please close all other browser windows, including your email. Unfortunately, many of us succumb to the temptation to multi-task, and for the time we are together, you owe yourself, your classmates, and me your focused attention. I appreciate eye contact and engagement (laughter at my bad jokes can count as engagement) and participation is part of your grade. If I can detect a lack of responsiveness due to other activities on your laptop, you may jeopardize your grade in this class. More importantly, I reserve the right to unilaterally impose a laptop ban at any time.

**Recordings of Class**

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when students may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student’s responsibility to contact the Office of Student Affairs as soon as possible after an absence.

**Statement Related to Accommodations for Students with Disabilities**

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs

(Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester, as accommodations are not retroactive. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. This course does not have an exam, but questions about exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

### **Student Course Evaluations**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click here (<https://gatorevals.aa.ufl.edu/students/>) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students here: <https://gatorevals.aa.ufl.edu/public-results/>.

### **Preferred Name and Pronouns**

Many of you may have a preferred name that is not the name given to me on the official roll. It is important to the learning environment that you feel welcome and safe in this class. I want you to be comfortable participating in class discussions and communicating with me on any issues related to the class. I would like to refer to you by your preferred pronoun and last name. As such, if your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise before the first day of class. Feel free to ask for instructions on changing your display name in Canvas.

### **Discourse and the Classroom**

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class, I encourage each of us to:

- commit to self-examination of our values and assumptions;
- speak honestly, thoughtfully, and respectfully;
- listen carefully and respectfully;
- reserve the right to change our mind and allow for others to do the same;
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

### **Health and Wellness Resources**

Law school can be a daunting experience, especially when life outside the law becomes challenging. UF Law provides numerous resources for your support, and I encourage you to seek help if you have concerns. If you are comfortable doing so, you may also notify me so that I can direct you to further resources. More resources are available on Canvas.

**Weekly Course Schedule of Topics and Assignments:**

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section, but I try hard to keep us on track so you should try hard not to fall behind. The readings reflect a diversity of readings with varied difficulty, depending on the texts we will rely upon each week (e.g., cases, statutory, policy documents, news articles). All the readings are posted on Canvas. You can read ahead in the textbook, but some of the supplemental assignments may be adjusted depending on new developments during the semester.

<b>PART 1: INTRODUCTION AND ENERGY FUNDAMENTALS</b>	
1 8/22	<p><b><i>Introduction &amp; Course Overview: U.S. Energy System &amp; Electricity Sources</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• pp. 1-9; 17-43 (stop before #1)</li> <li>• Skadden, <i>West Virginia v. EPA, Implications for Climate Change and Beyond</i> (2022), <a href="https://www.skadden.com/insights/publications/2022/09/quarterly-insights/west-virginia-v-epa">https://www.skadden.com/insights/publications/2022/09/quarterly-insights/west-virginia-v-epa</a></li> <li>• Utility Dive, <i>2023 Outlook</i>, <a href="https://www.utilitydive.com/news/2023-us-power-sector-trends-renewables-reliability-FERC-cybersecurity-hydrogen-nuclear-storage-EVs/640307/">https://www.utilitydive.com/news/2023-us-power-sector-trends-renewables-reliability-FERC-cybersecurity-hydrogen-nuclear-storage-EVs/640307/</a></li> </ul> <p><i>Optional Resources:</i></p> <ul style="list-style-type: none"> <li>• FERC, <i>What FERC Does</i>, <a href="https://ferc.gov/what-ferc-does">https://ferc.gov/what-ferc-does</a></li> <li>• <i>West Virginia v. EPA</i>, 597 U.S. ____ (2022), <a href="https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf">https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf</a></li> </ul>
2 8/23	<p><b><i>Energy Metrics and Fossil Fuel Resources: Coal, Natural Gas, Oil (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
3 8/29	<p><b><i>Renewable Energy Resources: Solar, Wind, Hydropower, Geothermal, Biomass, Efficiency (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
4 8/30	<p><b><i>Extraction of Energy Resources: Split Estates, Private and Public Extraction (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
5 9/5	<p><b><i>Extraction of Energy Resources: Fracking and Hydropower (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>

6 9/6	<p><b><i>Nuclear Energy Resources and Extraction (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
<b>PART 2: ENERGY MARKETS, REGULATION, AND FEDERALISM</b>	
7 9/12	<p><b><i>Utility Basics and Energy Market Failures: Market Power (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
8 9/13	<p><b><i>Energy Market Failures: Waste, and Externalities (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
9 9/19	<p><b><i>Intro to Electricity Regulation and Electricity Federalism (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
10 9/20	<p><b><i>Electricity Ratemaking and Complications (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
11 9/26	<p><b><i>Ratemaking and Alternatives (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
12 9/27	<p><b><i>The March to Competition Generation: Restructuring &amp; “Deregulation” (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
13 10/3	<p><b><i>The March to Competition: Transmission (S)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
<b>PART 3: TRANSPORTING ENERGY</b>	
14 10/4	<p><b><i>Transporting Energy: Eminent Domain &amp; Siting Powerlines/Transmission (R)</i></b></p> <p><i>Required Readings:</i></p> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>

15 10/10	<b><i>Paying for Electricity Transmission and Planning (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
16 10/11	<b><i>Transporting Energy: Natural Gas Regulation (R)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
17 10/17	<b><i>Transporting Energy: Mountain Valley Pipeline Case Study (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
18 10/18	<b><i>Transporting Energy: Oil Pipelines and Spills (R)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
<b>PART 4: ELECTRICITY GRID IN TRANSITION</b>	
19 10/24	<b><i>Renewable Policy Tools (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
20 10/25	<b><i>Inflation Reduction Act (R)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
21 10/31	<b><i>Reliability and Energy Storage (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
22 11/1	<b><i>Future and New Tech (CCS, Storage, Hydrokinetics, Hydrogen, SMR) (R)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>
23 11/7	<b><i>International Energy (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"> <li>• See Canvas</li> </ul>



<b>PART 5: TRANSPORTATION</b>	
24 11/8	<b><i>Transportation: Electric Vehicles (R)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"><li>• See Canvas</li></ul>
25 11/14	<b><i>Transportation: Vehicle Efficiency (S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"><li>• See Canvas</li></ul>
26 11/15	<b><i>Energy Medley/Hot Topics/Review (R+S)</i></b>  <i>Required Readings:</i> <ul style="list-style-type: none"><li>• See Canvas</li></ul>
<b><i>FINAL EXAM</i></b>	