

FEDERAL ENERGY REGULATORY COMMISSION
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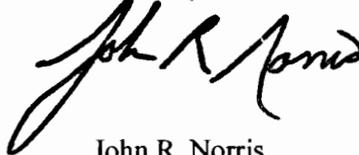
January 24, 2014

The Honorable Ed Whitfield, Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Whitfield:

Thank you for the opportunity to appear before the Subcommittee on Energy and Power on December 5, 2013. Enclosed, please find my responses to the Questions for the Record of January 10, 2014. Please do not hesitate to contact me if you have any further questions or would like to discuss these responses.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Norris". The signature is written in a cursive style with a large, sweeping initial "J".

John R. Norris

Questions for the Record

The Honorable Ed Whitfield

1. You were recently quoted by the news outlet Smart Grid Today stating: "I am concerned, because we are making long-term investments in both pipeline and generation facilities for utilization of gas for base-load or intermediate load generation and if we are to reach [the Obama] administration's goals of an 80% reduction of CO₂ by 2050, from 2005 numbers, you can't have this."

a. I am concerned your views regarding achieving the President's CO₂ emissions targets could affect your decision-making when it comes to making decisions on siting natural gas pipelines and LNG projects. How do you reconcile your personal climate views and your duties as a Commissioner of an independent agency?

My responsibility as a Commissioner is to make natural gas pipeline and LNG siting determinations in accordance with the statutory responsibility that Congress granted to the Commission. My personal views on climate change do not impact my decision-making regarding siting natural gas pipeline and LNG projects. I have voted numerous times to approve pipeline certificates and LNG projects. I will continue to make decisions on the siting of natural gas pipelines and LNG projects as I believe I have throughout my tenure on the Commission to date. I will apply the laws to the facts in the record before the Commission.

b. What statutory authority do you think FERC has to achieve the President's CO₂ emissions targets?

I do not believe that the Commission has statutory authority to achieve the President's CO₂ emissions targets.

2. **Other than for environmental reasons, do you believe that FERC has the authority to deny an application for an LNG export facility?**

Yes, the Commission also considers potential safety concerns in evaluating an application for an LNG export facility.

The Honorable John Shimkus

1. **Are you aware that the United States Military Academy (USMA) at West Point is at capacity for electric power and how would you describe this situation?**

As the Chairman noted in her more comprehensive response, the USMA is served by Orange and Rockland Utilities (O&R). Delivery of electricity to USMA is a state-regulated distribution function and not within FERC's authority. Additionally, while I provide responses to questions 2-9 when possible below, several of these questions are better addressed by O&R and the New York State Public Service Commission (NYSPSC), which has regulatory authority over distribution systems in the State of New York.

2. **Has the transmission system at USMA been substantially upgraded since the 1970s?**

I do not have any information regarding upgrades at USMA electricity facilities.

3. What are the expected improvements for a typical transmission system that is 40 years old?

Many transmission and distribution facilities utilized today are 40 years and older. Whether upgrades are needed could depend upon the specific nature of the facilities. For example, there could be certain facilities that are less than 40 years old that require improvements, while there may be facilities 40 years old and older that are sufficiently meeting system needs.

4. Is there a general calculation used by utilities to forecast demand increase that would drive the upgrade of infrastructure?

I do not think there is a one-size-fits-all solution or approach for utilities to forecast demand that would drive infrastructure upgrades. Such upgrades depend upon customer demand, system conditions, and many other factors that are fact specific in nature.

5. Is the age of the transmission system supporting USMA a concern?

I do not have knowledge regarding the condition of the facilities serving USMA.

6. Are utilities obligated to provide power requisite with current and future demand?

Such utility obligations to serve fall under state, rather than federal, jurisdiction.

7. Who is responsible for the funding of upgrades?

Funding of upgrades for such facilities also falls under state, rather than federal, jurisdiction.

8. Are utility companies obligated to submit master plans or capital improvement plans? If so, what has been submitted with regard to USMA?

