



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

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## **Pallone Calls for Serious Assessment of the Electric Sector**

*Energy and Commerce Ranking Member Frank Pallone, Jr. (D-NJ) delivered the following remarks at a Subcommittee on Energy and Power hearing titled, “Federal Power Act: Historical Perspectives:”*

Thank you for holding this important hearing to provide us with a historical perspective on how our system of electricity regulation has evolved over the past three decades. I also want to welcome Mr. Olson as the Chair and thank Mr. Whitfield for his service to the Subcommittee.

The Energy and Power Subcommittee was the first Subcommittee where I had the privilege to serve as Ranking Member opposite the late Chairman, Dan Schaefer of Colorado.

I mention this because today’s hearing is about historical perspectives on the Federal Power Act, and because there was a time –beginning with Chairman Phil Sharp—when this Subcommittee focused an enormous amount of its time on electric utility restructuring. In my two years as Subcommittee Ranking Member, Chairman Schaefer held what seemed to be almost weekly hearings on electricity. These hearings focused on the vision of a national mandate for retail competition, as well as overseeing the Federal Energy Regulatory Commission’s (FERC’s) development of wholesale electric competition. Chairman Barton then continued the Subcommittee’s focus on the electric utility sector and the development of regional wholesale markets that led to the Energy Policy Act of 2005. That law included critical structural and regulatory changes that modernized and solidified the regional system we have today.

Since that time, the Subcommittee has turned its attention to other issues. However, new developments in the electricity sector and the regional markets, both promising and concerning, require us to return again to a serious assessment of the state of the electric sector and how it is regulated.

For one thing, technology has dramatically transformed the possibilities for cost-effectively generating and efficiently delivering electric energy to homes, businesses and manufacturing facilities. Today this can all be done from a variety of sources. For example, distributed

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generation—both fossil and renewable based— along with improving storage options, smart meters, microgrids and other technologies— have altered the possibilities for effectively and economically ensuring reliability. This has called into question even the most basic tenets of ratemaking.

At the same time, these technology and market changes have challenged the long-standing financial model for utilities, and the economic viability of many large nuclear and coal-fired facilities.

Beyond technological transformation, recent decisions by the Supreme Court have also called into question many of our past assumptions about electric sector regulation. One example of that is the Court's decision earlier this year in the FERC v. Electric Power Supply Association (EPSA) case. This decision provided for markets where conservation and efficiency could be sold at wholesale alongside electric power. It also upended traditional views of what constitutes sales at wholesale or retail, and what is within the purview of the Federal Government and FERC, as opposed to State governments and their public utility commissions.

These are enormous and complex matters that are important and should be examined by Congress and, specifically, this Committee. We need to begin exploring what types of changes, if any, need to be made to the Federal Power Act, or whether some of the technological and legal developments I've discussed have made the Act itself obsolete. These are legitimate questions that we should be exploring. And while we represent different parties and philosophies, as well as different states and regions, it is critical that our Committee spend significant time examining these matters so that we arrive at decisions that are informed by fact.

This is an important hearing. We have worked in a bipartisan fashion to bring together some of the best minds and public servants in the area of electricity. These are not just academic experts: they are people who played significant roles at key moments in the development of our modern electric regulatory regime.

I commend Chairman Upton, Chairman Olson and Ranking Member Rush for not only holding this hearing, but doing so in such a thoughtful, collaborative and serious manner that this subject deserves. And, I am grateful to our witnesses, who include a former FERC commissioner, former general counsels and a former Deputy Energy Secretary—all of whom continue to be well-respected experts in this field—for helping begin this effort to understand and assess the evolution of the electric sector.

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