

FEDERAL ENERGY REGULATORY
COMMISSION WASHINGTON, D.C. 20426



OFFICE OF COMMISSIONER TONY CLARK

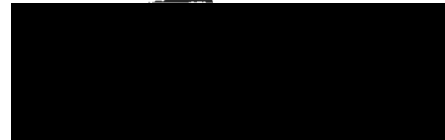
January 7, 2016

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
United States House of Representatives
Washington, DC 20515

Dear Chairman Whitfield:

Thank you for your interest in our work at the Federal Energy Regulatory Commission (FERC), and for providing me with an opportunity to express my views on issues of importance at the FERC. Enclosed are my responses to questions for the record that I received from members of the Subcommittee on Energy and Power.

Sincerely,



Tony Clark
Commissioner

Answers of Commissioner Tony Clark to Questions for the Record

The Honorable Joseph Kennedy

- 1. How is the Commission planning to deal with only four sitting commissioners for the foreseeable future when there is always the possibility of a tie ruling? How will the Commission ensure it functions properly so ratepayers are not left without any administrative recourse? We cannot have a replay of FCA8 if a rate change is filed and the four sitting Commissioners deadlock.**

Answer: The way to ensure that orders do not go into effect by Operation of Law in tie-vote situations in similar circumstances would be for Congress to change the statutory construct. While I am committed to working with my colleagues to achieve consensus whenever possible, an even-numbered Commission does inherently create the possibility of tie-votes when individual Commissioners have honest differences of opinion in Commission proceedings.

- 2. Given that FERC cannot keep a plant open, order the construction of a new one, or physically site infrastructure, what tools does FERC have and how can they be used to permit and incent both infrastructure and a competitive market to ensure electric reliability at just and reasonable rates?**

Answer: While the Commission lacks the legal authority to site, order the construction of, or require the continued operation of electric generating units, the Commission does have wide ranging authority under the Federal Power Act to design and implement wholesale power markets which both attract and maintain capacity, while ensuring bulk power system reliability.

In New England, at the wholesale (FERC-jurisdictional) level, transmission operators have agreed to transfer operational control of their assets to ISO-NE, a centralized body that operates the regional power system, implements wholesale markets, and ensures open access to the transmission system. At the retail (state-jurisdictional) level, all New England states absent Vermont have elected to restructure, allowing for customer choice and the sunset of the Integrated Resource Plan model.

In this competitive model, FERC has the authority to develop and maintain market structures which aim to generate accurate price signals in the energy, ancillary service and capacity markets. Coordinating with ISO-NE, NEPOOL and other stakeholders, the Commission has worked to support, and improve where necessary, the competitive nature of ISO-NE's markets. Sizeable recent actions to improve ISO-NE's energy, ancillary and capacity market outcomes include: (1) the implementation of hourly supply offer capability in both the day-ahead and real-time market; (2) negative Locational Marginal Pricing; (3) regulation market reform; and (4) the implementation of a new capacity regime including a secondary settlement tied to actual resource performance in real-time. Moving forward, the Commission

is exploring further energy and ancillary service market reforms through an on-going Price Formation initiative.

FERC market rules are especially important in restructured markets because merchant generation is a critical component of installed system capacity. Merchant generators operating in competitive markets rely upon accurate price signals to guide complex, multi-year new and continued investment, operational and retirement decisions. Distortion of price signals, while sometimes politically popular in the short run, often leads to price and rate shock in later years, as supply and demand fundamentals seek to quickly correct lingering imbalances that have been allowed to develop.

3. What is the definition of “just and reasonable” rates and how does FERC balance that definition in the name of reliability?

Answer: In exercising the Commission’s responsibility to ensure just and reasonable rates, the Commission has generally acted within two distinct threads depending on the situation of the public utility seeking rate review: cost-justified, or market-justified.

I continue to believe that just and reasonable rates, i.e. cost, and reliability are not disconnected concepts. Rather, cost and reliability are two sides of the same coin.

In exercising its reliability authority, either the Commission, or its designated self-governing reliability entities develop and enforce physical and cybersecurity reliability standards. Once developed, cost or market-based rates then move to an economically efficient equilibrium point in which reliability standards in conjunction with market fundamentals are met, and public utilities receive an appropriate profit and or justified rate of return. If rates rise above the reliability standards and market fundamental equilibrium price, entry of new market participants is incentivized, leading to increased capacity and a corresponding price decline. Conversely, if rates fall below the reliability standards and market fundamental equilibrium price, existing market participants will retire, or otherwise remove inefficient capacity, leading to a price increase back to equilibrium.