Any such obligations to submit master plans would be subject to state, rather than federal, law.

9. How does USMA's electric energy use affect the neighboring communities, such as Highland Falls and Fort Montgomery?

I do not have any information regarding how USMA's energy usage impacts neighboring communities.

The Honorable Michael C. Burgess

1. Commissioners, I join many of my colleagues who are concerned about a growing trend within Federal agencies to expand their jurisdiction without being given the authority by the Congress. Just because some long time government employee or employees may be predisposed one way or another, we are a nation of laws and even agencies are not exempt from the limitations placed on them by statutes we have passed that give them their jurisdiction.

There seems to be a good deal of uncertainty as to how FERC and DOE are regulating natural gas and natural gas export and exactly what "natural gas" is. I hope that, as new processes for recovering, transporting and storing hydrocarbons are developed, FERC and DOE will adhere to a strict construction of the statutory definition and not try to reach out and regulate products which are liquid, like LPGs, or which are specially manufactured to meet customer needs. Do you agree that we should interpret the law wherever possible in ways which minimize regulatory impediments?

As a federal agency, the Commission's role is to implement the laws established by Congress. The Commission must act consistent with the legislative intent, neither minimizing nor expanding the agency's prescribed role while ensuring regulatory certainty and stability to the extent possible.

The Honorable David B. McKinley

At our hearing on December 5th, we discussed the definition of "natural gas," the application of that definition to Natural Gas Liquids and the effect of that application on new "solvation" technologies which produce liquid mixtures of selected natural gas and NGL constituents. I understand that these mixtures are similar in characteristics to LPG but can be effectively used to capture and transport any or all of the gas constituents that come out of the wellhead. As I noted, this technology can be extremely useful in capturing and recovering the significant volume of gas that is currently being flared in West Virginia and in alleviating the glut of certain gas constituents like ethane that currently exists in our region.

It is my understanding that the deployment of this technology in my state and others (Mr. Hall raised similar issues in his questioning) is being delayed by uncertainty as to whether FERC and DOE will treat this new mixture of gas and NGL constituents as a liquid like LPG and thus not subject to export controls and other regulatory strictures applicable to "natural gas" or, in the alternative, whether the natural gas definition will be stretched to cover this new technology and delay its implementation. I was heartened by the Chairman's assurance that there are no plans to redefine natural gas under the Natural Gas Act but would like answers to the following questions in order to resolve the uncertainties which are currently impeding the deployment of these new technologies.

1. My understanding is that both DOE and FERC have historically concluded that NGLs such as Propane, Ethane and LPG are not "natural gas" and may be produced, transported and exported without being subject to the facility siting and other regulatory restrictions which apply to natural gas. Are you aware of any policy reason for deviating from this approach and regulating either NGL facilities (particularly those other than pipelines) or the transportation and use of NGLs in a manner different than that which has been historically followed? Hasn't the current approach been essentially problem free? Is there any reason to expand jurisdiction and move into an area which has been problem free?

As the Chairman indicated in her response, there are no pending proposals before the Commission that address these technologies, and transportation of natural gas liquids and other liquid hydrocarbons are generally regulated under the Commission's rate jurisdiction under the Interstate Commerce Act. Furthermore, I am not aware of any intent or need to change the definition of natural gas as it is applied under the Natural Gas Act.

2. As a matter of policy, should the mixtures created by new technologies which alter LPG, by incorporating into it additional hydrocarbon constituents found in wellhead gas, be treated like LPG, to which it is most similar in characteristics, or like pipeline quality natural gas, which is subject to regulation by FERC and DOE? Shouldn't it be our policy to minimize regulatory interference with business decisions where there is no demonstrated need for regulation?

The Commission's exercise of its duties is not based on whether there is a demonstrated need, but instead based on direction from Congress through statute. The Commission must act consistent with the legislative intent, neither minimizing nor expanding the agency's prescribed role while ensuring regulatory certainty and stability to the extent possible.

