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Good morning, Chairman Latta, Ranking Member Castor, Chairman Guthrie, Ranking Member Pallone, and Members of the Subcommittee. Thank you for the opportunity to testify and share my views on several of the bills under consideration.

My name is Kim Smaczniak, and I am a Partner of the newly-formed boutique energy law firm, Roselle LLP. I am here in my personal capacity, however, and not on behalf of my firm or any client. Prior to founding Roselle, I served as Special Counsel in the Office of General Counsel of the Federal Energy Regulatory Commission (FERC). In that capacity, I played a key role in development of the interconnection queue reforms adopted by FERC in Order No. 2023, which aimed to address queue backlogs, improve uncertainty, and prevent undue discrimination for new technologies.[1] At FERC, I routinely provided technical assistance to members of Congress regarding the potential impact of bills affecting FERC's legal authority, including those related to the interconnection queue.

My testimony addresses four bills, and primarily focuses on two bills that would require FERC to implement further reforms to the interconnection process, the set of rules that dictate how energy generators may interconnect to the grid.

Summary

1. **H.R. 1047, the "GRID Power Act"** – I am concerned this bill picks winners and losers, threatening the innovation and competition in energy markets that keeps energy affordable for Americans, without delivering on its goal to safeguard grid reliability.

2. **H.R. _____, "Expediting Generator Interconnection Procedures Act of 2025"** – In contrast, this bill requires reforms to expedite and provide greater certainty to the interconnection process, making the process more efficient for all generators, benefiting both reliability and affordability.

3. **H.R. _____, "Power Plant Reliability Act of 2025"** – This bill would grant sweeping new authority to FERC to compel continued operation of power plants for an additional 5 years that would otherwise retire, where there is even the potential for inadequate service. This bill is both unnecessary, given FERC's oversight of numerous other tools to ensure reliability and the Department of Energy's existing authority to direct temporary operations under Section 202(c) of the Federal Power Act, and incredibly costly – damaging economic growth and American pocketbooks by adding billions of dollars in cost to already rising energy prices.

4. **H.R. _____, "Improving Interagency Coordination for Review of Natural Gas Pipelines Act"** – I am most concerned with the provisions that were incorporated into an earlier version of the bill, which would cut off states' ability to protect state water bodies, gutting the Clean Water Act's cooperative federalism model by putting FERC in charge of state water quality protections. In addition, while I appreciate efforts to increase permitting efficiencies, I believe the Subcommittee is missing a key opportunity : any credible effort to build out critically needed energy infrastructure must include addressing the far more significant barriers to transmission permitting.

H.R. 1047, the "GRID Power Act"

This bill requires FERC to issue rules that allow a subset of electric generators in the interconnection process to jump to the front of the line. Because transmission capacity is generally constrained and insufficient to support all generating projects that seek to interconnect, as a practical matter this would increase uncertainty and costs for all other power projects seeking to connect to the grid, while benefiting only prioritized power projects. Timely, certain, cost-effective interconnection can make or break whether a project is commercially viable.

The bill is unnecessary.

FERC already has the power to approve changes to the interconnection queue process, including to approve changes that would allow prioritization of some resources over others.[2] But under current law, FERC would need to justify its approval with evidence that such an approach is both just and reasonable and not unduly discriminatory. Given FERC's

long policy of technology and fuel neutrality, under existing law FERC would likely be overturned by the courts if it allows an interconnection process to pick winners and losers based on fuel-type.

The bill makes it easier to approve discriminatory practices.

By expressly requiring FERC to enable prioritization of a subset of resources, this bill relaxes a key constraint on FERC's current authority – the obligation to avoid an unduly discriminatory approach to prioritization. In essence, it makes it easier to put in place an interconnection queue that picks winners and losers among resources.

Picking winners and losers guts innovation and competition.

One of FERC's core purposes in requiring standardized interconnection rules is to prevent transmission providers, who otherwise have strong incentives to prefer their own generation, from barring access to the markets for viable generation projects.[3] FERC has long recognized that competition among generators is both essential to keeping prices affordable and is not possible without an interconnection process that works for all resource types.[4]

Breaking the central premise of resource neutral access to the markets – where interconnecting to the grid is possible for any resource that is ready to back its project with real investment and progress toward construction – is one of the biggest threats to competition and affordability I can imagine. By putting the federal government in the position of deciding which projects will even get to compete to provide services, we stifle American innovation and the entrepreneurial spirit that make our economy great.

Prioritizing dispatchable resources will not safeguard reliability

I am equally concerned that the bill would fail in its aim to improve reliability, by narrowly focusing on one tool in the tool box – and crowding out differing approaches-- when ensuring reliability requires a diverse and evolving set of tools.

