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6 OVERSIGHT OF FERC: ENSURING ITS

7 ACTIONS BENEFIT CONSUMERS AND THE

8 ENVIRONMENT

9 WEDNESDAY, JUNE 12, 2019

10 House of Representatives

11 Subcommittee on Energy

12 Committee on Energy and Commerce

13 Washington, D.C.

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17 The subcommittee met, pursuant to call, at 10:32 a.m., in
18 Room 2322 Rayburn House Office Building, Hon. Bobby L. Rush
19 [chairman of the subcommittee] presiding.

20 Members present: Representatives Rush, Peters, Doyle,
21 Sarbanes, McNerney, Tonko, Loeb sack, Butterfield, Welch,
22 Schrader, Kennedy, Veasey, Kuster, Barragan, O'Halleran, Blunt
23 Rochester, Pallone (ex officio), Upton, Latta, Rodgers, Olson,
24 McKinley, Kinzinger, Griffith, Johnson, Long, Flores, Walberg,

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25 Duncan, and Walden (ex officio).

26 Staff present: Jeff Carroll, Staff Director; Adam Fischer,
27 Policy Analyst; Waverly Gordon, Deputy Chief Counsel; Omar
28 Guzman-Toro, Policy Analyst; Rick Kessler, Senior Advisor and
29 Staff Directory, Energy and Environment; Brendan Larkin, Policy
30 Coordinator; John Marshall, Policy Coordinator; Elysa Montfort,
31 Press Secretary; Lisa Olson, FERC Detailee; Alivia Roberts, Press
32 Assistant; Tim Robinson, Chief Counsel; Tuley Wright, Energy and
33 Environment Policy Advisor; Justin Discigil, Minority Press
34 Secretary; Theresa Gambo, Minority Human Resources/Office
35 Administrator; Peter Kielty, Minority General Counsel; Ryan Long,
36 Minority Deputy Staff Director; Mary Martin, Minority Chief
37 Counsel, Energy & Environment & Climate Change; Brandon Mooney,
38 Minority Deputy Chief Counsel, Energy; Brannon Rains, Minority
39 Staff Assistant; and Peter Spencer, Minority Senior Professional
40 Staff Member, Environment & Climate Change.

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41 Mr. Rush. I am going to call the subcommittee to order.

42 And the chair recognizes himself for 5 minutes for the purposes
43 of an opening statement. And I want to begin by thanking all
44 of the FERC commissioners for appearing before the subcommittee
45 this morning for the purposes of discussing critical issues
46 related to the governance of the nation's electric grid.

47 In the last oversight hearing this subcommittee held last
48 year, I made it clear that I did not support FERC putting its
49 proverbial thumb on the scale to ambiguously prop up coal and
50 nuclear facilities as the 2017 DOE Notice of Proposed Rulemaking
51 proposed. In that same hearing, I also stated that elected
52 officials in the states should have the authority to choose the
53 type of energy sources within their own portfolios and that would
54 mostly benefit their own constituents.

55 To this point, we are seeing my home state of Illinois as
56 a national leader in enacting legislation to promote renewables
57 and nuclear power as safe and reliable and carbon-free sources
58 of energy. In the bipartisan Future Energy Jobs Act, which was
59 passed in 2016, along with a more recent proposal by Governor
60 Pritzker of Illinois, will move my state towards a cleaner,
61 greener, more sustainable energy future. And, I for one, do not
62 want to see FERC stand in the way of that progress.

63 Why don't you all come on in, please.

64 Mr. Upton. Maybe we should take the Judiciary Committee's

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65 room and swap them. What do you think?

66 Mr. Rush. Well, let's take the Judiciary's jurisdiction
67 and when we take their room? All right.

68 You all please come on in so they can close the door, all
69 right.

70 The bipartisan Future Energy Jobs Act that was passed in
71 2016, along with a more recent proposal by the Governor of
72 Illinois, Pritzker, will move my state forward towards a cleaner,
73 greener, more sustainable energy future. And I do not want to
74 see FERC stand in the way of that progress. However, FERC's
75 ruling on PJM capacity market will undo this historic progress
76 and make it harder to achieve my state's energy goals.

77 It is extremely important that the Commission wants to unveil
78 a money structure that allows for individual states to make
79 decisions regarding the makeup of their particular portfolios,
80 energy portfolios that helps to address climate change, provides
81 reliable energy, and keeps prices affordable.

82 One of the biggest challenges facing FERC is how to integrate
83 more renewable energy and distributing energy resources into the
84 grid and putting them on the road -- on the road to help
85 accomplish these goals. Consumers are demanding this type of
86 change and it is important that FERC works as a partner to make
87 this happen, rather than as another obstacle standing in the way.

88 I applaud the Commission's storage and distributed energy

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89 resources, DER, Notice of Proposed Rulemaking issued back in
90 November 2016, and Order 841 issued in February 2018 directing
91 RTOs and ISOs to upgrade and update market rules so that storage
92 could participate. However, we are now in 2019, and it is past
93 time now for the Commission to issue a final decision on this
94 particular issue.

95 I look forward today to engaging FERC on these important
96 issues, including allowing states to dictate every energy
97 portfolio that they deem would be beneficial to their
98 constituents, allowing more states to integrate more renewables
99 into the grid through transmission and finding a way for
100 distributed energy resources to participate in capacity markets
101 and making sure that consumers' voices are heard and respected
102 throughout the RTOs.

103 How the Commission moves forward is utterly important. And
104 I want to now yield 5 minutes to my friend from Michigan, the
105 Ranking Member, for his opening statement.

106 Mr. Upton. Well, thank you, Mr. Chairman. And this is an
107 important hearing to examine FERC's budget and priorities for
108 fiscal year 2020. I want to extend a warm welcome to all of our
109 commissioners. It has been about a year since FERC testified
110 before the committee and in that time the Commission has dealt
111 with its share of challenges, and certainly the change in
112 leadership due to the passing of former Chairman McIntyre. A

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113 good guy by all accounts.

114 Chairman Chatterjee has performed admirably. That is for
115 sure. Stepping back into the role of chairman of FERC, the
116 Commission also has received a new member -- Commissioner Bernard
117 McNamee, welcome -- who brings a wealth of experience in state
118 and federal energy policy matters.

119 You know, as members of the Energy and Commerce Committee,
120 we are closely monitoring the shifts occurring across our energy
121 landscape, so that we are prepared to confront the challenges
122 and take full advantage of the opportunities that lay ahead.
123 Under my chairmanship of the full committee and continuing under
124 Chairman Walden, we have worked on a bipartisan basis to remove
125 unnecessary barriers to growth, streamline the path, the
126 permitting process for energy projects and encourage innovation
127 and technological development, and I know that will continue under
128 Chairman Pallone and Chairman Rush.

129 FERC has many important responsibilities to help us navigate
130 the changes that we are seeing with our generation resources mix
131 and to ensure the resilience and security of our energy systems
132 including the import-export terminals, natural gas pipelines,
133 and electric transmission facilities. FERC has also had a
134 responsibility to oversee energy markets, ensure just and
135 reasonable rates, advise on state energy policies, and oversee
136 the development of mandatory electric reliability and security

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137 standards for the bulk power system. As we have learned,
138 managing this wide array of issues is no simple task. Building
139 new pipelines and electric transmission facilities has become
140 increasingly challenging. And while FERC as the lead agency has
141 established a process to allow for thorough environmental reviews
142 and meaningful stakeholder input, we have started to see this
143 process strained by states that are not performing their federally
144 delegated responsibilities in perhaps a timely fashion.

145 We are also seeing big changes on the generation side with
146 the decline of coal and nuclear coinciding with the rise of natural
147 gas and renewables which is placing pressure on state and regional
148 resource planning. Many of the issues we discussed at our hearing
149 last year are still actively under consideration at FERC,
150 including fuel security and grid resiliency, grid storage,
151 pipeline permitting, and market reforms.

152 I look forward to today's hearing to receive an update on
153 progress in these areas. I also look forward to discussing
154 physical and cybersecurity for our grid and pipeline network which
155 is an issue that all of us care deeply about. While FERC has
156 authority to approve mandatory cybersecurity reliability
157 standards for the bulk power system, the regulatory framework
158 for pipelines may have gaps that should be examined. Given the
159 interdependency of our gas pipelines and the electric systems,
160 we need to make sure that we are doing everything that we can

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161 do to remain secure. The last point, I would ask unanimous
162 consent that Mr. Long from Missouri be able to sit in, not a member
163 of the subcommittee but obviously a member of the full committee,
164 be able to sit in on this and be able to submit questions as well.

165 Mr. Rush. Yeah, seeing no objection, so ordered.

166 Mr. Upton. And with that, Mr. Chairman, I yield back.

167 Mr. Rush. I want to thank the gentleman for yielding back.

168 Before I bring the chairman of the full committee on, I want
169 to take a moment to introduce to those who are gathered here,
170 a very resourceful and very dedicated group of young people here
171 from Illinois including from my district, the Illinois
172 Environmental Council is with us this morning and they are here
173 to advocate for 100 percent clean energy. So please
174 recognize them as they stand, the Illinois Environmental Council.

175 [Applause.]

176 Mr. Rush. Okay, thank you very much.

177 The chair now recognizes the chairman of the full committee,
178 Mr. Pallone, for 5 minutes.

179 The Chairman. Thank you, Chairman Rush. I would like to
180 begin by thanking the commissioners for being here today and for
181 their collective work at the Federal Energy Regulatory
182 Commission.

183 FERC's decisions and rulemakings have a large impact on our
184 nation's energy and environmental future. The Commission's

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185 activities directly affect electric and gas consumers across the
186 United States, both the costs to ratepayers and the reliability
187 of electric grid systems. They also affect the environment,
188 particularly in the form of greenhouse gas emissions. And I am
189 interested in learning how FERC intends to address greenhouse
190 gas emissions in natural gas pipeline permitting approvals. To
191 date, FERC's efforts to account for greenhouse gas emissions in
192 the pipeline review process leaves much to be desired, in my
193 opinion.

194 In 2017, the D.C. Circuit found in the Sabal Trail decision
195 that FERC cannot ignore the indirect effects of projects it
196 approves, including emissions from downstream use. And I know
197 FERC has great analysts who are up to the task of accounting for
198 greenhouse gas emissions, but they need to be empowered to ensure
199 that these impacts are fully considered. This is particularly
200 concerning, because FERC seems more than willing to approve any
201 pipeline, even though the Natural Gas Act directs the Commission
202 to only approve projects that are in the public convenience and
203 necessity. And I am also concerned that FERC looks at each
204 pipeline project in a vacuum without regard to any other pipeline
205 application. This could result in two pipelines running right
206 next to each other. And I think we can all agree that it is just
207 not a smart or responsible way of planning our system,
208 particularly when people's private property could be taken by

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209 a pipeline company. The bottom line is that this whole process
210 needs a more thoughtful strategy of planning and broad-ranging
211 analysis.

212 On the electric side, it has been roughly 20 years since
213 the implementation of wholesale markets. Though I had my doubts
214 in the past, it is now clear that these markets have promoted
215 competition in generation, ensuring lower prices and a reliable
216 bulk power system. And this is good for consumers and it has
217 also been good for the environment. New technologies can
218 deliver, store, manage, and reduce power needs with a near
219 instantaneous response to dispatch signals. And I would
220 particularly like to applaud the Commission's work on Order 841,
221 integrating storage resources into wholesale power markets. I
222 look forward to hearing more about the distributed energy resource
223 aspect of that effort. Innovation and technology are leading
224 the way and FERC can and should be a partner in that effort.

225 I also think it is important we look at Order 1000, which
226 governs how transmission is planned and developed and how the
227 costs are allocated. Chairman Chatterjee recently said it was
228 not working as intended and I agree, particularly regarding
229 consideration of non-transmission alternatives when looking at
230 new system investments and interregional transmission planning,
231 and I would like to hear about your plans to lead the Commission
232 in addressing the shortcomings.

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233 I also want to say that I am not happy with the way RTOs
234 are assessing their transmission needs and, in my experience in
235 New Jersey, it is potentially resulting in the construction of
236 unnecessary projects. And, finally, we need greater scrutiny
237 of wholesale capacity markets. Frankly, the current state of
238 affairs is a mess, especially in the PJM market where New Jersey
239 participates. PJM participants are currently left in the lurch
240 of both an old and new capacity market design and the result of
241 this uncertainty is higher electricity bills. It is vital that
242 we figure this out immediately.

243 So I have some time left and I would like to yield the balance
244 of my time to Mr. Kennedy.

245 Mr. Kennedy. Mr. Chairman, I want to thank the chairman
246 for yielding and thanks to the subcommittee for hosting this
247 hearing and thank the commissioners, everybody, for being here.

248 I would like to add one more area of focus to today's
249 conversation and something that is particularly important to me,
250 RTO governance and transparency into the stakeholder process in
251 our wholesale markets. Focus on RTO governance is not only
252 essential to good governance, but also critical to
253 accountability. Too often, parties involved in the energy
254 markets can just simply pass the buck and responsibility to
255 others, but the result is often the same. Consumers end up paying
256 more and no one is held accountable.

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257 I am not suggesting FERC is the sole responsible party here,
258 but the Commission is invaluable in upholding the stability and
259 reliability of a system when it works properly, and you are also
260 the enforcers when the system breaks down. So I look forward
261 and to continue to work with all of you on all of this and I yield
262 back the time to the chairman. Thank you.

263 The Chairman. And I yield back. Unless someone else wants
264 the remaining time, I will yield back, Mr. Chairman.

265 Mr. Rush. The chair thanks the gentleman for yielding.
266 The chair now recognizes Mr. Walden, the ranking member of the
267 full committee, for 5 minutes for the purposes of his opening
268 statement.

269 Mr. Walden. Good morning, Mr. Chairman. I want to thank
270 our witnesses for being here today, the commissioners. We really
271 appreciate the tough challenges you face. We have a couple of
272 projects in Oregon that are under review at different levels,
273 both state and federal approvals, and I am observing that and
274 watching that and we appreciate what you do to allow public input
275 on those projects. I think that is really an important part of
276 this.

277 And so, we thank you and we recognize the tough challenges
278 you face in trying to figure out what is best for the country.

279 And to that point, you know, a lot has changed in the energy
280 picture. We know that. I am old enough to remember when we

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281 thought we were going to run out of natural gas and oil, and we
282 are all on watch for what do we do then? And now through
283 innovation and technology we have discovered we can become a net
284 exporter of energy and really lead the world and we can do it
285 in an environmentally smart way and we can replace more polluting
286 sources around the world if we can get our natural gas into
287 markets.

288 We can also stick it to Putin, let me be direct and clear
289 here. It is a geopolitical force as well. I have met with
290 leaders of foreign countries who beg us -- beg us -- to get our
291 natural gas into market so they have a competitor to Gazprom.

292 And when natural gas does get into the market, guess what, the
293 prices go down and we quit funding Russia, or they do. So I think
294 there is important international issues here as well that America
295 needs to look at. They may not all be in your statutory process,
296 but they are important for America going forward, and so I think
297 that is an important piece.

298 We are on the breakthrough of major battery storage. I met
299 with some folks from some of our national labs this morning about
300 research they are doing to capture carbon, perhaps with a film
301 that could capture carbon at thirty dollars a ton, which would
302 be remarkable if they are able to take it from a computer process
303 into a reality in the marketplace, and we think about how
304 transformative that could be to reduce carbon emissions and

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305 continue to provide baseload energy.

306 My region, hydropower. This committee did a lot of work
307 on hydropower licensing for small scale. We believe in it. It
308 is carbon free. It is there. It is an enormous resource, but
309 we also need to make sure we have transmission capacity. And
310 I know you all focus on the grid on its reliability and security
311 and safety and adequacy, we do too. We tried to address those
312 issues. I would love to know more about the choke points in the
313 country, you know, you have the Northeast heating oil issue.

314 We have situations where we are importing foreign gas into
315 the Northeast, I think maybe even from Gazprom. And we have
316 fights over transmission lines in the Northeast. We have fights
317 over pipelines in the Northeast, and even access to America's
318 great energy reserves there. I would love to know what that means
319 to consumer prices. It is not my part of the world, but it is
320 our country, and so I would love to know what that means for
321 consumers when pipelines are blocked, power lines are blocked,
322 and access to American energy is blocked. Does that make them
323 pay more or less to keep their homes warm in the winter and cool
324 in the summer? So those are issues I think are important
325 as we move forward on renewable energy development. We have a
326 couple projects in my part of the world, Swan Lake, which is a
327 closed loop hydro project. There is another one out of Goldendale
328 where we can use surplus capacity from renewable energy to pump

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329 water uphill and then bring it back down through a hydro system
330 and have a closed loop process. That is a great battery in and
331 of itself. We have solar projects and we see the price of solar
332 and wind coming down and being very competitive in the
333 marketplace. And so, what I would love to hear from you is what
334 does the future look like? What is working, what is not? Where
335 are the choke points in America and what should we do about it?
336 And then how safe and secure is the grid?

337 And I would tell you at the outset, we also have a surprise
338 medical billing hearing going on with Mr. Pallone and my bill
339 downstairs, so I will be coming and going because that actually
340 matters to consumers a whole bunch and oftentimes is much more
341 expensive than their energy bill, so we are trying to fix that
342 as well. But we thank you for the work that you are doing. We
343 know it is tough but it is very important.

