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ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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August 13, 2014

The Honorable Cheryl A. LaFleur
Acting Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Chairman LaFleur:

Thank you for appearing before the Subcommittee on Energy and Power on Tuesday, July 29, 2014, to testify at the hearing entitled "FERC Perspectives: Questions Concerning EPA's Proposed Clean Power Plan and other Grid Reliability Challenges."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Wednesday, August 27, 2014. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power

Attachment

Additional Questions for the Record

The Honorable Ed Whitfield

1. In your testimony, you stated that:

FERC staff commented on the proposal through the OMB interagency review process from a reliability perspective. Among other recommendations, FERC staff emphasized the need for the development of natural gas pipeline and electric transmission infrastructure to enable compliance with State compliance plans.

Please provide a copy of the comments and recommendations to which you are referring in the above statement.

2. During the hearing, in response to a question regarding FERC and EPA coordination on the development of the Clean Power Plan, you stated that “we [FERC] kept a memo, but we did not turn them in in writing because that has not been the practice.” Please provide a copy of the memo you referred to and any related materials.
3. Multiple times during the hearing you stated that it was premature for FERC to complete a reliability analysis and that it would make more sense to wait until States submitted their respective compliance plans. For example, in one instance you stated “I believe it is our responsibility to make sure that reliability is sustained. I think we will know much more when we see the different State plans.” And yet EPA has already concluded that the “proposed rule will not raise significant concerns over regional resource adequacy or raise the potential for interregional grid problems.”
 - a. Please explain why EPA is able to complete a “Resource Adequacy and Reliability Analysis” and draw reliability conclusions based on the results, but FERC believes it is premature to complete such an analysis.
 - b. Is EPA better positioned to complete reliability analyses than FERC?
 - c. Please provide the current FY 2014 (and requested FY 2015) budget for FERC’s Office of Reliability.
 - d. How many employees are currently in FERC’s Office of Reliability?
 - e. Should EPA have refrained from making resource adequacy and reliability determinations until after States have submitted implementation plans, as you have suggested?
4. Do you view EPA’s proposed Clean Power Plan as an “energy plan” or a “pollution control” rule? Why or why not?
5. EPA’s “Best System of Emissions Reduction” goals were developed using 2012 as the baseline year. Does FERC believe that 2012 was a reasonable baseline to use given the historically low natural gas prices and economic conditions? Wouldn’t you agree that considering multiple years in the EPA baseline would produce a more realistic analysis?
6. Would you agree that the proposed Clean Power Plan gives EPA a certain amount of control over State decisions regarding the generation, supply and consumption of power?

