



## President's Message

The EBA Board of Directors suggested a letter from the EBA President as an innovation for the newsletter, and I am happy to oblige.

Thanks to the many EBA members who contribute time and energy, our Association has never been stronger, more active, or more constructive. Our programs are successful, our reorganized chapters are vibrant, our professional staff is superb, and our membership is at an all time high.

The *Energy Law Journal* continues to publish significant contributions to the field following a successful leadership transition. The ELJ Foundation provides financial and management support. Our members contribute articles, book reviews, and committee reports.

The Charitable Foundation has built

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## Annual Meeting to Focus on Global Energy Events and Domestic Policy

*Mary Doyle*

The theme of this year's Annual Meeting will be "Energy Landscape for the Future: The Intersection of Global Events and Domestic Policy." The meeting will be held on April 14th at the Capital Hilton in Washington, DC. There are a number of worldwide current events that play a role in US energy policy. They include the record-breaking price of petroleum; the growth in energy demand, especially in China and India; the global market for LNG; implementation of the Kyoto Protocols; and the increasing pressure to address fossil fuel emissions. The Annual Meeting will explore these issues and their implications for domestic energy policy.

Jason Grumet, Executive Director of the National Commission on Energy Policy will deliver the keynote address. This Commission recently completed a well regarded report entitled "Ending the Energy Stalemate: A Bipartisan Strategy to Meet America's Energy Challenges." Following up on themes from the keynote address will be a distinguished panel moderated by Dr. Michelle Michot Foss from the University of Houston. Later we will have a panel moderated by former FERC Commissioner William Massey that will examine both the history and future of energy legislation. Mr. Massey will be joined by Leon Lowery with the Senate Energy Committee, former US Congressman Phil Sharp, Jeanne Connelly, Vice President of Government Affairs with Calpine Corporation and Rick Shelby, Executive Vice President with AGA.

EBA is pleased to have as it luncheon speaker Andy Borowitz, winner of the National Press Club's first-ever humor award. He is an award-winning humorist, author, film actor and television personality appearing regularly on CNN's "American Morning."

The afternoon session will consist of several panels that will also look to the future on a range of US-related energy policies. One of the panels will examine the Federal Power Act and the Natural Gas Act and ask the provocative question - are these statutes flexible enough to meet the current and future reality of these industries? Two separate panels will discuss large scale development of renewable energy projects and broadband over power-lines technology. Gas quality standards in the natural gas industry and the future of retail markets will also be panel topics.

A business meeting and the popular cocktail reception will follow the afternoon panels. We are honored to have FERC Commissioner Suedeen

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# Mid-Year Meeting Features Presentations by Chairman Wood and John Rowe, Timely Political Commentary from Fred Barnes

John E. McCaffrey

As John Rowe, the President and CEO of Exelon Corporation took the podium to deliver the keynote address at the EBA Mid-Year Meeting on the morning of November 3, 2004, Americans were still not certain who had been elected President the day before. While that debate was soon settled by Senator John Kerry's concession, the Mid-Year Meeting featured healthy debate on various important energy issues.

Mr. Rowe shared his thoughts on a number of topics, including the status of retail competition, industry market power issues, capacity markets, and incentives for the construction of new generation. Mr. Rowe's presentation was followed by a discussion of the "hot topics" at FERC by a panel that included FERC General Counsel Cynthia Marlette, as well as panelists from AGA, EEI, INGAA and EPSA. The panel was moderated by former FERC Chairman Jim Hoecker.

Following the "hot topics" panel, the attendees gathered for lunch and to listen to "hot off the presses" election analysis by luncheon speaker Fred Barnes, Executive Editor of the *Weekly Standard*. Mr. Barnes offered his opinions on the elections and identified the "winners and losers" from the vote. Mr. Barnes also responded to numerous questions from conference attendees.

Afternoon panels addressed diverse issues, including wholesale power supply procurement, buyer market power, and transmission infrastructure development. The evening was capped off by the Charitable Foundation of the Energy Bar Association's annual gala cocktail reception (see related article).

FERC Chairman Patrick H. Wood, III was the breakfast speaker on November 4th, and presented his views on FERC's current policy agenda. Emphasizing that FERC's goal was



Lisa Gast, Stephen Huntoon and Howard Shafferman are joined by *The Weekly Standard's* Fred Barnes.

affordable, dependable energy, Chairman Wood explained that sustaining this goal required a "three-legged stool" comprising (1) sufficient infrastructure; (2) effective market rules; and (3) vigilant market oversight. Day two panels included a lively debate on the ramifications of recent appellate decisions addressing FERC orders, as well as panels on security and safety for critical energy infrastructure projects, current RTO market issues, and an ethics panel that offered advice on how to navigate the ethical path between privilege and cooperation in this era of corporate scandal.

