

# THE LAW OF ELECTRICITY MARKET DESIGN

19-20 FEBRUARY 2018

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The University of Cape Town,  
South Africa and the University  
of Oslo, Norway, are pleased to  
present a two-day training course.

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## ABOUT THE COURSE

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Electricity market design underpins the functioning of power systems. With changing generation and consumption patterns, there is an urgent need to re-think electricity market design and implement reforms. The objective of this course is to explore the fundamentals of electricity market design, the challenges faced by the current power systems and the legal mechanisms available to re-design the electricity market.

The commitment made by governments to decarbonize their economy under economic and climate change constraints has resulted in a process of energy transition. Because it is a shift in paradigm, it puts pressure on the current models applied to the energy system. This is influenced by new models of generation, distribution, consumption, trading, investment and security of supply measures. In that transition, the energy system is supposed to deliver many objectives simultaneously, while it is still based on old models. This calls for a “consistent electricity market framework”, as expressed by the International Energy Agency in its 2015 report “Re-powering Markets”.

## LEARNING OUTCOMES

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Acknowledging that there is not one-size-fits-it-all approach to electricity market design and that the reasons for changes may differ between countries, the course will start with the theoretical fundamentals, and then explore the available mechanisms for re-designing electricity markets at the physical and financial levels. References will be made to national legal frameworks as well as regional cooperation.

## TARGET AUDIENCE

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Students eager to develop their knowledge of electricity law or to write a postgraduate thesis on the topic.

- Lawyers from South Africa and neighbouring countries
- Civil servants and decision makers.

# PRESENTERS

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## **Ass. Prof. Catherine Banet**, *University of Oslo*

Catherine Banet is an Associate Professor at the Scandinavian Institute of Maritime Law in the Petroleum and Energy Law Department at the University of Oslo, Norway. Her academic interests lie in Energy Law, Petroleum Law, Environmental Law, EU/EEA Laws, state aids and internal energy markets. She teaches and has supervised students on these topics. Catherine has published research focusing on EU law; support mechanisms and renewable energy sources; capacity mechanisms; crowdfunding of energy projects; gas transport infrastructures in Norway; exploitation of seabed resources; carbon capture and storage (CCS) and regulation of technology innovation in the energy sector.

Catherine Banet has had much experience in both practice and academia. Prior to being an Associate Professor, Catherine practiced as an associate lawyer in the Oil and Energy Department at Advokatfirmaet Simonsen Vogt Wiig AS between 2011 and 2014. Before practicing as an attorney for four years, Catherine was based at the Scandinavian Institute of Maritime Law as a Ph.D research fellow between 2006 and 2011. Between 2004 and 2006, she practiced as an associate lawyer at a law firm called Huglo-Lepage & Partners in Brussels and in 2003 she worked as an intern at the Department of Commerce, Energy and Environment Sections at the United States Embassy in Belgium.

### **Higher education**

Ph.D. (UiO, Oslo) 2012  
Ph.D. (UiO, Oslo) 2012,  
LL.M in International and European Energy and Environmental Law (KUL, Leuven) 2007,  
MA in International Politics (Ceris, Paris/Brüssel) 2003,  
MA in European Affairs (UCL, Louvain-la-Neuve) 2002,  
LL.B (Lille) 2002,  
MA, I.E.P. (Aix-en-Provence) 2001.

### **Membership and appointments**

Research Group in Natural Resources Law, Faculty of Law, Oslo (co-chair)  
Nordic Environmental Law Network (NELN)  
Energy Law Research Forum (ELRF)  
ECOHZ Renewable Energy Foundation (EREF), Board member

Expert committee on energy and environmental law of the Norwegian Center for Continuing Legal Education, member  
Member of the Academic Advisory Group of the Section on Energy, Environmental and Infrastructure Law (SEERIL), International Bar Association (IBA)



## **Dr Meyer van den Berg, Koep & Partners, Windhoek**

Meyer van den Berg is a partner at Koep & Partners, Windhoek. He is also admitted as a notary public and focuses on mining and energy, environment, competition and general corporate and commercial work.

Meyer van den Berg holds a Bachelor's Degree in Law, a Bachelor's Degree (with Honours) cum laude in Classical Literature (Latin), a Master's Degree cum laude in South African and Namibian Mineral Law and a PhD in South African and Namibian Petroleum Law. He studied at the Universities of Stellenbosch and Cape Town and was a research associate at these institutions.

Meyer often contributes to books and accredited and practice-oriented publications on various topics. He is contributing editor to Mineral Law and Governance in Namibia and co-author of Namibian Labour Law and Practice, both of which are expected to be completed during 2018. He is also a co-editor and co-author of Mineral and Petroleum Law of South Africa, South African Mineral Law and Governance and editor-in-chief of Namibia Annual Law Review, an initiative started by him and to be published by Juta & Co Ltd (first edition to be published in 2018). His PhD-thesis is also currently being prepared for publication by Juta & Co Ltd as part of a new series entitled "Opinion Pieces on Law".

Meyer is a member and Chairperson of the Law Society of Namibia, member of the International Bar Association and member of the Institute of Directors of Southern Africa (IoDSA). In 2017, he was appointed as Honorary Research Affiliate at the DST/NRF SARChI Chair: Mineral Law in Africa, hosted by the University of Cape Town.

### **Experience:**

6 Years

### **Education:**

BAHons (Latin) degree, University of Stellenbosch, South Africa  
LL.B degree University of Stellenbosch, South Africa  
LL.M. University of Cape Town, South Africa  
PhD, University of Cape Town



## Dr Rainer Nowak, *Webber Wentzel Cape Town*

Rainer Nowak is a director in the Corporate Practice of Webber Wentzel. He has extensive experience in mergers and acquisitions, corporate restructurings and other corporate transactions. Other areas of expertise include finance transactions and securities. He is knowledgeable in relation to all regulatory aspects of foreign investments into South Africa, including black economic empowerment and exchange control and has advised on compliance matters relating to the corporate regulatory environment.