3. As a matter of law, how can it be determined that a process which mixes various constituents of wellhead gas, including Methane, into Propane and other NGLs to create a mixture of natural gas and natural gas liquids which is similar in characteristic to LPG, is either "natural gas unmixed" or a "mixture of natural and artificial gas" within the meaning of the Natural Gas Act of 1938.

An entity could file a petition for declaratory order asking the Commission to make a jurisdictional determination. The Commission would then decide based on the specific facts before it.

As I indicated at the hearing, uncertainty regarding these issues is delaying deployment of important new technologies which can be of great import in preventing waste and environmental harms while, at the same time, creating jobs and helping West Virginia's economy.

The Honorable Jerry McNerney

1. In California, we have a number of statutory and regulatory requirements that not only require development of new generation, but also the type of new generation. Is it the Commission's intent to let the ISOs (or in our case the States) lead in deciding whether capacity markets are necessary and, if so, to design them to reflect the unique features of the relevant market?

While I cannot speak for the Commission, I believe that capacity markets should be voluntary and that states and regions should make the decision whether or not to implement such a market. I am hopeful that, to the extent possible, states and Independent System Operators will be able to design capacity markets to reflect the unique features of the relevant market, while also benefiting from the lessons learned from capacity markets in other regions of the country.

2. My understanding is that some of the current capacity markets require local utilities to buy from the market. Public power utilities in Northern California just built a highly efficient and clean gas plant in my district. Will they be able to utilize this resource and self-supply, rather than being forced onto the market?

As you may be aware, the Commission recently held a technical conference to consider how current centralized capacity market rules and structures are supporting the procurement and retention of resources necessary to meet future reliability and operational needs. One issue of particular interest to me is how entities that wish to self-supply are treated in centralized capacity markets. I am carefully reviewing the

comments we received on this and other capacity market issues. There currently is no centralized capacity market construct in California, and thus utilities including public power entities are not required to offer their resources into a market and may self-supply to meet their resource adequacy obligations. Should California decide to voluntarily establish a centralized capacity market, self-supply issues may impact the market design that entities propose. I will keep an open mind about any proposals that are brought to the Commission for approval.

3. There has been recent discussion about whether FERC might push for lower returns for transmission investment. Can you comment on what you see FERC's role being at this time in providing a clear, consistent market signal for the transmission investment that this Committee has believed to be important for a number of years?

I do not believe that the Commission should push for lower or higher returns on transmission investment. Our statutory responsibility is to ensure that transmission rates remain just and reasonable with a fair rate of return on transmission investment that recognizes the importance of transmission in maintaining reliability, fostering competitive wholesale markets, and accessing location-constrained resources.

The Honorable Eliot L. Engel

The Commission has been focused on implementing policies which provide significant advantages to demand response resources relative to traditional generation, presumably because of their superior environmental impact. Yet, in some areas up to 1/3 of this demand response isn't the type use reduction and demand side management we normally conceive of when we're talking about demand response. Instead, a great deal of this actually appears to be load shifting rather than demand reduction and the load is being shifted from low emitting generation sources to inefficient, diesel-fueled, backup generators, that don't have environmental controls.

1. How this is consistent with the purported environmental benefits DR is supposed to bring?

In recent years, we have implemented Commission policies intended to facilitate the integration of demand resource resources into our energy grid. Such policies have focused on market rules that are resource-neutral in order to ensure that there is a level playing field for all resources that want to participate in FERC-jurisdictional energy markets, including demand response resources. I do not agree that the Commission's policies with respect to demand response resources are driven by a consideration of the environmental benefits provided by such resources. I believe that demand response resources provide real market benefits by allowing consumers to shift energy usage to off-peak hours, reducing the costs for consumers. By allowing energy users to reduce load during times of peak demand, demand response resources are also a valuable tool for maintaining reliable electric service.

A second problem seems to be that when this bundled demand response commits to provide system reliability 3 years ahead of time, it simply does not show up when it is needed.