Mr. McCaffrey is the Secretary of the Energy Bar Association

## President's Message. . .

*continued from front cover*

upon an extraordinary start, with generous contributions by our members. The CFEBA responded to the tsunami disaster with a contribution of \$55,000 for portable generators and related equipment. Closer to home we support Habitat for Humanity, My Sister's Place, and other worthy causes with our efforts and our funds.

This bar always has conducted itself with great civility and integrity. I was reminded of the latter on the day I

finished *Smartest Guys in the Room* and then read a news story about the SEC Chairman rebuking corporate lawyers for losing sight of basic ethical responsibilities. Thankfully the FERC Chairman has not felt compelled to deliver a similar message to us. Best wishes to you!

- Steve Huntoon



# EBA Midwest Chapter's Eighth Annual Meeting Takes Stock of Regulation and the Energy Market in the Midwest

John E. McCaffrey



FERC Commissioner Suedeen Kelly speaks at the Midwest Energy Conference in Kansas City

The Midwest Chapter of the Energy Bar Association convened its eighth annual Midwest Energy Conference on March 15, 2005 at the Hyatt Regency Crown Center in Kansas City, Missouri. The theme of the conference was "Regulation And The Energy Market In The Midwest - Are We There Yet?" In an effort to answer this question, conference organizers lined up a distinguished group of speakers, including a number of state commissioners from the Midwest, as well as stakeholders in the Midwest ISO and Southwest Power Pool.

The conference kicked off with a keynote address by FERC Commissioner Suedeen Kelly, who offered her thoughts on the development of MISO and SPP. Commissioner Kelly observed that MISO and SPP had learned from other RTOs and had an opportunity to

be the best RTOs yet. Commissioner Kelly's speech was followed by a panel moderated by William H. Smith, Jr., Executive Director of the Organization of MISO States, regarding the states' roles and obligations relative to RTOs. The panel offered candid analysis and commentary by state commissioners Edward Hurley, Chairman of the Illinois Commerce Commission, Commissioner Steve Gaw of the Missouri Public Service Commission, Chair Diane Munns of the Iowa Utilities Board and Chair Sandra L. Hochstetter of the Arkansas Public Service Commission.

State commissioners also headed the remainder of the conference panels. Chairman Jeff Davis of the Missouri Public Service Commission moderated an informational panel on SPP that also included Nick Brown, the President and CEO of SPP, Commissioner Denise Bode of the Oklahoma Corporation Commission, Earnest Lehman, President and CEO of Midwest Energy, Inc., and Craig Roach of Boston Pacific, the market monitor for SPP. Michigan PSC Commissioner Robert B. Nelson led a panel on the MISO/PJM common market, and the sessions closed out with a panel moderated by Kansas Corporation Commission Commissioner Robert Krehbiel which addressed environmental regulations and their impact on energy resource planning and development.

Following the Midwest Chapter's annual business meeting, conference-goers mingled at a cocktail reception

sponsored by Blackwell Sanders Peper Martin LLP, Polsinelli Shalton Welte Suelthaus and Stinson Morrison Hecker LLP.

Mr. McCaffrey is the Secretary of the Energy Bar Association

## Richard A. Solomon

1917-2005

Richard A. Solomon, former General Counsel of the Federal Power Commission and past President of the Federal Energy Bar Association, passed away in January. Dick was justifiably recognized as one of the giants of the energy bar, and was particularly renowned for his appellate advocacy before the Courts of Appeals and in numerous arguments before the United States Supreme Court. The EBA will honor Dick with an in memoriam tribute in the upcoming issue of the *Energy Law Journal*.

# A Gala Night for the Charitable Foundation

The Charitable Foundation of the Energy Bar Association hosted its Second Annual Fundraising Gala Cocktail Reception on November 3, 2004 at the Renaissance Washington D.C. Hotel. The gala, which was held in conjunction with the EBA's Mid-Year Meeting, drew a large crowd of EBA members, who socialized over cocktails and hors d'oeuvres while eagerly awaiting the raffle drawing. Jazz guitarist and fellow EBA member Jonathan Schneider and his band mates once again provided the musical entertainment for the evening. As with the inaugural Charitable Foundation gala in 2003, this year's reception was a big

fundraising success.

The highlight of the night was the raffle drawing, where numerous alluring prizes were on the line. The grand prize, a flat panel widescreen television went to Paul Cunningham. Adelia Borrasca took home the second prize, a portable DVD player. Other prizes handed out included an autographed copy of Rick Atkinson's Pulitzer Prize-winning *An Army at Dawn*, Shakespeare theater tickets, and a mixed case of specialty wines donated by the CFEBA Board.



