

University of Houston Law Center
ENERGY LAW & POLICY
- Spring 2024-

Professor Contact Information

Instructor:	Gina S. Warren
Campus Email:	gswarre2@central.uh.edu
Office Phone:	713-743-8404

Class Schedule and Location: Class will be face-to-face on Tuesdays and Thursdays from 10:30-12pm in classroom TBD.

Office Hours: I am available to meet with students regularly. You should feel free to call or e-mail me with any questions, concerns, or comments, or to schedule an appointment.

TEAMS: I will post slides and course materials on [TEAMS](#), which is available through your Courgarnet login. Make sure to check the website regularly.

Optional Reading Material: Tomain, et al., ENERGY LAW IN A NUTSHELL (4th Edition 2022), West Academic publication.

Learning Outcomes: I have four goals for this simulation course. First, you will learn about historical and current issues in energy law. We will look at some historical events and trends that have brought Energy Law to where it is today, and we will study current events. Second, by the end of the course, I expect you will have a good understanding of how each type of energy source is regulated in the United States, including what governmental entities are in charge of the regulation and the applicable statutes. Third, I expect you will walk away with a general understanding of the future of energy technology and regulation with an eye toward minimizing energy's negative externalities. Fourth, by the end of the semester you will have a specialized, in depth knowledge (and essay) of an energy law topic of your choice.

Course Attendance and Participation: Consistent with university policy, 80 percent attendance in class is required. An attendance list will be circulated at each class session. Those individuals not satisfying the attendance requirement will be reported to UH Law Center administrative officials to be dropped from the course. During class, students will be called on at random (Socratic method) to answer questions about the reading. Students will be expected to have read the assigned readings prior to class and to be prepared to discuss the material in class.

Assessment Methods: This is a project course. After a few weeks of class you will be asked to identify an energy-related topic that you would be interested in researching more in depth. Your final grade will be based primarily on two components: (1) an oral presentation of your chosen (with approval) topic, which will count for 40% of your overall course grade; and (2) a legal article of your chosen topic (with approval), which will count for 60% of your overall course grade. [Additional details for both components will be provided during the semester].

Use of Laptops: You may use a laptop for taking notes and other purposes directly related to the class. Use of your laptop for any other purpose is prohibited during class meetings (e.g., you may NOT surf the internet, play games or give/receive answers or other aid via any method).

Nonparticipation and nonresponsiveness in the classroom discussion attributable to diversionary uses of your personal computer constitutes an absence from the class. In the event this occurs, you are not eligible to sign the attendance sheet and are subject to appropriate action as the professor may determine in her sole discretion.

Mental Health and Wellness Resources: The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed. The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment. The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being. Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct: Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids: The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

Recording of Class: Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking.

Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Resources for Online Learning: The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website (<https://uh.edu/power-on/learning/>). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

UH Email: Please check and use your CougarNet email for communications related to this course. Faculty use the CougarNet email to respond to course-related inquiries such as grade queries or progress reports for reasons of FERPA. To access your CougarNet email, login to your Microsoft 365 account with your CougarNet credentials. Visit University Information Technology (UIT) for instructions on how to connect your CougarNet e-mail on a mobile device.

Security Escorts and Cougar Ride: UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs. Parking and Transportation Services also offers a late-night, on-demand shuttle service called "Cougar Ride" that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

Syllabus Changes: Please note that the instructor may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible through email and TEAMS.

Honor Code: The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

AI Generated Text: The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as "generative" large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text in response

to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This applies to AI Generated Text from yourself or others. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/other in applying the plagiarism policy to this course. The term “assessment” means any work product generated for this course that is submitted to the instructor or presented in a class session, regardless whether it is graded content or not. Assessments include mid-terms and final exams. AI Generated Text may not be used in the development or drafting of any assessments created by you in a non-proctored environment, such as a “take-home” final examination unless specified as an exception below. The parts of the Honor Code that refer to unauthorized materials or aid are specifically prohibited from any use of AI Generated Text in this course.

Reading Assignments: What follows is an anticipated reading schedule. As the semester progresses, however, we may fall behind or speed ahead of the schedule requiring that the reading assignments be adjusted. **I therefore reserve the right to change and adjust the assignments (which will likely happen) based on the pace and progress of the class, the topics of particular interest to the class, and otherwise, as I deem necessary.**

Tentative Course Schedule

Date	Topic		Case Assignments
01.16	Introduction to Energy Law		N/A
01.18	U.S. Energy Resources & Consumption		N/A
01.23	Themes of Energy Law		<ul style="list-style-type: none">• <i>Proprietors of Charles River Bridge v. Proprietors of Warren Bridge</i>, 36 U.S. 420 (1837)• <i>American Petroleum Institute v. EPA</i>, 706 F.3d 474 (D.C. Cir. 2013)• <i>Federal Power Commission (n/k/a FERC) v. Florida Power & Light</i>, 404 U.S. 453 (1972)