Rainer's intercultural skills and his law degrees from Germany and South Africa have positioned him well to advise a number of prominent international corporates conducting business in South Africa and on the African continent within the energy, chemical, automotive, defence, agriculture, real estate, and financial services sectors.

He has special expertise in relation to energy and other infrastructure projects and project related transactions. He has advised developers, sponsors, financiers and contractors on various wind, solar PV and CPV, and LNG-to-power projects in South Africa, Namibia, Mozambique, Tanzania and Kenya. He is knowledgeable in relation to the regulatory framework applicable to the energy sector including the Electricity Regulation Act, the IPP Procurement Programmes and applicable wheeling and feed-in schemes.

Prior to joining Webber Wentzel he spent a term working in the Frankfurt office of Clifford Chance.

Rainer is a fellow of the Deutsche Forschungsgemeinschaft at the Institute for International Private Law at the University of Heidelberg. He is also a member of the Board of Directors of the South African Photovoltaic Industry Association and a Webber Wentzel representative to the Southern African-German Chamber of Commerce and Industry, and the Afrika-Verein der deutschen Wirtschaft.

Rainer is recognised as legal expert (Projects and Infrastructure) in the Legal 500.

### Education

LLB, University of Heidelberg, Germany

LLM, Stellenbosch University, South Africa

Juris Doctor of Law, University of Heidelberg, Germany

### Areas of expertise

- Corporate finance transactions including M&A and corporate restructuring
- Foreign investment into South Africa, including regulatory compliance and exchange control
- Cross border transactions
- Finance transactions and securities
- Renewable energy projects



## HOST:

**Prof. Hanri Mostert**, *University of Cape Town*

Prof Mostert's original interests in property law matured into specialisations in Land Law and Mineral Law. In these fields, she has contributed to the most authoritative sources on South African Law, addressing issues of constitutional property protection, landlessness, tenure security, restitution, nationalisation, land governance and mineral resource regulation. Her work on mineral law has been cited with approval by both the Supreme Court of Appeal and the Constitutional Court in South Africa. She emphasizes the state's duties to achieve better living standards and ensure responsible individual autonomy. She defends the notion of engaged citizenship in the enhancement of freedom and quality of life for individuals and the community and comments on the role of the judiciary in building a society subscribing to principles of accountability and trust in property law. Her work has had impact both locally and internationally, through her involvement in the International Alliance for Land Tenure and Administration, and the support she provided to the South African Law Commission, World Bank and counsel in international and national litigation. She is a member of the IBA's academic advisory group in the Section on Energy, Environmental and Infrastructure Law (SEERIL).

*Prof Mostert is rated by the National Research Foundation (NRF) as an internationally renowned researcher. She also heads the NRF/SARCHI for Mineral Law in Africa.*



# COURSE STRUCTURE 2 DAYS – 19-20 February 2018

## DAY 1: THEORETICAL OVERVIEW

Session 1	<p><b>Background and context: Market organization</b> (monopolies versus decentralized models)</p> <ul style="list-style-type: none"><li>• How electricity is regulated around the world.</li><li>• Who are the relevant players/stakeholders (eg situation in Norway versus SA).</li><li>• What is electricity market design?</li><li>• What/who/how does electricity law regulate?</li><li>• Three factors informing energy market: environment, security, affordability.</li></ul>
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Exercise	Reading & Reporting
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Session 2	<p><b>Environmental considerations: Transition towards a low carbon energy system</b></p> <ul style="list-style-type: none"><li>• Context and considerations.</li><li>• Low carbon system investments (generation planning, decentralized generation, effects of support schemes for new generation on electricity market design and operation)</li><li>• Legal framework for carbon trading.</li></ul>
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Exercise	Case Study discussion
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Session 3	<p><b>Security of supply and affordability</b></p> <ul style="list-style-type: none"><li>• Context and considerations (economic and political factors, eg).</li><li>• Securing energy supply in transition period, including storage, generation adequacy and capacity mechanisms.</li><li>• Security and Reliability.</li><li>• Affordability, consumer's perspective.</li><li>• Other goals e.g. transition into low carbon energy generation, autonomy of local communities.</li></ul>
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**Decentralised generation and new business models**

- Context and considerations.
- Consideration between grid actors (if applicable). Consumption regulation, pricing retail pricing, taxation.
- New market entrants.
- Effects on power trading and contracting.

## DAY 2: COUNTRY STUDIES AND EVALUATION

Each speaker will address themes/topics from Day 1, relevant to their own jurisdictions.

### 1. NAMIBIA

- How is the market structured? (Legal constitutional framework)
- Players: ECB, Nampower, local authorities, independent power producers
- Programmes: REFIT – the experience so far
- Pursuing empowerment through electricity licensing
- Selected issues in energy financing

### 3. NORWAY:

- How is the market structured? (Legal constitutional framework)
- Players: public ownership, local authorities, TSO/DSO relationship
- Regional cooperation and Nordic power system
- Security of supply and investment strategy
- Selected issues in energy financing
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### 2. SOUTH AFRICA

- How is the market structured? (Legal constitutional framework)
- Players: Eskom, municipalities, independent power producers, embedded generators
- South Africa's undertakings to address climate change
- Market transition: IPP Procurement Programmes, Feed-in Schemes, Private PPAs, Wheeling
- Still a long way to go: Challenges in implementing energy market transition

## Comparative Evaluative exercise

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## PARTNERS



Professional Development Project

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