344 With that, Mr. Chairman, I would yield back the balance of
345 my time.

346 Mr. Rush. The chair wants to thank the ranking member for
347 yielding back. And the chair would like to remind members that
348 pursuant to committee rules, all members' written opening
349 statements shall be made part of the record.

350 And now it is my privilege to introduce our panel of witnesses
351 for today's hearing. The honorable Neil Chatterjee is the
352 chairman of the federal, of FERC, and he is a witness, at the

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353 witness table today and I certainly want to welcome the chairman.
354 Next will be the honorable Cheryl A. LaFleur, commissioner for
355 FERC. Then next to her is the honorable Richard Glick who is
356 also a commissioner at FERC. And last but not least, the
357 honorable Bernard L. McNamee, who is also a commissioner. And
358 I want to thank each and every one of you for appearing before
359 us today and we certainly want to congratulate you on your past
360 accomplishments and we look forward to hearing from your testimony
361 at today's hearing.

362 And at this time, the chair now wants to recognize each member
363 for 5 minutes to provide your opening statement. But as a part
364 of what we do here, I would like to explain the lighting system
365 which you probably don't need any explanation for, but it is
366 written here and I am going to read it. In front of you is a
367 series of lights. The light will initially be green at the start
368 of your opening statement. The light will turn yellow when you
369 have 1 minute remaining. Please begin to wrap up your testimony
370 at the occasion of the yellow light. The light will turn red
371 when your time has expired and please conclude your statement
372 and then the light will turn to red.

373 Chairman Chatterjee, you are now recognized, after being
374 fully instructed on the lighting system you are finally recognized
375 for 5 minutes for the purposes of an opening statement.

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376 STATEMENTS OF NEIL CHATTERJEE, CHAIRMAN, FEDERAL ENERGY
377 REGULATORY COMMISSION; CHERYL A. LAFLEUR, COMMISSIONER, FEDERAL
378 ENERGY REGULATORY COMMISSION; RICHARD GLICK, COMMISSIONER,
379 FEDERAL ENERGY REGULATORY COMMISSION; AND, BERNARD MCNAMEE,
380 COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

381

382 STATEMENT OF NEIL CHATTERJEE

383 Mr. Chatterjee. Thank you, Chairman Rush, Ranking Member
384 Upton, and members of the subcommittee. I really appreciate the
385 opportunity to be here before you today to discuss the importance
386 work that we are doing at the Federal Energy Regulatory
387 Commission. As was mentioned, my name is Neil Chatterjee and
388 I am the chairman of FERC. I appreciate the subcommittee's
389 attention to the major energy issues facing our nation and the
390 role that FERC plays in addressing those issues for the American
391 people.

392 This is an exciting and transformational period for our
393 nation's energy landscape. I take very seriously the
394 responsibility to work with my colleagues to ensure that all
395 Americans have reliable and affordable energy supplies. Today,
396 I will focus my remarks on two of my priorities, the Commission's
397 efforts to allow for storage resources to better participate in
398 the wholesale electric markets, and our focus on the importance
399 of security measures to protect from cyber and physical threats

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400 to the nation's bulk power system. I will also address FERC's
401 efforts to reform our regulations under the Public Utility
402 Regulatory Policies Act of 1978, or PURPA, an issue I know many
403 of you have been following closely.

404 Over the last decade or more, our country has seen many
405 changes in the energy industries that FERC regulates. As such,
406 it is essential for FERC to remain vigilant about these changes
407 and respond to them in ways that enhance competition in the
408 electricity markets, support the resilience of the bulk power
409 system, and lower costs to consumers. One of these recent
410 transformations we have seen is the improvement in electric
411 storage technologies. I want to highlight the Commission's work,
412 which I am extremely proud of, regarding the participation of
413 electric storage resources in wholesale electricity markets as
414 an example of how FERC is responding to our ever-evolving energy
415 landscape.

416 Traditionally, a variety of factors have created challenges
417 to storage resources participation in the wholesale electric
418 markets. Because of this, in 2018, FERC issued Order 841 to
419 remove barriers to the participation of electric storage
420 resources in the capacity, energy, and ancillary services markets
421 operated by the Regional Transmission Organizations and
422 Independent System Operators. FERC is now evaluating the
423 December 2018 filings that RTOs and ISOs made to implement Order

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424 841. As a result of this order, I expect an increase in the
425 deployment of storage resources which should result in greater
426 reliability and lower prices for customers by enhancing
427 competition. This is but one example of how FERC is proactively
428 addressing shifts in the energy industries that we regulate and
429 ensuring the emerging technologies can serve an integral role
430 in wholesale electric markets.

431 In addition to our work to reduce barriers for storage
432 resources, FERC is evaluating barriers to the participation of
433 distributed energy resource aggregations in markets operated by
434 RTOs and ISOs. Last year, FERC staff held a technical conference
435 to gather more information regarding the participation of
436 distributed energy resource aggregations in wholesale
437 electricity markets as well as to discuss more broadly the
438 potential effects of distributed energy resources on the bulk
439 power system. FERC is currently considering the record as we
440 determine how to move forward.

441 Another priority I would like to discuss today is cyber and
442 physical security. As you are aware, America's critical
443 infrastructure is increasingly under attack by foreign
444 adversaries. The Department of Homeland Security and FBI have
445 issued multiple public reports describing cyber intrusion
446 campaigns by foreign government actors against our critical
447 infrastructure including the electric grid. Physical and

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448 cyber-attacks on our critical infrastructure systems have the
449 potential to create significant, widespread and potentially
450 devastating effects that threaten the health, safety, and
451 economic prosperity of the American people whom we serve. This
452 evolving threat landscape demonstrates the importance of an
453 unwavering focus on the security of the nation's critical energy
454 infrastructure.

455 Of course, these issues are of paramount concern to us all
456 including the subcommittee, and I appreciate the subcommittee's
457 attention to this crucial subject including efforts to examine
458 legislative solutions like those that recently moved to the markup
459 process. At FERC we have and continue to address cyber and
460 physical security risks as consistent with section 215 of the
461 Federal Power Act, which grants us the authority to approve and
462 enforce mandatory Reliability Standards developed by the North
463 American Electric Reliability Corporation.

464 We have also taken up voluntary initiatives with federal,
465 state, and industry partners. In 2018, FERC issued two
466 significant order that improved bulk power system security.
467 First, at our October 2018 Commission Meeting, we approved NERC's
468 proposed reliability standards to address supply chain threats.

469 This action is particularly significant given that these
470 specific threats to the energy sector continue to grow. Second,
471 at our July 2018 Commission Meeting, we approved a final rule

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472 directing NERC
473 to expand reporting requirements for critical systems. That
474 final rule directed NERC to develop a standard that requires
475 registered entities to report successful and attempted
476 intrusions into critical systems to NERC's Electricity
477 Information Sharing and Analysis Center as well as to DHS. NERC
478 recently filed a new reliability standard to satisfy the
479 directive, which is currently pending before the Commission.

480 But FERC does not just approve reliability standards. Since
481 2016, FERC has conducted audits of industry's compliance with
482 cybersecurity reliability standards, the goal of which is not
483 only to assess compliance with the reliability standards, but
484 also to learn and share best practices.

485 Seeing that I am about to get the light, I am just going
486 to say that it is time to bring PURPA into the 21st century.
487 Major changes to PURPA should come from Congress, but we have
488 some tools available to us at the Commission and we are currently
489 working to utilize those tools. Thank you.

490 [The prepared statement of Mr. Chatterjee follows:]

491

492 *****INSERT 1*****

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493 Mr. Rush. I want to thank you, Chairman Chatterjee. You
494 have passed the lighting test for this morning.

495 Now the chair recognizes Ms. LaFleur for 5 minutes for the
496 purposes of an opening statement.

497

498 STATEMENT OF CHERYL LAFLEUR

499

500 Ms. LaFleur. Thank you, Chairman Rush, Ranking Member
501 Upton, Chairman Pallone, Ranking Member Walden, and members of
502 the subcommittee. I am Cheryl LaFleur. I have been a
503 commissioner at FERC for almost 9 years and I have been honored
504 to appear before you several times.

505 Today I will comment on three major issues that are shaping
506 our work. The first is resource selection in the nation's
507 competitive markets. In the 20 years since their creation,
508 organized wholesale power markets have grown to serve more than
509 two-thirds of Americans. These markets save customers money by
510 dispatching resources over a large footprint, facilitating
511 innovative technologies, and shifting investment risk from
512 consumers to shareholders.

513 In recent years, markets have been roiled by low-cost gas
514 generation and renewables. These lower cost resources have
515 significantly decreased wholesale prices to the benefit of
516 customers, but have also threatened the financial viability of

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517 certain existing resources, particularly coal and nuclear plants.

518 Many states have sought either to retain resources that are not
519 thriving in the market or to support new resources that the market
520 would not select. These efforts have triggered a debate about
521 how wholesale market design should be adapted in response.

522 FERC is encouraging regional solutions to adapt capacity
523 markets to state initiatives. We approved such a proposal for
524 ISO New England, have an open proceeding to consider changes to
525 the PJM market, and are watching New York ISO consider ways to
526 use carbon pricing to incorporate state climate goals in its
527 market structure.

528 Second, once we have selected resources, how do we pay for
529 them? Until recently, it was accepted without question that
530 electric power was priced on volume, since a major component of
531 its cost was the fuel you had to burn to make it. With low gas
532 prices, zero marginal cost renewables, and change in load curves,
533 the traditional cost structures that supported resources may no
534 longer work. We have seen this trend most famously with the
535 so-called duck curve in California, where solar resources
536 generate too much energy in the middle of the day and resources
537 needed when the sun goes down are not making enough money to stay
538 in business. Similar trends are appearing in other regions.

539 To help adapt, market operators and others are considering new
540 ways to pay for power, with the focus not just on volume but on

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541 services such as ramping, scarcity pricing, reserves, and
542 essential reliability services. FERC has also taken steps to
543 ensure that new resources like storage can compete to provide
544 these services.

545 Finally, infrastructure to deliver resources to customers.
546 Electric transmission is needed to support the reliability of
547 a changing grid, particularly for location constrained
548 renewables. The Commission's issuance of Order 1000 in 2011
549 anticipated the growing need for transmission. I believe the
550 planning and cost allocation tenets of Order 1000 are sound,
551 however, the introduction of competitive transmission that it
552 required has been much more difficult than anticipated. In
553 addition, the growth of domestic natural gas and gas-fired
554 generation has led to considerable build-out of the nation's gas
555 pipeline network. I call for reconsideration of how FERC
556 determines the needs for pipelines looking at a regional look.

557 I also believe we must do a better job assessing the climate
558 impacts of pipeline and LNG projects. Starting in 2016, FERC
559 began disclosing more information on a project's climate impacts
560 in our orders and environmental documents in response to the
561 growing debate in our dockets. I strongly supported this
562 decision. However, in May 2018, the Commission reversed course
563 and elected to remove much of the greenhouse gas information from
564 orders going forward.

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565 Since June 2018, I have tried to reconcile my disagreement
566 with the Commission's revised policy with my obligation to
567 consider pipelines one by one under the Natural Gas Act. Where
568 I otherwise conclude a pipeline is needed, I have done my own
569 greenhouse gas calculation and analysis to weigh against the
570 pipeline benefits. I believe the Commission, the public, and
571 the regulated community would be better served if we proactively
572 addressed these issues before the courts require us to do so.

573 It has been a tremendous honor to serve on FERC and to work
574 with this committee. Thank you very much, and I yield my time
575 to Commissioner Glick.

576 [The prepared statement of Ms. LaFleur follows:]

577

578 *****INSERT 2*****

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579 Mr. Rush. Commissioner Glick, you are recognized for 5
580 minutes and you have 30 seconds from --

581

582 STATEMENT OF RICHARD GLICK

583

584 Mr. Glick. Commissioner LaFleur.

585 Thank you, Mr. Chairman, Ranking Member Upton, and members
586 of the subcommittee, and thank you for the opportunity to testify
587 this morning.

588 FERC has sometimes been referred to as a sleepy little
589 agency, but the fact is that many of the actions we take have
590 a significant impact on the everyday lives of Americans. The
591 Commission is entrusted with protecting the public interest by
592 regulating swaths of the U.S. energy industry. FERC's exercise
593 of this responsibility has significant consequences for the
594 prices of energy, the ability of public utilities to reliably
595 and safely serve consumers and the environment.

596 The American electric sector is in the midst of a dramatic
597 transformation to a less carbon-intensive, more distributed
598 electric generation fleet. This transformation is good for
599 consumers, the economy, and the environment. As the cost of
600 newer, cleaner technologies continue to decline, consumers are
601 seeing the benefits. The two fastest growing occupations
602 nationwide are solar PV installers and wind turbine service

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603 technicians and more than three million American men and women
604 now are employed in the clean energy industry in the United States.

605 This clean energy transformation will also have a lasting
606 positive impact on the environment and climate change.

607 Consumers are increasingly demanding that their energy comes
608 from renewable or zero emission sources, and businesses are
609 delivering consumers what they want. Dozens of corporations,
610 including some of the largest in the country, have announced or
611 already achieved the goal of procuring all of their electricity
612 needs from zero emissions or renewable resources. Although FERC
613 is not a climate regulator, the Commission's actions have
614 substantial consequences for climate change.

615 As Chairman Chatterjee mentioned a second ago, for example,
616 many wholesale market roils that were designed for a grid composed
617 mostly of conventional generation facilities can pose unintended
618 barriers to newer technologies' full participation in wholesale
619 markets. And by helping to create a level playing field for all
620 resources, the Commission can indirectly facilitate newer
621 technologies' participation in wholesale electric markets.
622 Indeed, the Commission did just that earlier last year when it
623 issued a final rule that requires RTOs and ISOs to eliminate
624 barriers to the participation of electric storage resources in
625 the wholesale electric markets.

626 The Notice of Proposed Rulemaking that led to the final rule

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627 on electric storage also proposed reforms to remove barriers to
628 aggregated distributed energy resource participation in
629 wholesale markets. The Commission in April 2018, conducted a
630 2-day technical conference to gather additional information on
631 this matter. I believe the time has come for the Commission to
632 also eliminate barriers to distributed energy resources.

633 The Commission's energy future, energy infrastructure
634 permitting responsibilities can also affect emissions. FERC has
635 authority over the licensing of certain hydroelectric facilities
636 as well as the siting of interstate natural gas pipelines and
637 facilities used to import or export liquefied natural gas. Under
638 the Natural Gas Act, FERC must make a public interest
639 determination before issuing a certificate for an interstate
640 natural gas pipeline or an LNG facility. Because environmental
641 effects factor directly into the public interest standard, the
642 Commission must analyze the environmental impacts of a proposed
643 interstate natural gas pipeline.

644 Unfortunately, the Commission has chosen to treat greenhouse
645 gas emissions differently than all other aspects of its
646 environmental reviews and, in my opinion, effectively ignored
647 its statutory obligation to examine those emissions' impacts on
648 the public interest. Indeed, last year, the majority of
649 commissioners announced a new policy that chose to ignore
650 reasonably foreseeable upstream and downstream greenhouse gas

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651 emissions in almost all cases. This policy prevents the
652 Commission from performing the public interest analysis that
653 Congress required and the D.C. Circuit has told us that we have
654 to do. Just last week, the D.C. Circuit admonished the Commission
655 for this approach, and I hope to work with my colleagues to revisit
656 the Commission's approach in light of the court's guidance.

657 Chairman Rush and Ranking Member Upton, thank you again for
658 the opportunity to appear before the subcommittee. I look
659 forward to answering your questions and the questions of your
660 colleagues.

661 [The prepared statement of Mr. Glick follows:]

662

663 *****INSERT 3*****

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664 Mr. Rush. The chair wants to thank the commissioner.

665 And now the chair recognizes Commissioner McNamee for 5
666 minutes. And Commissioner, see if you can beat him, because he
667 had 1 minute, 27 seconds remaining, so.

668

669 STATEMENT OF BERNARD MCNAMEE

670

671 Mr. McNamee. I will do my best. Thank you, Chairman Rush
672 and Ranking Member Upton. And I also want to thank Chairman
673 Pallone and Ranking Member Walden, everybody on the committee
674 for having me. As you know, this is my first time appearing before
675 you. My name is Bernie McNamee. I just joined the Commission
676 6 months ago and it has been a great joy to be able to work with
677 my colleagues here and everybody at the FERC staff.

678 As you have heard from my fellow commissioners, there are
679 a number of important items that the Commission deals with. You
680 all know this, but it is important to the Commission, the energy
681 industry, consumers, and the nation. First of all, I want to
682 talk a little bit about LNG facilities. In 2017, the United
683 States became a net exporter of natural gas and FERC has played
684 a role in this accomplishment by authorizing the construction
685 of liquefied natural gas facilities pursuant to section 3 of the
686 Natural Gas Act and pursuant to the National Environmental Policy
687 Act. After 2 years in which no new LNG facility was approved,

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688 the Commission now has approved in a 3-month period, four LNG
689 projects with a total estimated export capacity of eight billion
690 bcf a day. I am happy to say that I was able to play a part with
691 my fellow commissioners in finding a compromise in order to move
692 these projects forward. And it also was an example of, if we
693 look at the law and the facts we can usually come to a resolution
694 of the issues for the benefit of the American people. And,
695 currently, the Commission has ten LNG export applications pending
696 before it, and four LNG export facility proposals are in the
697 pre-filing process. We will address each of these applications
698 that come before us based on the law and the facts.