			<ul style="list-style-type: none"> • <i>Animal Welfare Institute v. Beech Ridge Energy</i>, 675 F. Supp. 2d 540 (D. Md. 2009)
01.25	Energy Legal Tools: the Role of Regulation and Markets		<ul style="list-style-type: none"> • <i>Otter Tail Power Co. v. U.S.</i>, 410 U.S. 366 (1973) • <i>State v. Ohio Oil Co.</i>, 49 N.E. 809 (Ind. 1898) • <i>Confederated Tribes and Bands of the Yakima Indian Nation v. FERC</i>, 746 F.2d 466 (9th Cir. 1984) • <i>Competitive Enterprise Institute v. National Highway Traffic Safety Administration</i>, 956 F.2d 321 (D.C. Cir. 1992)
01.30	Traditional Energy Sources (Coal, Oil & Gas)		<ul style="list-style-type: none"> • <i>United States v. Law</i>, 979 F.2d 977 (4th Cir. 1992) • <i>Robinson Township v. Commonwealth of Pennsylvania</i>, 83 A.3d 901 (Pa. 2013)
02.01	Traditional Energy Sources (Nuclear, Hydropower)		<ul style="list-style-type: none"> • <i>Platte River Whooping Crane Critical Habitat Maintenance Trust v. FERC</i>, 962 F.2d 27 (D.C. Cir. 1992) • <i>Blue Ridge Environmental Defense League v. NRC</i>, 716 F.3d 183 (D.C. Cir. 2013) • <i>Metropolitan Edison Co. v. People Against Nuclear Energy</i>, 460 U.S. 766 (1983) • <i>New Jersey Department of Environmental Protection v. NRC</i>, 561 F.3d 132 (3d Cir. 2009)
02.06	Nuclear Waste		<ul style="list-style-type: none"> • <i>Skull Valley Band of Goshute Indians v. Nielson</i>, 376 F.3d 1223 (10th Cir. 2004)
02.08	Utility Regulation – Part I		<ul style="list-style-type: none"> • <i>SZ Enterprises, LLC d/b/a Eagle Point Solar v. Iowa Utilities</i>

			<p><i>Board</i>, 850 N.W.2d 441 (Iowa 2014)</p> <ul style="list-style-type: none"> • <i>Munn v. Illinois</i>, 94 U.S. 113 (1876) • <i>Nebbia v. New York</i>, 291 U.S. 502 (1934)
02.13	Utility Regulation – Part II		<ul style="list-style-type: none"> • <i>Potomac Electric Power Company v. FERC</i>, 210 F.3d 403 (D.C. Cir. 2000) • <i>Entergy Louisiana, Inc. v. Louisiana Public Service Commission</i>, 539 U.S. 39 (2003) • <i>Jersey Central Power & Light v. FERC</i>, 810 F.2d 1168 (D.C. Cir. 1987) • <i>Duquesne Light Co. v. Barasch</i>, 488 U.S. 299 (1989)
02.15	Utility “De”regulation		<ul style="list-style-type: none"> • <i>Montana Consumer Counsel v. FERC</i>, 659 F.3d 910 (9th Cir. 2011) • <i>Zephyr Wind, LLC</i>, 141 FERC ¶ 61,113 (2012) • <i>New York v. FERC</i>, 535 U.S. 1 (2002)
02.20 Topics due by 11:59pm today	Electric Transmission Siting and Cost Distribution		<ul style="list-style-type: none"> • <i>Square Butte Elec. Co-Op. v. Hilken</i>, 244 N.W.2d 519 (N.D. 1976) • <i>In re Application of International Transmission Co.</i>, 827 N.W.2d 385 (Mich. Ct. App. 2012) • <i>Illinois Commerce Commission v. FERC (ICC I)</i>, 576 F.3d 470 (7th Cir. 2009) • <i>Illinois Commerce Commission v. FERC (ICC II)</i>, 721 F.3d 764 (7th Cir. 2013)

02.22	Energy Transport - Pipelines		<ul style="list-style-type: none"> • <i>Pliura Interventors v. Illinois Commerce Commission</i>, 942 N.E. 2d 576 (Ill. Ct. App. 2010) • <i>Sierra Club v. FERC</i>, 867 F.3d 1357 (D.C. Cir. 2017) • <i>Texas v. Biden</i> (2022)
02.27	National Highway System		<ul style="list-style-type: none"> • <i>Citizens to Preserve Overton v. Volipe</i>, 401 U.S. 402 (1971) • <i>San Antonio Conservation v. Texas Highway</i>
02.29	Environmental Justice		<ul style="list-style-type: none"> • <i>Coalition of Concerned Citizens Against I-670 v. Damian</i>, 608 F. Supp. 110 (D. Ohio 1984) • <i>Saint Paul Branch of N.A.A.C.P. v. U.S. D.O.T.</i>, 764 F. Supp. 2d 1092 (D. Minn. 2011)
03.05	Shift to Clean Energy – Part I		<ul style="list-style-type: none"> • <i>Massachusetts v. EPA</i>, 549 U.S. 497 (2007) • <i>West Virginia v. EPA</i>, 597 U.S. ____ (2022) • Colorado Renewable Portfolio Standard, CO Rev Stat § 40-2-124 (2016) • <i>Village of Old Mill Creek v. Star</i>, 2017 WL 3008289 (N.D. Ill. July 14, 2017) • <i>ARIPPA v. Pennsylvania Public Utility Comm’n</i>, 966 A.2d 1204 (Pa. Cmwlth. 2009) (skim)
03.07	Shift to Clean Energy – Part II		<ul style="list-style-type: none"> • <i>Ecogen v. Town of Italy</i>, 438 F.Supp. 2d 149 (W.D.N.Y. 2006) • <i>Quechan Tribe of Fort Yuma Indian Reservation v. DOI</i>, 755 F.Supp. 2d 1104 (S.D. Cal. 2010) • Application of Sierra Pacific Power Company, 2016 WL 7635932 (Nev.P.U.C.) (skim)

Spring Break 03.11 – 03.16 No Classes			
03.19 Detailed article outline due by class time today	Discuss articles (peer)		
03.21	Discuss articles (peer)		
03.26	Student Presentations		1. 2.
03.28	Student Presentations		3. 4.
04.02	Student Presentations		5. 6.
04.04	Student Presentations		7. 8.
04.09	Student Presentations		9. 10.
04.11	Student Presentations		11. 12.
04.16	Student Presentations		13. 14.
04.18	Student Presentations		15. 16.
04.23	Student Presentations		17. 18.
04.25	Student Presentations		19. 20.
05.09 Final Article Due by 11:59pm			