

**Subcommittee on Energy
Hearing on
“Oversight of FERC: Ensuring Its Actions Benefit Consumers and the Environment”
June 12, 2019**

**The Honorable Cheryl A. LaFleur
Commissioner
Federal Energy Regulatory Commission**

The Honorable Paul D. Tonko (D-NY)

1. While distributed energy resources and storage are playing a growing role in our electricity system, transmission remains the backbone of our electricity infrastructure. As more utility-scale renewables are developed far from centers of demand, this infrastructure will become even more necessary. However, we know these projects are incredibly difficult to plan, site, permit, and build.

- a. What in your opinion can FERC do to provide greater incentives to increase the utilization of existing transmission infrastructure through the deployment of advanced technologies and/or adoption of practices to maximize capacity and efficiency?

RESPONSE: As relevant here, the Commission regulates the rates, terms and conditions of interstate electric transmission by public utilities and establishes requirements for transmission planning and cost allocation. Within our existing regulations for transmission planning and cost allocation, the Commission requires the consideration of both transmission and non-transmission alternatives, which often include advanced technologies. Also, as mentioned by the Chairman, in March of this year the Commission issued a Notice of Inquiry regarding our electric transmission incentives policy (Docket No. PL19-3-000). Among other things, the Notice of Inquiry raises questions regarding the consideration of advanced technologies under our incentives policy. In addition, the Commission will hold a technical conference in September to discuss the benefits and challenges of dynamic line ratings and ambient-adjusted line ratings (AD19-15-000).

- b. What are your recommendations for Congress to promote deployment of advanced transmission technologies on existing infrastructure?

RESPONSE: I believe the language of section 219 of the Federal Power Act gives the Commission the authority to support the deployment of advanced

technologies. However, I also believe that any further expression of Congressional intent through directive legislation is always useful.

2. We also know that the interregional planning process for new transmission infrastructure has not proven to be effective.

a. What in your opinion can FERC do to improve the interregional transmission planning process?

RESPONSE: The Commission has reviewed several aspects of Order No. 1000 over the past few years, such as our June 2016 technical conference on transmission development and our transmission metrics reports. While we have unfortunately seen limited development of long-line interregional transmission, we have seen a growth in lower voltage projects to address congestion at the seams between regional borders. At the seams we have seen transmission planning regions plan and develop lower voltage, cost effective projects that offer a significant benefit to both regions. I believe FERC should continue to encourage innovative planning to address congestion at the seams of transmission planning regions, as well as larger interregional projects to deliver location-constrained renewables to meet public policy requirements within the meaning of Order No. 1000.

b. What are your recommendations for Congress to promote a more effective interregional planning process?

RESPONSE: Under section 216 of the Federal Power Act, Congress directed the Department of Energy to designate national interest electric transmission corridors, which would provide the Commission the backstop siting authority needed to aid in the development of interregional transmission. Due to court rulings limiting its effectiveness, I believe this provision has not achieved its intended result. I believe that Congress should consider additional legislation more clearly giving FERC backstop siting authority, which would help facilitate the development of transmission needed to deliver location-constrained renewables to population centers.

c. What safeguards should be considered to ensure there is transparency, efficiency, and fairness in that process?

RESPONSE: The Commission has established transmission planning principles for both local transmission planning (Order No. 890) and regional transmission planning (Order No. 1000). These principles, which promote transparency, efficiency, and fairness, provide a foundation for the interregional transmission coordination processes pursuant to Order No. 1000. These safeguards are important to the development of the transmission backbone needed to effectively integrate distributed resources.

3. There are many regions of the nation with high-potential for clean energy deployment and growing interconnection queues. It is my understanding that Texas has successfully aligned incentives to encourage transmission construction to connect those areas with demand centers.

- a. What in your opinion can FERC do outside of ERCOT to ensure right-sized transmission capacity is developed to meet high-potential clean energy regions?

RESPONSE: Unlike in ERCOT, there is a split of authority between states who cite transmission projects and the federal government who regulates the transmission planning process. As discussed above, FERC should use its ratemaking authority (under our ratemaking and incentives policies) and planning (under Order No. 1000) to support the development of high voltage transmission. As I mentioned previously, I believe backstop siting authority would facilitate development of high voltage transmission to deploy clean energy. I also believe that the appropriate federal agencies should support the development of high voltage transmission on federal land.

- b. What are your recommendations for Congress to promote efficient development of resources in these regions?

RESPONSE: I continue to believe revisiting section 216 of the Federal Power Act to allow for backstop siting authority could help promote efficient development of resources in these regions

The Honorable Joseph P. Kennedy III (D-MA)

1. Congress established the Office of Public Participation under the Public Utility Regulatory Policy Act (PURPA) of 1978. The office was designed to assist the public and consumer advocates by intervening in FERC proceedings. However, to date, the office has never formally been established by FERC nor directly funded by Congress.

