Federal Court Cases that Could Affect RPSs

Hosted by
Warren Leon, Executive Director, CESA

December 19, 2017
Housekeeping

Join audio:
- Choose Mic & Speakers to use VoIP
- Choose Telephone and dial using the information provided

Use the red arrow to open and close your control panel

Submit questions and comments via the Questions panel

This webinar is being recorded. We will email you a webinar recording within 48 hours. CESA’s webinars are archived at [www.cesa.org/webinars](http://www.cesa.org/webinars)
RPS Collaborative

• With funding from the Energy Foundation and the US Department of Energy, CESA facilitates the Collaborative.
• Includes state RPS administrators, federal agency representatives, and other stakeholders.
• Advances dialogue and learning about RPS programs by examining the challenges and potential solutions for successful implementation of state RPS programs, including identification of best practices.
• To sign up for the Collaborative listserv to get the monthly newsletter and announcements of upcoming events, see: www.cesa.org/projects/renewable-portfolio-standards
Guest Speaker

- Harvey L. Reiter, Partner, Stinson Leonard Street
Federal Court Cases that Could Affect RPS

Harvey L. Reiter
Stinson Leonard Street LLP
1775 Pennsylvania Ave. NW
Washington, DC 20006
harvey.reiter@stinson.com
202-728-3016
Webinar for the Clean Energy States Alliance
December 19, 2017
What is the Dormant Commerce Clause and How Might it Affect RPS?

The Commerce Clause gives the federal government the exclusive right to regulate interstate commerce and its “dormant” quality means that states, therefore, cannot place undue burdens on interstate commerce.

State laws and regulations, as well as local ordinances can violate the dormant Commerce Clause in one of three ways:

• if they discriminate, facially or implicitly, against out-of-state or foreign commerce;
• if they regulate extraterritorially, i.e., beyond a state’s boundaries;
• or, even if neutral in effect or intent, if they place an excessive burden on interstate commerce.
RPS-related cases raising dormant commerce clause issues

- **North Dakota v. Heydinger** (8th Cir.) *(limits on non-renewables)*
- **Energy and Environment Legal Institute v. Epel**, 793 F. 3d 1169 (10th Cir. 2015) *(RPS)*
- The Connecticut **Allco cases** *(RECs)*
- **Village of Old Mill Creek v Illinois Power Agency** *(ZECs)* (7th Cir.) *(ZECs)*
- **Coalition for Competitive Electricity v. NY Pub.Serv. Comm’n** *(2nd Cir.)* *(ZECs)*
- **Winding Creek Solar v CPUC** *(N.D. CA)* *(PURPA preemption)*
Thank you for attending our webinar

Warren Leon
RPS Project Director, CESA Executive Director
wleon@cleanegroup.org

Visit our website to learn more about the RPS Collaborative and to sign up for our e-newsletter:
www.cesa.org/projects/renewable-portfolio-standards

Find us online:
www.cesa.org
facebook.com/cleanenergystates
@CESA_news on Twitter