2. What is the Commission doing to ensure these demand response resources are real, and are fully committed to meet their obligations for providing system reliability?

While I cannot discuss specific matters that are currently before the Commission, I believe there should be rules in place to ensure that resources satisfy their reliability obligations. If any resource fails to do so,

there should be measures in place to ensure that system reliability is maintained.

The Honorable Gene Green

The liquefied petroleum gas (LPG) industry is an important component of the Texas oil and gas industry. In Texas, the Railroad Commission administers and enforces state laws and rules related to LPG, while the Environmental Protection Agency is responsible for oversight and regulation of emissions and clean air standards, and the U.S. Department of Transportation regulates some aspects of transportation.

1. New technologies have now entered the marketplace for producing LPG-like products, called Compressed Gas Liquids that are customized blends of gas and gas liquids. How can we ensure that these new Compressed Gas Liquids products and facilities are similarly regulated to the LPG industry?

As the Chairman indicated in her response, there are no pending proposals before the Commission that address these technologies, and transportation of natural gas liquids and other liquid hydrocarbons are generally regulated under the Commission's rate jurisdiction under the Interstate Commerce Act. Furthermore, I am not aware of any intent or need to change the definition of natural gas as it is applied under the Natural Gas Act.

The Honorable Mike Doyle

Manufacturing companies argue that they are overpaying for natural gas as a result of interstate pipeline rates. FERC needs to assure consumers that pipeline companies are charging a "just and reasonable" rate as required under the Natural Gas Act.

1. What is FERC doing to ensure that consumers are not overcharged?

The Natural Gas Supply Association conducts a study every year using Form 2 data that pipelines are required to file with the FERC. The latest report indicated that pipelines are overcharging by \$3.4 billion. This seems to be a problem in the sense that these dollars are coming from consumers.

The Commission has the responsibility under Natural Gas Act (NGA) sections 4 and 5 to ensure that rates are just and reasonable. When a natural gas company files rates for the transportation of natural gas under NGA section 4, the Commission carefully considers those rates to confirm that they are just and reasonable. Additionally, under NGA section 5, the Commission, upon its own motion or a complaint brought by another entity, will review the rates, terms, and/or conditions of a pipeline's natural gas transportation tariff and contracts to consider whether the rates are just and reasonable.

Since 2009, the Commission has instituted ten NGA section 5 proceedings on its own initiative to investigate the rates charged by natural gas pipelines and storage companies to consider whether those rates continue to be just and reasonable. In this way, FERC is proactively protecting consumers, with seven of these cases resulting in lower rates for consumers totaling approximately \$194 million per year.

The Commission has also worked to utilize tools that Congress granted under the Energy Policy Act of 2005 (EPA 2005) to further ensure just and reasonable pipeline rates. For example, FERC has instituted multiple rulemakings to make the data reporting of natural gas pipelines more transparent (e.g., Order Nos. 710, 720, 735). These reports make information about the pipeline's transactions and financials

available to the public, creating transparency and the opportunity for consumers and the Commission to review pipeline rates for over-recovery. Additionally, in EPAct 2005, FERC was granted authority to address market manipulation in the markets that it regulates. Since that time, FERC has increased its market monitoring abilities and brought enforcement actions against those who have engaged in market manipulation. In this way, FERC has helped to ensure that electricity and natural gas markets produce just and reasonable rates for consumers.

2. Some have suggested that one way to address the issue would be reform of the Natural Gas Act to ensure that customers (after proving that they have been overcharged by interstate pipelines) can receive a refund back to the date of a filed complaint- a change that would give gas customers the same protections afforded under law to electricity customers since 1988. What are your thoughts on this?

Federal Power Act section 206 provides refunds to electric customers that have been overcharged. However, NGA section 5 currently does not have similar refund authority. I believe it is appropriate to grant the Commission refund authority under NGA section 5. This would be an additional way in which consumer interests could be protected.