Reliability is a team sport. Just like investing in a roster full of quarterbacks, or of just kickers, would not result in a Superbowl-winning football team, reliability must be assessed by how well the whole team plays together – not just the generation mix, but also the transmission and distribution system that must all work together to deliver reliable power.

This bill makes the mistake of equating more dispatchable resources with a more reliable system. But more dispatchable resources does not necessarily result in greater system reliability. System reliability can be threatened in many ways – by not having enough energy supply, period; by not having resources that provide essential reliability services in the

location those services are needed[5]; by not having transmission with capacity to move the supply to where it's needed, at the times it's needed; by not having resources that continue to operate in diverse conditions (e.g., extreme weather; during fuel shortages). Additional dispatchable resources may do nothing to help in the face of these other, common types of threats.[6] The best investments to ensure reliability will vary depending on context – there just isn't one right investment for every part of the country, or for all time.[7] In fact, this is precisely the approach FERC takes in overseeing market design and resource adequacy constructs, which together help shape the mix of resources in a market: FERC has declined, again and again, to mandate a one-size-fits-all approach.

If prioritized resources can't get built because of supply chain constraints, putting them to the head of the line worsens reliability concerns.

Supply chain constraints are another key factor. This bill would essentially allow gas-fired plants to the head of the queue. But if those projects are stuck waiting for years for a turbine to arrive, the biggest impact of the bill is to slow down projects that could have been built sooner. There are increasing reports[8] of supply chain constraints for gas turbines and other equipment[9] and human resources shortages needed for such projects pushing out new deployments until 2030 or later.[10]

Only commercially ready projects should be eligible to move through the queue.

The interconnection process, especially as modified by Order No. 2023, enables only projects that meet certain indicators of commercial readiness to enter and progress through the queue. The bill is unclear if FERC could relax those stringent commercial readiness requirements for dispatchable resources, in order to grant them priority. If so, this would exacerbate the problem of projects lingering in the queue for years, which in turn drives up costs for not only those projects, but all the projects waiting behind them that face increasingly uncertain costs and timelines.

Prioritizing dispatchable resources threatens affordability

As discussed above, picking winners and losers is costly over the long run because it undermines the ability for innovation and competition from new technologies or business approaches to drive down costs.

But it is also costly in the near term. Numerous reports indicate the cost of gas-fired projects is rising rapidly, potentially to as much as twice or three times the cost of a few years ago.[11] Additionally, the non-prioritized resources will face significant new cost premiums to make it through the interconnection process because of this bill. They face additional uncertainty and cost, especially if the prioritized resources are not in fact commercially ready and therefore linger in the queue. Increased interconnection costs

pass through to increase the costs of energy or other services from a generator, and ultimately hit American families and companies in their energy bills.

And if those additional costs and delays are large enough, this bill could push low-cost renewables and battery projects out of the queue, eliminating the downward pressure competition from such resources place on energy prices.

Expediting Generator Interconnection Procedures Act of 2025

The bill requires FERC to start a rulemaking to adopt reforms to the interconnection process beyond those adopted in Order No. 2023. Rather than pick winners and losers, the bill focuses on reforms that will help all projects move more efficiently and transparently through the queue. Specifically, the bill requires FERC to consider a wide range of improvements to the interconnection process, from best practices to use advanced computing and AI to streamline interconnection processes, to increased transparency around how resources are modeled, how needed transmission upgrades are identified, and the timelines and costs of building those upgrades. The bill, however, leaves FERC significant flexibility to determine the form and extent of particular requirements, affording ample opportunity for engagement with industry stakeholders.

I believe further reforms to speed up and increase certainty in the interconnection process are critical. While Order No. 2023 was a crucial first step, these reforms alone will not enable the timely, efficient development of new resources—especially given the urgency of coming load growth. In particular, advanced computing and automation have rapidly emerged as low-hanging fruit to expedite interconnection for all generators in the queue, but were still at their nascency at the time of FERC's work on Order No. 2023. I'm confident FERC can, working with stakeholders, balance the need for cyber and other security with innovative use of more advanced computing technologies.

The bill provides scope for FERC to consider ways to ensure construction of transmission needed for interconnection occurs in a timely and affordable manner. I believe there are two ways this can help: increasing transparency around whether an interconnecting generator is actually able to move forward with construction (especially given supply chain constraints) and enhanced scrutiny over the transmission providers' actions in constructing transmission upgrades, to make sure construction occurs on a reasonable timeline and cost.

