



COMMITTEE ON DEMOCRATS  
**ENERGY & COMMERCE**  
RANKING MEMBER FRANK PALLONE, JR.

**FOR IMMEDIATE RELEASE**

February 2, 2016

**CONTACT**

Christine Brennan — (202) 225-5735

**Statement of Ranking Member Frank Pallone, Jr., as prepared for delivery  
Committee on Energy and Commerce  
Subcommittee on Energy and Power  
Hearing on Eight Energy Infrastructure Bills**

I want to thank Chairman Whitfield and Ranking Member Rush for holding today's legislative hearing on a number of bills addressing programs and projects administered by the Federal Energy Regulatory Commission (FERC).

I am particularly pleased that the subcommittee is considering H.R. 2984, Rep. Kennedy's FAIR Rates Act, which would greatly improve the process by which FERC votes are reconsidered. This small, but significant change to the Federal Power Act would ensure that if there is a deadlocked vote among the Commissioners, there will still be recourse for eligible parties to seek a review of the rates that result from a de facto decision of the Commission. The need for this change became evident in the wake of a New England Forward Capacity Market Auction in 2014. At that time, FERC had only four Commissioners and they split over the question of whether the auction results were just and reasonable. Since FERC didn't disapprove the auction results, wholesale electricity prices in New England increased dramatically. So, while rates went up, none of the affected parties could challenge the decision or resulting rate increase, and, therefore, no rehearing or judicial review was possible.

There's an old saying that "if you choose not to decide, you still have made a choice." We should not deprive stakeholders of any recourse when a non-decision by FERC has very real consequences for consumers, producers and many others. Rep. Kennedy's bill doesn't favor one side or another, it merely provides those who want to challenge the outcome of inaction the same rights they would have if FERC made an affirmative decision. It is thoughtful and meaningful legislation that deserves to become law as soon as possible.

Unfortunately, I cannot say the same thing about the Air Survey Act of 2015: it is a reckless and brazen effort to further strip landowners and resource agencies of their ability to participate meaningfully in the gas pipeline siting process. The bill directs FERC and agencies responsible for implementing federal environmental laws not just to allow data collected by air to be used in gas pipeline certificating activities, but it goes so far as to tell scientists and regulators to give it the same weight in the decision process as data collected on the ground! We should not categorically make a decision that photos taken thousands of feet in the air are as accurate in

cataloging endangered plants and animals as surveys on the ground. Nor should we second guess scientists and other trained professionals in state environmental offices or at the Army Corps as to how best to collect data related to their implementation of the Clean Water Act.

Furthermore, this legislation is not needed. FERC already allows aerial data to be used in proceedings under section 7 of the Natural Gas Act. The only reason to move this legislation is to short circuit meaningful environmental assessments and to get around the concerns of private landowners and, in some cases, local governments who have legitimately barred pipeline companies from surveying after those companies were caught acting illegally, without proper authorization. It is a bad concept, a bad bill and it should not move any farther.

Mr. Pompeo's other legislative proposal is, on the other hand, something worth exploring. The committee print before us would add a \$10 million threshold to trigger FERC review of a merger or consolidation, since, under current law, no such threshold exists. I am particularly interested in hearing from Mr. Slocum regarding the concerns he raises with this legislation because this is not a change we should undertake lightly. I look forward to working with my colleagues to see if there is a way forward on this issue.

Finally, I just want to say that I know of no major objection with regard to any of the five hydroelectric construction license extension bills before us. They all have bipartisan support and I hope we will move on them quickly.

I appreciate the Chair and Ranking Member for holding this hearing and I also thank the witnesses for participating today.

###