FEDERAL ENERGY REGULATORY COMMISSION

Office of The Commissioner

January 7, 2016

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

Dear Chairman Whitfield:

Thank you for your December 17, 2015 letter containing additional questions for the hearing record on "Oversight of the Federal Energy Regulatory Commission."

Enclosed please find my responses to your questions. I want to thank you again for the opportunity to appear before the Subcommittee on Energy and Power on December 1, 2015.

Sincerely,

[redacted]

Cheryl A. LaFleur
Commissioner

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

Attachment Enclosed

Additional Questions for the Record

The Honorable Robert Latta

1. **The Energy Policy Act of 2005 and previous legislation gave the FERC authority to oversee the reliability of the bulk power system. In November, 2014, FERC approved physical security grid reliability standards submitted by NERC to enhance physical security for the most-critical Bulk-Power System facilities and reduce overall vulnerability of the grid. The Critical Infrastructure Protection (CIP) standards address physical threats to and weaknesses of the power grid and reduce the risk of damage to the system from physical attacks. The standards outline an approach that focuses on the most critical facilities, incorporating risk management planning to mitigate threats. The standards became effective January, 2015.**

    a. **What makes you certain that grid security is effectively addressed? What are your metrics for success?**

Answer: Electric grid reliability and security have been priorities of mine since I joined the Commission in 2010. I believe we have made significant progress on these issues during that time, including putting in place a more comprehensive set of cybersecurity protections as well as the first mandatory physical security standards for the power grid. It is important that we effectively enforce the standards and remain vigilant to opportunities to strengthen them to meet evolving challenges. In this regard, the Commission is currently considering further enhancements to cybersecurity standards, including potential standards related to supply chain security, as well as standards related to geomagnetic disturbances.

Compliance violations, as detected through audits and other compliance monitoring processes, are an important metric of the reliability of the electric grid and also provide opportunities to learn and improve. In addition, of course, both NERC and the Commission closely track power outages on the bulk electric system. NERC's 2015 State of Reliability report has shown a downward trend in the number of load loss events since 2002.

    b. **What more can and should be done to ensure that our nation's grid remains physically secure and reliable?**

Answer: The Commission is already taking steps to put in place and enforce strong reliability standards to improve the reliability and security of the grid. As noted above, the Commission is currently considering improvements to the current CIP standards as well as standards to protect the grid against geomagnetic disturbances. Beyond standards, cooperative efforts among the Commission, other government agencies, and the electric industry help identify emerging threats and ways to improve the reliability and security of the grid. Equipment sharing programs are an example of these voluntary efforts. In addition, through its participation in the Electricity Subsector Coordinating Council, the Commission facilitates collaboration between industry and government in identifying and responding to emerging threats.

I strongly support continuing efforts to improve information sharing between the federal government and electric utilities. In addition my previous congressional testimony, I have supported designating an authority to oversee action to protect the grid in an emergency situation. I appreciate Congress' action on both issues as part of the recent Fixing America's Surface Transportation Act.

2. **"FERC has certified NERC as the nation's Electric Reliability Organization. Through the Energy Policy Act of 2005, Congress established a hybrid system for setting electric grid reliability and security standards; a private corporation, the North American Electric Reliability Corporation (NERC), writes grid standards, while a government agency the Federal Energy Regulatory Commission (FERC) reviews and approves NERC's standards." "FERC and NERC appear to have a close working relationship in jointly developing grid standards. During an April 10, 2014 Senate Energy Committee bearing "Keeping The Lights on – Are We Doing Enough To Ensure The Reliability And Security Of the U.S. Electric Grid?" both Cheryl LaFleur, then Acting Chair of FERC, and Gerry Cauley, CEO of NERC, Characterized the hybrid system as "working well." Source: Our EnergyPolicy.org website**

   a. **What steps should be taken by FERC to ensure that NERC rules and standards are consistently implemented, with transparency across and among the nation's regional transmission organizations to ensure reliability of the system?**

Answer: Consistent implementation of compliance programs across regions has been a significant focus for the Commission. During the Commission's most recent five-year assessment of NERC's performance as the nation's Electric Reliability Organization in 2014, the Commission directed NERC to implement specific metrics to ensure that programs and policies are implemented consistently across regions. The Commission further directed NERC to report on its progress in improving the consistency of compliance implementation across regions. In addition, the Commission closely reviews Notices of Penalty and other enforcement reports produced by NERC to monitor for consistency between regions. Commission staff also observes various Regional Entity audits each year to monitor, among other things, the consistency of audit procedures and outcomes. In the event of a major system disturbance, the Commission also works jointly with NERC to investigate the incident.

   b. Are there regional differences?

