

**I R E L A N D  
S T A P L E T O N**

# **Tri-State Generation & Transmission Association: An Overview of Legal Marijuana**

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# Speaker



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“Hi, my name is Tom  
and I’ve **NEVER** smoked pot.”

# Just So You Know...

- I'm a regulatory, administrative law attorney
- Practicing for more than 20 years
- Denver Department of Excise and Licenses
  - Wrote the original Policies and Procedures for Denver's Legalized Recreational Marijuana Licenses
  - Currently One of Many Customers of the City
- Business and Licensing Division of the Colorado Secretary of State's Office
- Assistant Attorney General in the Business and Licensing Section under A.G. Ken Salazar

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# Federal/State Law Conflict

## ARTICLE VI of US CONSTITUTION:

### (2) Supremacy of Constitution, Treaties & Laws.

This Constitution, and **the laws of the United States** which shall be made in pursuance thereof, ... **shall be the supreme law of the land;** and the judges in every state shall be bound thereby; **anything in the constitution or laws of any state to the contrary notwithstanding.**

# Federal/State Law Conflict



# Federal Enforcement

## Marijuana Laws:

- Schedule 1 Narcotic - 1970
  - Federal seizure
- Aiding and abetting
- Legal line never ends – enforcement line is wherever enforcer draws it
- State trooper enforcement analogy

## **First Wave - 2009**

- Little or no business experience
- Recession in full bloom
- Lack of regulatory oversight

## **Second wave – 2010 - 2013**

- Non-marijuana business people
- Brought legitimate business practices with them
- Successfully weathered market and regulatory changes
- Market made of the few business savvy first wavers and second wave entrepreneurs



# Third Wave 2014 - Present

- Big dollars
- Massive operations

# Marijuana Industry Status

- Half the states have legalized marijuana, including Georgia
- Informal political coalition
- Pre-2000: 95% of MJ smoked
- 2017: 40% of MJ smoked
- Oligopoly
- Sophisticated operators

# Industry Status

- 125K Medical Cards in Colo. – 2.5% of Colo.
- 700,000 Colo. Users – 12% of Colo.
- Colorado's 2016 gross sales \$1.3 billion
- Market Size In 2019: \$20 billion
- MJ consumption mirrors alcohol

# Deregulation?

- No. Re-Regulation, not Deregulation
  - Rescheduling
  - Descheduling

# Potential Re-Regulation

- Trump / Session Policy Decisions
- Practical Effect
  - No Direct Authority
  - DOJ Appropriations
- Practical Effect - Timing
  - Untracked Pot
  - State Budgets

# Federal Money Laundering Law

- Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified activity,
- WITH THE INTENT TO PROMOTE THE CARRYING ON OF SPECIFIED UNLAWFUL ACTIVITY
- Is In a Heap O' Trouble...

# Federal Money Laundering Law

- KNOWING = Knew or should've known
- ILLEGAL ACTIVITY = Federal drug felony
- FINANCIAL TRANSACTION = Gift
- PROMOTE = Making it easier

**What does this  
mean for utilities?**



# There is no definitive “it”

- Licensed commercial Marijuana Grow
  - MED / DOR
- Registered Caregiver MJ Grow
  - Health
- Gray Market
  - Expanded patient count
  - Expanded plant count
- Illegal MJ Grow

# Therefore, Burden-Shift

- Follow Existing Protocols
  - Safety Matter – Fire Department
  - Criminal Matter – Police Department

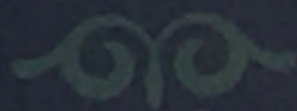
# Examples

- Obligation to supply?
- Subpoenas – billing / usage records
- Police request – surveillance devices
- Customer request – upgrade transformers
- Inspection / Meter Reading – Reporting requirements for suspected illegal activity
- Theft of Power

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**Questions?**