699 More generally, since 2009, the United States has been the
700 world's top producer of natural gas. Just think about that, when
701 we used to wish that we could have energy independence and now
702 we are a net exporter. This natural gas is transported across
703 the United States using over 300,000 miles of interstate natural
704 gas pipeline, and in 2018, over 13 billion cubic feet a day, or
705 689 miles of Commission jurisdictional approved pipeline capacity
706 entered service. Moreover, in 2018, the Commission authorized
707 44 new projects, representing 9.3 bcf a day, and 676 miles of
708 new pipeline capacity.

709 And we have heard some issues about how are we approving
710 these. As you know, the Commission issued a notice of inquiry
711 in order to examine whether or not we should be changing our

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712 certificate policy. The Commission has received over 3,000
713 comments, and my colleagues, our staffs, and the Commission are
714 all working through these comments.

715 I also want to touch on how the Commission is trying to
716 implement the tax cuts that you implemented under the Tax Cuts
717 and Jobs Act of 2017. The Commission issued its Order 849 to
718 determine whether natural gas pipeline rates should be adjusted
719 to account for those tax cuts. And the Commission is dealing
720 with a review, and so far, there have been 21 rate settlements
721 between pipelines and their shippers and 11 weight reduction
722 filings. The Commission has also initiated six section 5 show
723 cost proceedings to see about reducing rates, trying to ensure
724 that the tax cuts you ordered into the code are flowing through
725 the customers.

726 Next, I want to talk a little bit about the electric markets.

727 The transformation of the electric grid through the markets and
728 competition has been amazing. Two-thirds of the nation's load
729 is served under an RTO or an ISO and Congress and FERC should
730 be proud of this achievement. Because of competition, new energy
731 sources can participate in the market and customers are seeing
732 the benefits. But there are also legitimate concerns, many of
733 the things that you have dealt with in your time here in Congress.

734 They include debates about the role of the different resources,
735 capacity markets, price formation, environmental, environmental

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736 goals, state energy policy goals, federal policy goals, market
737 manipulation, affordability, and of course the overarching goal,
738 making sure the lights turn on when the switch is flipped.

739 There are also a number of other issues. We are trying to
740 deal with PURPA, Order 1000, distributed energy resources,
741 hydroelectric power, return on equity, transmission investments,
742 and the specific tariffs that come before us. Each of these is
743 important to each one of us here on the Commission and we take
744 them serious, and we need to deal with them.

745 I will finally touch on one thing that is brought up by a
746 number of my fellow commissioners and which I find very important
747 as well, and that is energy storage. I was not on the Commission
748 when the energy storage issue was issued, Order 841, but I agree
749 with its portions of it that promote the use of energy storage
750 resources at the grid, at the transmission level, and the bulk
751 power system. But as you may know, I issued a concurrence in
752 dissent focused on the jurisdictional issue. I do not believe
753 that Congress provided the Commission under the Federal Power
754 Act the authority to regulate the distribution facilities that
755 are needed for those certain types of distribution or energy
756 resource batteries to be able to connect behind the meter or at
757 the distribution level.

758 So this was a position that I looked at seriously, especially
759 after comments filed by the National Association of Regulatory

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760 Utility Commissioners and the National Rural Electric Cooperative
761 Association. In the end, I did issue -- say that I didn't think
762 we have jurisdiction, but also believe that we should've beat
763 least considering opt out. Thank you very much.

764 [The prepared statement of Mr. McNamee follows:]

765

766 *****INSERT 4*****

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767 Mr. Rush. I want to thank all of the Commissioners for their
768 opening statement, and we have now concluded the time for opening
769 statements. We will move into members' questions. Each member
770 will that 5 minutes to ask questions of these witnesses, and I
771 will start by recognizing myself for 5 minutes for the purposes
772 of an opening, for questioning the commissioners.

773 Commissioner LaFleur, one of my concerns that I have stated
774 earlier is that consumer voices are often overlooked, ignored,
775 or cut out on the RTO process entirely. I understand that the
776 role of the consumer varies between the different RTOs, but how
777 do we ensure that consumers' voices are always heard and their
778 interests are being protected consistently no matter what region
779 they live in?

780 And I would like for all the commissioners to weigh in this
781 question also.

782 Ms. LaFleur. Well, thank you, Congressman, Chairman Rush.
783 That is an important question. As you noted, all of the six
784 RTOs and ISOs that are under the Commission's jurisdiction have
785 stakeholder processes that were approved by the Commission some
786 years ago, and they all include a consumer segment. It varies
787 in the different states, whether it is the Attorneys General,
788 the Citizens Utilities board as in your state, or sometimes
789 municipal concerns are in the consumer segment in the various
790 RTOs and they have a vibrant role in an participating in the

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791 dockets.

792 But I also think this Commission has a role. When we see
793 tariff proposals come before us, our obligation is to make sure
794 they are just and reasonable to the end consumer that is going
795 to be paying the bills at the end of the day. But we have heard
796 a lot recently about potential ways to re-look at Order 719 and
797 improve stakeholder processes and I think we should be alert to
798 ways to do that.

799 Mr. Chatterjee. If I could weigh in on that as well,
800 Chairman Rush. You have identified a very important issue and
801 I think, you know, transparency and ensuring the consumers' voices
802 are heard is critical. That is why we have our rules in place.

803 I think it is so important that stakeholders and consumers have
804 their voices heard on these issues because these issues have
805 implications for consumers. I think the best way for consumers
806 to have their voices heard, you know, go back to our rule. We
807 can look at changes we can make, but we also need to make sure
808 that consumers' concerns are met as they arise, with an eye towards
809 ensuring consumers' voices are being heard as they come up through
810 the process. And this is something that my colleagues and I will
811 continue to look at and be vigilant on, because I think that
812 transparency and accountability, these are very, very complex
813 matters and I think it is important that consumers are protected.

814 Mr. Rush. Commissioner Glick?

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815 Mr. Glick. Thank you, Mr. Chairman. You know, one of the
816 things that has been very enlightening since I have been at the
817 Commission for a little over a year now is just the amount of
818 frustration there has been with RTO governance around the country.

819 And it is not just consumer groups, it is other stakeholders
820 as well we have been very frustrated with. And I think it is
821 worth for the Commission to take a look at how the governance
822 process works and how the various stakeholders get to participate.

823 I would say that Congress in the late 1970s, early 1980s
824 passed legislation creating an Office of Public Participation
825 at FERC that I think would help provide for some consumer input
826 at the Commission. As I understand it, Congress never did fund
827 that Office, but I think it would be helpful if Congress did fund
828 it, and I think that would be one way for consumers to participate
829 in some of the decisionmaking processes we engage in.

830 Mr. Rush. Commissioner --

831 Mr. McNamee. Just briefly. I think that you are talking
832 about the importance of --

833 Mr. Rush. Commissioner McNamee, I am sorry.

834 Mr. McNamee. That is quite all right. I think you touch
835 on what is so very important is that in our entire system of
836 government, people want to be heard. And I know that we all take
837 very seriously our obligation to understand that every person
838 that files something in the Commission that that case is important

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839 to them and that they need to be heard. And I think we always
840 need to be vigilant to make sure that we are paying attention
841 to what consumers want, what stakeholders want, every participant
842 wants, in order to make sure that we are at least considering
843 and hear their concerns even though sometimes it won't always
844 be the result any particular individual or group wants. Thank
845 you.

846 Mr. Rush. I am going to yield back the remainder of my time
847 and now recognize the ranking member of the great state of
848 Michigan, Mr. Upton, for 5 minutes.

849 Mr. Upton. Thank you, Mr. Chairman. It is the great state
850 of Michigan, so that is good we put that adjective in there.

851 Mr. Chairman Chatterjee, first, I want to say to all four
852 of you, I appreciate your interaction with all of us. This is
853 something that is so important. We appreciate the relationships
854 that we have.

855 For me, we know that rogue hackers and state-sponsored
856 adversaries continue to launch cyber-attacks at our nation's
857 energy infrastructure virtually every single day. And as you
858 know, under the EPAct 2005, Congress gave FERC the authority to
859 oversee the reliability of the electric grid including the
860 authority to approve mandatory cybersecurity reliability
861 standards. The current framework for setting cyber standards
862 for the grid seems to be working pretty well, I think, but FERC

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863 does not have the authority over pipelines. And even though we
864 are increasingly relying on natural gas pipelines to keep our
865 power plants running -- and I know in my congressional district
866 we are expecting to break ground on a new Indeck facility in one
867 of my communities back home.

868 So the question is, should Congress be concerned about the
869 lack of cyber oversight for pipelines, and I would note that TSA
870 in a hearing that we had a couple weeks ago, has less than a handful
871 of folks -- anybody here from TSA? Didn't think so -- less than
872 a handful of folks out of their 50,000 employees that oversee
873 pipelines. They did refuse despite bipartisan efforts to try
874 to get them to testify before the committee, but what is your
875 thoughts about the involvement of cyber and the relationships
876 that you might have with other agencies as well?

877 Mr. Chatterjee. Thank you, sir, for the question and also
878 for your leadership on this issue and particularly during the
879 time that you chaired the committee. I think this is a very
880 serious issue and I think it is exacerbated by the increasing
881 interdependence between gas and electricity generation in this
882 country. 20 years ago, if a single gas pipeline went out, a
883 generator might not have flinched. Today, you might have eight
884 or nine generators depending on a single gas pipeline and a
885 physical or cyber-attack on such a pipeline could have
886 catastrophic cascading effects. And our adversaries know this.

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887 I think TSA does a remarkable job on things like the safety
888 of our aviation fleet, our highways, our rail, transportation
889 area, but they need to put a greater focus on securing these
890 pipelines because of this increasing interdependence for
891 electricity. Since you, Senator Cornyn, Senator Cantwell, and
892 a number of others have come out on this issue, Commissioner Glick
893 and I have also been very vocal about our concerns in this area.

894 We have seen some progress from both TSA and industry. I
895 have met multiple times with the TSA administrator Pekoske and
896 he has assured me that TSA is taking this seriously and they are
897 going to commit more resources to it. I have also seen industry
898 react positively and come forward and make the commitment that
899 they will make the requisite investments in this area, but we
900 have to remain vigilant on it. I think both TSA and industry
901 need to follow through on the commitments that they are making.

902 And if they don't, I think it is incumbent upon us at the
903 Commission and you all to keep the pressure on.

904 Mr. Upton. Well, we want to help you do that. Any other
905 commissioner wish -- Commissioner Glick?

906 Mr. Glick. Mr. Upton, as the chairman said, we wrote a joint
907 op-ed on this issue and I share the chairman's concerns. I would
908 say that I continue to have serious concerns about the TSA's
909 ability here. And I read the GAO Report recently that I think
910 expressed some serious concerns about their resources and their

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911 efforts in the program. And I am not entirely sure what their
912 plans are, we just need to see what their plans are in terms of
913 responding.

914 But we had a technical conference on cybersecurity just a
915 few months ago and a TSA witness participated and I asked her
916 about the success rate of their voluntary guidance. And they
917 said, "Well, our hope is to have a success rate of 80 percent."
918 Eighty percent doesn't cut it. We need to have the success rate
919 of a hundred percent. And again, the TSA does a wonderful job
920 on airports and other transportation, but I think the pipeline
921 industry, I think we need to see that moved. I would actually
922 recommend the Department of Energy. which is, as you know, the
923 lead energy sector agency for cybersecurity.

924 Mr. Upton. Commissioner LaFleur?

925 Ms. LaFleur. Thank you, Congressman. I was in the electric
926 industry when the mandatory standards were first handed down after
927 the 2005 act, and we did not exactly welcome them. Our attitude
928 was, we already do this right, why do we need mandatory standards?

929 But I believe they have definitely improved the reliability and
930 security of the grid and I actually think most people in the
931 industry would concede that now too.

932 I think, although I know the pipeline industry is not calling
933 for mandatory standards, I think the cybersecurity of the pipeline
934 grid is so important that it would be worthwhile for Congress

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935 to require some sort of mandatory authority. It doesn't have
936 to be at FERC. It could be at TSA and give them the resources,
937 it could be at DHS. It could be at DOE. I am not in the business
938 of looking for more responsibilities at FERC, that is up to you
939 all. But I do think a structure with some teeth to it would be
940 very helpful.

941 Mr. Upton. Thank you, Mr. Chairman. I yield back.

942 Mr. Rush. I want to thank the gentleman. And now the chair
943 recognizes Mr. Peters for 5 minutes.

944 Mr. Peters. Thank you. Thank you to the commissioners for
945 your work and for being here today. I want to just mention climate
946 change, which is exacerbating natural disasters. For California
947 that means more intense wildfires each year with a huge impact
948 on personal safety, communities' health, and the economy. The
949 Midwest has seen flooding. The South has seen hurricanes. The
950 Northeast has a cold snap, polar vortex conditions.

951 So I want to talk a little bit about how we are managing
952 the electric system and planning for that. How is FERC looking
953 at accounting for climate change in the design of wholesale
954 markets and in grid investments? Let's start with the chairman,
955 if I could.

956 Mr. Chatterjee. Thank you for your question, Congressman.
957 And, look, similarly, I share your concerns about climate change
958 and the impacts of climate change. I am a conservative, I grew

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959 up in coal country. But I believe that climate change is real,
960 that man has an impact, and that we need to take steps to mitigate
961 emissions. I have been very proud of the work that the Commission
962 has played in really helping the U.S. become a leader in emissions
963 reductions. And if you look at the statistics, the U.S. has been
964 a leader in emissions reductions. Power sector emissions in the
965 U.S. are at 1990s levels, and I think that is due to a couple
966 of things. The markets that FERC oversees, we are allowing
967 breaking down barriers to access so that newer technologies can
968 be --

969 Mr. Peters. And how is that happening? I want to be very
970 specific about what actions you are taking with respect to market
971 design.

972 Mr. Chatterjee. Yes, sir. So, I think the market works.
973 Competition works. Consumers are demanding cleaner energy
974 sources, those sources are dropping in price and are able to
975 compete and that --

976 Mr. Peters. Is there anything specifically that FERC is
977 doing?

978 Mr. Chatterjee. I could point to Order 841, the order we
979 did on battery storage to break down barriers to entry to allow
980 battery storage to be compensated for all of the attributes it
981 provides. That is going to lead to an increased deployment, we
982 think a dramatic increase in the deployment of battery storage

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983 technology which will have a direct and, I think, significant
984 impact on mitigating carbon emission.

985 Mr. Peters. There was a resilience docket that you opened
986 with the coal, nuclear NOPR was denied back in, I think, January
987 2018. You haven't taken any action on the resilience docket yet;
988 is that correct? And when can we expect that?

989 Mr. Chatterjee. That is correct. We don't make
990 projections on timing. It is a very complex docket. When
991 Secretary Perry proposed the rulemaking in the fall of 2017, the
992 action that he was asking for, compensating plants for having
993 onsite fuel, we all found collectively that our record did not
994 support that action. Now, a year and a half later, we have a
995 far more robust record and we are looking at these very complex
996 challenges.

997 I think the next step ought to be, and I don't want to get
998 in front my colleagues, but to engage the RTOs and the ISOs and
999 the states on fuel security, to look at this very serious issue.

1000 But what I can assure you we will not do is as the chairman said
1001 at the onset, we are not going to put our thumb on the scale for
1002 one fuel source or the other. We are going to look very seriously
1003 at these markets and the future of our grid.

1004 Mr. Peters. Ms. LaFleur, do you have any thoughts on this
1005 question?

1006 Ms. LaFleur. Yes, I certainly agree that the Commission

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1007 has a responsibility to make sure that the resource rules and
1008 the markets are adapted to new resources and not just the
1009 traditional resources that existed when the markets were built.

1010 And I think we have done a lot over the last decade on demand
1011 response, variable energy, renewables, storage and so forth, but
1012 beyond that what we are seeing now is that since there has not
1013 been -- in other environmental issues that the nation confronts,
1014 if Congress passes a law and says you have to reduce sulfur dioxide
1015 or whatever, then all the power plants have to conform and the
1016 cost of doing that gets priced into the market. Because there
1017 is not any national climate legislation as you know, it is being
1018 handled on a state by state basis.

1019 And that is the issue that I mentioned earlier that the
1020 markets are working to figure out how they can run a regional
1021 market with multiple states with all different climate policies,
1022 but I think it is essential that they do and the markets have
1023 to be adapted. If that is where climate action is going to happen
1024 on the state level, we have to adapt the markets to function in
1025 that environment.

1026 Mr. Peters. Are you saying that you think that a federal
1027 standard, a low carbon fuel standard or something like that would
1028 be helpful in getting --

1029 Ms. LaFleur. Absolutely. I think that it is a global
1030 issue; it should be addressed at the highest level possible.

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1031 And if we had a federal standard, whether we were deciding whether
1032 a pipeline was consistent with the standard or whether a tariff
1033 in the market was consistent, we would have a benchmark to look
1034 at. Do they have enough allowances? Does this work with their
1035 standards? And it would be far more compatible because the
1036 nation's electric grid is not state by state, it is big, big
1037 regions.

1038 Mr. Peters. Okay. Just a quick question for Commissioner
1039 Glick, I don't have a lot of time. But I am interested in
1040 hydropower as a valuable zero emission energy source. You
1041 mentioned it in the testimony. Really quickly, how do you think
1042 we increase hydropower facilities with pump storage capabilities?

