

**Testimony of Norman C. Bay  
Chairman  
Federal Energy Regulatory Commission  
Before the Committee on Energy and Commerce  
Subcommittee on Energy and Power  
United States House of Representatives  
December 1, 2015**

**Summary**

Chairman Whitfield, Ranking Member Rush, and Members of the Committee:

Thank you for the opportunity to appear before you to discuss the work of the Federal Energy Regulatory Commission (FERC or Commission). My testimony will discuss my priorities in light of the change happening in the energy space. Underpinning each of these priorities is a belief that, in approaching matters that come before the Commission, it is essential to be fair, balanced, and pragmatic; to decide cases on the merits, based on the facts and the law; and to be consensus-oriented.

My first priority is to focus on the fundamentals in the competitive markets to continue to look for ways to improve the efficiency of the markets and to deliver greater value to consumers. The Commission continues to work to promote greater efficiency, competition, and transparency in the wholesale markets, including in reviewing the competitive markets and looking at price formation in the energy markets.

Second, the reliability of the grid is a primary responsibility for the Commission. This encompasses not only the everyday responsibility over Reliability Standards, including physical security and cybersecurity, but it also includes gas-electric coordination issues. While the Commission's reliability authority is limited, it will continue to use what authority it has in a conscientious manner. In my view, it is important for utilities to push beyond the requirements of the standards to implement best practices on cybersecurity.

Third, I believe that infrastructure continues to be an important issue at the Commission. Right now, there is a need for more infrastructure, in terms of both gas facilities and electric transmission, and FERC plays a critical role in permitting and incenting the development of that infrastructure.

Finally, to accomplish my priorities, I will need to focus on human capital at the Commission. The work of the Commission cannot be done without its dedicated staff, and it is important to me that the Commission focus on retaining our current highly qualified employees, ensure knowledge transfer from those employees who do retire, and recruit highly skilled people to replace any departures, while maintaining our status as one of the very best places to work in government.

To meet all of those priorities, it will be essential to use the tools Congress has given the Commission. I look forward to working with you in the future on my priorities and would be happy to answer any questions you may have.

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**Introduction**

Chairman Whitfield, Ranking Member Rush, and Members of the Subcommittee, thank you for the opportunity to appear before you to discuss the work of the Federal Energy Regulatory Commission (FERC or Commission). My name is Norman Bay, and I am the Chairman of the Commission. My colleagues and I appreciate the opportunity to discuss the work of the Commission, particularly in this time of great change in the energy space.

My testimony will outline my priorities. Commissioner Cheryl A. LaFleur will address reliability and the competitive markets. Commissioner Tony Clark will focus on infrastructure. And Commissioner Colette D. Honorable will discuss a number of issues, including FERC's role with respect to the EPA's Clean Power Plan.

There are at least several major trends or developments driving change in the energy space. First, the shale revolution has resulted in an abundant and historically low priced gas supply. Second, organized markets are expanding, and the Nation is seeing a period of low load growth and increased energy efficiency, which impact the markets the Commission oversees. Third, more renewables and distributed generation are being integrated into the energy system. Fourth, state and federal public policies are affecting the energy industry. Finally, the energy industry is seeing a period of increased technological innovation.

My testimony will discuss my priorities given the change that is happening. Underpinning each of the priorities is a belief that, in approaching matters that come before the

Commission, it is essential to be fair, balanced, and pragmatic; to decide cases on the merits, based on the facts and the law; and to be consensus-oriented.

My first priority is to focus on the fundamentals in the competitive markets. It will be important to continue to look for ways to improve the efficiency of the markets and to deliver greater value to consumers. Second, the reliability of the grid is a primary responsibility for the Commission. This encompasses not only the everyday responsibility over Reliability Standards, including physical security and cybersecurity, but it also includes gas-electric coordination issues. Third, I believe that infrastructure continues to be an important issue at the Commission. Right now, there is a need for more infrastructure, in terms of both gas facilities and electric transmission, and FERC plays a critical role in permitting and incenting the development of that infrastructure. Finally, to accomplish my priorities, I will need to focus on human capital at the Commission. The work of the Commission cannot be done without its dedicated staff, and it is critical to recruit and retain our staff so that the Commission maintains its status as one of the very best places to work in the government.

### **Markets**

On markets, the Commission continues to work with each regional transmission organization (RTO) and independent system operator (ISO) to promote greater efficiency, competition, and transparency. As an example, the Commission's recent price formation proposal seeks to do two things: (1) to align real time settlement and dispatch intervals; and (2) to implement shortage pricing for shortage events. These measures should improve efficiency and transparency in the markets. The premise behind the proposal is very simple: resources should be compensated for the value they provide when they provide it. The proposed action should reduce uplift and promote greater price transparency, which informs decisions to build or

maintain resources, especially flexible resources. It should also promote the more efficient use of resources. The Commission is currently evaluating the comments to that proposal. In addition, the Commission recently issued an order directing each RTO and ISO to submit reports on five price formation issues in its energy and ancillary services market. Identifying best practices for these five areas should provide incentives to maintain reliability, to facilitate accurate and transparent pricing, to reduce uplift, and for market participants to operate consistent with dispatch signals.

The Commission has also signaled that it expects to address other price formation issues, including offer price caps, mitigation, uplift transparency, and uplift drivers. I think this is an example of the way in which the Commission seeks to achieve incremental progress, improving its markets, and building upon what it has done in the past. Commissioner LaFleur will also discuss the Commission's action with respect to the competitive markets and reliability.

