

IN MEMORIAM: ROBERT NORDHAUS

Robert R. (Bob) Nordhaus, the first General Counsel of the Federal Energy Regulatory Commission, and a leader in U.S. energy and environmental law and policy for four decades, died on December 24, 2016 at his residence on Capitol Hill in Washington, D. C. He was seventy-nine.

A Stanford undergraduate and 1963 Yale law school graduate, Bob began his Washington career in the U.S. House of Representatives Office of Legislative Counsel. In that position, and then as Counsel to the House Interstate and Foreign Commerce Committee, he crafted many of the laws that constitute the framework of modern energy and environmental law, including the National Environmental Policy Act of 1969, the Clean Air Act of 1970, the legislative response to the OPEC Oil Embargo, and energy and fuel efficiency standards. Recognized by leaders in both parties as a master legislative draftsman, he also penned groundbreaking legislation in other public policy fields, such as the Consumer Product Safety Act and ERISA.

Bob joined the Carter Administration as Assistant Administrator at the Federal Energy Administration before he became General Counsel of FERC in 1977. He joined forces with Charles B. Curtis, then FERC Chairman, to modernize the agency and lead the implementation of the major Carter era energy legislation—the Natural Gas Policy Act and The Public Utility Regulatory Policies Act—setting in motion a regulatory evolution that has fostered growth in natural gas markets and infrastructure, and the development of competitive electricity markets. Ferociously analytical and characteristically impatient, Bob came to FERC eager to transform a legal practice before the newly minted agency that was burdened by the notorious administrative inefficiency of its predecessor, the FPC. Learning that the FPC bar's arcane practice was based on private collections of Commission precedent unavailable to the public, Bob contracted with Commerce Clearing House to produce a well-indexed and current set of FERC legal resources, providing access and discipline to the body of law governing the agency's work. He also set in motion rule changes, including settlement procedures, blanket certificates, and administrative delegations, that are the procedural workhorses of today's FERC practice. Bob approached the job as a regulator with the highest standard of legal professionalism. Believing that energy policy should be based on sound and clearly articulated economic and policy goals, he recruited and trained a group of lawyers to modernize FERC lawmaking through the extensive use of evidence-based rulemaking. He also strengthened FERC's Solicitor's office, to ensure that FERC's decisions were well-defended.

Bob departed the FERC in 1980, and for most of the remainder of his career, he practiced law as a partner at Van Ness Feldman, leaving the firm only for three years to serve as General Counsel of the Department of Energy under President Clinton. His was an adviser to business leaders, policy-makers, and NGO's who valued his scholarship and practical wisdom, his eagerness to plunge into the most consequential issues, and his unique ability to forge solutions at the complex and often ragged intersection of energy and environmental law.

He could, in one moment, explore the complexities of regulating carbon within the framework of Clean Air Act provisions he had drafted earlier in his career, and then drift with ease into an analysis of federal and state jurisdictional issues under the Federal Power Act. His conviction that government could and should be made to work—leavened with a wicked wry wit—inspired numerous young practitioners, whom he challenged and mentored tirelessly, sharing the lessons of his extraordinary knowledge, diverse experience, and remarkable discipline.

Bob's appetite for challenge charged his personal as well as his professional life. He was an avid and adventurous outdoorsman, traveling the world, hiking the Himalayas, fishing western streams, sailing the Chesapeake, and skiing the mountains of his native New Mexico. His interests extended far beyond the law to classical music, theatre, and poetry. He shared these passions generously with his many friends and family, particularly with his wife and companion, Jean Nordhaus, an accomplished poet and writer, whose work and wisdom he never ceased to admire. He also took great joy in the work and lives of his children, Hannah, a journalist and acclaimed author, and Ted, a leading thinker and writer on energy and climate issues. Bob lived his life surrounded by friends, family, colleagues and admirers, who often found themselves trying to keep up with his energy and intellect, and who were always enriched by his insights, his humor, his integrity and his love of all life had to offer.