1043 Mr. Glick. Well, pump storage can play a very important
1044 role and I think our storage rule didn't just apply to battery
1045 storage, it applied to pump storage and other forms of storage
1046 as well. I think what we need to do and what we are doing, I
1047 think, is through our licensing process consider proposals for
1048 pump storage products and approve them, assuming they are in the
1049 public interest.

1050 And I think --

1051 Mr. Peters. Okay, I am out of time. I am sorry. I don't
1052 want to take my colleagues' time, but if you want to give me
1053 anything in writing on that, that would be helpful too.

1054 Mr. Glick. Will do, sir.

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1055 Mr. Peters. Mr. Chairman, I yield back.

1056 Mr. Rush. The chairman thanks the gentleman. The chair
1057 recognizes now Mrs. McMorris Rodgers for the purposes -- no, Mr.
1058 Latta. I am sorry. Mr. Latta. Mr. Latta.

1059 Mr. Latta. Thank you, Mr. Chairman, and thanks for holding
1060 today's hearing and thanks to our witnesses for being with us
1061 today. It is very, very important that you are here.

1062 Chairman, if I could ask some questions of you this morning,
1063 you recently mentioned that you would like to see FERC to do more
1064 to consider landowners affected by pipeline projects, saying,
1065 "It is not a landowner's responsibility to be tracking FERC's
1066 filings." Would you tell the committee what you see FERC doing
1067 and tell us if there is anything that you need from Congress at
1068 this time?

1069 Mr. Chatterjee. Yeah, absolutely. And thank you for the
1070 question, Congressman. I think energy infrastructure is
1071 important. We need it for our economy, for our security, for
1072 the reliability of the grid, but we have to be mindful that
1073 landowners, you know, need to understand what their rights are,
1074 need to understand what options there are for mitigation, for
1075 restoration and the like. And I don't think the Commission nor
1076 project sponsors have done a good enough job in communicating
1077 these things to landowners.

1078 And so, as we opened a review of our 1999 certificate policy

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1079 statement which is our process for evaluating pipeline
1080 applications that was one area that I zeroed in on, is what can
1081 we do to ensure that landowners' rights are taken into
1082 consideration and they are aware of what options are available
1083 to them. And that is something that we are looking to do. We
1084 are actively meeting with stakeholders to figure out where we
1085 can make improvements.

1086 I have seen some improvements from project sponsors.
1087 Project sponsors, since I have made this clarion call, have come
1088 to the Commission and shown me the lengths that they go to and
1089 the investment that they make in communicating with the
1090 landowners. And that is a step in the right direction, but I
1091 am hoping that we at the Commission can do our part to ensure
1092 that landowners --

1093 Mr. Latta. Do you have any specific examples right now that
1094 what FERC has been doing?

1095 Mr. Chatterjee. So we are in the process right now, it may
1096 not seem that significant but it really is, in just updating our
1097 website and ensuring that, you know, information is more easily
1098 disseminatable to people who, as I stated, it is not their job.

1099 It is not their responsibility to track these very complex
1100 filings. They shouldn't know -- a need to know and track these
1101 proceedings, and we need to make this information more readily
1102 available to them and get it out proactively.

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1103 Mr. Latta. Okay, thank you. Let me follow up with another
1104 question to you. The reliability and resiliency of the bulk
1105 electric system requires support from generation and transmission
1106 assets. Given the ever-adapting nature of electricity supplies,
1107 would you talk about the importance of the transmission assets
1108 to the future reliability and resilience regardless of the type
1109 of fuel?

1110 Mr. Chatterjee. Yes, sir. I think there is no question
1111 that we are experiencing rapid transition in our energy landscape.
1112 And I think as the grid adapts and as we move towards the grid
1113 of the future, I fundamentally believe that transmission will
1114 be the key and we have to make sure that we get, at the Commission,
1115 get transmission policy right to ensure that that grid of the
1116 future is in place.

1117 We currently have two open proceedings, two notice of
1118 inquiries that we opened a few months ago to look at how we
1119 calculate ROEs, return on equities for these investments as well
1120 as our incentives policy. What types of transmission should we
1121 be incenting? And I think for me, a current approach is to
1122 evaluate, put out incentives based on the risks of a particular
1123 project. I don't know if that is the smartest approach to
1124 ensuring that the grid of the future that we need is built and
1125 so we are going to look to see what are the smart investments
1126 that need to be made to ensure that that transmission system is

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1127 in place so we can maintain the reliability and resilience of
1128 the grid.

1129 Mr. Latta. Okay. Well, thank you. One more question.
1130 You mentioned in your testimony that in October of last year,
1131 FERC approved new mandatory reliability standards to bolster
1132 supply chain risk management protections for the nation's bulk
1133 electric system. Would you expand on this and other activities
1134 that FERC is undertaking especially on the supply chain and
1135 critical infrastructure?

1136 Mr. Chatterjee. Yeah. Thank you, sir. I mean the supply
1137 chain is something that we all need to, you know, be focused on,
1138 because again it is a challenge for FERC because we don't have
1139 jurisdiction in some of these areas and so we have to be
1140 coordinated and work with NERC and others to stay ahead on this.

1141 The reality is cybersecurity and the reliability of the grid,
1142 this is the new reality that we must contend with. And while
1143 we are the beneficiaries, consumers are the beneficiaries,
1144 America is the beneficiaries of this tremendous evolution and
1145 technological innovation, that innovation comes with a downside
1146 risk and that is increasing vulnerability to threats from bad
1147 actors and on the cyber side.

1148 And I think it is incumbent that we are partners with NERC,
1149 Congress, the Department of Energy, and across the federal
1150 government work together because we do have criss-crossing

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1151 jurisdictions in some areas and we need to ensure that those lines
1152 of communication are in place so that we cannot just have
1153 standards, because I believe standards to be the floor not the
1154 ceiling of what we can do, I think if we all work together because
1155 our adversaries are continually evolving and we have to evolve
1156 to stay one step ahead of them.

1157 Mr. Latta. Well, thank you very much, Mr. Chairman. My
1158 time has expired and I yield back.

1159 Mr. Rush. The chair thanks the gentleman. The chair now
1160 recognizes Mr. Doyle for 5 minutes. I am sorry. Mr. Pallone
1161 is here, the chairman of the full committee. Mr. Pallone for
1162 5 minutes.

1163 The Chairman. Thank you. Thank you, Chairman.

1164 In his opening statement, Mr. Kennedy raised concerns about
1165 regional transmission organization, RTO, governance, and I share
1166 many of his concerns. FERC Order 719 directs RTO procedures and
1167 practices to be inclusive, to fairly balance diverse interests,
1168 and to ensure adequate consideration of minority positions. And
1169 that Order 719 was issued in 2008 and it provides stakeholders
1170 process requirements for RTOs to follow, but to my knowledge there
1171 has not been a comprehensive review by FERC of each RTO stakeholder
1172 process to ensure compliance with the requirements of Order 719.

1173 So, Chairman Chatterjee, I just would say it is time to review
1174 the requirements and to review RTO compliance. And I want to

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1175 know if you agree and, if so, would you consider taking action
1176 on this matter in the immediate future?

1177 Mr. Chatterjee. Thank you for the question, Mr. Chairman.

1178 We were discussing earlier, this is something that we continually
1179 hear from people around the country, concerns about ensuring that
1180 consumers' voices are heard, that the process is transparent,
1181 that people are aware of what is transpiring within the RTOs and
1182 the ISOs. And yes, it has been a decade since we looked at Order
1183 719.

1184 I do think, you know, going back to the rule is one option,
1185 but, you know, looking with an eye towards ensuring consumers'
1186 voices are heard as they come up through the process is another
1187 manner in which to do this. I think particularly as new
1188 technologies come into play and we look to break down barriers
1189 to entry, we need to ensure that these new voices have an
1190 opportunity to be heard at the RTOs and the ISOs and certainly
1191 it is something I am committed to working towards.

1192 The Chairman. Well, I appreciate that and, you know, want
1193 to continue to working with you. I also want to reiterate what
1194 I said in my opening statement regarding concerns with the process
1195 by which RTOs assess their transmission infrastructure needs.

1196 We must provide greater incentives for non-transmission
1197 alternatives so that companies are not building unnecessary
1198 infrastructure that increases costs to ratepayers.

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1199 So let me ask Commissioner Glick, do you believe that in
1200 certain cases non-transmission alternatives can be used to
1201 increase reliability while also limiting costs to ratepayers?

1202 Mr. Glick. Thank you, Mr. Chairman. Absolutely, they do.

1203 And as a matter of fact, you know, in the Commission's Order
1204 1000 issued several years ago, it requires transmission planners
1205 and the various RTOs and the ISOs around the country to consider
1206 non-transmission alternatives. What I think is missing is that
1207 I think there is an incentive for utilities many times to build
1208 more transmission because if you build, you invest something that
1209 costs a lot of capital --

1210 The Chairman. Exactly. And that is what I hear from my
1211 consumers.

1212 Mr. Glick. So I think what we need to do, and Chairman
1213 Chatterjee earlier mentioned that we have a new incentives process
1214 at FERC looking at our incentives policy, and I think what we
1215 need to do is incentivize using newer technologies and
1216 non-transmission alternatives, but also using our existing grid
1217 more efficiently rather than -- sometimes we can do that rather
1218 than build a line. We need to encourage utilities to look into
1219 those types of investments.

1220 The Chairman. Oh, this is music to my ears, I want to be
1221 honest with you. Now let me see if I can get a climate question
1222 in. In May 2018, FERC issued a new policy that eliminated from

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1223 consideration most upstream and downstream greenhouse gas
1224 emissions. Just last week, the D.C. Circuit in the Broad Run
1225 case flatly rejected the core legal arguments that form the basis
1226 for that policy.

1227 So let me just ask Commissioner Glick and LaFleur, not much
1228 time left, but do you think the Court's decision in Sabal Trail
1229 and Broad Run require FERC to reform how it considers upstream
1230 and downstream greenhouse gas emissions? I guess I will start
1231 with Ms. LaFleur since I haven't asked you.

1232 Ms. LaFleur. Yes, the Sierra Club case and the Sabal Trail
1233 definitely changed the rules that apply to the Commission or made
1234 clear what they were. It specifically related to downstream
1235 emissions and I think the Commission has been too stinting in
1236 its interpretation. I dissented in our order on remand because
1237 I think we have only taken the court's guidance to heart when
1238 it is a specific power plant exactly like the situation in the
1239 Sabal Trail pipeline. And I think the implications of the
1240 decision go much broader. And as Commissioner Glick testified
1241 earlier, a couple weeks ago we got another decision from the D.C.
1242 Circuit that made clear that FERC is a legally relevant cause
1243 of the downstream emissions and we should be looking at them.

1244 The Chairman. Mr. Glick?

1245 Mr. Glick. Mr. Chairman, I would just say that there has
1246 been some question recently as to whether the Commission has the

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1247 authority to look at reasonably foreseeable greenhouse gas
1248 emissions, and I think the two court cases including the one last
1249 week have, I think, put that question to bed. I think we clearly
1250 have that authority.

1251 The Chairman. Quickly, how does FERC's analysis of a
1252 project's greenhouse gas emissions related to the requirement
1253 of the Natural Gas Act to only approve projects that are in the
1254 public convenience and necessity?

1255 Mr. Glick. Well, when we consider the public interest, we
1256 also look at the environmental impacts of the pipeline, for
1257 instance, wetlands or migratory birds or anything like that.
1258 And if we find that the adverse -- the impacts of the environment
1259 are too adverse, then we won't consider the project to be in the
1260 public interest. Here, we are actually ignoring what impacts
1261 the project might have on climate change.

1262 The Chairman. Thank you. Thank you, Mr. Chairman.

1263 Mr. Rush. The chair now recognizes Mrs. McMorris Rodgers
1264 for 5 minutes.

1265 Mrs. McMorris Rodgers. Thank you, Mr. Chairman. I
1266 appreciate everyone being here and for your work at FERC. I am
1267 from Washington State. And if you are not aware, my district
1268 in Washington State is very dependent upon hydropower and I
1269 believe that we should be embracing what hydropower can provide
1270 for us as we continue to move towards a 21st century clean energy

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1271 future.

1272 You know, in Washington State right now, our carbon emissions
1273 are actually up and some of that is -- one of the big drivers
1274 is because of the -- from power plants, more dependence on power
1275 plants. And I look at this and I think there is so much more
1276 capacity for hydroelectricity, even in Washington State as well
1277 as across the country. The National Hydropower Association did
1278 a report a few years ago highlighting that we could double
1279 hydropower in America without building a new dam because only
1280 three percent of the dams actually produce electricity.

1281 So there is huge infrastructure investment there and as the
1282 largest renewable with lots of potential, I just believe that
1283 we should be doing more. It is renewable. It is reliable. It
1284 is affordable. We enjoy some of the lowest electricity rates
1285 in the country because of hydropower. Last Congress, I had
1286 introduced the Hydropower Policy Modernization Act which would
1287 have modernized the hydropower licensing review process. Just
1288 to put this in perspective, it takes on average 10 years to
1289 relicense a hydropower facility in America today. You can
1290 compare that to a natural gas facility at 18 months, I believe
1291 that we can do better. This legislation passed the House with
1292 bipartisan support, and I would like just to use this opportunity
1293 today to ask about the FERC process for licensing, relicensing
1294 of hydropower projects. It is my understanding that there are

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1295 hundreds of hydropower projects scheduled to come up for
1296 relicensing before the Commission in the next 10 years. While
1297 Congress has passed some improvements for the licensing of new
1298 projects, we haven't yet passed the significant reforms for the
1299 existing projects across this country.

1300 This lack of action and its impact on our existing
1301 hydroelectric facilities is why I continue to advocate for us
1302 addressing the relicensing of hydropower in America. I have
1303 concerns that the uncertainty in the cost as currently associated
1304 with hydro relicensing, particularly for the smaller projects,
1305 may result in fewer relicensing efforts and will lead to a loss
1306 of flexible generation, less reliable grid. Hydropower provides
1307 the largest natural batteries in the country also. There is lots
1308 of benefit.

1309 So I wanted just to ask the chairman and the others, do you
1310 agree that this lack of effort to address and improve our
1311 relicensing process is of concern and, if so, what are some of
1312 the areas you would recommend that we work on to reduce the
1313 duplication of effort, unnecessary delays, and undue cost?

1314 Mr. Chatterjee. Thank you for the question and for your
1315 support of this. I agree with you on the significance of hydro
1316 and the concern about the licensing process. We have been working
1317 very hard on it. We issued a final rule establishing an expedited
1318 licensing process for original hydropower licenses for certain

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1319 facilities at existing non-power dams and for closed loop pump
1320 storage projects. We are fully aware that another wave is coming
1321 and we have alerted the licensees far in advance to give them
1322 time to work on their applications.

1323 I also share your concern that a number of the relicenses
1324 are small projects which have the downside of them possibly having
1325 limited resources and expertise on relicensing, but the upside
1326 of the amount of actual work and paperwork not being as much as
1327 for a larger facility with bigger upsides, and so we are taking
1328 these things into consideration. I also want to note, existing
1329 licensees can continue to operate under 1 year extension if their
1330 relicensing isn't done by the time that their license expires,
1331 so no one is shut down if they are not relicensed before
1332 expiration. But to answer your question, you know, we totally
1333 understand and have undertaken a flexible approach to approving
1334 requests for license term modifications to facilitate coordinated
1335 relicensing of projects that are located in the same sections
1336 as river basin, where periodically --

1337 Mrs. McMorris Rodgers. Excuse me. Excuse me, real quick.

1338 I appreciate that. I have very little time left. But would
1339 you also just speak very quickly to how hydropower could benefit
1340 the grid?

1341 Mr. Chatterjee. It is a reliable, clean source of energy
1342 and as we look to continue to squeeze carbon emissions out of

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1343 the grid, I think hydro can play an incredibly important role.

1344 Mrs. McMorris Rodgers. Thank you. Thank you so much.

1345 Mr. Rush. The chair now recognizes Mr. Doyle for 5 minutes.

1346 Mr. Doyle. Thank you, Mr. Chairman. And welcome to our
1347 FERC commissioners, we appreciate you being here.

1348 Last year, FERC determined that PJM's capacity auction
1349 structure was unjust and unreasonable with regards to the
1350 state-supported resources such as renewables or nuclear. And
1351 in response, PJM submitted a proposal that has been pending for
1352 a year. FERC suggested alternatives to this structure but has
1353 not yet released any details for an acceptable mechanism. FERC
1354 permitted PJM to delay its capacity auction from May of 2019 and
1355 hold it this August instead. That decision on a rule was supposed
1356 to come in January, but now it is June and we still haven't seen
1357 a rule.

1358 So either a rule is going to be published right before August,
1359 which won't give auction participants enough time to adjust, or
1360 a decision will not be published and participants will have to
1361 take part in an auction under rules that FERC has found to be
1362 unjust and unreasonable. That raises lots of concerns and
1363 uncertainty. I am interested in hearing what the commissioners
1364 say. When do you intend to issue this rulemaking and what tools
1365 does FERC have to provide some clarity to this situation?

1366 And, Mr. Chairman, I will start with you.

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1367 Mr. Chatterjee. Sir, so I have to be, and my colleagues
1368 and I all have to be very careful here. This is a pending
1369 contested matter and our rules prevent us from discussing internal
1370 --

1371 Mr. Doyle. Well, I understand it is a pending case, but
1372 the reality is that you are creating a considerable amount of
1373 uncertainty here. PJM's capacity auction in May of 2018 procured
1374 160,000 megawatts of capacity at a value of nine billion dollars.
1375 That is a lot of risk for companies to take in.

