

Jim Rossi
Harry M. Walborsky Professor of Law

Books:

Editor, [NEW FRONTIERS OF STATE CONSTITUTIONAL LAW: DUAL ENFORCEMENT OF NORMS](#) (Jim Rossi & James A Gardner, eds., Oxford University Press, 2011).

[REGULATORY BARGAINING AND PUBLIC LAW](#) (Cambridge Univ. Press, 2005).

[ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS](#), 3d ed. (Foundation Press, 2010) (with Fred Bosselman, Joel Eisen, David Spence & Jacqueline Lang Weaver). Also 2d ed, 2006, 1st ed 2000 and TEACHER'S MANUAL.

Chapters:

[Public Choice Issues in Energy Politics and Regulation: Vertical Integration, Federalism, and Deregulation](#), in DANIEL FARBER AND ANNE JOSEPH O'CONNELL, EDS., PUBLIC CHOICE AND PUBLIC LAW (forthcoming 2009).

[New Frontiers of State Constitutional Law](#) in ROSSI AND GARDNER, EDS., NEW FRONTIERS OF STATE CONSTITUTIONAL LAW: DUAL ENFORCEMENT OF NORMS (Oxford University Press, 2011) (with James A. Gardner).

[Dual Constitutions and Constitutional Duels](#), in ROSSI AND GARDNER, EDS., NEW FRONTIERS OF STATE CONSTITUTIONAL LAW: DUAL ENFORCEMENT OF NORMS (Oxford University Press, 2011).

Judicial Review of Issues of Fact, in John Duffy and Michael Herz, eds., A GUIDE TO POLITICAL AND JUDICIAL REVIEW OF FEDERAL AGENCIES, (ABA Section on Administrative Law & Regulatory Practice, 2005).

Judicial Review, in DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 2002-2003 (American Bar Association, 2004) (with Mark Seidenfeld and Keith Rizzardi).

Universal Service in Competitive Retail Electric Markets: Refin(anc)ing the Duty to Serve for a Post-Natural Monopoly Era, in Peter Grossman and Daniel Cole, eds., THE END OF A NATURAL MONOPOLY: COMPETITION IN THE ELECTRIC POWER INDUSTRY (Elsevier Science Ltd., 2003.)

Judicial Review of Findings of Fact, in JUDICIAL AND POLITICAL CONTROL OF AGENCIES (American Bar Association, 2003).

Judicial Review, in Jeffrey S. Lubbers, ed., DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 2000-2001 (American Bar Association, 2002) (with William S. Jordan III and Mark Seidenfeld.)

Overview: Tempering Special Interest Politics in Economic Restructuring, 18 PUBLIC UTILITIES LAW ANTHOLOGY xix (Pt. I, Jan.-June 1995).

Law Review and Journal Articles:

[*Agency Coordination in Shared Regulatory Space*](#) (with Jody Freeman), 125 HARVARD LAW REVIEW (2012)

[*Judge Cudahy's Energy Vision*](#) (with Thomas Hutton), 29 YALE JOURNAL ON REGULATION __ (forthcoming 2012)

[*Clean Energy and the Price Preemption Ceiling*](#), 3 SAN DIEGO JOURNAL OF CLIMATE AND ENERGY LAW __ (forthcoming 2011) (symposium)

[*The Shaky Political Economy Foundations of National Renewable Fuel Requirements in Electric Power*](#), 2011 UNIVERSITY OF ILLINOIS LAW REVIEW 361.

The New Paradigm in Electric Transmission Siting, 24 ELECTRICITY JOURNAL ____ (forthcoming 2010) (with Ashley C. Brown).

Limits of a National Renewable Portfolio Standard, 42 CONNECTICUT LAW REVIEW 1425 (2010).

[*Siting Transmission Lines in a Changed Milieu: Evolving Notions of the "Public Interest" in Balancing State and Regional Considerations*](#), 81 COLORADO LAW REVIEW ____ (forthcoming 2010) (with Ashley C. Brown).

