

ADDITIONAL QUESTIONS FOR THE RECORD

Responses of Tony Clark August 11, 2026

National Association of Regulatory Utility Commissioners

Committee on Energy and Commerce, Subcommittee on Energy hearing held on May 13, 2026, entitled "Wires, Rates, and States: Permitting Transmission for Reliable and Affordable Power"

The Honorable Bob Latta (R-OH)

1. You have reviewed and approved numerous transmission cases at the state commission and regulated transmission service at the federal level. Does FERC have the expertise or capacity to take over permitting for interstate transmission lines?

At the present time, FERC does not have experience in siting electric transmission lines, since nearly all electric transmission siting and permitting takes place at the state and local level, and FERC has not exercised its existing federal backstop siting authority. Were FERC directed to take over electric transmission siting authority from the states, it would require significant additional federal resources to enable that capacity. Perhaps more importantly, as noted in my testimony, landowners would lose access to a local siting authority to address concerns about impactful matters like line routing and pole placement, should the federal government take over electric transmission siting from the states.

2. Currently, 29 states have implemented large-load tariffs designed to protect ratepayers from paying for infrastructure associated with electricity demand growth coming from large energy users.

a. How many of these states have only focused on data centers and how many also include large-loads such as industrial and manufacturing facilities?

While I have not conducted an analysis of all state large-load tariffs, as a general principle, to avoid undue discrimination, regulators try to treat similarly situated customers in a similar manner. Having said that, in order to treat all customers fairly, there may be meaningful operating or load profile characteristics that would lead a regulatory commission to have different large load tariffs based on case-specific factors.

3. Across RTO regions, states have varying degrees of input over the cost allocation process for interstate transmission. Under Order 1920-A, the Commission sought to bolster the states role in this process.

a. How can a state positively impact cost allocation discussions in these regions?

A well-designed cost allocation methodology that has state support can enhance the ability for needed regional projects to be successfully placed into service. Meaningful state input ensures that regional transmission is being planned and constructed in a way that harmonizes with other grid and generation investments, and in a way that facilitates overall least cost, reliable electricity delivery to customers in the region.

b. Should states have more of a say in the cost allocation process?

While the Federal Power Act (FPA) vests FERC with the ultimate rate setting authority for transmission used in interstate service, there is a practical benefit to having states providing a greater degree of meaningful input into cost allocation, as I described in my answer to the previous question.

4. FERC recently issued 206 show cause orders for the interconnection of large loads onto the bulk power system. Traditionally, load interconnection has been an authority of the states.

a. Given your experience as both a state utility commissioner and commissioner of FERC, how do these orders impact the role of states?

The Section 206 show cause orders are significant FERC actions in response to unprecedented demand growth, especially related to the emerging issue of large computational loads. The orders will impact states – and most importantly consumers – by addressing things like cost allocation (who pays), how risk is allocated amongst customers, and how a load serving entity (utility) will seek transmission service on behalf of load (and cogeneration) seeking to interconnect to the transmission grid. In my opinion, with the 206 orders, FERC walked a careful line in addressing the issues that could impact the balance of state and federal roles under the FPA. Much will be decided in the RTO filings that are due, and in how FERC responds to them, but my sense is that the state regulatory community appreciated FERC's openness to hearing concerns related to the need for flexibility to address state and regional differences. As these dockets proceed, it will be critical for both states and FERC to maintain a constructive relationship given the importance of the issue and the distinct roles each level of government plays.

The Honorable Mariannette Miller-Meeks (R-IA)

1. You describe a dynamic where state commissions are legally required to pass along costs that originate outside their jurisdiction, from wholesale markets, federal reliability requirements, and supply chain factors. Is this a new problem or a structural one that has always existed?

This has long been the case given the jurisdictional structure of the FPA (and also the Natural Gas Act). FERC jurisdictional costs like interstate transmission rates, natural gas pipeline transportation rates, wholesale generation costs, and other exogenous costs like taxes, and supply chain expenses are not set by state commissions, but state commissions may be legally bound to pass these costs on to end-use customers. In recent years, to a greater or lesser degree depending on the region, several of these categories of costs have increased materially including transmission and wholesale market costs.

a. As demand has grown, has the share of a retail bill that sits outside state commission control grown with it?

The answer to the question would be state specific. The proportionate share of transmission, generation/supply and distribution costs that comprise customers' bills (and the growth trajectory of each of those components) varies by state and region, but as I noted in my previous answer, in some regions, transmission and wholesale market costs have increased materially. Other costs have also risen as a result of general inflation, supply chain constraints, and increased demand for parts and services in the electricity industry.

b. Are state commissions being asked to protect consumers from cost pressures they have progressively less authority to address?