### **Reliability**

Bulk-power system reliability is a fundamental responsibility of the Commission. It is important to note that FERC's jurisdiction and reliability authority under section 215 of the Federal Power Act (FPA) is limited to the "bulk power system," as defined in the FPA, which excludes local distribution systems, as well as Alaska and Hawaii. Under its section 215 authority, FERC cannot author or modify reliability standards, but must depend upon the Electric Reliability Organization (or ERO) to perform this task. While the Commission's authority is limited, it will continue to exercise the authority it has in a conscientious manner. The Commission and the North American Electric Reliability Corporation (NERC), the Commission-certified ERO, have made steady progress in addressing both the day-to-day nuts-and-bolts

activities necessary to keep the lights on, like tree trimming and relay setting coordination, and emerging threats, like cybersecurity, geomagnetic disturbances (GMD), and physical security. However, we will need to continue to monitor challenges with respect to day-to-day issues, building on the progress that FERC and NERC have made in setting priorities, developing and implementing reliability standards, mitigating compliance violations, and disseminating lessons learned. With respect to emerging issues, FERC has issued or directed new or modified reliability standards for cybersecurity, GMD events caused by solar storms, and physically securing critical grid infrastructure.

While we have moved forward with respect to cybersecurity, bulk-power system cybersecurity remains a top concern of mine. Compliance with the NERC Critical Infrastructure Protection standards is a good foundation to help ensure a secure grid. However, compliance with the Critical Infrastructure Protection standards will not, by itself, necessarily protect against every potential threat. In my view, it is important for utilities to push beyond the requirements of the standards to implement best practices. Moreover, a key factor in mitigating the risks posed by credible threats is accurate and timely information sharing between government and industry on the threats and vulnerabilities that could disrupt the reliable operation of the bulk-power system. This information sharing should also include any actionable steps that could be taken to minimize potential risks. It is important that government be able to share such threat, vulnerability, and mitigation information with industry without making such information available to potential wrongdoers. It is also vital that resiliency measures be in place to promote timely recovery and restoration of the bulk-power system in the event of a major incident.

The Commission has also recognized the need for greater reliability with respect to gas-electric coordination, cybersecurity, and physical security. On gas-electric coordination, the

Commission has adopted a series of changes to improve communications between interstate natural gas pipelines and electric transmission operators to promote reliable service and operational planning and to revise natural gas pipeline schedule practices to better ensure the reliable and efficient operations of our interstate natural gas pipelines and our electricity systems. The Commission also required the RTOs and ISOs to modify their day-ahead markets to coordinate them with the natural gas pipelines' scheduling practices.

Finally, as Commissioner Honorable will discuss further, the Commission has also made clear that it intends to remain engaged on any reliability issues arising from implementation of EPA's Clean Power Plan. FERC, EPA, and the Department of Energy (DOE) agreed to meet on a quarterly basis, and we are committed to working with EPA, DOE, states, the RTOs and ISOs, NERC, the regional entities, and industry to help maintain reliability. While it will take a lot of hard work, communication, and collaboration, I believe that potential reliability concerns can be addressed.

### **Infrastructure**

FERC plays a critical role with respect to hydropower, natural gas, and electric infrastructure, and Commissioner Clark's testimony will highlight FERC's work on infrastructure in greater detail. Without prejudging any matter before the Commission, I believe that there is an important need for additional natural gas pipeline and electric transmission in different parts of the United States. With respect to electric transmission, the Commission has used its authority to grant incentives for transmission development under section 219 of the FPA and continues its work on Order No. 1000, which promotes regional and interregional planning and cost allocation. On gas infrastructure, the Commission is committed to reviewing pending

licenses, permits, and applications in a thorough, professional, and timely manner. This has resulted in the certification of a number of major gas projects. On hydropower, the Commission continues to implement the Hydropower Regulatory Efficiency Act of 2013 by processing conduit exemptions and preliminary permit extensions. In my view, it is important for FERC to prioritize infrastructure, because infrastructure can enhance reliability and resiliency, provide economic benefit by reducing congestion and making markets more competitive, and further state and federal public policies.

### **Human Capital**

To accomplish any of my goals, I will need to rely on the Commission's greatest strength: its people. I am honored and humbled to work with my colleagues on the Commission and with staff. Our staff has a critical mission – to help ensure efficient, reliable, and sustainable energy for consumers – and I deeply appreciate their hard work, dedication, and commitment to furthering the public interest. I am proud to say that on the 2015 Federal Employee Viewpoint Survey, FERC ranked third out of 37 agencies for employee satisfaction and fourth for employee engagement. However, thirty percent of the Commission's work force is eligible to retire within the next few years. It is important to me that the Commission focus on retaining our current outstanding employees, ensure knowledge transfer from employees who do retire, and recruit highly skilled people to replace any departures. And we must do this in a way that maintains our status as one of the best places to work in government.

### **Conclusion**

In conclusion, in this time of great change in the energy space, my priorities will be to use the tools that Congress has given the Commission to focus on the fundamentals of the energy markets, bulk-power system reliability, energy infrastructure, and human capital. Thank you for

inviting me to testify today. I look forward to working with you in the future on these issues and would be happy to answer any questions you may have.