The bill also pushes FERC to consider ways that interconnection may not be one-size-fits-all. For example, if a project proponent is willing to take on the financial risk of curtailment, how should that affect the study process, and accordingly, the scope of transmission

upgrades that must be paid for? Likewise, the bill requires FERC to consider whether the assumptions used in interconnection studies match how generators actually operate, to better ensure transmission upgrades are being constructed based on realistic expectations.

"Power Plant Reliability Act of 2025"

The Department of Energy already has authority to order power plants to run or require transmission of energy needed to address an emergency on a temporary basis, pursuant to section 202(c) of the Federal Power act. This bill would grant FERC a similar type of authority, but radically expand upon that power in at least 3 concerning ways.

(1) the bill no longer requires actual evidence of an emergency. Even the possibility that future supply could.be inadequate would be a sufficient basis to mandate power plants that would otherwise retire to keep running

(2) Rather than require operation for only a temporary basis, as needed to address the actual emergency, this bill would automatically keep a plant in operation for at. least.5 years at a time. This is without ANY evidence that such a long timeframe is actually needed to address the conditions on the grid.

(3) This bill takes the unprecedented step of requiring a customer to pay for the operation of the generator or the transmission facilities. This is true even if the hypothetical need for that facility never.actually.shows.up. So for the first time, American families may be compelled to pay for the most expensive, uneconomic power plants to continue to operate – even if that very expensive energy is never needed.

This bill is not necessary to safeguard grid reliability.

Long-term reliability concerns, including looking ahead five years or longer, should be addressed by planning tools and market design. This is exactly the job that utilities and grid operators have been doing for decades: projecting future conditions and planning for infrastructure needs. Grid operators have many tools for ensuring that the market incents the capabilities the grid needs, including resource accreditation, capacity market design, and compensation for new types of services. Using competitive processes (competitive solicitations; auctions; etc.) to meet grid needs ensures the costs of meeting evolving grid needs is done in a least-cost manner. All of these market interventions exist alongside FERC's authority under section 215 Federal Power Act, to oversee the development of reliability standards for the grid.

Beyond these reliability tools, FERC has also approved a number of out-of-market mechanisms (e.g., "reliability must run" contracts) to enable generators to remain in operation where necessary to avoid specific reliability problems. The expectation is that these kinds of arrangements will be extraordinary; for example, where a transmission upgrade is needed to allow a retirement to occur, but may take additional time to be constructed. They are expected to be time-limited because (a) keeping uneconomic plants running is expensive and harms the competitiveness of other, more affordable replacements and (b) normal planning and market tools will allow for more cost-effective solutions to the reliability concern.

Finally, section 202(c) of the Federal Power Act is already there to address emergency concerns on a temporary basis. This kind of "break glass when needed" authority is the right way to address gaps where unexpected circumstances mean that other tools fail to adequately support reliability.

The bill would impose astronomical new costs on Americans at a time when energy costs are already rising.

The power plants that would be affected by this new authority are, by definition, the clunkers that are the most expensive to operate. They are retiring because they are uneconomic – that means they are too expensive to be worth running.

Research examining the impacts of operation of uneconomic coal plants on American energy bills already track $12 Billion in unnecessary costs between 2020 and 2024.[12] A single uneconomic coal plant racked up $1 Billion in losses over that five-year period, which in turn was recovered through American families' energy bills. This bill would dramatically increase the scale of such costs, by not only keeping uneconomic power plants in operation based on the chance that they may be needed in five years, but by guaranteeing the recovery of their costs of operation.

We cannot afford this kind of unnecessary cost inflation, at a time where low cost energy is critical to American energy dominance, serving load growth, and as an underpinning to growth in the American economy.

This bill would stifle American innovation in the electricity sector.

We will lose critical investment in cutting-edge energy technologies – technologies that may be less costly, more efficient, or meet reliability needs in novel ways – if the federal government props up zombie power plants. Why invest in innovation if the markets are flooded by power plants that are guaranteed a return, no matter the need for them, nor the potential for alternatives to do the job more efficiently?

“Improving Interagency Coordination for Review of Natural Gas Pipelines Act”

While I generally support efforts to streamline permitting processes, because I believe robust environmental protections can coexist with timely, efficient decisions by permitting authorities, I raise particular concerns with a provision of an earlier version of this bill. I urge the Subcommittee not to move this bill forward with that provision, which would gut the ability of states to protect local waterways, and thereby harm states’ ability to protect the health and livelihoods of their residents.

The provision of concern would eliminate states’ authority under section 401 of the Clean Water Act. Under existing law, section 401 provides an opportunity for a state to impose conditions on issuance of a natural gas pipeline certificate in order to mitigate impacts of a discharge into state waters due to the pipeline, or to decline to issue a certificate under section 401 where the impacts of the project are so harmful as to warrant denial.