1376 Mr. Chatterjee. Sir, we completely understand. At a very
1377 macro level, again not getting into the specifics of the matter
1378 before us, this is a vexing challenge. Because you have a
1379 situation where, two things that I think we all believe in, states'
1380 rights and the markets are colliding. We all want these markets
1381 to succeed and to function and work properly and we want to respect
1382 states' rights.

1383 But we are coming to a point where actions that states are
1384 taking to make decisions about their local energy futures are
1385 impacting the markets and trying to figure out how to sort through
1386 that while ensuring just and reasonable rates has proven to be
1387 very, very challenging. And so, while I can't speak against the
1388 specifics or timing, please understand we take this very
1389 seriously. We understand the need for clarity and to calm the
1390 markets and we are working as diligently as we can.

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1391 Mr. Doyle. Well, let me ask Commissioner LaFleur and Glick,
1392 are there any things that FERC can do to provide some guidance
1393 to PJM and provide some clarity if that is the situation if we
1394 are not going to have a rule?

1395 Ms. LaFleur. Well, I also can't comment on the merits of
1396 what is before us, but I am deeply, deeply troubled by the delay.

1397 And I had dissented in the initial order because I thought it
1398 would put PJM in an impossible situation and I am afraid that
1399 is exactly what has come to pass. And I have been using my
1400 world-class powers of nagging to be a nag about it, but so far
1401 we have not gotten an order out. I think we have a lot of tools
1402 at our disposal but we have to agree on them and use them.

1403 Mr. Doyle. Commissioner Glick?

1404 Mr. Glick. I have spent a lot of time in the private sector
1405 and one thing I learned from working there is that you need
1406 regulatory certainty. Companies can't make investments without
1407 knowing where the government is going, so I think it is incumbent
1408 upon us to make a decision and act. Obviously, I can't talk about
1409 timing or the nature of it, but I do want to point out that you
1410 mentioned that if the auction is held under the current rule it
1411 may be considered unjust and unreasonable. So I am not entirely
1412 sure how the auction can go forward until there is some more
1413 clarity from FERC.

1414 Mr. Doyle. Well, let's hope that is sooner rather than

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1415 later. This is June.

1416 Commissioner Glick, let me ask you. Capacity markets don't
1417 consider the impact of carbon on the atmosphere in each
1418 generator's bid. Do you think capacity market rules should be
1419 rewritten to reflect this and how do we protect states' rights
1420 in the process?

1421 Mr. Glick. Well, I think, in general, if capacity markets
1422 are run properly, I think that the most competitive resources
1423 will succeed. And I think in this case, and lately we have seen
1424 lower greenhouse gas emitting technologies will certainly do well
1425 in those markets, I will say that I think that -- I am not entirely
1426 sure if FERC has the authority to require capacity markets to
1427 take into account emissions, greenhouse gas emissions, but --

1428 Mr. Doyle. Do you think they should?

1429 Mr. Glick. Well, I think if Congress gave us the authority
1430 we should -- we certainly can consider, and I know that PJM and
1431 New York are two ISOs and RTOs right now that are considering
1432 imposing some sort of carbon pricing regime. And I think we could
1433 consider that and maybe approve that assuming it is just and
1434 reasonable. But I am not sure if we can do that on our own
1435 authority right now.

1436 Mr. Doyle. Well, I see my time is running out, but I would
1437 encourage you to please provide some clarity to what is going
1438 on with PJM. I don't know how they can hold an auction in August

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1439 without a rule or without some direction from the Commission.

1440 I would urge that.

1441 Mr. Chairman, thank you. I yield back.

1442 Mr. Rush. The chair now recognizes Mr. Olson for 5 minutes.

1443 Mr. Olson. I thank the chair and welcome to our four FERC
1444 witnesses. A special howdy to a native-born Texan, Commissioner
1445 McNamee. Howdy.

1446 Mr. McNamee. Howdy.

1447 Mr. Olson. I want to start with a question to you, Mr.
1448 Chatterjee, that is very important to the people I work for in
1449 Texas 22 and my entire state. As you know, Houston is the heart
1450 of the American energy economy. We aren't just powering America,
1451 we are now powering the entire world. And as American energy
1452 becomes more dominant, that role keeps increasing for soon-to-be
1453 the third largest city in America. We are going to overtake
1454 Chicago within 2 years.

1455 Sorry, Mr. Chairman, but those are the facts.

1456 Mr. Rush. Don't bet on it.

1457 Mr. Olson. FERC knows that fact and that there is a need
1458 for FERC to adjust to that reality. I think it is high time that
1459 we have Commission staff right there in Houston, Texas, down where
1460 they are needed. You seem to agree. At the annual CERAWEEK a
1461 couple months ago in Houston, you told the Houston Chronicle,
1462 "A Houston office makes a lot of sense." Can you talk about why

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1463 a regional office in Houston makes sense, what are you plans to
1464 make it happen, and how can I help?

1465 Mr. Chatterjee. Yes, sir. Thank you for the question and
1466 for your leadership in this area. How this all came about, there
1467 was a period last summer where I became genuinely concerned that
1468 we didn't have the staff and the resources in place to consider
1469 the number of LNG applications that were before us. And I truly
1470 believed there was a chance that we could miss this incredible
1471 American moment where U.S. LNG exports could benefit the economy,
1472 could benefit the environment by lowering global carbon
1473 emissions, and have geopolitical significance for America. But
1474 I was worried that FERC would miss our deadlines.

1475 And so, we frantically worked to hire the lawyers and the
1476 engineers that were necessary to streamline the bureaucracy.
1477 We had an MOU with PHMSA which enabled us to earlier this year
1478 we have now approved four LNG applications. We hadn't in 2 years;
1479 we have done four. That is very significant and it is due to
1480 this hard work. But I want to make sure that as the next wave
1481 of applications comes through that we have the infrastructure
1482 in place to continue to consider them, because we are responsible
1483 not just for reviewing new applications but for existing approved
1484 facilities as well.

1485 The expertise is in and around the Houston area. As you
1486 mentioned, you guys are the epicenter of the energy universe.

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1487 That is where the schools are training the engineers and the
1488 lawyers who will do this work. And so, perhaps, you know,
1489 attracting and retaining the kind of talent we need to process
1490 this can be very difficult. Maybe having an office in Houston,
1491 which is something that we are actively working towards and hope
1492 to have an announcement on soon, would give us that venue to get
1493 the talent where it is, identify the people on the ground, and
1494 make sure that America continues to take advantage of this
1495 incredible opportunity.

1496 Mr. Olson. You brought up LNG and that is my next question.
1497 Like you, I was worried a few years ago. FERC was being
1498 overwhelmed by applications for LNG export projects. You had
1499 some problems. Not your fault, but hey, getting somebody through
1500 the Senate, confirmed, delays, explosive permits, as you
1501 mentioned, manpower. And as you know, speed is the key to
1502 approval. We have to have quick approval to make these things
1503 viable. Companies need to line up financing. They need to lock
1504 in buyers. These delays could have hurt our jobs right here in
1505 America. They could have hurt our allies who are craving our
1506 liquefied natural gas that are being stuck right now with gas
1507 from Mr. Putin.

1508 But you and your colleagues turned that ship around through
1509 some challenging seas. We have now seen some key projects
1510 approved. You mentioned four. We have American liquefied

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1511 natural gas going to India, Japan, South Korea, Poland, Lithuania,
1512 China, just to mention a few. We are exporting liquid American
1513 freedom. Can you talk about your challenges, how you got those
1514 approvals headed out the door and what is next for LNG export
1515 rounds?

1516 Mr. Chatterjee. Thank you, sir. So I mentioned some of
1517 the procedural things we did, the MOU with PHMSA, hiring people,
1518 cutting through bureaucracy, streamlining the process, but the
1519 most significant thing that we did because we had a timeline in
1520 which we needed to consider these applications and there is four
1521 of us at the Commission that have, you know, very strong views
1522 and we consider each application on a case-by-case basis, but
1523 I think one of the things that I am most proud of is myself,
1524 Commissioner LaFleur, and Commissioner McNamee came together to
1525 overcome what had been the biggest obstacle to our approving these
1526 projects, once we go through our application analysis, which was
1527 how to account for greenhouse gas emissions.

1528 And Commissioner LaFleur didn't get everything she wanted
1529 but was willing to compromise. Commissioner McNamee gave some
1530 things up that he was reluctant to do but was willing to
1531 compromise. And the three of us came through and were able to
1532 negotiate a bipartisan compromise that enabled these projects
1533 to move forward which is so important for America. And I am very
1534 proud of it because it is an example of people putting the public

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1535 good ahead of partisan interests. And as far as I know, I think
1536 we are the only three people in the federal government to have
1537 successfully negotiated a climate compromise and it is a big deal
1538 for America on LNG and it is something I am proud of.

1539 Mr. Olson. You all have the bottle for America in the
1540 future. My time is expired. I yield back.

1541 Mr. Chatterjee. Thank you, sir. Can I quote you on that?

1542 Mr. Olson. Sure. It is public.

1543 Mr. Rush. The chair now recognizes Mr. McNerney for 5
1544 minutes.

1545 Mr. McNerney. I thank the chairman and I thank the
1546 commissioners this morning.

1547 Commissioner LaFleur, you mentioned some interesting
1548 comments about how to pay for selected resources in your
1549 statements. Would you expand on your comments and include how
1550 it might affect reducing greenhouse gases?

1551 Ms. LaFleur. Yes. What we are seeing is that right now
1552 many states, including your own, have taken a pledge to do all
1553 they can at the state level to mitigate the impact of climate
1554 change and they are doing it by in many cases selecting, requiring
1555 either carbon targets or percentages of clean resources or
1556 carbon-free resources. And they are also doing it in some cases
1557 by subsidizing carbon-free resources that would otherwise be
1558 retiring.

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1559 What we are finding is that in regions with multistate
1560 markets when different states have different rules it is difficult
1561 for the markets to accommodate that. And that is why we have
1562 been doing a lot of work in our dockets, as in the ISO New England
1563 docket, to put in place new rules where states can -- because
1564 other resources are bidding into the markets without any subsidy
1565 or in states that don't have any carbon rules, then how do we
1566 fairly price all of this. That has been a significant issue.

1567 Mr. McNerney. Thank you.

1568 Commissioner Glick, do you feel that the electric grid can
1569 both expand service, say, to the transportation sector and reach
1570 80 percent of penetration with renewable sources and, if so, how
1571 soon do you think we can do that?

1572 Mr. Glick. I don't want to make a prediction about what
1573 year that might occur, but I am certainly confident that we can
1574 do it. I think there has been a number of studies both at NREL
1575 and various RTOs around the country that show that much greater
1576 penetrations of renewable energy are possible with very limited
1577 changes to transmission, for instance, and do it reliably.

1578 I will give you examples. Iowa, Kansas, Oklahoma, all three
1579 of them already currently have more than 30 percent of wind power
1580 just on their grid. SPP, one of the RTOs in the region has, I
1581 think, had a couple times where they were over 60 percent
1582 renewables just at one particular time and no reliability problem.

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1583 California ISO, I think 76 percent, if I am not mistaken, 1 day
1584 earlier this year. So there is enormous possibilities there and
1585 I think they can be done relatively quickly but I can't give you
1586 an exact actual year.

1587 Mr. McNerney. Thank you. That is pretty exciting if we
1588 can reach 80 percent with renewables, you know, in a reasonable
1589 time frame.

1590 Chairman Chatterjee, the FERC has approved the natural gas
1591 pipelines and LNGs and that sounds good. But if only two percent
1592 of the natural gas escapes through to the atmosphere, then we
1593 are going to be in worse shape than if we used coal. So are you
1594 taking leakage into consideration? Are you putting in high
1595 standards for the pipelines that are going in and for LNG? I
1596 mean this is a pretty serious issue in my mind.

1597 Mr. Chatterjee. I understand, sir, and we take very
1598 seriously our responsibility to evaluate the safety and
1599 environmental considerations of the energy infrastructure that
1600 we consider and we look at each project on a case-by-case basis.

1601 What I can say is, you know, the U.S. is currently at 1990s levels
1602 when it comes to carbon emissions in the power sector. I think
1603 that it is direct --

1604 Mr. McNerney. But it is not just carbon. I mean natural
1605 gas emissions are very much stronger in terms of greenhouse gas
1606 effects than carbon.

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1607 Mr. Chatterjee. But, sir, I think we are seeing market
1608 forces and the deployment of clean energy --

1609 Mr. McNerney. But the question is, are you putting high
1610 standards in for these pipelines?

1611 Mr. Chatterjee. I believe we have the highest environmental
1612 standards and will continue to enforce them.

1613 Mr. McNerney. Thank you. Also, regarding cybersecurity,
1614 Mr. Latta and I introduced H.R. 359, the Enhancing Grid Security
1615 Through Public-Private Partnerships Act. Would you speak about
1616 how this and other cyber legislation would add the better defense
1617 at the grid?

1618 Mr. Chatterjee. So I am not familiar with the specifics
1619 of the legislation. Can you just give me a sort of top line on
1620 what it would achieve?

1621 Mr. McNerney. Well, it uses public and private resources
1622 to give grid, the electricity companies the resources they need
1623 to implement cyber measures.

1624 Mr. Chatterjee. I would like to look at it more closely,
1625 but again based on that description it is certainly something
1626 that I am interested in. As I mentioned earlier, the
1627 cybersecurity, ensuring -- I believe ensuring the reliability
1628 of the grid is the most important job that my colleagues and I
1629 play. Cybersecurity is a real threat and we all have to remain
1630 vigilant on it. And I applaud you for your legislation.

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1631 Mr. McNerney. Briefly, what reliability gaps still exist
1632 that could be addressed by legislation?

1633 Mr. Chatterjee. So, look, we have to constantly remain
1634 vigilant in ensuring the reliability of the grid. I do believe
1635 that the U.S. grid is the most reliable on the planet, but we
1636 are increasingly facing threats from hostile actors and we need
1637 to do what we can. We discussed it earlier, the potential
1638 vulnerabilities to the cybersecurity or physical security of our
1639 pipeline infrastructure. That is certainly an area where we need
1640 greater focus.

1641 Mr. McNerney. All right. Thank you, Mr. Chairman.

1642 Mr. Rush. The chair now recognizes the ranking member of
1643 the full committee, Mr. Walden, for 5 minutes.

1644 Mr. Walden. Thank you, Mr. Chairman. Again, to all of you,
1645 thanks for your service to the country and thanks for being here
1646 today to help us do our proper oversight. Under my chairmanship
1647 of the full committee, we prioritized policies that I think were
1648 both good for consumers and the environment. And we said they
1649 weren't mutually exclusive, either. You can do both. In the
1650 last Congress, in fact, this committee passed more than a dozen
1651 bills signed into law to give FERC new authorities and streamline
1652 existing processes to encourage new hydropower development and
1653 bring more accountability to the ratemaking process.

1654 So what I would like to know is, what is the status on FERC's

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1655 implementation of these bills which were incorporated into the
1656 America's Water Infrastructure Act of 2018? And so, I might go
1657 to Chairman Chatterjee, if you can, can you give me an update
1658 on what you are finding, what you are implementing, what is
1659 working, what is not, what do we need to do improve upon? Because
1660 I think hydro, to Mr. McNerney's point on some of the other sources
1661 of energy, hydro, we know, has no emissions to it. And so, we
1662 would like to know how you are doing implementing this.

1663 Mr. Chatterjee. Thank you for the question and for your
1664 leadership on this issue as chair of the committee. You know,
1665 over the past few Congresses, this committee has pushed an
1666 infrastructure legislative reform initiative that included
1667 hydropower licensing reform. When it comes to implementation
1668 of these where the provisions further details into the regulations
1669 that FERC was directed to promulgate pursuant to the America's
1670 Water Infrastructure Act of 2018, we are working on it. I think
1671 that shared decisionmaking in the regulation of hydropower
1672 projects has complicated the Commission's efforts to timely and
1673 efficiently process applications.

1674 Mr. Walden. Right.

1675 Mr. Chatterjee. In particular, these large complex
1676 relicense applications in certain regions. And therefore, I
1677 totally support the efforts that you all have made to streamline
1678 the hydropower review process. Having said that, the committee

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1679 already attempts to set schedules for agencies, but none of that
1680 overrides these agencies' independent authority for the processes
1681 under their own statutes. Statutory requirements give other
1682 agencies a significant role in the licensing process, thus
1683 limiting our Commission's control of the cost, timing, and
1684 efficiency of licensing, but it is something that we take very
1685 seriously are working towards.

1686 Mr. Walden. But in terms of implementing, the regulations
1687 to implement these laws, what should we look for in terms of timing
1688 on that?

1689 Mr. Chatterjee. We don't like to make predictions on
1690 timing, but please know that we are taking it very seriously.

1691 Mr. Walden. All right, good, because we --

1692 Ms. LaFleur. We vote.

1693 Mr. Walden. Yeah.

1694 Mr. Chatterjee. Commissioner LaFleur reminds me that we
1695 did vote this out at our April open meeting.

1696 Mr. Walden. April, okay.

1697 Ms. LaFleur. I believe it was April, yeah.

1698 Mr. Walden. Yeah. I know you are all juggling a lot like
1699 we are, so we appreciate that.

1700 Ms. LaFleur. We made it by days in the statutory deadline
1701 to get the regs out. The staff did a great job.

1702 Mr. Walden. Well, now I am going to give you a gold star.

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1703 I think you are the only agency that has met things -- well,
1704 anyway.

