State and Federal Energy Law Update
Passed on April 24, 2013

- For high-voltage transmission line projects eliminates the requirement to submit detailed project plan to WDNR 60 days before CPCN filing
- Mandates that WDNR take final action on certain permits within 30 days after the PSCW takes final action on a CPCN
- Allows ATC, directly or through an affiliate, to “purchase or acquire the right to provide transmission service over transmission facilities that it does not own”
2013 SB 167: Action for damages caused by wind systems
- Would allow prevailing plaintiffs to recover damages for physical/emotional harm, compensation for loss of property value, and expenses incurred if plaintiff moves as a result of harms caused by the wind energy system.
- If wind energy system is within 1.5 miles of plaintiff’s residence → no defense that the wind energy system was operating according to its permit/approval.

2013 AB 345: Smart meter deployment
- Would prohibit utilities and cooperatives from installing smart meters on the premises of customers who object to them.
- Would require utilities and cooperatives to submit separate tariffs for these customers.

2013 AB 34: RPS and nuclear power
- Would allow utilities to receive renewable resource credit for Wisconsin-based nuclear generation.
- Would not apply to electricity that is sold pursuant to a PPA created before the bill was passed and would eliminate four-year shelf life for renewable credits.
Over 150 energy-related bills have been introduced in the 113th Congress, but only 3 minor bills have passed.

Lack of action on energy legislation is representative of the overall gridlock in Washington.
The Energy Savings and Industrial Competitiveness Act (Shaheen-Portman Bill, S. 1392/H.R. 1616)

- Would update national model building codes for residential and commercial buildings, and encourage states/localities to adopt codes that meet the national standards
- Would require DOE Secretary to carry out industrial-government partnership program that would research and develop new energy efficient manufacturing technologies
- Would establish a voluntary “SupplySTAR” program within DOE to certify companies and products that use highly efficient supply chains
- Would provide rebates for purchases of certain highly efficient electric motors and transformers

Outlook
- Brought to the Senate floor in fall 2013, and held up by congressional attention on other issues (Syria, debt ceiling, shutdown, etc.)
- Despite bipartisan support, GovTrack.us gives Shaheen-Portman a 24% chance of passing
MISO-Related Disputes

- Illinois Commerce Comm’n v. FERC, 721 F.3d 764 (7th Cir. 2013)
  - Dispute centered on MISO’s multi-value project (MVP) tariff
  - Under tariff, MVP project costs are spread across the entire MISO footprint based on each member’s total energy consumption
  - Court upheld cost allocation methodology but remanded the case to FERC to determine whether MISO can impose a surcharge to electricity exported to PJM

- FERC Docket No. EL-14-12
  - Large commercial and industrial customers recently filed complaint with FERC alleging that the ROE for MISO transmission owners is too high
  - Asking FERC to reduce transmission owners’ ROE to 9.15%, to cap debt-equity ratio to no more than 50% equity, and to eliminate ROE adders for ITC Transmission and Michigan Electric Transmission Co.
Major Pending Utility Air Cases

- **GHGs** - *Utility Air Group v. EPA*, No. 12-1146 (S.Ct.)
  - Oral argument set for Feb. 24, 2014
  - Issue: regulation of GHGs under new source review program

- **CSAPR** - *EPA v. EME Homer Generation*, No. 12-1182 (S.Ct.)
  - Oral arguments held on Dec. 10, 2013
  - Issues: FIP first and “significant contribution”

- **MACT** - *White Stallion Energy Center, LLC v. EPA*, No. 12-1100 (D.C. Cir.)
  - Oral arguments held on Dec. 10, 2013
  - Most talked about issue relates to EPA’s method of conducting the cost-benefit analysis
EPA Watch List

- **Climate Rules**
  - New power plants
    - Proposal: coal = CCS; natural gas = combined cycle
    - Will be finalized this spring
  - Existing power plants
    - Proposal this spring
    - Final rules in 2015/2016

- **Transport Rule**
  - New proposal this spring

- **Coal Ash Rule**
  - Will be finalized by Dec. 19, 2014