INTRODUCTION TO THE SPECIAL EDITION

The *Energy Law Journal* publishes two volumes annually, with occasional special editions devoted to timely and thematically cohesive topics. This special edition brings together a collection of international articles that examine the challenges of implementing the European Union's vision for renewable energy communities. These communities—legal entities formed through bottom-up, grassroots efforts to promote renewable energy resources on a smaller, localized scale—stand apart from traditional utility models, emphasizing inclusiveness and community-driven, equitable energy solutions. American practitioners with expertise in community power or community energy may find some of the broad themes discussed here familiar.

The release of this special edition coincides with a transformative and uncertain period for the U.S. energy sector. The rise of artificial intelligence and energy-intensive data centers is driving unprecedented load growth and raising questions about the adequacy of existing legal and regulatory frameworks. At the same time, mounting concerns about grid reliability, resource adequacy, and resilience in the face of extreme weather events underscore the need for innovative legal and regulatory solutions at the federal and state levels.

Jurisdictions in Europe are grappling with similar questions about whether their energy systems are capable of meeting consumers' needs today. European policies like the Renewable Energy Directive (RED II)[1] have prompted critical discussions about the role of decentralized renewable energy facilities and communities within larger energy systems.

The articles in this volume remind us that broad policy visions are only one piece of the puzzle. Laws and regulations implementing such policies must keep pace with the realities and complexities of the modern energy landscape. The articles also highlight the value of examining how other jurisdictions address similar challenges, broadening our understanding of possible solutions.

Several recurring themes emerge throughout this edition. Authors consider foundational questions about the nature of energy. What kind of good is it? To what extent should consumers influence its development? And how should these considerations shape policies governing energy generation, delivery, and consumption? Several articles underscore the unique goals pursued by energy communities, including decentralization, prioritizing equitable access, reducing energy poverty, fostering community cohesion, ensuring open and voluntary governance, and aligning energy initiatives with local values.

The contributors also explore the challenges of scale. What legal and property issues arise when renewable energy ownership is held by smaller, decentralized actors? How do these challenges differ from those faced by traditional utilities? Notably, the obstacles faced by energy communities in Europe—such as outdated regulatory regimes, conflicts among different levels of governmental au-

1. Directive 2018/2001, of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources, 2018 O.J. (L 328) 82.

thority, and the need for adaptive governance—will resonate with U.S. practitioners. Together, these pieces emphasize the importance of flexible approaches to the challenges facing energy systems today.

Articles in this edition include:

- Professor Marc L. Roark's exploration of the Solar Commons Community Trust, a type of renewable energy community, through the framework of Resilient Property Theory, illustrating the importance of adaptive governance in managing the complexity of modern energy systems. Among other themes, his article explores how traditional legal frameworks limit the resilience of these communities by giving some stakeholders (the insiders) *de facto* veto power over the choices made by others (the outsiders).
- Professor Peter Bloom's discussion of "legal commoning," which conceptualizes energy as a commons resource that is collectively owned and managed by communities, rather than a commodity traditionally subject to market forces or managed by regulatory authorities. His work focuses on the need for context-sensitive, flexible legal structures, including in private and property law, to support this novel vision.
- Francesca Dealessi's and Andrea Lanciani's joint examination of how Italy's vision for energy communities sometimes conflicts with complex and unwieldy European Union and national regulations that prioritize other policy goals, revealing tensions inherent in multilevel governance. Among other issues, the authors consider the balance between the need for highly detailed rules to better control a nascent legal framework and the need for simpler rules to facilitate access to that framework.
- Stella Monegato's critique of the limitations within Italian public governance frameworks, which are crucial to the democratic management of energy resources but currently fall short of adequately supporting renewable energy communities. The article illustrates how the specific national and local laws that a Member State adopts may be in tension with the goals envisioned by an overarching European Directive.
- Professor Björn Hoops's and Elsabé van der Sijde's joint analysis of the economic and legal barriers facing smaller-scale renewable energy projects, including how traditional notions of property law, like the doctrine of accession, can hinder the growth of energy communities by imposing higher transactional costs. In doing so, the authors conduct a comparative analysis of variations of the doctrine in Dutch, German, Italian, and South African property law systems.

This special edition represents the culmination of a multi-year collaboration among academic institutions across multiple countries. The idea for a special edition of the Journal originated with Professor Warigia Bowman of the University of New Mexico School of Law during her tenure at the University of Tulsa College of Law, where she worked closely with student contributors to the Journal as an advisor. Building on this foundation, Professor Roark, also of the University of Tulsa, coordinated with Professor Björn Hoops at Groningen University in the Netherlands to organize this special collection for the *Energy Law Journal*. This

collection features select proceedings from the Energy Communities Symposium held in March 2024 in Turin, Italy. This symposium, entitled "Private Law in the Energy Commons," was the culmination of a multi-year EU-funded project on energy communities, with additional support from the University of Turin, Groningen University, and the University of Tulsa.[2]

We extend our deepest gratitude to the professors, academic institutions, and authors who contributed to this special volume. Special thanks go to our student editors at the University of Tulsa College of Law, whose dedication and hard work made this third volume of the year possible. We also owe our thanks to the University of Tulsa, which has generously agreed to fund the printing costs for this special edition. As a result, EBA members who have subscribed to receive hard copies of the Journal will receive this volume at no additional cost.

Finally, this international, interdisciplinary edition is a unique and valuable addition to the Journal's body of work. My personal thanks go to the Journal's leadership—Editor-in-Chief Harvey Reiter, Executive Editor Caileen Gamache, and Administrative Editor Nicholas Cicale—for their commitment to fostering innovative and timely discussions about energy law at the international level.

Mary Yang
International Articles Editor
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2. Professor Hoops and Professor Roark organized the Turin conference together with Anna Grignani, Bram Akkermans, Lorna Fox O'Mahony, and others. The products in this special issue are part of the project "Private Law and the Energy Commons," which has received funding from the European Union's Horizon 2020 research and innovation program under the Marie Skłodowska-Curie Actions, grant agreement No. 101024836.