1705 So I mentioned in my opening about constriction points and
1706 bottlenecks and I know the Northeast suffers from it. And I am
1707 just curious, you know, we did 11 hearings on electricity issues
1708 and grid modernization pricing, electricity markets, because we
1709 are concerned on the electricity side especially about this, but
1710 we know it is more than that. And I just wonder what kind of
1711 barriers you have identified to the development and deployment
1712 of new technologies that will harden the grid, reduce emissions,
1713 and allow for new transmission infrastructure. What are you
1714 seeing on the ground around the country that we need to be aware
1715 of that is holding back our ability to get more less-emitting
1716 energy sources onto the grid?

1717 Mr. Chatterjee. So what we have seen is just, you know,
1718 there are some obstacles in place in the various RTOs and the
1719 ISOs to new entrants, to new technologies in that, you know, legacy
1720 incumbents have procedural processes in place that they can use
1721 to prevent some of these new technologies from being compensated
1722 for the attributes that they provide.

1723 And so, I think, I point to Order 841 on battery storage
1724 that we were able to pass in 2018 and that we just dealt with
1725 on re-hearing, as a major breakthrough to enable battery storage
1726 technology to be compensated for all of the attributes and

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1727 resources it provides in terms of energy capacity and ancillary
1728 services. We are now currently working on distributed energy
1729 aggregators to see similarly what barriers to entry there could
1730 be for these resources and the attributes that they could provide.

1731 And we will take the same careful, thoughtful, and legal approach
1732 that we did in addressing battery storage in considering that
1733 docket.

1734 Mr. Walden. Good, because I know some of that is starting
1735 to come to fruition. There is a project in my district that is
1736 going to be, I think, 300 megawatts now. I was told of one out
1737 of Texas, I think, where it is 300 megawatt hours, which is
1738 different. They can deal with the duck curve and maybe 4 hours
1739 of storage. So are you seeing more and more of those sorts of
1740 combined projects coming to fruition since that order?

1741 Mr. Chatterjee. I can let my colleague --

1742 Mr. Walden. Yeah, anybody that wants to --

1743 Ms. LaFleur. I think we are seeing more proposals to develop
1744 storage and renewables --

1745 Mr. Walden. Good.

1746 Ms. LaFleur. -- in tandem, almost like we developed
1747 nuclear and pump storage together in the '60s. And on your other
1748 question on the choke points, I would say one of the biggest issues
1749 we have is the difficulty of building long-line transmission
1750 between regions --

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1751 Mr. Walden. Yes.

1752 Ms. LaFleur. -- for the location constrained renewables
1753 like the wind in the Midwest. And there is a number of reasons,
1754 but I think the state control of siting and the difficulty of
1755 going across multiple states is one of them. There was a company
1756 called Clean Line that tried to build HVDC --

1757 Mr. Walden. Right.

1758 Ms. LaFleur. -- and almost -- they hit one state on every
1759 line, now somebody is trying to take a couple of their routes.
1760 But I think that is the thing where Congress could maybe restore
1761 backstop siting would be really helpful.

1762 Mr. Walden. All right. My time has expired. Thank you,
1763 Mr. Chairman. And thanks to all of you.

1764 Mr. Rush. The chair now recognizes Mr. Tonko for 5 minutes.

1765 Mr. Tonko. Thank you, Mr. Chairman.

1766 I welcome all of our commissioners here today. I believe
1767 all of our federal agencies need to do more to consider how to
1768 best address climate change. I believe an approach that is
1769 science-based, evidence-based is essential. Commissioner
1770 LaFleur mentioned earlier that it is difficult with climate
1771 processes that are different in each of the states or regions.

1772 We need a national approach. It is time for us to get into gear.

1773 That being said, Commissioner Glick, I was very happy to
1774 see a recent Law Review article about FERC and climate change.

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1775 Commissioner, do you believe FERC can and should be doing more
1776 under its existing obligations to consider climate change? I
1777 know we heard from a couple of our commissioners. I would like
1778 to hear from you.

1779 Mr. Glick. Well, as I mentioned earlier, the Commission
1780 is not an emissions regulator. Obviously, that is up to EPA and
1781 the states and other branches of the federal government. But
1782 I do think there is a lot of things that we do, and that was the
1783 purpose of that article that I jointly wrote with one of my
1784 advisors is that there is a lot of things that we do that have
1785 a significant impact. And the chairman mentioned eliminating
1786 barriers to newer technology storage, distributed energy
1787 resources, wind, solar; that certainly would be very helpful.

1788 Building more transmission to access remotely located renewable
1789 resources, certainly another benefit.

1790 And then as we discussed earlier, just our analysis when
1791 we consider the public interest, whether it be a hydroelectric
1792 license or a natural gas pipeline or LNG facility, we are supposed
1793 to consider the environmental impacts and I think we definitely
1794 need to take greenhouse gas emissions into account.

1795 Mr. Tonko. Thank you. And I would like to focus on a few
1796 areas where barriers for market participation exists, many of
1797 which, in my view, are inhibiting our electricity systems
1798 transition to one that is cleaner.

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1799 Chairman Chatterjee, I would like to thank you for your
1800 leadership in ensuring that storage can compete in markets. As
1801 RTOs seek to comply with Order 841, how important is it that energy
1802 storage resources will actually be able to participate
1803 effectively in all markets including capacity markets?

1804 Mr. Chatterjee. Yeah, I can't say enough how bullish I am
1805 on the future of energy storage. And I say this frequently and
1806 people roll their eyes because they think it is a cliché, but
1807 I think energy storage is a gamechanger and I think it has the
1808 capacity to fundamentally alter the way that we generate,
1809 distribute, and consume power in this country. And I think the
1810 point of Order 841 was to ensure that storage technologies could
1811 be compensated for energy for capacity and for ancillary services.

1812 I am optimistic and hopeful that that will lead to a rapid and
1813 exponential increase in the deployment of these resources.

1814 I think increasingly seeing storage coupled with renewable
1815 resources like solar could address some of the intermittency and
1816 reliability concerns and will really accelerate the deployment
1817 of clean energy technologies which is good for America, which
1818 is good for the economy, and is good for the environment.

1819 Mr. Tonko. Well, I would encourage our commissioners to
1820 make certain the rule is implemented as was intended by all the
1821 commissioners and enable the greatest participation possible for
1822 these resources. Similarly, I would encourage the Commission

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1823 to move forward with finalizing the aggregated DER rule. As I
1824 recall, in February 2018, the FERC organization found it needed
1825 more information and I believe there was a technical conference,
1826 was it in April of 2018? Now we are in June of 2019. There was
1827 a need to break down market barriers for DERs 3 years ago and
1828 there is now an ample record.

1829 So what can we expect here? When will this be finalized?
1830 Is there other information that you are waiting for? What is
1831 the update on the DER rule?

1832 Mr. Chatterjee. Sir, if I could just speak to that. So
1833 we had originally, in 2016, under Chairman Bay's leadership,
1834 considered both the storage rule and DERs together. As some of
1835 the newer members, myself, Commissioner Glick, came to the
1836 Commission, we realized that both rulemakings were further behind
1837 than we thought they were in the process prior to our confirmation.

1838 We were further ahead on storage than we were on DER. And so,
1839 we made the decision since storage was ready, to move forward
1840 with it despite the fact that we still had more work to do on
1841 DER.

1842 I made a commitment to Commissioner Glick at that time that
1843 as long as I was serving on the Commission as chair or not, that
1844 I would not allow DER to languish. We continue to work on it.

1845 There are some legal questions that we need to answer. I don't
1846 want to make a prediction on timing. We don't do that. But

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1847 please know that we are all working diligently towards addressing
1848 that.

1849 Mr. Tonko. So there is no more information, you are just
1850 going through the --

1851 Mr. Chatterjee. We have some complex legal questions that
1852 we are currently wrestling with. I don't like to comment on our
1853 internal deliberations, but there are some complex legal
1854 challenges. I do believe we have sufficient record, it is just
1855 we made some additional things to address some legal questions.

1856 Mr. Tonko. Okay. I would just hope that we could complete
1857 that as soon as possible because it is so important to the future
1858 of the industry. Thank you.

1859 With that I yield back, Mr. Chair.

1860 Mr. Rush. The chair now recognizes Mr. McKinley for 5
1861 minutes.

1862 Mr. McKinley. Thank you, Mr. Chairman.

1863 Earlier this year, Secretary Moniz, former Secretary Moniz
1864 came out with a statement that he was saying that we just don't
1865 have enough battery backup in the long term. He says there is
1866 nowhere near enough to back up the power on the high voltage grids
1867 in the long term. Now building off that, the supply chain for
1868 battery development is becoming more and more dependent on foreign
1869 sources. And 60 Minutes just came out with this report on Sunday
1870 talking about, for example, rare earths and our dependency on

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1871 something where China is dominating 80 percent of the rare earths.

1872 But yet for battery storage, we are relying on Chile, Argentina,
1873 the blood diamonds of Congo to get our cobalt, and we are also
1874 in Asia.

1875 So we are becoming more and more reliant on other -- because
1876 we don't want it in our backyard. We don't want to harvest these
1877 minerals in our backyard. How is that going to interact our
1878 ability to sustain or to develop this battery storage capability
1879 if we are depending on other nations? So, Mr. -- Secretary
1880 Chatterjee, could you tell us a little bit about that please?

1881 Mr. Chatterjee. Thank you for the question, sir. So as
1882 to, you know, critical minerals and their availability, that is
1883 outside the purview of the Commission. I do have some familiarity
1884 with it during my time in Congress. I recall legislation being
1885 introduced in the Senate to address the very questions that you
1886 raise. I will say from our standpoint as an economic regulator,
1887 I can't speak to the supply chain and what component parts go
1888 into battery technology. Our role doesn't fit there.

1889 But what we do is, you know, enable the -- in our oversight
1890 of the markets to enable these technologies to be deployed in
1891 markets, and so the market demand is going to be there because
1892 of some facilitations that we have done through our rulemakings.

1893 But I leave it to others to speak to the dynamics of the component
1894 parts --

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1895 Mr. McKinley. I hope we can get back and have more of a
1896 conversation about this, because I think it is going to be
1897 something that we are going to have to address and I would like
1898 to understand what Congress can do to help expedite that. But
1899 let's continue on that because I have a high regard for former
1900 Secretary Moniz when he was with DOE and now in his role speaking
1901 out.

1902 He is continuing to say, he said it first in 2013 and he
1903 said it again earlier this year that we need to be spending more
1904 time and focus on carbon capture and nuclear energy. Now he said
1905 that in '13. And so, from '13 to '19, during the 6-year period
1906 of time, coal utilization went from 40 percent down to 23 percent
1907 and in that same time, nuclear power, they are going to be over
1908 10 percent of their capacity is going to be lost.

1909 So my question in part, given that what we were just talking
1910 about, about battery storage, if we don't have the capability
1911 of being able to have battery storage now, what is going to happen
1912 -- what is the challenge to the grid for dependability,
1913 reliability, and resilience if we are losing more coal production
1914 and we are losing more nuclear and we don't have battery storage?
1915 What is the impact?

1916 Mr. Chatterjee. Sir, so thank you for the question, and
1917 again, you and have had numerous conversations about this and
1918 you are very passionate about it. I, like you, come from coal

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1919 country and I have seen firsthand the devastation that occurs
1920 in communities when the plants and the mines that feed them shut
1921 down. Similarly, because of my concern about carbon mitigation
1922 am worried about the retirement of nuclear generation.

1923 What we are doing at the Commission is closely examining
1924 whether, in fact, some of the concerns that you raise could come
1925 to fruition, whether the premature retirement of some of these
1926 units, could they lead potentially to -- depending on the
1927 deployment of other technologies and other resources -- to an
1928 impact on the reliability and the resilience of the grid. Thus
1929 far, as I mentioned earlier, when Secretary Perry submitted his
1930 NOPR, our record did not support taking action in that area.
1931 We currently have a far more robust record in front of us as we
1932 examine the question of resilience. We are going to be very,
1933 very careful about it to look to see what the energy transition,
1934 its impacts are going to have, but any action we may or may not
1935 take has to be based on the record, has to be based on the evidence,
1936 and we will very, very thoughtfully and carefully examine that
1937 record.

1938 Mr. McKinley. In the closing seconds I have, I would just
1939 like -- maybe it is the elephant in the room. We don't have a
1940 fifth commissioner. Would having a fifth commissioner, would
1941 that expedite some of the rules that have been sitting there for
1942 -- we heard earlier, some of the time that they haven't -- no

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1943 action has been taken. Would a fifth commissioner move things
1944 along?

1945 Mr. Chatterjee. I think the Commission is always strongest
1946 when it has a full complement of five commissioners. That said
1947 -- and I want to see five full commissioners here. But I point
1948 to the bipartisan agreement that my colleagues and I reached on
1949 LNG as well as on battery storage that were 3-1 votes that had
1950 different combinations of us, and I think that is a great example
1951 of how we are continuing to get our work done despite the fact
1952 that we are in a 2-2 environment.

1953 Mr. McKinley. Thank you. I yield back.

1954 Mr. Chatterjee. Thank you.

1955 Mr. Rush. The chair now recognizes Mr. Welch for 5 minutes.

1956 Mr. Welch. Thank you, Mr. Chairman. I will start with a
1957 man bites dog story. The largest utility in Vermont has a lot
1958 of dams and they are going through relicensing and they tell me
1959 that working with FERC is tremendous. So I don't know how that
1960 happened, but maybe you ought to get the word out to some of your
1961 other agencies.

1962 Second, I want to thank Commissioner LaFleur for coming to
1963 Vermont. We appreciated having you, and someday your colleagues
1964 may show similar good judgment. Third, I want to talk about
1965 battery storage technology. Last week, I visited a company in
1966 South Burlington, Vermont called Dynapower, and it is by most

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1967 standards a small company, a couple of hundred people, big by
1968 Vermont. But it is doing cutting edge work on battery storage.

1969 And we have talked a little bit about the incredible benefit
1970 to reduce peak demand and I want to thank you for your Order 841
1971 which was a great step in integration of storage into the wholesale
1972 markets, but we do have some issues. In PJM there is a proposed
1973 method to use a 10-hour duration test, as I understand it, to
1974 qualify energy storage for capacity market participation. This
1975 is what I learned from the Dynapower folks. But most commercial
1976 and industrial facilities which could provide really good
1977 resources to the grid do not require a 10-hour duration system
1978 and the cost would be prohibitive. And MISO transmission service
1979 charges are being inappropriately applied to storage. It charges
1980 at the instruction of the grid operator.

1981 So there are similar examples, I guess, in NYISO in the
1982 Southwest Power Pool. So on one hand, I thank you very much for
1983 your work on Order 841, but we really want to ensure that storage
1984 can undertake market operations that fully realize the value of
1985 their flexibility. So I will start with you, Mr. Chairman. Can
1986 you comment on your view on how these efforts and how FERC intends
1987 to support full use of the storage resources which, in addition
1988 to saving money and reducing carbon emissions, is just a
1989 tremendous growing part?

1990 Mr. Chatterjee. Sure. As I have stated repeatedly, I am

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1991 very proud of the rule and I think it is a tremendous achievement.

1992 And I think the implementation challenges that you are pointing
1993 to demonstrate the sheer gravity of the rule and its implications
1994 and how really significant it may be. I think we may look back
1995 and say that Order 841 was, you know, a foundational block of
1996 transitioning our energy future.

1997 So as the compliance filings come in, as the various RTOs
1998 and ISOs sort through some of the complexities that you are
1999 referring to, we will consider those compliance filings as they
2000 come in. And I think my colleagues will all do our part to ensure
2001 that the rule is implemented.

2002 Mr. Welch. Well, you know, I appreciate that because there
2003 has got to be practical adjustments made as a result of what is
2004 going on in the field.

2005 Do you want to comment on that, Commissioner LaFleur?

2006 But thank you for that.

2007 Ms. LaFleur. Yes. I can't comment on the specific PJM
2008 dispute that you mentioned because I believe that is pending.

2009 But your questions and what you hear from the battery
2010 manufacturer show that the devil is really in the details. It
2011 is easy to say we want the market rules to be fair to storage,
2012 but figuring out where all the landmines are where the rules have
2013 been written for other resources requires the various storage
2014 providers to come in and tell us and requires detailed work at

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2015 HRT0. A few years ago, when we did Order 755 on frequency
2016 regulation we had a company called Beacon Power in upstate New
2017 York come in and tell us they weren't getting paid right for the
2018 timing following the signal. And we had to get really picky-dicky
2019 --

2020 Mr. Welch. Right.

2021 Ms. LaFleur. -- in like explaining how to change the rules.
2022 But we later did change the frequency. That is just one small
2023 example.

2024 Mr. Welch. Well, that is great. I don't have much more
2025 time, but, you know, it is very reassuring to hear that because
2026 you do the rule and then it is out in the field and then there
2027 has got to be information back from the field. And when like,
2028 for instance, if Dynapower gets back to you with real-world
2029 information, you will pay attention to that is what you are telling
2030 me, and that is really reassuring.

2031 The one final question, you know, a number of us, we are
2032 interested in distributed energy resources and we wrote a letter.

2033 I had a letter on the topic to FERC and I appreciated your
2034 response. That was some time ago and it appears we share a goal.