[*The Political Economy of Energy and Its Implications for Climate Change Legislation*](#), 84 TULANE LAW REVIEW 379 (2009).

[*The Trojan Horse of Electric Power Transmission Line Siting Authority*](#), 39 ENVIRONMENTAL LAW 1015 (2009).

[*Why the Filed Rate Doctrine Should Not Imply Blanket Judicial Deference to Regulatory Agencies*](#), ABA ADMINISTRATIVE & REGULATORY LAW NEWS, Fall 2008.

[*Antitrust Process and Vertical Deference: Judicial Review of State Regulatory Inaction*](#), 93 IOWA LAW REVIEW 185 (2007).

[*Essay: Constitutional Isolationism and the Limits of State Separation of Powers as a Barrier to Interstate Compacts*](#), 90 MARQUETTE LAW REVIEW 721 (2007).

[*Politics, Institutions, and Administrative Procedure: What Exactly Do We Know from the Empirical Study of State Level APAs, and What More Can We Learn?*](#), 58 ADMINISTRATIVE LAW REVIEW 961 (2006).

[*State Executive Lawmaking in Crisis*](#), 56 DUKE LAW JOURNAL 237 (2006).

[*Political Bargaining and Judicial Intervention in Constitutional and Antitrust Federalism*](#), 83 WASHINGTON UNIVERSITY LAW QUARTERLY 523 (2005).

[*Transmission Siting in Deregulated Wholesale Power Markets: Re-imagining the Role of Courts in Resolving Federal-State Siting Impasses*](#), 15 DUKE ENVIRONMENTAL LAW & POLICY FORUM 315 (2005).

[*Empirical Measures of Judicial Performance: An Introduction to the Symposium*](#), 32 FLORIDA STATE UNIVERSITY LAW REVIEW 1001 (2005) (with Steven Gey) (symposium forward).

The Dangerous Allure of Judicial Deference in Deregulated Industries, ADMINISTRATIVE AND REGULATORY LAW NEWS, Summer 2005, at 3.

[*Moving Public Law Out of the Deference Trap in Regulated Industries*](#), 40 WAKE FOREST LAW REVIEW 617 (2005).

[*How the Filed Rate Doctrine Wreaks Havoc with Energy Market Development and Policy . . . And What Courts Can Do about It*](#), 18 THE ELECTRICITY JOURNAL 60 (April 2005).

[*Dual Constitutions and Constitutional Duels: State Separation of Powers and the Implementation of Federal Programs*](#), 46 WILLIAM AND MARY LAW REVIEW 1343 (2005).

[*The New Frontier of State Constitutional Law*](#), 46 WILLIAM & MARY LAW REVIEW 1231 (2005) (with James Gardner) (symposium foreword).

Debilitating Doctrine, PUBLIC UTILITIES FORTNIGHTLY, November 2004, at 16.

[*Final, But Often Fallible: Addressing Problems with ALJ Finality*](#), 56 ADMINISTRATIVE LAW REVIEW 53 (2004).

[*Lowering the Filed Tariff Shield: Judicial Enforcement for a Deregulatory Era*](#), 56 VANDERBILT LAW REVIEW 1591 (2003).

[*Beyond Goldwasser: Ex Post Enforcement in Deregulated Markets*](#), 2003 LAW REVIEW OF MICHIGAN STATE UNIVERSITY DETROIT COLLEGE OF LAW 717.

[*Bargaining in the Shadow of Administrative Procedure: The Public Interest in Rulemaking Settlement*](#), 51 DUKE LAW JOURNAL 1015 (2001).

[*Overcoming Parochialism: State Administrative Procedure and Institutional Design*](#), 53 ADMINISTRATIVE LAW REVIEW 551 (2001).

[*Respecting Deference: Conceptualizing Skidmore Within the Architecture of Chevron*](#), 42 WILLIAM AND MARY LAW REVIEW 1105 (2001).

[*Does the Solicitor General Advantage Thwart the Rule of Law in the Administrative State?*](#), 28 FLORIDA STATE UNIVERSITY LAW REVIEW 459 (2000).

