



EUCI presents a course on:

# U.S. AND CANADIAN OIL PIPELINE REGULATIONS: FERC, NEB, AND EFFECTS ON ENERGY TRANSIT

February 1-2, 2012 • The Ritz-Carlton • Denver, CO



EUCI is authorized by IACET to offer 1.2 CEUs for this program.

# U.S. AND CANADIAN OIL PIPELINE REGULATIONS: FERC, NEB, AND EFFECTS ON ENERGY TRANSIT

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## OVERVIEW

The international nature of oil extraction, production, and transportation requires individuals to be knowledgeable in multiple disciplines across multiple national markets. This course is intended to identify and describe how Federal Energy Regulatory Commission (FERC) of the U.S. and the National Energy Board (NEB) of Canada govern and affect petroleum transportation. Attendees will be guided through how these two entities compare on regulation, processes, and rate settings. Individuals will come away with knowledge in differing regulations and jurisdictions and will be able to articulate the evolution of rate setting, rate cases, and how petroleum transit is governed and regulated by FERC and NEB.

## LEARNING OUTCOMES

- Review the roles of FERC and NEB as they regulate oil
- Identify the differing jurisdictions of FERC and NEB within energy transit
- Describe the similarities and differences of FERC and NEB
- Discuss the historical context and events shaping FERC and NEB
- Examine laws and acts governing FERC and NEB functions
- Appraise the relationship of FERC, NEB, and companies between borders
- Explain rate setting, tariffs, and rate settlements
- Compare market rates between the U.S. and Canada
- Classify rate conflicts; describe litigation and cases affecting rates
- Project the outlook of FERC and NEB regulations affecting oil transit

## WHO SHOULD ATTEND

Engineers, managers, members of the financial community, attorneys, and anyone else who is interested in or has a need to know about the laws governed by FERC, the NEB, and the agencies' rules, policies, and procedures that affect the oil transit industry. The course will benefit those seeking an in-depth introduction to FERC and the NEB, those desiring a refresher course, and those seeking insight on current regulations and proceedings involving oil transportation, FERC, and the NEB.

## IACET



EUCI has been approved as an

Authorized Provider by the International Association for Continuing Education and Training (IACET), 1760 Old Meadow Road, Suite 500, McLean, VA 22102. In obtaining this approval, EUCI has demonstrated that it complies with the ANSI/IACET Standards, which are widely recognized as standards of good practice internationally.

As a result of their Authorized Provider membership status, EUCI is authorized to offer IACET CEUs for its programs that qualify under the ANSI/IACET Standards.

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### **Requirements for Successful Completion of Program**

Participants must sign in/out each day and be in attendance for the entirety of the course to be eligible for continuing education credit.

### **Instructional Methods**

The course will be taught by two FERC oil experts and one NEB oil expert. The instructors will utilize PowerPoint, handouts, and other methods to best present the materials. Each instructor will employ past and current case studies, experience, and insight to provide the best learning experience for the attendee.

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## PROGRAM AGENDA

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**WEDNESDAY, FEBRUARY 1, 2012**

**Registration and Continental Breakfast: 8:00 – 8:30 a.m.**

**Course Timing: 8:30 a.m. – 4:00 p.m.**

**Group Luncheon: 12:00 – 1:00 p.m.**

### FERC Oil Regulation

#### Section 1: Historical Regulation of Oil Pipelines

- The ICA
- The Hepburn Act
- The meaning of "Just and Reasonable": Hope and Bluefield
- The transfer of jurisdiction over oil pipelines from the ICC to FERC

#### Section 2: The Scope of FERC's Jurisdiction under the ICA

- Transportation
- Interstate Commerce
- Essential character and persisting intent standards
- Continuous interstate movement
- The Supreme Court's *Pipelines Cases* on the reach of the ICA
- The Uncle Sam Oil Company exception
- Comparison with FERC's jurisdiction under the NGA
- The practical ramifications of the federal/state jurisdictional dichotomy

#### Section 3: Early Oil Pipeline Cases under FERC Jurisdiction

- Opinion No. 154 and Farmers Union II
- Opinion No. 154-B: cost-based ratemaking

#### Section 4: FERC Regulation Governing Oil Pipeline Ratemaking After the 1992 EPAct

- EPAct's mandate for simplified ratemaking and just and reasonable Rates
- Indexing (Order No. 561)
- Cost-of-service and page 700 innovation (Order No. 571)
- Market-based rates (Order No. 572)