2035 But my question is this, for 2-1/2 years since the original
2036 proposed rule and over a year since the technical conference on
2037 DER was held, in recognizing this timeline, what is FERC's plan
2038 to finalize the rule on DER participation and wholesale markets,

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2039 Commissioner?

2040 Mr. Chatterjee. Yeah, thank you for the question. I will
2041 be very brief. Congressman Tonko asked the same. We originally
2042 were doing DERs and battery storage together. When we came --
2043 when Commissioner Glick and I were confirmed to the Commission,
2044 we saw that storage was further ahead than DERs, so we severed
2045 the two dockets and completed storage because we didn't want to
2046 delay it while we sorted through the complexities of DERs.

2047 We are now actively working towards it. I made a commitment
2048 to Commissioner Glick that we would not allow DERs to languish
2049 and I intend to honor that. And so, there are some complex legal
2050 issues that have arisen and we are just sorting through whether
2051 that will require more process or not.

2052 Mr. Welch. I yield back.

2053 Mr. Rush. The chair now recognizes Mr. Griffith for 5
2054 minutes.

2055 Mr. Griffith. Thank you very much, Mr. Chairman. They have
2056 called the votes and so I will try to rifle through what I have.

2057 But first, I have to say congratulations to you, Commissioner
2058 McNamee. The commissioner and I have worked together for many
2059 years at the state level and I am now glad to be able to work
2060 with you at the federal level as we go over a lot of issues.
2061 I appreciate the Commission's work on executing the rulemaking
2062 process for the Promoting Closed-Loop Pumped Storage Hydropower

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2063 Act, which was my bill from last session. I also appreciate the
2064 Commission-led workshop on closed-loop pump storage.

2065 That being said, Chairman McIntyre had a review going on
2066 about current pipeline approval processes based on the FERC 1999
2067 standing policy. I would hope that you all would continue that.

2068 Chairman Pallone of this committee mentioned earlier about
2069 having two pipelines, you know, going side by side and the
2070 Commission doesn't look at that. That is one of the reasons why
2071 I introduced the Pipeline Fairness and Transparency Act. Maybe
2072 you need two pipelines going side by side or close together or
2073 maybe you don't, but the Commission ought to be able to look at
2074 that.

2075 And I will tell you that one of the concerns that comes up
2076 there is affecting how landowners' rights are being considered.

2077 And I appreciate your comments earlier this year, and speaking
2078 with Commissioner McNamee I know he is concerned about some of
2079 these issues too, that people at least get heard and know that
2080 somebody's listening, because it has seemed that sometimes there
2081 is some deafness, or in the past has been some deafness there.

2082 And I received this this morning from a constituent and I am
2083 just going to rattle it off and then give you whatever time we
2084 have got left. "Landowners dealing with the siting of natural
2085 gas pipelines are frustrated and we have no property rights in
2086 the current FERC process. There are lots of assurances that our

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2087 rights are respected and the companies advertise that they will
2088 work with landowners. However, our experience has proved all
2089 that to be patently untrue. My experience is that they won't
2090 consider the needs of my family's existing business, a farm of
2091 over 117 years. We have asked repeatedly that they move the
2092 pipeline to the edges of our fields so that we can fully respect
2093 the pipeline as we go about our business. They insist on
2094 bisecting nine fields and will destroy the terraces in one of
2095 our fields. They have the opportunity to move the line within
2096 our property, thus not affecting anyone else, but they won't."

2097 And the concern that -- and she is getting hit twice. She
2098 lives in my district near the Mountain Valley Pipeline and her
2099 property is a family farm that she hopes to retire to that is
2100 being dissected by the Atlantic Coast Pipeline. And so, these
2101 are the concerns that people have out there. I know you can't
2102 fix everything, but she wants to know and I do too. What are
2103 the FERC commissioners doing to understand landowners' rights,
2104 to make landowners believe that they see the documents that we
2105 file? I mean you all see -- and to hear the statements that we
2106 make in hearings and that those needs are being considered. And
2107 I know that you have some thoughts on that. Chairman, if you
2108 could very quickly.

2109 Mr. Chatterjee. Yes, sir. So I mentioned earlier, we are
2110 trying to make some improvements to our website and our process.

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2111 We do have a Landowner Hotline so that the Commission can be
2112 made aware of these kinds of considerations. I think we need
2113 to do better. We can do better. I think energy infrastructure
2114 is critical, it is important, but we have to ensure that we are
2115 respectful of landowners and their considerations and their
2116 rights.

2117 I also think it is incumbent upon project sponsors to be
2118 more responsive. You know, the landowner and the project sponsor
2119 are going to have, you know, a long-term relationship, and I think
2120 it is important that project sponsors be responsive and be
2121 respectful of these landowners' considerations.

2122 Mr. Griffith. Yeah. And I don't know the lay of the land,
2123 but when a farmer is telling me a family farm that is over a 100
2124 and some years in the family, you could move it on their property,
2125 it may be a little bit more expensive, but it seems to me that
2126 would be a reasonable accommodation.

2127 Mr. Chatterjee. And one thing that you have expressed to
2128 me in the past that I take very seriously is we need to do a better
2129 job at the Commission of hearing out peoples' concerns. And if
2130 that means, if landowners are seeking, you know, public comment
2131 and opportunity to present their considerations to the
2132 Commission, we need to be responsive to that. My understanding
2133 is that you have been frustrated because in the past, maybe a
2134 few years ago, we weren't as responsive to that. I want you to

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2135 know that you have a commitment from me that we are going to take
2136 those kinds of things seriously.

2137 Mr. Griffith. I appreciate that and I yield back.

2138 Mr. Chatterjee. Thank you.

2139 Mr. Rush. The chair now recognizes Ms. Kuster for 5 minutes.

2140 Ms. Kuster. Thank you very much, Mr. Chair. And we have
2141 been called to vote, so I will make my remarks short. But I want
2142 to join my colleague in a bipartisan concern. We have this very
2143 same issue in my district in New Hampshire with a pipeline and
2144 lots of obvious concerns by homeowners, by towns, by -- one town
2145 where it was on the map to cross a small stream in that community
2146 12 times, I just had the impression that these people hadn't even
2147 come to New Hampshire or at least gotten out of the truck to see
2148 it. It was proposed to go right between two schools that were
2149 a couple of hundred yards apart, so -- and I would invite my
2150 Republican colleague to join us.

2151 I am joining Congresswoman Jan Schakowsky and Joe Kennedy
2152 today, introducing legislation to establish an Office of Public
2153 Participation at the FERC to elevate the voices of average
2154 Americans and ensure that they have a seat at the table when FERC
2155 makes approval decisions. We can only ask so much of you if it
2156 is not within your purview to take that into consideration. So
2157 that was the main concern I wanted to raise.

2158 The second thing though is about the issue of climate change.

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2159 And in New Hampshire, as in districts all across this country,
2160 I believe that climate change poses a very real and existential
2161 threat to human life and I think we can look no further than the
2162 Trump administration's own national climate assessment,
2163 outlining that without dramatic reductions in greenhouse gas
2164 pollution our economy will lose hundreds of billions of dollars
2165 in the coming decades, and not to mention the irreversible impact
2166 on human health and environment.

2167 So I just want to ask you, Commissioner LaFleur, my
2168 constituents voice concerns repeatedly. This is on a daily
2169 basis. We get emails and calls and letters about the dramatic
2170 expansion of natural gas infrastructure because of the
2171 contribution to greenhouse gas emissions. I understand your
2172 tenure on the FERC is coming to a close, but do you believe the
2173 damaging effects of climate change should be more strongly
2174 considered when FERC approves fossil fuel projects?

2175 Ms. LaFleur. Thank you for the question and yes, I do.
2176 I think that first of all we should make sure that all of the
2177 pipelines that we are approving are truly needed by looking at
2178 the regional need. I happen to think New England where there
2179 is a lot of gas restraints might need more gas, although they
2180 are doing well with the import in the winter so far. But in
2181 addition to making sure things are truly needed, I think that
2182 we should take into account in our balancing the impact of the

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2183 downstream combustion of the gas when it is used.

2184 And I have tried to do that on my own by doing some of those
2185 figures and my concurrence isn't saying no, for example, in the
2186 two co-located pipelines that Congressman Griffith talked about.

2187 I had dissented because I thought they were too close together,
2188 but I think it would behoove the Commission to have a process
2189 to more squarely consider it.

2190 Ms. Kuster. Thank you very much.

2191 And, Commissioner McNamee, I understand FERC's
2192 responsibility to approve energy projects that are in the public
2193 interest. Do you believe that mitigating the damaging effects
2194 of climate change are in the public interest and the interest
2195 of future generations of Americans?

2196 Mr. McNamee. I think, I believe that climate change is
2197 something that we all need to be concerned about. I think the
2198 issue about how FERC addresses the issue of climate change and
2199 greenhouse gas emissions really has to originate first in our
2200 organic statute about the authority, and that is the Natural Gas
2201 Act and how that is supposed to be used to interpret public
2202 interest.

2203 Ms. Kuster. Do you interpret that law is giving you any
2204 leeway on taking into account the damaging impacts of --

2205 Mr. McNamee. Well, I can tell you that I -- what I do, is
2206 I also look at our obligations underneath, but to take a look

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2207 at all the environmental issues including climate change when
2208 I make a decision. I don't think it would be appropriate because
2209 it is a legal issue that comes before us about what does the statute
2210 specifically mean, but I do -- I can say that we do take a serious
2211 look. I personally take a serious look at the issues of
2212 greenhouse gas emissions particularly pursuant to our NEPA
2213 responsibilities.

2214 Ms. Kuster. Great, thank you very much. I yield back.

2215 Mr. Rush. The chair thanks the gentlelady.

2216 Votes are occurring on the floor and the subcommittee will
2217 stand in recess until immediately after the votes have concluded.

2218 [Whereupon, at 12:34 p.m., the subcommittee recessed, and
2219 reconvened at 1:10 p.m.]

2220 Mr. Kennedy. [Presiding] The committee will come back
2221 into order, and the chair recognizes Mr. Flores from Texas for
2222 5 minutes.

2223 Mr. Flores. So, thank you. I appreciate all of our FERC
2224 commissioners for joining us today.

2225 I have a question for Commissioner Glick. You have
2226 dissented against approval of some recent energy infrastructure
2227 projects that are integral to our country's energy security,
2228 national security, and economic opportunity including the Port
2229 Arthur LNG export project in my home state of Texas. These
2230 critical energy infrastructure projects create well-paying jobs

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2231 at home, they help our allies in Europe diversify their energy
2232 security, and they reduce the impact of dirtier fuels that are
2233 replaced by clean LNG.

2234 In your dissents and in testimony today, you mentioned the
2235 need to explore possible mitigation measures with respect to
2236 greenhouse gas emissions, and I would like to know more about
2237 what you mean by this. My first question is this. Do you have
2238 a mitigation standard by which future energy projects could earn
2239 your approval?

2240 Mr. Glick. Well, thank you for the question, Mr. Flores.
2241 It is actually a very important issue. And, you know, if you
2242 go back and look at all of our approvals, and Port Arthur is a
2243 good example, we found other environmental concerns, for
2244 instance, wetlands, loss of wetlands associated with the project
2245 or migratory birds, for instance, in some cases.

2246 Mr. Flores. Do you have a mitigation standard?

2247 Mr. Glick. And what we did in those cases, we actually
2248 mitigated those losses essentially. So I don't know if I have
2249 a single standard, but one potential option, certainly, a company
2250 could buy renewable energy credits and could certainly use
2251 renewable energy or zero emissions like nuclear power to liquefy
2252 the natural gas. There is a variety of options for the company.

2253 Mr. Flores. Okay. Well, if you have more, go ahead and
2254 supplementally advise that. My next question is this, is what

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2255 your mitigation expectations might be and, more importantly, what
2256 are the costs of those mitigation measures including the
2257 following: What is the impact on project delay costs; what is
2258 the impact on lost jobs; what is the impact on balance of trade
2259 payments; what is the environmental impact while the prospective
2260 consumers using your dirtier fuel that would have been replaced
2261 by the fuel that you are dissenting coming from the project against
2262 which you are dissenting; and then the loss tax revenue to the
2263 federal government as well as impact on the deficit?

2264 Mr. Glick. Those are all relevant points and I think that
2265 we are required to consider what is in the public interest and
2266 all those issues need to be considered as well. But if we find
2267 an environmental impact to be significant, we have to figure out
2268 whether that impact can be mitigated or not, and in this case
2269 in the LNG facilities we specifically said we are not going to
2270 consider that. And that is where I think the Commission erred
2271 and courts have agreed so far.

2272 Mr. Flores. Okay. What I would like to get you to do is
2273 supplementally advise as to what the cost of the mitigation is
2274 because of the dissent, if you would.

2275 Mr. Glick. I will try my best.

2276 Mr. Flores. Okay, thank you.

2277 Chairman Chatterjee, I have a question for you. This has
2278 to do with the power markets. In Texas, ERCOT allows large

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2279 consumers to participate in a power market that drives
2280 competition, innovation, and efficiency. It has also brought
2281 more renewable into the Texas grid. It is my understanding that
2282 our neighboring RTO, the Southwest Power Pool, has only one large
2283 consumer and that is Walmart, which joined a while back, and Texas
2284 has about 170 consumer members by comparison. FERC
2285 recently ruled regarding a fee at SPP that some considered to
2286 be a hefty barrier to participating in the market, while the good
2287 news is ERCOT is not subject to FERC jurisdiction and most Texans
2288 want to keep it that way. Texas consumers are benefiting by
2289 having that other 170 large voices as part of the market and I
2290 think the country can learn from the experience of ERCOT.

2291 So what -- are other RTOs opening up their membership to
2292 more diverse consumer technology interests to help drive up
2293 choice, to improve efficiency, to improve the implementation of
2294 additional renewable energy sources into their grids, and to
2295 additional clean energy supply?

2296 Mr. Chatterjee. So, obviously as you referenced,
2297 Congressman, we don't -- ERCOT is not jurisdictional to us so
2298 I don't have as much visibility into what goes on in Texas. I
2299 learned my lesson, don't mess with Texas, but --

2300 Mr. Flores. That is a good idea.

2301 Mr. Chatterjee. -- each of the different RTOs and ISOs
2302 have various different, you know, governance approaches as well,

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2303 these are just different organizations. So what I can speak to
2304 is that all of these entities can and should learn from each other
2305 including from ERCOT.

2306 Mr. Flores. Okay. That actually answers my second
2307 question is that should the other RTOs move in the same direction
2308 that ERCOT has and that the SPP has been blocking but now they
2309 are starting to move that direction.

2310 Mr. Chatterjee. There are different challenges and
2311 opportunities in different parts of the country. I am not certain
2312 -- there are no one-size-fits-all approaches but we can all do
2313 better to learn from each other.

2314 Mr. Flores. Right, okay.

2315 And, Chairman Glick, we will provide the rest of our
2316 questions supplementally.

2317 Mr. Glick. Thank you.

2318 Mr. Flores. Thank you. I yield back the balance of my time.

2319 Mr. Kennedy. The chair thanks the gentleman from Texas and
2320 recognizes himself for 5 minutes for questions. I want to thank
2321 the chairman, the real chairman, for holding the important hearing
2322 and for all of our commissioners for being here today.

2323 As I mentioned in my opening statement a little bit earlier,
2324 I am increasingly concerned about the regional transmission
2325 organizations or RTOs and their governing structures. My state
2326 benefits from the wholesale market competition at ISO New England

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2327 and that means that it is affected by the decisions made by NEPOOL,
2328 the sole formal stakeholder advisory group for ISO New England.

2329 However, my fellow citizens and I have no idea who makes decisions
2330 or how they are made at NEPOOL, because unless you are a member
2331 you can't even observe any meeting or proceeding, let alone talk
2332 about it publicly.

2333 Other RTOs are benefiting from governance structures that
2334 enjoy slightly more transparency, still I believe that more has
2335 to be done. Transparent and fair representation in governance
2336 is good governance. All parties from generators to ratepayers
2337 to regulators deserve this. In addition, regional markets
2338 operated by the nation's RTOs continue to grow in size and
2339 complexity.

2340 Mr. Glick, you pointed out earlier your experience in the
2341 private sector and about the importance of stability. In my
2342 region, for example, ISO England has now run 14 different forward
2343 capacity auctions under 14 separate sets of rules. Finally, RTO
2344 rules are also increasingly, or increasingly, effectively create
2345 new public policies. Some regional grid operators are debating
2346 whether to adopt new rules to compensate fuel security, yet RTOs
2347 are governed by industry stakeholders, many of them who have an
2348 incentive to earn revenues through higher prices in these markets.

2349 So beginning with Commissioner LaFleur and Commissioner
2350 Glick, are you concerned about certain stakeholder groups that

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2351 have an outsized amount of power in some RTOs with the current
2352 structures of governance? Ms. LaFleur?

2353 Ms. LaFleur. I do think these are important issues. I was
2354 on the Commission when we did the 719 compliance orders and we
2355 looked at the stakeholder processes of each RTO and basically
2356 found them acceptable. They had different sets of stakeholder
2357 bodies and so forth. But I agree with what I have heard said
2358 earlier that it is probably a good time for a re-look. I think
2359 that initially the transmission owners probably batted above
2360 their weight because they were the ones that had to decide to
2361 go into the RTOs and so the RTOs were so grateful to have them,
2362 they seemed to have a louder voice. I would say recently we
2363 have been hearing more from the generation sector, because with
2364 all of the changes in resources they are on the hot seat and no
2365 group should have more power than their role in the stakeholders,
2366 so I think we have to be vigilant toward it and it is probably
2367 worth a re-look.