It is again a state-specific answer. States that regulate vertically integrated utilities, especially those that remain outside of organized markets (RTOs/ISOs) generally have more comprehensive rate regulatory authority over their utilities – though all utilities and their regulators, regardless of structure, face similar pressures related to general inflation, supply chain costs, tax policy, fuel/commodity costs, etc. States with utilities that are “unbundled” into separate transmission and wholesale generation components have comparatively less state oversight, and more exposure to FERC rate jurisdiction and FERC jurisdictional entities like the RTOs and ISOs. Costs associated with distribution investments typically have the greatest state oversight, though even here, FERC action, such as Order 2222, can have an impact on required investments in the state-regulated distribution grid. Finally, there are certain areas, such as tax policy, fuel supply costs and inflationary pressures, that are outside the state regulatory domain, but which can have an impact on end-use customer rates.

2. You raise the concern that large transmission investments can crowd out non-wires alternatives at greater cost to customers. I am a strong advocate for advanced transmission technologies, which can unlock significant capacity on existing infrastructure at a fraction of the cost of new lines. But aren't advanced technologies a complement to new transmission, particularly in a rapid load growth environment?

Utilities are likely to use a combination of new lines, reconductoring, and advanced transmission technologies (in addition to non-wires alternatives) to meet future grid demands. It is important that utilities and regulators carefully assess the efficacy of all potential approaches to ensure that least-cost planning principles are adopted.

a. Isn't it dangerous to treat different technologies as "in conflict" when we clearly need all of the above to meet growing demand?

There are several ways to produce and deliver power to consumers. The future is likely to include a mix of different resources and approaches. From a consumer standpoint, the lowest overall cost that reliably delivers power is paramount. One of the points I make in my testimony is that decisions made at the federal level regarding one technology, if made in a vacuum, may work at cross-purposes with resources, such as generation or storage, being developed according to state specific policies. If this happens, it may increase total overall costs.

3. You make a compelling case throughout your testimony about the value of local knowledge and relationships in transmission planning, from pole by pole route discussions with farmers to community input during construction and reclamation. Are you aware of any analysis that has attempted to quantify the cost of bypassing that local knowledge, whether through project delays, litigation, landowner disputes, or failed applications?

I'm not aware if there is a comprehensive study of this issue, though it seems likely that bypassing state and local permitting venues in favor of federal permitting would increase the risk of local opposition and litigation, especially if the public feels that it is being shut out of the process.

a. If that research does not exist, what does its absence tell us about how we are evaluating the true cost of different permitting approaches?

I'm unsure what its absence tells us, per se, though I believe a study of transmission siting would show many success stories related to the value of a state-led permitting process.

The Honorable August Pfluger (R-TX)

1. What are the best practices for ensuring that landowners and local communities have a meaningful voice in transmission siting decisions?

Early engagement with local communities is key. Citizens having access to an open, transparent siting process can help minimize frustration. The use of eminent domain should be a last resort, with a preference for voluntary easements that take into consideration landowner input regarding line routing and pole construction decisions. In my experience, state siting officials are generally best positioned to address these sorts of granular issues when it comes to electric transmission.

2. When states evaluate major transmission projects, how should regulators balance reliability benefits with impacts to private property owners and rural communities?

Depending on an individual state's law, regulators may be required to conduct a need analysis as part of the authorization of new infrastructure. Sometimes called a "Certificate of Public Convenience and Necessity (CPCN)," this is the vehicle by which a state commission answers the question you raise. It is up to an applicant to demonstrate that the proposed transmission line has reliability benefits, among other potential benefits such as economic benefits and/or transmission congestion relief. The CPCN process seeks to establish that a transmission line is needed for the public's benefit. In contrast, the corridor and route certification process determines exactly where the line will be physically constructed. One process establishes need and benefits relative to cost, the other makes determinations about the impact of the physical infrastructure itself on the land, the public, landowners, and natural, cultural and historic resources.

3. In your testimony you note that transmission planning should evaluate alternatives and not treat transmission as "a good unto itself." Are utilities and grid operators doing enough to maximize the capacity of existing infrastructure before proposing entirely new transmission corridors?

I'd hesitate to paint with a broad brush, since planning practices may vary across the U.S., and some may be better than others. But I do think there is, generally speaking, a desire from the state regulatory community to see greater visibility into the utility decision-making process related to FERC-jurisdictional transmission investments. As transmission costs have grown, state regulators continue to press for better data to ensure that utilities are fully taking into consideration all alternatives, including grid enhancing technologies, reconductoring, and utilizing existing rights of way, which may lessen the need for entirely new transmission corridors.

a. Do current regulatory structures create enough incentive for utilities to pursue those options?

While traditional regulatory tools have often worked well in the past, this era of significant load growth has caused regulators to focus more attention on several of these regulatory matters. FERC Orders 1920-A and 1920-B create not just incentives but requirements that utilities analyze and consider these options. Order 1920-A envisions an enhanced state role that may help inform decision makers about alternatives to new transmission corridors.