CFEBA Vice President Derek Dyson welcomes guests to the CFEBA gala



EBA member Jonathan Schneider helped jazz up the gala

## Foundation of the Energy Law Journal Report

Rich Meyer

We recall the challenges before us one year ago when Bill Mogel stepped down after twenty-five years as the *Energy Law Journal's* first and only Editor-in-Chief. Then, after a careful search, Clint

Vince and Bob Fleishman were selected respectively as the new Editor-in-Chief and Executive Editor. During this critical time it has been a primary goal of the Foundation of the *Energy Law Journal* to help facilitate a seamless transition.

Due to the tireless efforts of Messrs. Vince, Fleishman and the *Journal's* experienced Editorial Board (i.e. the firm foundation left in place by Editor-In-Chief Emeritus Mogel), the transition is now recognized as an unqualified success. Book 25:2 was published this fall and sits - undoubtedly already "used and useful" - on your desk. Book 26:1 will be published this April coincident with the EBA Annual Meeting. Among the four significant lead articles in Book 26:1 are an article by FERC Commissioner Joseph Kelliher on market manipulation, market power and FERC authority, and an article by Judge Richard Cudahy and William Henderson on the rise and fall of two energy icons ("From

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“ . . . FELJ's bylaws were amended this winter to create additional board positions . . . to offer EBA members new opportunities for involvement with the Journal.”

# Charitable Foundation of the Energy Bar Association (CFEBA)

## SECOND ANNUAL FUNDRAISING GOLF TOURNAMENT

# REMINDER

The Charitable Foundation of the Energy Bar Association (CFEBA) is pleased to announce its Second Annual Fundraising Golf Tournament at the Westfields Golf Club. The Westfields Golf Club is a Fred Couples signature course carved through natural wetlands, rolling hills and majestic beech and oak trees in Northern Virginia, making it both fun and accessible for those new to the game, yet challenging and thought-provoking for the experienced golfer.

**Date:** Friday, April 15, 2005  
**Place:** Westfields Golf Club  
13940 Balmoral Greens Ave.  
Clifton, VA 20124  
**Time:** 9:00 a.m. Shotgun Start  
**Format:** "Shamble" (modified scramble)



## Sponsors

The CFEBA wishes to recognize the organizations that have generously agreed to sponsor this year's tournament:

ABS Complete Printing Services, Inc.

Ace-Federal Reporters, Inc.

Analysis Group, Inc.

Brown, Williams, Moorehead & Quinn, Inc

Charles River Associates

Click's Document Management

Edison Electric Institute

Entergy Corporation

Foster Associates Incorporated

Join the Call

McGuireWoods LLP

Navigant Consulting, Inc.

NERA Economic Consulting

The Northbridge Group

Pendulum Group

PICF, Inc.

PowerGrid Strategies, LLC

R.J. Rudden Associates, Inc.

Ruxton Consulting, LLC

Sequential, Inc.

Stinson Morrison Hecker LLP

# Charitable Foundation Assists Habitat for Humanity. . .

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the homes.

EBA members also provided labor in the building of the homes. EBA members participated in the framing of the houses, framing out duct-work, framing closets, framing windows, installing lock-sets on doors, and installing Tyvek siding, as well as other construction needs at the site. No experience was necessary for the volunteers for these build days full of fun and service.

The following volunteers participated during the inaugural HFHNV build day on January 12, 2005: **Kelly Daly, Pete Scanlon, Stephen Huntoon, Paul Breakman, and Derek Dyson.** The following volunteers participated on March 12, 2005: **Linda Nagel, Bill Penniman, Dave Hunt, Grace Wung, Fred and Lindsay Jauss, Mark Cook, Walter Hall, Carla Pettus** and friend, along with **Paul Breakman**, who graciously served as CFEBA's Volunteer Leader for the day.

The next scheduled build day is May 7, 2005 and will be with the District of Columbia Habitat for Humanity. CFEBA hopes to have at least 25 volunteers participate.

CFEBA is always looking for volunteers to participate in Operation Caulk, a standing energy efficiency project conducted in association with DCHFH, as well as volunteers to participate in the organization and planning of other charitable service projects. Please contact Derek Dyson at [dad@dwyp.com](mailto:dad@dwyp.com) if you are interested.

**Tsunami Relief** - Just days after the December 26th tsunamis swept a deadly path through Southeast Asia, CFEBA joined the international community in donating financial assistance for the response efforts to the disaster. CFEBA committed to donate \$25,000 for the purchase of generators, and/or other equipment support for the tsunami relief effort. CFEBA identified and worked with Project HOPE to assist in the purchase of generators and/or other related equipment to support Project HOPE's medical relief efforts in Indonesia. CFEBA coordinated with EBA members in the identification of manufacturers willing to allocate material to support in this effort. In addition, CFEBA coordinated the donation from its members and raised an additional \$30,000 for the support of tsunami relief efforts.

