FRANK PALLONE, JR., NEW JERSEY
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CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

September 27, 2021

The Honorable Allison Clements
Commissioner
Federal Energy Regulatory Comission
888 First Street NE
Washington, DC 20426

Dear Commissioner Clements:

Thank you for appearing before the Subcommittee on Energy on Tuesday, July 27, at the hearing entitled "The Changing Energy Landscape: Oversight of FERC." I appreciate the time and effort you gave as a witness before the Committee on Energy and Commerce.

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your responses to the member who has submitted the questions in the space provided.

To facilitate the printing of the hearing record, please submit your responses to these questions no later than the close of business on Tuesday, October, 12 2021. As previously noted, this transmittal letter and your responses, as well as the responses from the other witnesses appearing at the hearing, will all be included in the hearing record. Your written responses should be transmitted by e-mail in the Word document provided to Lino Peña-Martinez, Policy Analyst, at Lino.Pena-Martinez@mail.house.gov. To help in maintaining the proper format for hearing records, please use the document provided to complete your responses.

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Lino Peña-Martinez with the Committee staff at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.

Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce

The Honorable Bobby L. Rush
Chairman
Subcommittee on Energy

The Honorable Fred Upton
Ranking Member
Subcommittee on Energy

Attachment—Additional Questions for the Record

Subcommittee on Energy
Hearing on
"The Changing Energy Landscape: Oversight of FERC"
Tuesday, July 27, 2021

The Honorable Allison Clements, Commissioner, Federal Energy Regulatory Commission

The Honorable Frank Pallone Jr. (D-NJ)

1. In addition to expanding our transmission system, it is important to encourage the deployment of grid enhancing technologies and non-transmission alternatives, both of which have the potential to reduce costs by enhancing the use of the existing transmission system and deferring the construction of new transmission infrastructure.

   What can FERC do to ensure that these new technologies are considered in transmission planning processes, and how can Congress help support FERC in these efforts?

RESPONSE: Chairman Pallone, I agree with you that it is important to encourage the deployment of grid-enhancing technologies and non-transmission solutions. The Commission has a significant role to play in facilitating these technologies to save customers money and ensure a more reliable and resilient grid.

In the transmission planning context, the Commission can encourage deployment of cost-effective grid-enhancing technologies and non-wires solutions in a number of ways. For example, Order No. 1000 requires comparable consideration of transmission and non-transmission alternatives in the regional transmission planning process. But we must do more, especially with regard to grid-enhancing technologies, whose potential is far greater than current deployment. A challenge is that utilities do not generally have adequate incentives to deploy grid-enhancing technologies. Utilities earn returns on capital invested to provide service. Where grid-enhancing technologies facilitate more efficient use of the transmission system, that may reduce the need for capital infrastructure, thereby lowering utility returns.

In my view, the Commission should evaluate a range of tools to counteract this incentive, as a combination of approaches may be necessary to spur an appropriate level of deployment. The Commission is currently exploring approaches in several dockets:

- In July 2021 the Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) on transmission planning, cost allocation, and generator interconnection. The ANOPR solicits feedback on whether consideration of grid-enhancing technologies would improve the scenario analysis on which forward-looking transmission planning should be based. It also solicits feedback on whether consideration of grid-enhancing technologies should be required to facilitate more cost-effective interconnection of new generation.

- In November 2020 the Commission issued a Noticed of Proposed Rulemaking on managing transmission line ratings. In it the Commission contemplates steps to improve the accuracy and transparency of transmission line ratings to ensure the transmission system is utilized efficiently and leads to just and reasonable rates for service.
- Commission staff recently held a workshop to examine shared savings incentive approaches that may foster deployment of grid-enhancing transmission technologies. We are currently soliciting comments on this topic, due January 14, 2022.