The draft bill would instead put FERC in the position of deciding whether a condition is necessary to ensure compliance with the Clean Water Act, and would allow inclusion of the condition only if FERC deemed it necessary.

States, not FERC, have the best understanding of the importance of state waterways to the health and livelihoods of their residents.

States have long held a special role under the cooperative federalism approach of the Clean Water Act. States, not FERC, have the best understanding of how state waterways are used, and their importance to the health and livelihoods of their residents. States, not FERC, best understand the competing needs on those waterways, and the cumulative impacts of discharges from other, non-FERC regulated discharges. There is good reason that states should maintain this role.

Nor do I believe that eliminating states authority is necessary to ensure construction of needed gas infrastructure. FERC has issued numerous gas certificates, and states routinely engaged constructively in these processes to identify measures to address discharges of those projects. Under existing law and Circuit court precedent, states may waive their 401 certification rights if they do not act in a timely manner, or intentionally circumvent their obligation to act in a timely manner under section 401.[13] I believe that states’ general interest in finding a balance between minimizing the harms of discharges to state waters, and in ensuring infrastructure that is needed for regional reliability, combined with existing provisions of law, is sufficient to ensure good faith engagement from states.

Finally, I urge the Subcommittee to turn its attention to a much more urgently needed area for permitting reform: transmission. If the Subcommittee is concerned that natural gas certificates are not sufficiently expedited, then it must be outraged by the broken transmission permitting system. This country will not be able to build the transmission infrastructure that is absolutely essential to unlocking American energy dominance, and safeguarding reliability and affordability, without reforms to transmission permitting. It is a missed opportunity not to consider permitting reforms necessary to build out all forms of critically needed energy infrastructure.

END NOTES

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[1] FERC Order, No. 2023, 184 FERC ¶ 61,054 (2023), at https://www.ferc.gov/media/order-no-2023

[2] See.e¡g¡, "FERC approves CAISO interconnection reform plan," Oct 2024 at https://www.utilitydive.com/news/ferc-california-caiso-interconnection-reform-plan/728633/; "FERC approves PJM's fast-track power plant interconnection plan," Feb 2025 at https://www.utilitydive.com/news/ferc-pjm-fast-track-surplus-interconnection-queue/739908/

[3] "A standard set of procedures… for all [facilities]… will minimize opportunities for undue discrimination and expedite the development of new generation." FERC Order No. 2003, 104 FERC ¶ 61,103 (2003) at P11, at https://www.ferc.gov/sites/default/files/2020-06/order-2003.pdf

[4] See.e¡g¡?FERC Order No. 2023, 184 FERC ¶ 61,054 at PP 27 & 37 ("interconnection queue backlogs and study delays afflicting generator interconnection service nationwide hinder the timely development of new generation and thereby stifle competition in the wholesale electric markets"); FERC Order No. 2003 104 FERC ¶ 61,103 at P11 ("relatively unencumbered entry into the market is necessary for competitive markets").

[5] Milligan, Michael, "Sources of Grid Reliability Services" The Electricity Journal Vol 31:9 (2018) (describing the different "Essential Reliability Services" provided by differing

resource types) at https://www.sciencedirect.com/science/article/pii/S104061901830215X .

[6] If a shift toward dispatchable resources results in a greater risk of correlated outages, this could exacerbate reliability challenges. For example, during Winter Storms Uri and Elliot resources of the same type faced correlated risks of equipment freezing and fuel supply disruption. For these types of risks, investing in more of the same generation thus worsens.the risk of catastrophic loss of supply, whereas diversity could mitigate it. See FERC, NERC, and Regional Entity Staff Report, "The February 2021 Cold Weather Outages in Texas and the South Central United States" (Nov 2021) at https://www.ferc.gov/media/february-2021-cold-weather-outages-texas-and-south-central-united-states-ferc-nerc-and ; FERC, NERC, and Regional Entity Staff Report, "Inquiry into Bulk-Power System Operations During December 2022" (Oct 2023) at https://www.ferc.gov/media/winter-storm-elliott-report-inquiry-bulk-power-system-operations-during-december-2022

