

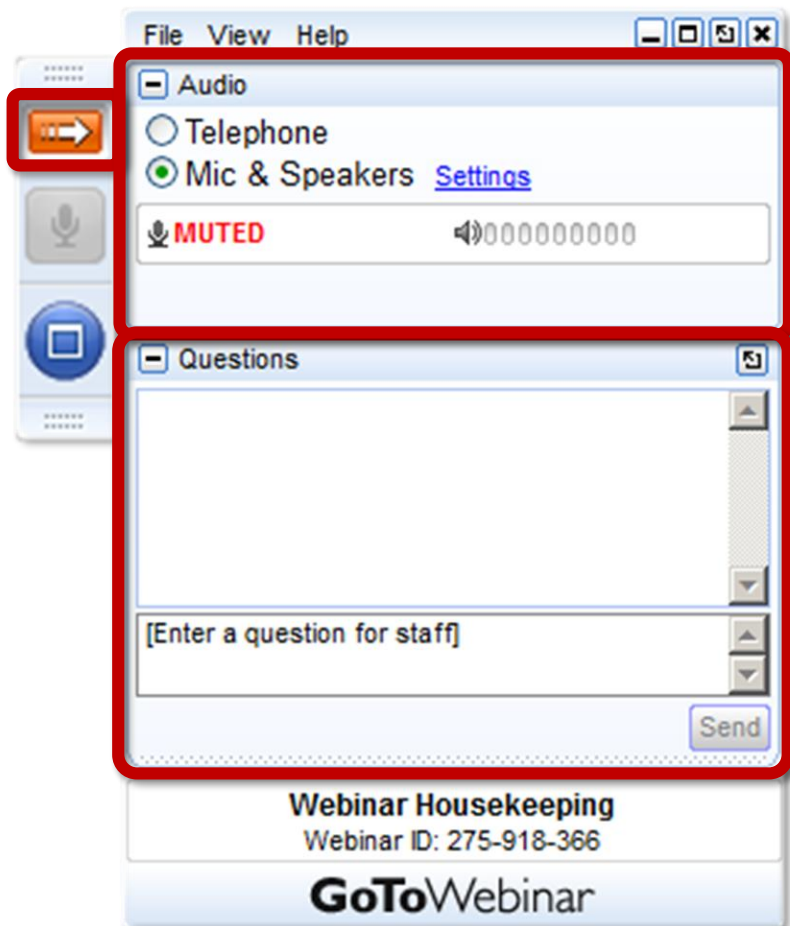
RPS Collaborative Webinar

Federal Court Cases that Could Affect RPSs

Hosted by
Warren Leon, Executive Director, CESA

December 19, 2017

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Celebrating 15 Years of State Leadership

Clean Energy States Alliance



Illinois Department of Commerce & Economic Opportunity



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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



U.S. DEPARTMENT OF
ENERGY



Guest Speaker

- **Harvey L. Reiter**, Partner,
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Federal Court Cases that Could Affect RPS

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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

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and to sign up for our e-newsletter:

www.cesa.org/projects/renewable-portfolio-standards

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