[*Disentangling Deregulatory Takings*](#), 86 VIRGINIA LAW REVIEW 1435 (2000) (with Susan Rose-Ackerman).

[*The False Promise of the “New” Nondelegation Doctrine*](#), 76 NOTRE DAME LAW REVIEW 1 (2000) (with Mark Seidenfeld).

[*“Statutory Nondelegation”: Learning from Florida’s Recent Experience in Administrative Procedure Reform*](#), 8 WIDENER JOURNAL OF PUBLIC LAW 301 (1999).

[*Universal Service in Competitive Retail Electric Markets: Whither the Duty to Serve?*](#) 21 ENERGY LAW JOURNAL 27 (2000).

[*ALJ Final Orders on Appeal: Balancing Independence with Accountability*](#), 19 JOURNAL OF THE NATIONAL ASSOCIATION OF ADMINISTRATIVE LAW JUDGES 1 (1999).

[*Institutional Design and the Lingering Legacy of Antifederal Separation of Powers Ideals in the States*](#), 52 VANDERBILT LAW REVIEW 1167 (1999).

[*Hamstringing State Agency Authority to Promulgate Rules: A Questionable Way to Improve the Quality of Environmental Regulations*](#), 29 ENVIRONMENTAL LAW REPORTER 10735 (1999).

[*The Common Law “Duty to Serve” and Protection of Consumers in an Age of Competitive Retail Public Utility Restructuring*](#), 51 VANDERBILT LAW REVIEW 1233 (1998).

American Rivers, Inc. v. Federal Energy Regulatory Commission: Second Circuit Further Restricts FERC’s Authority to Reject State Water Conditions, 3 RIVERS: STUDIES IN THE SCIENCE, ENVIRONMENTAL POLICY, AND LAW OF INSTREAM FLOW 204 (1998).

Waivers, Flexibility, and Reviewability, 72 CHICAGO-KENT LAW REVIEW 1359 (1997).

[*Participation Run Amok: The Costs of Mass Participation for Deliberative Agency Decisionmaking*](#), 92 NORTHWESTERN UNIVERSITY LAW REVIEW 173 (1997).

The 1996 Revised Florida Administrative Procedure Act: A Rulemaking Revolution or Counter-Revolution? 49 ADMINISTRATIVE LAW REVIEW 345 (1997).

The 1996 Revised Florida Administrative Procedure Act: A Survey of Major Provisions Affecting Florida Agencies, 24 FLORIDA STATE UNIVERSITY LAW REVIEW 283 (1997).

Making Policy Through the Waiver of Regulations at the Federal Energy Regulatory Commission, 47 ADMINISTRATIVE LAW REVIEW 255 (1995). Reprinted in 18 PUBLIC UTILITIES LAW ANTHOLOGY 231-71 (Pt. I, Jan.-June 1995).

Lessons from the Procedural Politics of the “Comprehensive” National Energy Policy Act of 1992, 19 HARVARD ENVIRONMENTAL LAW REVIEW 195 (1995).

[*Redeeming Judicial Review: The Hard Look Doctrine and Federal Regulatory Efforts to Restructure the Electric Utility Industry*](#), 1994 WISCONSIN LAW REVIEW 763. Reprinted in 17 PUBLIC UTILITIES LAW ANTHOLOGY 777-853 (Pt. II, July-Dec. 1994).

Book Reviews:

Assessing the State of State Constitutional Law, 109 MICHIGAN LAW REVIEW. 1145 (2011) (book review)

Toward a Comparative Analysis of State Constitutionalism, 109 MICHIGAN LAW REVIEW ____ (forthcoming 2011) (book review).

[*The Puzzle of State Constitutions*](#), 54 BUFFALO LAW REVIEW 211 (2006) (reviewing James A. Gardner, INTERPRETING STATE CONSTITUTIONS: A JURISPRUDENCE OF FUNCTION IN A FEDERAL SYSTEM (Univ. of Chicago Press, 2005)).

