

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF THE COMMISSIONER

January 7, 2016

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Whitfield:

Thank you for the opportunity to testify before the Subcommittee on Energy and Power's Dec. 1, 2015, hearing entitled, "Oversight of the Federal Energy Regulatory Commission." I greatly valued the opportunity to discuss the important energy issues facing our agency and country.

Enclosed are my responses to the Questions for the Record received from members of the Subcommittee. Should you or any other member of the Committee have any questions, please contact me.

Sincerely,

A solid black rectangular redaction box covering the signature of Colette D. Honorable.

Colette D. Honorable
Commissioner

Cc: The Honorable Bobby Rush, Ranking Member, Subcommittee on Energy and Power

Attachment

**QUESTIONS FOR THE RECORD
FOR
Commissioner Colette D. Honorable**

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 FC8 if a rate change is filed and the four sitting commissioners deadlock.**

ANSWER: Thank you for this important question. Although we do not currently enjoy a full complement of commissioners, my approach to this important work will be the same: to ensure any decisions are grounded in the law and result in just and reasonable rates. My colleagues and I work well together; we are dedicated public servants who believe in the mission of this agency. Existing law requires that the work before us must proceed whether or not we have a full complement of commissioners, and thus far we have been able to operate without a deadlock on any order since Commissioner Moeller's departure on Oct. 30. I have been closely monitoring the New England market developments and when the tenth Forward Capacity Auction comes to our attention, I will weigh all the evidence in the record before making any determination. I will only vote in favor of results I believe are in the public interest, and I am confident my colleagues will do the same.

- 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: The Commission should always be mindful of whether the markets we regulate are working as intended. Well-functioning markets operate to send important investment signals to market participants and ensure that consumers pay competitive prices for these services.

The Commission has authority under various sections of the Federal Power Act to incent adequate infrastructure investment and ensure the reliable operation of the Bulk-Power System at just and reasonable rates. Section 219 of the Federal Power Act directs the Commission to provide incentives to promote capital investment in the "enlargement, improvement, maintenance, and operation" of all transmission facilities. Sections 205 and 206 of the Federal Power Act grant the Commission authority to regulate tariff provisions addressing resource adequacy, e.g. reliability must run and system supply resources. Pursuant to this authority, the Commission works to ensure resource adequacy provisions that are sufficient to yield an

appropriate level of infrastructure. Sections 205 and 206 also provide the statutory foundation of our mandate to ensure just and reasonable rates in connection with transmission or wholesale sales. Additionally, section 215 of the Federal Power Act provides for, *inter alia*, mandatory reliability standards; violations of which are subject to penalty. Finally, the Commission is uniquely situated to bring stakeholders together through technical conferences, hearings, and alternative dispute resolution to solve persistent problems.

One example of this convening authority is our broad review and assessment of price formation in energy and ancillary service markets. This process began with three technical conferences in late 2014 and it is leading to action on issues related to compensating generation for the value they provide; appropriately reflecting commitment and dispatch decisions in market prices; providing needed transparency and certainty; and, minimizing costs to consumers. I expect these actions will help address, among other things, recent trends in generation retirements and renewable resource penetration.

Additionally, in September 2013, the Commission held a technical conference on capacity markets. Based upon my understanding, a number of market participants urged the Commission to focus first on energy and ancillary service markets because of the larger proportion of revenue associated with these markets before attempting capacity market reforms. Though we remain focused on energy and ancillary service market reforms, we constantly monitor all markets to ensure they are functioning as intended and sending appropriate investment signals.

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

ANSWER: Just and reasonable rates for a public utility necessarily must consider both the protection of the consumer and the capital attraction standards set forth by the United States Supreme Court in its *Hope* and *Bluefield* decisions. The Commission relies upon these decisions to set the allowed returns that are adequate to enable regulated utilities to secure the funding necessary for the proper discharge of their public duties. Still, the primary purpose of the authority granted to the Commission to ensure a just and reasonable rate is consumer protection. *See, e.g., Morgan Stanley Capital Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527, 564 (2008).

In organized wholesale electricity markets, such as in the Northeast, the same principles apply. Properly functioning markets result in reliable, competitive, and efficient service to consumers, while also providing sufficient returns to attract needed capital. In overseeing the markets, the Commission makes needed adjustments to ensure that the markets function to produce results that are just and reasonable for consumers and market participants.

Our oversight of the reliable operation of the Bulk-Power system is one of the Commission's most important duties, and something that is foremost on my mind. Consumers face significant harm if they cannot rely upon the transmission system. Alternatively, consumers are also harmed if the transmission system is so overbuilt that it becomes unaffordable. Achieving the proper balance is therefore a vital consideration in determining just and reasonable rates.