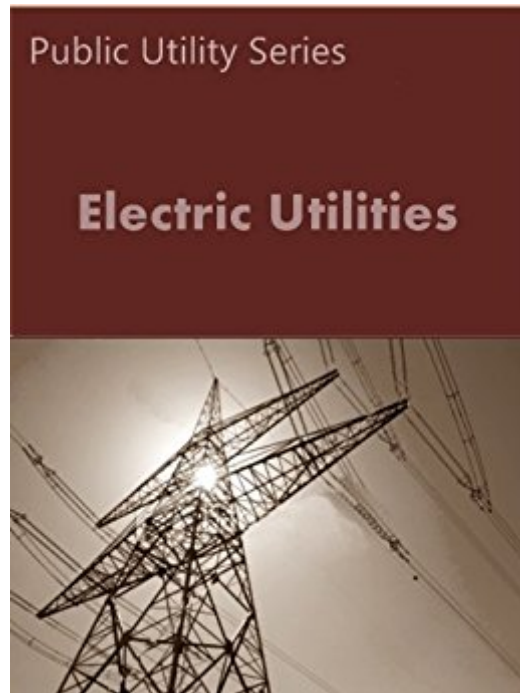




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Electric Utilities: Federal Regulation (Public Utility Series)



Synopsis

This casebook contains 315 federal court of appeals decisions that address issues affecting the federal regulation of electric utilities. The selection of decisions spans from 1995 through 2011 and is organized by federal circuit. The decisions are listed in the order of frequency of citation. The most cited decisions appear higher in each section. The Federal Energy Regulatory Commission's statutory mandate is set forth in the Federal Power Act. The FPA requires, and charges FERC with ensuring, that "[a]ll rates and charges made, demanded, or received" by power wholesalers be "just and reasonable." All rates and charges for sales and transmission of power are subject to FERC's review. The FPA requires every public utility to file with FERC "schedules showing all rates and charges . . . together with all contracts which in any manner affect or relate to such rates, charges. Any change in a rate, charge, or contract requires notice, publicly filed with FERC, sixty days in advance of the change "[u]nless the Commission otherwise orders." [Citations omitted.] *Montana Consumer Counsel v. FERC*, (9th Cir. 2011) We highlight four recent decisions: *Boston Edison Company v. US*, (Federal Cir. 2011) involves a contract dispute between Boston Edison and the United States Department of Energy under which DOE agreed to begin collecting spent nuclear fuel from the Pilgrim nuclear power plant. In *Montana Consumer Counsel v. FERC*, (9th Cir. 2011), petitioners allege that the Federal Energy Regulatory Commission violates its statutory obligation to ensure that rates are just and reasonable by its reliance on market forces to set rates. *California Wilderness Coalition v. Dept. of Energy*, 631 F. 3d 1072 (9th Cir. 2011) is a broad challenge to the Department of Energy's implementation of the Energy Policy Act of 2005. Among the court's findings is that the DOE failed to properly consider the potential environmental consequences of its designation of national interest electric transmission corridors. In *New York Regional Interconnect, Inc. v. FERC*, 634 F. 3d 581 (DC Cir. 2011) the petitioner challenges three FERC orders that adopted a new transmission planning process for New York's independent regional transmission organization. The case is not decided on the merits for want of standing by NYRI. It could not show that it was an aggrieved party as required by the Federal Power Act.

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