An immediate need that was identified by Project HOPE was protection of the medical supply cold chain. CFEBA coordinated with Project HOPE to identify equipment that had internal generation capabilities to meet this need. Project HOPE and CFEBA identified a cold chain equipment vendor

capable of providing equipment compatible with the World Health Organization approved refrigeration units, which included a requirement for internal back-up generation capabilities. In mid-February, CFEBA, through Project HOPE, purchased 19 refrigeration units and paid for the cost of delivery of the refrigeration units to Indonesia, (approximately \$25,000). The units arrived in Indonesia

"In mid-February, CFEBA, through Project HOPE, purchased 19 refrigeration units and paid for the cost of delivery of the refrigeration units to Indonesia, (approximately \$25,000)."

during the week of March 14, 2005. Project HOPE informed CFEBA that the units are now in service and will forward pictures of the facilities in which they are being used soon. CFEBA is still coordinating with Project HOPE on the purchase of additional such refrigeration units, and/or generation material as needed.

The CFEBA Board and Project HOPE would like to thank the EBA membership for rapidly rallying around the cause of supporting the tsunami relief efforts. For additional information on Project HOPE and its continued tsunami relief efforts please visit <http://www.projecthope.org/where/tsunamirelieft.htm>.

*Mr. Dyson is the Vice President of the Charitable Foundation of the Energy Bar Association*

# Upcoming Events

## International Bar Association

5th Biennial Conference on Project Finance  
Supported by the Energy Bar Association

**April 18-20, 2005**

Pentagon City, VA  
Ritz Carlton Hotel

## Northeast Chapter Luncheon

"Renewable Portfolio Standards for  
Electricity - New Developments in  
the PJM Region"

**April 25, 2005**

Philadelphia, PA  
Ballard Spahr Andrews & Ingersoll LLP  
12:00 p.m.

## Southern Chapter Meeting

**June 6, 2005**

Covington, KY  
Embassy Suites Cincinnati - River Center

## Northeast Chapter Meeting

**June 9, 2005**

New York, NY  
Crowne Plaza Times Square Manhattan

## Mid-Year Meeting

**November 17-18, 2005**

Marriott Renaissance  
Washington

*For more information on any of these events, please contact Marlo Brown at 202.223.5625 or [admin@eba-net.org](mailto:admin@eba-net.org).*

**ABOUT THE ENERGY BAR ASSOCIATION:** EBA is a non-profit voluntary association of attorneys, non-attorney professionals and law students whose mission is to enhance the professional competence of those who practice and administer energy law. Established in 1946 as the Federal Power Bar Association, the Association generally was focused on those lawyers practicing energy regulatory law at the federal level. In 1977, the organization changed its name to the Federal Energy Bar Association to reflect the name change of the Federal Energy Regulatory Commission. Today, the Energy Bar Association is an international, non-profit association of attorneys, non-attorney professionals and law students active in all areas of energy law. It has over 2100 members, six formal chapters in Houston, Midwest, New Orleans, Northeast, Southern and Western regions of the U.S. and an increasing number of members across the United States and Canada.

**DIVERSITY POLICY STATEMENT:** The Energy Bar Association is committed to the goals of fostering an inclusive and diverse membership and increasing diversity across all levels of the Association, so as to reflect the diversity of the energy industry and the Nation as a whole. Attorneys, non-attorney professionals in the energy field and law students are welcome to join our ranks regardless of race, creed, color, gender, ethnic origin, religion, sexual preference, age, or physical disability and are encouraged to become active participants in the Association's activities.

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# Foundation of the Energy Law Journal

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Insull to Enron..."). Notably, Book 26:1 also exhibits a new cover design.

During this last year the FELJ has also continued coordinating with the Charitable Foundation of the Energy Bar Association. As sister foundations, the FELJ and the CFEBA are working hand-in-hand to express appreciation and provide suitable recognition in the *Journal* to those individuals and institutions whose generous contributions have played a critical role in establishing the CFEBA. The FELJ is pleased to be playing an appropriate role supporting the CFEBA during its initial years and expressing appreciation to EBA members for their support of the CFEBA.

The FELJ has now also completed its first ever advertising and subscription brochure. A copy of the brochure accompanies your new issue of the *Journal*. This effort has been an integral part of the FELJ goals of increasing *Journal* advertising revenue and attracting subscriptions from potential *Journal* readers who are not (or at least not yet) EBA members.

Finally, you may be interested in learning that the FELJ's bylaws were amended this winter to create additional board positions. The goal of this change is to offer EBA members new opportunities for involvement with the *Journal*, so please contact Ms. Lorna Wilson if you wish to become active in *Journal*-related (or in other EBA-related) activities.

*Mr. Meyer is the President of the Foundation of the Energy Law Journal*