Further, the Commission can investigate whether additional actions may more fully leverage these resources in achieving a reliable and resilient system. The Commission has an open docket, AD21-13, examining climate change, extreme weather, and electric system reliability. We are currently processing feedback received in that docket and it is my hope that it will lead to concrete steps to better utilize grid-enhancing technologies and distributed energy resources to safeguard the electric system from extreme weather threats.

Finally, my understanding is that there is proposed legislative language being contemplated that would promote the use of grid-enhancing technologies. My staff is available to provide technical assistance on this legislation.

I am committed to making the reduction of barriers to grid-enhancing technologies and non-transmission solutions a priority throughout my tenure on the Commission.

<u>The Honorable Lisa Blunt Rochester (D-DE)</u>

1. Commissioner Clements, pipelines have historically been built in low-wealth communities and communities of color with limited resources. Often individuals, landowners and members of these communities were unaware of how to advocate for themselves or intervene in FERC proceedings.

   As you know, Congress first directed FERC to establish an Office of Participation in 1978. More than 40 years passed before the Office of Public Participation was established. During this time FERC proceedings were inaccessible to many members of low-wealth communities and communities of color, as well as members of the disability community.

   I want to first applaud the Commission for finally taking steps to establish the Office of Public Participation—however, it is not enough to just establish the Office, it is also essential that the stakeholders have the tools and intervenor funding to meaningfully participate in FERC proceedings.

   I understand that you led the public outreach to establish the Office Public Participation. What tools do you think are necessary to help the public meaningly participate in FERC proceedings? And as a follow-up, do you agree that intervenor funding is critical for realizing the success of this program?

RESPONSE: I was honored to lead the public input process that informed initial establishment of the Commission's Office of Public Participation (OPP). Through the six listening sessions, full-day technical conference featuring 29 expert and stakeholder panelists, and written comments submitted during a two-month comment period, we learned a great deal from a diverse set of stakeholders about how OPP can facilitate meaningful participation in Commission proceedings. Perspectives on how to achieve this goal were varied, but all underscored the need for access and assistance as a precursor to participation. To that end, the OPP is currently assisting stakeholders with procedural questions and examining ways to improve outreach, including to environmental justice communities affected by Commission-jurisdictional infrastructure projects.

I agree with you that while the Commission has taken the first step in establishing the office, we must do more to bring the voices of landowners, impacted communities, and individuals to our decision-making process. One important additional step was Chairman Glick's appointment of Elin Katz, former Connecticut Consumer Counsel and President of the National Association of State Utility Consumer Advocates, as OPP's director. I am eager for another additional step, initiation of a rulemaking process to consider whether and how intervenor funding may support or prove critical to providing improved access and assistance.

2. Commissioner Clements, I was pleased to hear that Montina Cole would be serving as Senior Counsel for Environmental Justice and Equity to help better incorporate environmental justice into FERC's decision-making process. How will Ms. Cole's role help ensure that the Office of Public Participation is addressing the specific challenges that low-wealth communities, communities of color, and Tribal Nations face?

RESPONSE: I applaud Chairman Glick's decision to create the position of Senior Counsel for Environmental Justice and Equity and to hire Montina Cole for that role. While I cannot speak for him or her, I understand her role to include providing guidance across the Commission on integrating equity and environmental justice considerations into its decision-making. Ms. Cole has already provided valuable guidance to the individuals currently staffing the OPP, and she will continue to coordinate closely with that office. Her guidance, input from Tribal Nations, and from other stakeholders, including low-wealth communities and communities of color, must inform the role that OPP takes and the assistance it provides.

3. Communities of color and economically disadvantaged communities are more likely to live near polluting power plants, spend a greater percentage of their incomes on energy and heating expenses, and during the February weather event in Texas predominantly black communities were more than four times as likely as predominantly white communities to suffer a blackout. As we move towards a clean energy economy it is critical that all communities have access to clean, affordable, and reliable energy.

   Commissioner Clements, does the Federal Energy Regulatory Commission have a responsibility to ensure that all communities have access to clean, affordable, and reliable energy, and if so, what actions can the Commission take to achieve that goal?

