



SCPPA Training Course

Electric Utility Contracts for Non-Lawyers

May 14, 2019 - May 15, 2019

DAY 1: 8 am – 12 pm

DAY 2: 8 am – 12 pm

Course Overview

This course is designed for non-lawyers (or junior lawyers) who (1) want a better understanding of some of the major legal documents involved with project development, construction, financing, and working with utilities, and (2) want to gain familiarity and comfort with basic legal terminology and concepts.

We will focus on common drafting flaws and errors, the perils of ignoring “boilerplate” language, and the importance of communicating effectively among lawyers, business people and engineers.

The course will provide an overview and explanation of a variety of project-related documents, including nondisclosure and confidentiality agreements, term sheets and letters of intent, PPAs, construction contracts, real property documents, etc. We will look at the most important provisions of the some of the major agreements involved with the development of an energy facility. For example, the course will provide an overview and explanation of the most significant terms and conditions in the power purchase agreement.

There will be multiple interactive learning sessions during which attendees will have an opportunity to read sample agreement provisions, identify drafting flaws, and discuss ways to address and resolve those issues. These sessions will provide the participant with a better understanding of the intricacies involved with the drafting the various terms and conditions, as well as to demystify some of the “legalese.”



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Topics to be Addressed

I. Basics of Contracting

- Basic Contracting Principles
 - Role of Attorneys
 - Essential Elements
 - Structure
 - Objectives
 - Enforceability
 - Define parties, relationships, and responsibilities
 - Allocation of risks
 - Integrated infrastructure
 - Prepare for financing
- Boilerplate Provisions
 - Review SCPPA PPA boilerplate
- Other common areas of legal confusion
- Legalese

II. In-Depth Review: Confidentiality Agreement

- Effective Date
- Effective Date/Term
- Define Confidential Information
- Exclusions
- Return of Confidential Information
- Other Provisions

III. Interactive Session: Confidentiality Agreement

- Read sample agreement
- Discuss potential drafting flaws
- Make “real time” revisions

IV. In Depth Review: Power Purchase Agreements

- Forms
- General Structure
- Key Provisions
 - Sale and Purchase Obligations
 - Deliveries
 - Mechanics of COD



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- Completion Risk
- Curtailment
- Change in Law
- Excusable Delay/Force Majeure
- Delay Damages
- Security
- Dispute Resolution
- Defaults, Cure, Remedies
- Remedies at law versus equity

V. Question & Answer Session

Who Should Attend?

Anyone who works with, manages, negotiates or read contracts (including PPAs and related agreements such as purchase options) who would like a better understanding of how contracts work, how to review and revise contracts, and where to focus attention when negotiating a contract.

Instructors

Leslie Boyle and Ashley Wald are partners at Holland & Hart LLP. They have worked with SCPPA and its members for over a decade on numerous projects, assisting with the negotiation of power purchase agreements, option agreements, and several project acquisitions.