7. As the D.C. Circuit Court recently held, the Federal Energy Regulatory Commission lacks authority to dictate how States plan and operate their energy systems. Are you aware of any statutory authority that permits EPA to mandate that States restructure their electric systems and subject State energy decisions to federal oversight and control?
8. To what extent does FERC have authority over State utility and resource planning? Are you aware of any statutory authority giving EPA greater authority in this area than FERC?
9. EPA projects nearly 180 gigawatts of generation capacity will retire between 2010 and 2020 in response to the Clean Power Plan and other factors, such as EPA's previously finalized Mercury and Air Toxics (MATS) rule. What do you view as the potential reliability impacts resulting from the loss of 180 gigawatts of generation over the next 6 years?
10. Would you be supportive of EPA including in its final Clean Power Plan a "reliability safety valve" that provides FERC greater authority to prevent the retirement of reliability critical generating units? What might such a safety valve look like?
11. Has EPA advised you about how the Clean Power Plan would work in states with multiple Regional Transmission Organizations (RTOs) or states with RTO members and non-RTO members or states with no RTO members? If yes, how would the plan work according to EPA?
12. EPA analyzed a set of compliance scenarios referred to as "Regional" scenarios. The regional scenarios allow emission rate averaging across affected sources within six multi-state regions, informed by North American Electric Reliability Corporation (NERC) regions and Regional Transmission Organizations (RTOs). What role does FERC see for itself in overseeing such regional compliance efforts?
13. Regarding the June 6th decision by the D.C. Circuit Court of Appeals in the *Delaware Riverkeeper Network vs. FERC* case, there are concerns that this decision will lead to much longer review times for natural gas pipeline approvals.
 - a. In particular, what changes is FERC considering in regards to how it reviews natural gas pipeline applications because of this decision?
 - b. What impact will these changes have on the length of time it takes to review these applications?
14. In May, the government of the Commonwealth of Puerto Rico wrote to FERC expressing concern that FERC is not moving quickly enough to complete the review of Aguirre Offshore LNG import terminal. Currently FERC is scheduled to release the FEIS for the project on December 19, 2014 but Puerto Rico is asking for FERC to move up this date. Not only does Puerto Rico need LNG to help lower extremely high electricity prices, but also to help be in compliance with EPA mercury and air toxics standards. Is FERC looking to work with Puerto Rico in order to help the Commonwealth?
15. The Department of Energy in late May abruptly changed their approval processes for LNG export applications, now making DOE's approval contingent upon FERC's approval of the export facility.
 - a. Did DOE consult with FERC prior to making the announced changes or request FERC's input about how these changes might affect the process?
 - b. DOE also announced that in addition to the process changes for LNG export applications it will also release two additional environmental reports "beyond what is required for NEPA" on LNG exports.

Given that this seems to encroach upon FERC's permitting role, has FERC advocated for additional environmental analysis beyond what is required under NEPA?

16. What contingency plans does FERC have in the event a court strikes down Order 1000 as outside the four corners of the Federal Power Act?
17. Does the physical security standard recently passed by NERC require protection of control centers for regional reliability coordinators, such as the Peak Reliability control center that manages reliability for eleven western states including Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming?
18. Could a coordinated attack on one or more large generation plants cause a cascading outage?
19. Does the physical security standard recently passed by NERC require protection of large generation plants?
20. FERC sponsored a report by the Oak Ridge National Laboratory, "Intentional Electromagnetic Interference (IEMI) and Its Impact on the U.S. Power Grid." This report found that critical electric grid equipment is susceptible to damage from local electromagnetic pulse devices. Since the publication of the Oak Ridge report in 2010, what steps has FERC taken to protect the grid against local electromagnetic pulse devices?
21. Would it be important for grid reliability coordinators to know if an electromagnetic pulse attack is taking place?
22. How much do electromagnetic pulse detectors cost? Would it be cost-effective to require utilities to install electromagnetic pulse detectors at critical grid substations and control centers?
23. What steps has FERC taken to protect the grid from solar storms and other geomagnetic disturbances?
24. Regarding FERC's Office of Enforcement, it is my understanding that FERC has a "Hotline" that is used for referrals of suspected violations but that there is no "Help Line." Is there a dedicated compliance line? How often is it used for compliance guidance?
25. How many No Action letters has FERC's Office of Enforcement issued and how long was the process from start to finish for each?

The Honorable David B. McKinley

1. This January, during the "Polar Vortex", electricity customers in the PJM region experienced significant abrupt increases in their electricity costs, with bills rising to several times their normal levels. These price spikes were caused, in part, by significant generation outages during January, despite these generation resources receiving billions of dollars a year in advanced payments in exchange for their being available to provide energy during peak periods, whether in the extreme heat of the summer or the extreme cold of the winter. I am concerned that the causes of this situation have not been understood well enough to prevent it from happening again. Do you think you fully understand what happened and can assure us it isn't going to happen again? Has the Commission conducted a comprehensive root cause investigation and analysis of the situation, or directed PJM or the PJM Independent Market Monitor ("IMM") to do so?
 - a. If yes, have those results been released publicly?