Answer: While there are regional differences with respect to generation mix and market structure, the reliability standards are generally designed to be applied consistently across the regions. The Commission encourages both NERC and the Regional Entities to strive for such consistent application of the reliability standards. Recently, NERC has made significant efforts in this area, such as the establishment of a regional consistency reporting tool. This tool allows industry stakeholders to report inconsistencies in methods, practices, or tools of different

Regional Entities. While much progress has been made in this area, I support additional work to continue improving consistency across regions.

c. How do you prioritize reliability rules and initiatives to ensure reliability objectives are met?

Answer: Our work on the reliability standards and other initiatives should prioritize those efforts that have the biggest impact on service to customers. Uninterrupted electric service is critical to every home and business and to the health, economy and security of the nation.

I have often observed that reliability challenges fall into two basic categories. The first set of challenges includes day-to-day issues such as system planning, equipment maintenance and operation, tree-trimming, and storm preparation. In these areas, the goal of standards is to ensure that the basic "blocking and tackling" consistently takes place to keep the system up and running. I believe in the last ten years since the passage of the Energy Policy Act, NERC and industry, under the Commission's oversight, have made substantial progress on these areas, including those issues that contributed to the 2003 Northeast blackout. The second major category of reliability issues are emerging issues that are rapidly changing or not well understood, such as cybersecurity attacks and damage from solar storms creating geomagnetic disturbances. Because these issues can pose a systemic threat to the grid, and are rapidly evolving, addressing them has and will continue to be a personal priority for me.

Finally, I think a growing priority is the resilience of the power grid, *i.e.*, its ability to recover from a major event. The United States is currently investing a tremendous amount in its energy infrastructure due to changes in the nation's power supply. I think this is an excellent opportunity to build greater resilience into the system on the front-end, through efforts such as smart grid technology and system design to prevent or arrest cascading outages.

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 FCA 8 if a rate change is filed and the four sitting commissioners deadlock.**

Answer: The Commission strives to reach consensus regarding all matters that come before us, and does so in the vast majority of cases. Under the Federal Power Act (FPA), in the event that the Commission does not take action within 60 days of the submission of a proposed rate filed under Section 205 of the FPA, such rate will become effective by operation of law. Unless section 205 of the FPA is amended, the Commission will continue to deal with 2-2 votes on FPA section 205 rate filings in the same manner. I certainly appreciate both the concerns you have raised regarding the lack of administrative recourse for customers in such cases, and your efforts to help address these concerns by making appealable rates that go into effect by operation of law.

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 reliability at just and reasonable rates?**

Answer: The Commission has a number of statutory tools that it can utilize to ensure electric reliability at just and reasonable rates. Under section 215 of the Federal Power Act, the Commission oversees the development and enforcement of detailed mandatory reliability standards to ensure that market participations are taking the appropriate measures to protect reliability. These detailed standards encompass numerous aspects of system planning, maintenance, and operation and include response to emerging threats such as cybersecurity.

The Commission also uses its rate authority under sections 205 and 206 of the Federal Power Act to protect reliability, by ensuring that rates for wholesale sales of electricity and interstate transmission sustain reliability. In areas of the country served by competitive wholesale markets, the Commission oversees market rules designed to ensure that generation is in place as needed

for reliability. Particularly at a time of considerable change in the nation's resource supply, I believe it is essential that market rules send accurate and timely price signals to ensure that sufficient infrastructure is being built where it is needed most. The Commission also utilizes its enforcement authority under tbe Federal Power Act to ensure that market participants are not acting to undermine wholesale markets in a manner that threatens the reliability of the grid or harms consumers by manipulating energy prices. With respect to our nation's infrastructure needs, the Commission is authorized under section 219 of the Federal Power Act to award incentives for the investment in transmission infrastructure. Finally, while the Commission does not have jurisdiction over the permitting or siting of electric generation facilities other than hydroelectric facilities, it is responsible under the Natural Gas Act for permitting interstate natural gas pipeline facilities used to supply fuel to electric generation to assure reliability.

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

Answer: The Supreme Court has defined "just and reasonable" rates to be rates that appropriately protect both consumer and investor interests. During my time at the Commission, I have frequently observed that all energy issues ultimately come down to balancing three values: reliability, cost to customers, and environmental impact. The Commission does not make environmental rules, but has substantial responsibility tor the reliability and cost of energy. I believe that just and reasonable rates are those that assure reliable service while meeting all environmental and other legal requirements, and do so at least cost to customers consistent with those objectives. Because the reliability of the electric grid is critical to the nation's security and

economy and to the health and well-being of all citizens, I am particularly vigilant to assure that the Commission acts to sustain and promote that reliability.