[*Competition Law and Public Service in the European Union and the United States*](#) 1 (Nov. 2005) (reviewing Tony Prosser, THE LIMITS OF COMPETITION LAW: MARKETS AND PUBLIC SERVICES (Oxford Studies in European Law, 2005)).

[*The Electric Power Deregulation Fiasco: Looking to Regulatory Federalism to Promote a Balance Between Markets and the Provision of Public Goods*](#), 100 MICHIGAN LAW REVIEW 1768 (2002) (reviewing Charles R. Geisst, MONOPOLIES IN AMERICA: EMPIRE BUILDERS AND THEIR ENEMIES, FROM JAY GOULD TO BILL GATES (Oxford Univ. Pr., 2000); Richard F. Hirsh, POWER LOSS: THE ORIGINS OF DEREGULATION AND RESTRUCTURING IN THE AMERICAN ELECTRIC UTILITY SYSTEM (MIT Pr., 1999); and Paul W. MacAvoy, THE NATURAL GAS MARKET: SIXTY YEARS OF REGULATION AND DEREGULATION (Yale Univ. Pr., 2000).)

[*The Irony of Deregulatory Takings*](#), 77 TEXAS LAW REVIEW 297 (1998) (reviewing J. Gregory Sidak and Daniel F. Spulber, DEREGULATORY TAKINGS AND THE REGULATORY CONTRACT: THE COMPETITIVE TRANSFORMATION OF NETWORK INDUSTRIES IN THE UNITED STATES (Cambridge Univ. Pr., 1997)).

[*Public Choice Theory and the Fragmented Web of the Contemporary Administrative State*](#), 96 MICHIGAN LAW REVIEW 1746-77 (1998) (reviewing Jerry L. Mashaw, GREED, CHAOS, & GOVERNANCE: USING PUBLIC CHOICE TO IMPROVE PUBLIC LAW (Yale Univ. Pr., 1997)).

Some Recent Ideas in Substantive Moral Philosophy and Their Relevance to Law, 12 LAW & PHILOSOPHY 407-16 (1993) (reviewing LIABILITY AND RESPONSIBILITY, R.G. Frey & Christopher W. Morris, eds. (Cambridge Univ. Pr., 1991)).

Other Publications:

TAKINGS LAW AND INFRASTRUCTURE INVESTMENT: CERTAINTY, FLEXIBILITY AND COMPENSATION, Yale Law School, Program for Studies in Law, Economics and Public Policy Working Paper No. 222 (1999) (with Susan Rose-Ackerman). Also published as a World Bank Private Sector Development Department Policy Research Conference Paper.

Florida's 1996 Revised APA, ABA ADMINISTRATIVE & REGULATORY LAW NEWS (Fall 1996) at 9.

Protecting the Administrative Process from Encroachment by Federal Antitrust Laws, ADMINISTRATIVE LAW SECTION NEWSLETTER (Florida Bar, Tallahassee, Fla.), May 1996, at 1.

Editorial: *Competition Could Shake Up the Electric-Utility Industry to the Consumer's Advantage, But First the Public Service Commission Must Lead the Way*, TALLAHASSEE DEMOCRAT, May 5, 1996, at 3F.

Can the FERC Overcome Special Interest Politics? PUBLIC UTILITIES FORTNIGHTLY, Oct. 15, 1995, at 31.

Avoiding a Mistake With Corrections Day, LEGAL TIMES, Apr. 3, 1995 (with Harold Krent); also appeared as "*Corrections Days*" *Obscure the Need for Accountability*, NEW JERSEY LAW JOURNAL, Apr. 3, 1995, at 25 (with Harold Krent).

Editorial, *Avoiding a Mistake With Corrections Day*, CHICAGO TRIBUNE, Mar. 9, 1995, at 23 (with Harold Krent).

Editorial, *Electricity Laws Need a Reality Check*, CHICAGO TRIBUNE, Feb. 6, 1995, at 11.

Comment, *An Empirical Examination of the Iowa Bar's Approach to Regulating Lawyer Advertising*, 77 IOWA LAW REVIEW 179 (1991) (with Mollie Weighner).