2368 Mr. Kennedy. Should the public have more access even just
2369 as a passive observer?

2370 Ms. LaFleur. Well, you know, we have a case pending
2371 re-hearing on press access to NEPOOL which we, the Commission
2372 rule that we didn't have jurisdiction over under the -- from the
2373 CAISO case. But I think most members of the public can't afford
2374 to take the time off from work to go to all of the stakeholder

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2375 meetings of their RTOs, so bodies that represent them, be they
2376 consumer groups to the --

2377 Mr. Kennedy. Madam Chair, or excuse me, Commissioner, that
2378 the press that is also the --

2379 Ms. LaFleur. I can't comment on that because that is still
2380 pending.

2381 Mr. Kennedy. Right, understood.

2382 Ms. LaFleur. But I think Mr. Glick wrote separately, so
2383 I will let him talk.

2384 Mr. Glick. Yeah. I certainly can't comment on the existing
2385 proceeding which is on re-hearing --

2386 Mr. Kennedy. Of course.

2387 Mr. Glick. -- but I will say what we did previously, which
2388 is that Commissioner LaFleur is exactly correct. We actually
2389 said we didn't have the jurisdiction and that is because the courts
2390 have told us that we only have jurisdiction over practices
2391 affecting jurisdictional rates. Having said that, I wrote
2392 separately because I agree with you, Congressman Kennedy, that
2393 transparency is a very important element of appropriate RTO
2394 functioning. And to the extent that we are keeping the press
2395 out or keeping people out from knowing what is actually happening
2396 behind the closed doors, we aren't actually having the type of
2397 transparency and we are not engaging in the independence that
2398 RTOs and ISOs are supposed to represent.

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2399 Mr. Kennedy. Thank you. And only a minute left here, so
2400 a little bit quickly. But, Chairman Chatterjee, has the
2401 Commission considered reforms to RTO governance to ensure that
2402 the public interest is better represented in these organizations?

2403 Mr. Chatterjee. Absolutely. Congressman, I agree with the
2404 concerns that you are raising and want to associate myself with
2405 the comments of my colleagues. I believe in consumer protections
2406 in transparency. The one thing that I would caution is, as I
2407 mentioned in speaking with Congressman Flores, each of these
2408 different RTOs and ISOs is a completely different entity with
2409 different structures. And so, I am not certain a
2410 one-size-fits-all approach could work here.

2411 What we currently do to address these matters is as -- again,
2412 we can't speak to it because it is on re-hearing at NEPOOL, but
2413 when these matters come up, we take them up on a case by case
2414 basis. And I think we all have to be vigilant in ensuring that
2415 this transparency and consumer protection are in place. I just
2416 have to caution that a one-size-fits-all approach might not work.

2417 Mr. Kennedy. Understood. I will close with my last 2
2418 seconds by commending my colleague, Jan Schakowsky, who has been
2419 a champion for consumers throughout her career. And she is
2420 introducing a Public Engagement at FERC Act which would ensure
2421 that FERC establishes the Office of Public Participation and
2422 Consumer Advocacy, which I think a few of you have mentioned

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2423 already.

2424 I am over time. I will recognize the gentleman from Michigan
2425 for 5 minutes.

2426 Mr. Walberg. I thank the chairman. We hang around long
2427 enough we move up, don't we? But thanks to the --

2428 Mr. Kennedy. Give me 35 years and we will get there. Thank
2429 you.

2430 Mr. Walberg. Thanks to the panel as well. You have hung
2431 around longer than any of us, I think, so I appreciate you being
2432 here.

2433 Chairman Chatterjee -- no, you have been here long enough.

2434 I am going to give you all a question and see if you can answer
2435 it. If anybody can tell me what was playing on the radio at the
2436 top of the charts at this point in 1978; do you remember?

2437 Mr. Chatterjee. Well, Star Wars was in theaters.

2438 Mr. Walberg. Talking about the charts.

2439 Mr. Chatterjee. I know people were probably listening to
2440 it on their Walkman or record player.

2441 Mr. Walberg. Paul McCartney and Wings, With a Little Luck.

2442 And I remember that because I was hoping to graduate from graduate
2443 school about that time, with a little luck, and it did take place.

2444 Just using that a bit here, because with a little luck and a
2445 little push from both Congress as well as FERC, we could shake
2446 it up and bring our energy laws into the 21st century and lower

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2447 costs for consumers. And that is, I think, at least for most
2448 of us up here that is what it is about with the quality.

2449 3 years ago, FERC held a technical conference to discuss
2450 what needed to be done to modernize the rules implementing PURPA,
2451 a law passed in 1978, with a little luck. This issue is incredibly
2452 important in many areas of the country, especially mine, because
2453 customers are paying billions of dollars in, I believe,
2454 unnecessary costs right now for PURPA contracts. It started with
2455 a great idea, did what it was supposed to do, but it is time for
2456 some improvement.

2457 FERC's current rules encourage the uneven, unplanned, and
2458 uneconomic development of QFs and provide subsidies that promote
2459 QFs at the expense of customers, of system reliability, and more
2460 competitive cost-effective generation resources. For example,
2461 Consumers Energy in my district currently has over 2,000 megawatts
2462 worth of PURPA contracts for 20-year terms pending in the queue.

2463 These would lock in prices around \$54 per megawatt hour compared
2464 to the 5-year average of \$34 per megawatt hour that could be
2465 purchased from the MISO market. If Consumers is forced to buy
2466 all of this power at these above-market rates, it equates to
2467 Michigan customers paying more than one and a half billion dollars
2468 over the life of the 20-year contracts, significant dollars.

2469 I have introduced H.R. 1502, as you know, the PURPA
2470 Modernization Act, to help address these issues. But there are

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2471 several issues that don't need to be addressed, I believe, through
2472 statutory change. The Commission could simply act and amend the
2473 rules, I believe. FERC's one-mile rule, for instance, which
2474 developers game to force legally enforceable obligations onto
2475 utilities is written into FERC's regulations.

2476 Mr. Chairman, yes or no, is this something that FERC could
2477 address on its own?

2478 Mr. Chatterjee. Yes.

2479 Mr. Walberg. Often developers will split projects into
2480 smaller megawatt projects in order to come in under the
2481 20-megawatt threshold for organized markets. FERC has already
2482 reinterpreted the threshold for noncompetitive entry into these
2483 markets from 80 megawatts to 20. In light of developers gaming
2484 this rule, could FERC lower this threshold on its own?

2485 Mr. Chatterjee. Yes, we could.

2486 Mr. Walberg. That is good to know. Does it make sense to
2487 allow utilities to competitively bid renewables to set PURPA
2488 avoided cost, and is there any help or guidance FERC could give
2489 to states to help come up with more accurate avoided cost
2490 calculations to better follow the spirit and the intent of PURPA?

2491 Mr. Chatterjee. I don't want to get into any internal
2492 deliberations or conversations I am having with my colleagues,
2493 but it is something that we could do within our ranks.

2494 Mr. Walberg. So it is capable of doing that.

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2495 Mr. Chatterjee. Yes, sir.

2496 Mr. Walberg. It comes down to the willingness to do these
2497 things. Well, these are important. I mean these are -- they
2498 are key components of my legislation, but relief is needed before
2499 I think Congress will be capable in its processes of acting on
2500 it. So I would truly encourage FERC to push as far as you can
2501 into bringing PURPA into the 21st century into something that
2502 truly does do what it was intended to do and has done well, but
2503 now is doing well at an expense that is unnecessary, and so I
2504 appreciate that. To quote Paul McCartney and the Wings again,
2505 "There is no end to what we can do together." I won't sing it
2506 for you. But I look forward to working with you to modernize
2507 our current state of affairs. Thank you. I yield back.

2508 Mr. Sarbanes. [Presiding.] The gentleman yields back.
2509 I am going to yield myself 5 minutes for a few questions.

2510 Commissioner Glick -- and first of all, thank you all for
2511 staying as long as you did, and you saw from the earlier attendance
2512 here at the hearing there is a lot of interest.

2513 Commissioner Glick, in your testimony you talk about how
2514 the environmental effects factor directly in the public interest
2515 standard at the Commission and is supposed to meet under the
2516 Natural Gas Act, and I certainly agree with that. There are
2517 public interest and environmental interest considerations under
2518 the Federal Power Act as well. Unfortunately, my view is

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2519 the Commission doesn't always give those interests the sufficient
2520 weight that they deserve in the decision making that happens,
2521 and I am aware of several examples, actually, in the case of the
2522 relicensing of the Conowingo Dam. States have a very important
2523 role to play in the licensing of projects that FERC considers,
2524 but too often it seems that FERC is siding with project applicants
2525 at the expense of state concerns for broader public and
2526 environmental interests.

2527 So could you just speak quickly to what you think the
2528 Commission can do to ensure that these broader public interests
2529 like climate change, environmental quality, and so forth get the
2530 appropriate consideration?

2531 Mr. Glick. Well, as you mentioned, we have a very broad
2532 public interest standard in terms of our hydroelectric licensing
2533 responsibilities as well, so I think certainly on climate change,
2534 we certainly need to take that into account, the zero emissions
2535 qualities of hydropower, for instance. But on those other
2536 environmental issues that you mentioned, it is my understanding
2537 the way the process works, whether it be the state agencies
2538 pursuant to section 401 of the Clean Water Act or various, the
2539 resources agencies, the Fish and Wildlife Service, for instance,
2540 they actually have the ability and the authority to impose
2541 conditions on those licensing processes and we have to include
2542 those conditions in our licenses.

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2543 Mr. Sarbanes. Well, I hope those continue to get the
2544 attention as I say that is warranted in terms of making sure the
2545 process lands in the right place. As you are aware, I am sure,
2546 Exelon Corporation applied for a new 50-year hydropower license
2547 to operate the Conowingo facility in August of 2012. After
2548 extensive discussions between the state and Exelon and several
2549 iterations of applications to the Maryland Department of the
2550 Environment, the State of Maryland issued a water quality
2551 certificate to Exelon in April of last year. Unfortunately, as
2552 you probably also know, the situation is still not resolved.
2553 Exelon has opposed the conditions that Maryland attached the water
2554 quality certificate. But early on in this project, FERC denied
2555 several study requests that Maryland made, denials that actually
2556 created delays and additional haggling between the State and
2557 Exelon.

2558 The Federal Power Act requires applicants to submit,
2559 "satisfactory evidence" to demonstrate that an applicant has
2560 complied with state laws. And my concern is that the
2561 administration's proposed policy changes on state oversight of
2562 water quality certification could weaken our efforts to achieve
2563 clean water in the Chesapeake Bay. How would you describe the
2564 appropriate role of state participation in FERC licensing in light
2565 of what I have just described?

2566 Mr. Glick. Well, I don't want to speak specifically about

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2567 the Conowingo Dam because that is a pending matter, I think, before
2568 the Commission. But I think we have the responsibility to
2569 actually defer to the states under section 401 of the Clean Water
2570 Act.

2571 Mr. Sarbanes. Well, thank you for that. I think overall
2572 the Commission could probably be doing more to cooperate with
2573 states, really view it as a collaborative effort and ensure that
2574 licensees provide sufficient information early in the licensing
2575 process to support state decisions and ensure projects are
2576 operated in compliance with state law. The Commission's mandate
2577 to give equal consideration -- I will repeat that -- equal
2578 consideration to natural resources and environmental quality
2579 should translate into greater support for ensuring that older
2580 hydropower projects are held to modern environmental standards.
2581 And I know that can be tricky, but it is really critical that
2582 that happen.

2583 And so, let me just close by saying that the state of Maryland
2584 also has been working with neighboring states and the states
2585 within the Susquehanna River Basin to improve water quality
2586 conditions in the Chesapeake Bay. We really take that as our
2587 signature charge in a sense on the environmental front because
2588 we are aware the watershed meets the Bay and we take that very
2589 seriously. All of the states continue to work on programs to
2590 reduce sediment and nutrient inputs into the watershed. The

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2591 Conowingo facility has to be part of that solution as well.

2592 And this relicensing provides that once-in-a-generation
2593 opportunity to get it right, to address the sediment issues
2594 associated with the dam and the facility's operation. So we have
2595 to address that issue and if we don't address it, we are going
2596 to be putting the health in the entire Chesapeake Bay in jeopardy.

2597 It is impossible to overstate how critical this project is to
2598 the Bay. So as a member of the Maryland delegation as somebody
2599 who takes that charge extremely seriously, I ask you to give that
2600 real consideration. I yield back the balance of my time.

2601 The chair recognizes Mr. Veasey from Texas.

2602 Mr. Veasey. Thank you, Mr. Chair. I want to thank you and
2603 the witnesses for appearing before the subcommittee today to
2604 discuss the critical role FERC has in ensuring our energy markets
2605 are operating fairly. I would like to discuss the Department
2606 of Energy coal and nuclear bailout proposal that would have
2607 resulted in higher energy bills for consumers. And in late 2017,
2608 the Trump administration revised a plan to force consumers to
2609 buy power from coal and nuclear plants on the decline, claiming
2610 that the costly and legally dubious plan was necessary due to
2611 fuel threats faced by our power grid.

2612 While FERC unanimously opposed the plan, when asked
2613 yesterday in an event hosted by Edison Electric about providing
2614 incentives to failing plants, the Secretary suggested asking the

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2615 question of FERC instead. And so, given the nature of today's
2616 hearing and the witnesses we have before us today, I would like
2617 to follow Secretary Perry's suggestion and ask you to respond
2618 to these questions.

2619 Is providing incentives to failing coal and nuclear plants
2620 a priority for FERC at this time?

2621 Mr. Chatterjee. Thank you for the question, Congressman.
2622 So as you mentioned, in the fall of 2017, Secretary Perry
2623 submitted a Notice of Proposed Rulemaking asking that certain
2624 plants, baseload plants be compensated for having the attribute
2625 of having onsite fuel. At FERC we are a record-based,
2626 evidence-based agency and we examined the record and we determined
2627 that we did not -- the record did not support taking the action
2628 that Secretary Perry had suggested. In the process of voting
2629 down the Notice of Proposed Rulemaking from DOE, we opened a new
2630 docket to do a thorough examination of grid resilience, and now
2631 about 18 months later we have a far more robust understanding
2632 and record of what the potential challenges that may arise from
2633 the premature retirements of these baseload plants.

2634 My colleagues and I need to sort through what, if any, actions
2635 need to be taken. I think from my vantage point, the next step
2636 ought to be engagement with the RTOs and the ISOs and the states
2637 to see what they are seeing in terms of fuel security and what
2638 is working, what potential, you know, risks are on the horizon.

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2639 But I will assure you, should the Commission take any action,
2640 and I am not saying it is certain we will take any action, should
2641 the Commission take any action, it would be fuel-neutral,
2642 technology-neutral based on the evidence in the record before
2643 us without any political influence.

2644 Mr. Veasey. I know also in an earlier interview, Secretary
2645 Perry was quoted as saying that the Department of Energy was pretty
2646 much done with the idea of providing funding for resilience as
2647 it awaits its input from stakeholders. And in January of last
2648 year, FERC initiated a new proceeding to examine the resilience
2649 of the bulk power system. Can you share any of your findings
2650 pursuant to this proceeding?

2651 Mr. Chatterjee. So that is the proceeding that I was
2652 referring to, sir. All I will say is Secretary Perry raised a
2653 very serious question. And I do think over the past year and
2654 a half, the concept of resilience and this question about what
2655 the energy transition means for the security and stability of
2656 the grid is one that we are having in energy circles. And I think
2657 that is productive and I think that we will continue to engage
2658 in this kind of productive dialogue. But at this time, I am
2659 not going to speak to any potential actions the Commission may
2660 or may not take because my colleagues and I need to still further
2661 determine what the next steps should be in reviewing the record
2662 that is before us in this new proceeding.

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2663 Mr. Veasey. When do you estimate there will be further
2664 reviews or actions?

2665 Mr. Chatterjee. So again, I think I, myself, and my team
2666 have worked our way through the record. I have come to the
2667 conclusion that I would like to see some further engagement with
2668 the RTOs and the ISOs in the states, but I need to -- I don't
2669 want to get ahead of my colleagues or Commission staff. I need
2670 to confer with my colleagues to see if they agree if further
2671 examination in this area is necessary.

2672 Mr. Veasey. Thank you. I yield back.

2673 Mr. Sarbanes. The gentleman yields back. I don't think
2674 we have any additional members, so that concludes our panel.
2675 I want to thank you all. I request unanimous consent to enter
2676 the following items into the record: a letter from associations
2677 representing commercial, industrial, and residential ratepayers
2678 and public interest groups; a letter from the 198 Methods; a letter
2679 from the National Rural Electric Cooperative Association.

2680 And again, let me thank our witnesses. I know you have been
2681 here for quite a while. We thank you for participating in today's
2682 hearing.

2683 I want to remind members that pursuant to committee rules,
2684 they have 10 business days to submit additional questions for
2685 the record to be answered by the witnesses who have appeared.

2686 And I ask each witness to respond promptly to any such questions

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2687 that you may receive. We appreciate that. At this time, the

2688 subcommittee is adjourned.

2689 [Whereupon, at 1:36 p.m., the subcommittee was adjourned.]

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