RESPONSE: Yes. The Commission is obligated to regulate in the public interest under the Federal Power Act and the Natural Gas Act, a responsibility that I take seriously. Establishment of the OPP and the Chairman's increased focus on environmental justice and equity are important initial steps to ensure environmental justice community and consumer voices are heard.

The Honorable Tom O'Halleran (D-AZ)

1. You stated in your testimony that efforts towards market integration in the west "are moving too slowly and are not adequately coordinated." However, there are concerns in Arizona that national mandates for RTO participation would increase costs to consumers. Is FERC considering mandating RTO participation?

RESPONSE: Regional transmission organizations (RTO) have saved customers around the United States billions of dollars over the last several decades. Well-designed and governed RTOs have the potential to continue doing so while maintaining reliability and resilience going forward. I believe several factors in the West, such as increasing incidence of extreme weather and droughts and the changing resource mix, necessitate increased system coordination, which can best be achieved via an RTO. A Department of Energy-funded, Utah-led Western study suggests a Western region-wide RTO can save Westerners $2 billion annually. As the Commission's Federal Power Act obligations include assurance of affordable and reliable energy, it is hard to ignore these circumstances.

However, I have also made clear that I believe regional market formation should be designed by the stakeholders in that region – here, designed by Westerners for Westerners. The region's progress to improve coordination is already bearing fruit via establishment of energy imbalance markets. By continuing to improve coordination across various efforts in the West, states have the opportunity to design a regional market to best suit their needs and priorities.

2. What carrots and sticks are you considering to encourage RTO participation?

RESPONSE: I believe that the potential cost savings and reliability and resilience benefits that would flow from a regional market are incentive enough to move states and all other stakeholders towards action. I continue to engage with Western stakeholders about these savings and benefits and to address their concerns about potential changes that may accompany market formation. Recent efforts by 7 of the 11 states in the Western Interconnection, as well as an announcement by several utilities, constitute encouraging progress.

The Federal Power Act, however, does obligate the Commission with its own responsibilities. Absent voluntary coordination by Western utilities and stakeholders to take action sufficient to ensure just and reasonable rates, avoid undue discrimination and maintain sufficient system reliability, the Commission may need to act to require changes to the status quo.

3. Would you recommend Congress pass legislation to mandate RTO participation?

RESPONSE: I defer to the judgment of Congress as to whether legislation mandating RTO participation would be appropriate, given the unique regulatory history and structure of each region, as well as the justified desire to respect state decision-making. What is clear, however, is that integrating the regions that do not currently participate in organized markets via just and reasonable and nondiscriminatory market constructs would offer significant cost savings for consumers, as well as substantial reliability and resilience benefits. RTO constructs likely offer the greatest cost and reliability benefits. Western states and stakeholders continue to make progress towards system integration and we should continue to let them lead in efforts to develop just and reasonable and non-discriminatory market constructs. Of course if the reliability and resilience needs of the region continue to be challenging and if the current approach risks system reliability and affordability, the Commission has a duty under the Federal Power Act vis-a-vis Commission-jurisdictional utilities to consider changes to the status quo.

4. What are your recommendations on how states can integrate their energy markets without becoming dominated by larger states in their region?

RESPONSE: I would encourage states to be active participants in regionalization conversations, even if they are not yet ready to further integrate their systems. By doing so, they will ensure that their state's interests are well represented in the development of any regional solutions. In contrast, states and stakeholders who sit on the sidelines may have limited ability to change any markets or programs that they may want to join after they are stood up. Fortunately, 7 of 11 states in the West have already taken some action to consider increased regionalization or RTO development, and my understanding is that the other 4 states are at the table in stakeholder discussions. States have the opportunity to adopt best practices from other regions, including governance models that provide for robust representation for states in regional decision-making processes and respect for state authority over resource mix choices.