- a. Commissioner LaFleur, do you support the establishment of an Office of Public Participation at FERC?

RESPONSE: Yes.

- b. Would such an office prove to be a valuable resource for consumers and public advocates seeking meaningful participation in FERC proceedings?

RESPONSE: My understanding is that in the early years after passing PURPA, FERC requested money to fund the Office of Public Participation, but this request was denied. I believe Congress should allocate money for this office, and I think

it could be designed and carried out so as to be a valuable resource for stakeholders and the public.

The Honorable Marc Veasey (D-TX)

1. Standard license Article 5 of the conditions that the Commission includes in licenses for major hydroelectric projects affecting navigable waters of the United States requires licensees to acquire and retain sufficient land or rights to use lands needed to construct, maintain, and operate their projects. In the past, the Commission has taken the position that if project operations require the acquisition of additional lands or use rights, the project's boundaries may be amended to include lands previously outside of the project boundaries. E.g., PacifiCorp, 105 FERC P61, 237 at ¶114 (2003).

a. Do you believe that the Commission's hydroelectric licensing jurisdiction should be limited to a project's original boundary or should the Commission retain its current authority to require a licensee to acquire sufficient land or rights to use lands to operate the project, even if those lands lie outside a project's historic boundary?

RESPONSE: The Commission should retain its current authority, given to it by Congress, to require a licensee to acquire additional land or rights if it is in the public interest. Over the course of a thirty to fifty-year license, conditions in the project area may change, therefore the original project boundary may not account for the current circumstances; based upon the public interest the Commission may need to make revisions during relicensing.

b. Do you believe this rule should be different for the Pensacola Hydroelectric Project, FERC No. 1494, than for other hydroelectric projects licensed by the Commission? If so, why?

RESPONSE: No, I believe the Pensacola Hydroelectric Project should be governed by the same rules that govern all hydropower licenses, and it is important to public safety that the Commission's authority over this project be sustained.

2. According to the Compliance Handbook published by the Commission's Division of Hydropower Administration and Compliance, many licenses "contain conditions that require specific reservoir water levels to be continuously maintained or maintained during specified periods of time ... or target elevations within required reservoir operating bands. The purpose of these water-level requirements is to protect and enhance the recreational, scenic, and environmental resource values of a project. Non-compliance with the water-level requirements of a project reservoir could adversely affect the project's environmental integrity and quality."

a. Do you believe that the Commission needs the authority to prescribe reservoir

water levels in its hydroelectric licenses in order to fulfill its statutory responsibilities under the Federal Power Act?

RESPONSE: The Commission has the authority to prescribe reservoir levels and it should continue to have that authority. The Commission must consider a range of issues during licensing, including but not limited to, navigation, irrigation, recreation, cultural resources, and adequate fish and wildlife protection, mitigation, and enhancement, as well as safety and flood control. Removing FERC's jurisdiction from a reservoir would remove the Commission's ability to meet our congressional mandates and could jeopardize public safety and resource protection.

The Honorable Billy Long (R-MO)

1. The last time the FERC Commissioners testified before this subcommittee, I asked Chairman McIntyre why City Utilities, a public utility owned by the City of Springfield, Missouri, is paying the highest energy cost in the Southwest Power Pool. I also asked why City Utilities is paying for transmission upgrades where the costs greatly exceed the benefits received, as shown by Southwest Power Pool's own study. The study shows that City Utility's benefit ratio is around .5, lower than the threshold of .8 needed to meet the Federal Power Act's Just and Reasonable Standard. At the same time, Chairman McIntyre expressed surprise that one entity would be paying substantially more for transmission service than others and promised to look into it.
 - a. Are you or any of the other commissioners aware whether a wide discrepancy in benefits to customers remains within SPP?

RESPONSE: Please refer to the answer submitted by Chairman Chatterjee.

2. On May 10th of last year at a hearing entitled "Examining the State of ELECTRIC Transmission Infrastructure: Investment, Planning, Construction, and Alternatives," John Twitty testified on behalf of the TAPS Group about the benefits of joint transmission ownership arrangements as an effective means of getting needed transmission facilities built. For more than a decade, FERC has reportedly expressed strong support for such arrangements, however your support has not spurred additional joint ownership arrangements. The Commission has recently initiated a notice of inquiry regarding its transmission incentives policies.
 - a. Should the Commission do more to actively promote joint ownership arrangements involving public power entities?

RESPONSE: I have consistently supported the promotion of joint ownership, both through the Commission's 2012 transmission incentives policy statement and our more recent 2019 Notice of Inquiry. I believe that joint ownership helps to support the successful siting and construction of needed transmission projects.