- b. If no, why not?
2. What efforts has the Commission undertaken, or directed PJM and the IMM to undertake, to identify potential solutions to the generation performance problems that occurred during January 2014 in the PJM region?
3. Has the Commission determined whether any generation outages were reflective of attempts to manipulate market-clearing prices?
4. We understand that the delivered price of natural gas rose to historic highs in the PJM region during January 2014, and that these unprecedented delivered prices for natural gas were primarily the result of extraordinarily high prices for capacity on interstate natural gas pipelines in the PJM region. Has the Commission conducted a comprehensive root cause investigation and analysis, or directed PJM or the PJM Independent Market Monitor ("IMM") to conduct a comprehensive root cause investigation and analysis, of the unprecedented natural gas prices that surfaced in the PJM region during January 2014?
 - a. If yes, have those results been released publicly?
 - b. If no, why not?
5. What efforts has the Commission undertaken, or directed PJM and the IMM to undertake, or directed interstate natural gas pipeline operators to undertake, to identify potential solutions to the natural gas deliverability problems that occurred during January 2014 in the PJM region, either by better optimizing the use of existing assets or by constructing new assets or both?
6. Has the Commission determined whether any natural gas deliverability problems were reflective of attempts to manipulate natural gas prices or electricity market clearing prices?
7. Price increases for natural gas and electricity in the PJM region, and elsewhere, are very concerning to me. My constituents in the PJM region have asked me to ensure that markets have been, and are, functioning properly and that prices have not been increased by speculation or manipulation. It is now July, can you assure me that FERC intends to have answers to these questions about natural gas and electricity pricing BEFORE next winter?
8. In the Clean Power Plant proposed rule's Regulatory Impact Analysis, EPA notes that the Integrated Planning Model (IPM) was used to project the impact of the rule on electricity prices. The documentation for the IPM on EPA's web site explains that the model assumes both perfect competition and perfect foresight. The former means that "IPM does not explicitly capture any market imperfections such as market power, transaction costs, informational asymmetry or uncertainty." The latter "implies that agents know precisely the nature and timing of conditions in future years that affect the ultimate costs of decisions along the way." Does FERC agree that such a model can accurately capture how the proposed rule will impact prices? What are some likely differences in the actual implementation of the rule and this model?
9. Achieving compliance with the proposed rule will require a replacement of higher carbon dioxide emitting resources with new lower or zero-emitting units. Yet a recent study by Christensen Associates commissioned by the Electric Markets Research Foundation concluded that the RTO markets "do not and cannot address long-term capacity needs." The study also found that "[b]ilateral forward contracting remains key under any market design for locking in revenues and facilitating financing of new resources. Contrary to this key necessity, however, the RTO markets include some design elements that impede

long-term investments and long-term bilateral contracts.” What steps does FERC intend to take to ensure that RTO markets do not impede bilateral contracting needed for new resource development that will be required for state compliance with the rule?

10. Within the retail access states, most of the generation is no longer owned by vertically-integrated utilities and instead is under merchant ownership. There is no state or local jurisdiction over these merchant generation owners regarding whether to continue to operate or close a plant or what types of generation technology should be built. Does FERC see any difficulties in implementation of the proposed rule in states with large amounts of merchant generation?

The Honorable Gene Green

Chairman LaFleur, in your testimony, you discuss EPA’s Mercury and Air Toxics Standard or MATS. You state that EPA sought advice from FERC upon issuance. You stated that FERC issued a policy statement on potential violations MATS may induce based on FERC’s reliability standard. We have a bill, HR 271, that deals with a conflict that exists between EPA enforcement and reliability.

1. Given the increasing complexity of EPA’s regulations, does FERC anticipate additional conflicts with reliability?

You also discuss EPA’s proposal and gas pipeline adequacy in your testimony stating “FERC emphasized capacity factors and existing constraints.”

2. Do you believe EPA adequately incorporated FERC’s input?
3. How does FERC anticipate handling increased permitting requests for natural gas pipelines if states choose EPA’s regional policy option?