[7] Numerous utilities across the country have engaged in planning processes to evaluate their needs in light of retirements, demand growth projections, and other relevant conditions. Many planners have determined that the least-cost portfolio of resources that will reliably meet electricity demand includes only modest quantities of dispatchable resources. See.e¡g¡, In the Matter of Xcel Energy's 2024–2040 Upper Midwest Integrated Resource Plan, Dkt No, E-002/RP-24-67 (April 2025) (replacing 1700 MW of coal retirements and meeting 1000MW of demand growth with 3200 MW of new wind; 400 MW of new solar; 600 MW of new storage; 420 MW of new gas; 700 MW from existing gas; 580 MW of non-gas "Firm Dispatchable" resources; and extending the life of two existing nuclear generators) at pp 6-7 at https://www.edockets.state.mn.us/documents/%7B30F45996-0000-CF1F-80E3-5E41B2F16918%7D/download?contentSequence=0&rowIndex=1 ; see.also.Florida Power & Light Company's 2025 - 2034 Ten Year Power Plant Site Plan (April 2025) at p 16 (FPL expects demand growth of nearly 3 GW by 2034. To meet demand, FPL plans to add 17,433 MW solar, 7,603 MW energy storage, and 475 MW of peaking gas) at: https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2025/Florida%20Power%20and%20Light%20Company.pdf

[8] "We build [renewable and storage] projects and get new electrons on the grid in 12 to 18 months. We should be thinking about renewables and battery storage as a critical bridge to when other technology is ready at scale, like new gas-fired plants . . . . gas turbines are in short supply and in high demand." NextEra Energy Quarterly Earnings Call, First Quarter 2025 at https://www.investor.nexteraenergy.com/~/media/Files/N/NEE-IR/reports-and-fillings/quarterly-earnings/2025/Q1%202025/Final_Q1%202025%20Script_vF.pdf

[9] "[A] large share of the projects in the queue historically never reach completion. This is a structural challenge that will not be resolved quickly. The primary constraint is the limited availability of two essential parts of building thermal generation. First, critical components. Turbines and other key equipment for new, flexible natural gas generation remain in short supply with no meaningful relief expected for years to come. Second, the human component. Experienced thermal development teams and EPC firms are at capacity already." NRG Energy, Inc. Q4 2024 Quarterly Earnings Call (Feb 2025) at https://investors.nrg.com/static-files/06f35859-347d-47f8-a3d2-bf40aab8bafa \ ; see.also.. GE Vernova 1Q 2025 Financial Results (April 2025) ("[Re: gas turbine orders] Sitting here today, 2026 and 2027 are largely sold out, we are approaching filling out 2028 and starting to sign agreements for later years.") at https://www.gevernova.com/sites/default/files/gev_webcast_transcript_04232025.pdf

[10] NextEra Energy Energy Fourth Quarter and Full Year Earnings Call at Slide 6 (Jan 2025) (projecting gas generating projects that are not already being planned will not be able to be deployed until "2030+" in contrast to renewables and storage, which are "ready now and fast to deploy" at https://www.investor.nexteraenergy.com/~/media/Files/N/NEE-IR/news-and-events/events-and-presentations/2025/4Q%202024%20Slides%20vFinal/4Q%202024%20Slides%20vFinal.pdf ; see.also.NRG Energy, Inc. Fourth Quarter and Full Year 2024 Earnings Presentation (Feb 2025) at Slide 9 (projecting unplanned gas projects be deployed 2030 or later) at https://investors.nrg.com/static-files/ab972752-25ad-4cca-afbe-0027e2754723 ; Jason Plautz, "Want to Build a Gas Plant? Get in line." (seven out of seventeen gas projects supported by a Texas program ejected from program due to, among other reasons, supply constraints and financing challenges) at https://subscriber.politicopro.com/article/eenews/2025/04/22/want-to-build-a-gas-plant-get-in-line-00299503

[11] Jason Plautz, "Want to Build a Gas Plant? Get in line." ("According to investment bank Jefferies, the cost of a new gas turbine is about 50 percent higher than just 10 months ago.") at https://subscriber.politicopro.com/article/eenews/2025/04/22/want-to-build-a-gas-plant-get-in-line-00299503; ""Why a Plane-Size Machine Could Foil a Race to Build Gas Power Plants" The New York Times (costs of new gas plants are up two to three times the cost of a few years ago) at https://www.nytimes.com/2025/04/08/business/energy-environment/gas-turbines-power-plants.html

[12] Gabriella Tosado, Ashtin Massie, and Joe Daniel, Rocky Mountain Institute Utility Transition Hub Economic Dispatch Dashboard (accessed April 2025) (quantifying ratepayer impacts of uneconomic dispatch of coal power plants under existing market conditions) at https://utilitytransitionhub.rmi.org/economic-dispatch/

[13] Hoopa.Valley.Tribe.v¡.FERC, 913 F.3d 1099 (D.C. Cir. 2019).