#### Section 5: Trans-Alaska Pipeline System Regulation

- Overview
- 1985 settlement regarding rates
- Opinion No. 502
- Recent TAPS proceedings

## PROGRAM AGENDA

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**THURSDAY, FEBRUARY 2, 2012**

**Continental Breakfast: 8:00 – 8:30 a.m.**

**Course Timing: 8:30 a.m. – 4:00 p.m.**

**Group Luncheon: 12:00 – 1:00 p.m.**

### FERC Oil Regulation Continued

#### Section 6: The Anatomy of a Rate Case: From a Tariff Filing to Litigation Before the Court of Appeals

#### Section 7: Complaint Cases

#### Section 8: The Process for Consideration of New Pipeline Projects – Declaratory Order Proceedings and Settlements

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**THURSDAY, FEBRUARY 2, 2012 (CONTINUED)**

### **NEB Oil Regulation**

#### **Liquids Pipeline Regulation Before the National Energy Board of Canada**

##### **Section 1: Origin and Evolution of NEB Regulation**

- Historical context
- Key statutes and regulations
- Scope of regulatory mandate
- Constitutional implications
- "Collateral" related regulatory agencies

##### **Section 2: Arrangement of NEB Act**

- Part III - Facilities
- S. 52 Applications
- S. 58 Applications
- Part 1V - Tolls and Tariffs
- Group 1 Pipelines
- Group 2 Pipelines

##### **Section 3: Evolution of Regulatory Practice**

- Historical rate regulation
- Market arrangements for demonstration of "need and necessity" (facilities)
- Committed/firm access
- Uncommitted access
- Market arrangements for demonstration of "just and reasonable" (tolls)
- Negotiated settlements
- Contracted commitments

##### **Section 4: Recent Developments and Issues Relevant to NEB Approvals**

## INSTRUCTORS

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### **Elisabeth R. Myers, Partner, Husch Blackwell**

A member of Husch Blackwell's Partner Board, Elisabeth represents businesses in the oil and gas industry, including companies involved in exploration, extraction, refining, transportation, and marketing of crude oil, petroleum products, and natural gas. She has represented major oil refiners and oil and gas marketers as complainants, protestants, and petitioners before federal and state regulatory bodies, the U.S. Court of Appeals, and the U.S. Supreme Court. Elisabeth has spearheaded global, industry-wide settlement negotiations that resolved long-standing litigation over interstate gas pipeline refund claims. She has represented municipalities and local distribution companies in rate cases, certificate proceedings, and rulemakings before state regulatory agencies, FERC, and the U.S. Court of Appeals. She has represented a producer trade association in rulemakings that led to the restructuring of the natural gas industry and the establishment of new operating standards for natural gas pipelines.

### **Neil G. Yallabandi, Associate, Husch Blackwell**

Neil focuses his practice on energy matters with particular emphasis on energy regulation. He has studied and analyzed transmission, production, and market structures of the electric power industry. Neil practiced as an attorney adviser for the Federal Energy Regulatory Commission from 2007 to 2010, where he received four FERC Awards for quality of service. He performed administrative law research and legal analysis and drafted memoranda comparing Federal Rules of Civil Procedure with FERC rules, initial decisions, procedural and substantive orders, and certifications of settlement. Prior to joining the firm, Neil served as a criminal defense attorney in Virginia, where he represented a client before the Virginia General District Court and Circuit Court.

### **Robert Perrin, Counsel, Davis LLP**

Robert Perrin is an associate in the Calgary Office. His practice focuses on corporate and commercial requirements of the energy industry, including contract negotiation and drafting, property transactions, regulatory preparation and advocacy, and environmental and aboriginal law. For many years, he was engaged within the oil and gas industry in senior legal and executive capacities, which allow him to bring a business-oriented approach to legal services. He has extensive experience before both federal and provincial regulators in most dimensions relevant to the energy industry, pipeline construction, tariffs and tolls, transportation and sales agreements, resource conflicts, energy import and export authorizations, facilities approvals, and sales and fuel for electricity generation. Robert has advised and acted, both domestically and internationally, on a broad range of energy issues including property purchases, joint ventures, development projects, product marketing, and statute design and drafting.

