

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

RPTR FORADORI

EDTR HUMKE

POWERING AMERICA: CONSUMER-ORIENTED PERSPECTIVES

ON IMPROVING THE NATION'S ELECTRICITY MARKETS

THURSDAY, OCTOBER 5, 2017

House of Representatives,

Subcommittee on Energy,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:13 a.m., in Room 2123, Rayburn House Office Building, Hon. Fred Upton [chairman of the subcommittee] presiding.

Present: Representatives Upton, Olson, Shimkus, Latta, McKinley, Johnson, Long, Bucshon, Flores, Mullin, Hudson, Walberg, Rush, McNerney, Green, Castor, Tonko, Schrader, Kennedy, Butterfield, and Pallone (ex officio).

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Staff Present: Ally Bury, Legislative Clerk, Energy/Environment; Kelly Collins, Staff Assistant; Zachary Dareshori, Staff Assistant; Wyatt Ellertson, Research Associate, Energy/Environment; Adam Fromm, Director of Outreach and Coalitions; Tom Hassenboehler, Chief Counsel, Energy/Environment; Jordan Haverly, Policy coordinator, Environment; A.T. Jonston, Senior Policy Advisor, Energy; Drew McDowell, Executive Assistant; Alex Miller, Video Production Aide and Press Assistant; Brandon Mooney, Deputy Chief Energy Advisor; Mark Ratner, Policy Coordinator; Annelise Rickert, Counsel, Energy; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Energy; Jason Stanek, Senior Counsel, Energy; Madeline Vey, Policy Coordinator, DCCP; Priscilla Barbour, Minority Energy Fellow; Jeff Carroll, Minority Staff Director; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; John Marshall, Minority Policy Coordinator; Alexander Ratner, Minority Policy Analyst; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; Tuley Wright, Minority Energy and Environment Policy Advisor; and C.J. Young, Minority Press Secretary.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Olson. The committee will now come to order. And The chair at this time will not make an opening statement. I would like to ask the ranking member, Mr. Rush or Mr. Pallone, would you like to make opening statements.

The chair calls upon our ranking member of the subcommittee, Mr. Rush, for a 5 minutes opening statement.

Mr. Rush. Thank you, Mr. Chairman. I want to thank you for holding this important hearing today regarding consumer-oriented perspectives to improving the Nation's electricity markets.

Mr. Chairman, throughout this Powering America series of hearings, we are told repeatedly that the energy landscape is changing significantly. And it is vital that we hear from people who are being impacted the most, consumers and retailers. With most of the testimony submitted, there seems to be a consensus that consumers do not have the opportunity to fairly participate of all the developments taking place within the energy markets.

As we will soon hear, Mr. Chairman, many consumer advocacy groups believe that the RTOs are too beholden to the utilities than they are trying to administrate. And consumers do not have a large enough seat at the table to make their voices heard.

Many of these advocates argue that the whole process for reforming energy markets have become more and more complex, while at the same time consumer voices have been diluted to the point of being completely

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

shut out. There also seems to be, a new consensus, Mr. Chairman, among today's witnesses, that FERC and DOE have become too tolerant of the RTOs' ability to shut out public interests, and participation, and policymakers must act to address this challenge.

Additionally, most, if not all of today's witnesses, take extreme exception to the most recent DOE notice of proposed rulemaking issued on September 29 on grid resiliency policy. Many, many in this room, plus DOE, are in the difficult position of unfairly and unjustly picking winners and losers, and placing the interests of select industries above the public interest.

While it is one thing for elected officials of individual States to adopt policies to address the needs of their constituencies, we must be careful of allowing unelected DOE officials to try and mandate a one size fits all approach to an independent agency like FERC.

Mr. Chairman, whether through the creation of the legally mandated FERC office of public participation or through some other vehicle, we must ensure that the consumer voices are being heard and public advocacy rules are able to receive sustainable assistance and the financial compensation they need to have them fully participate in the FERC and RTO proceeding.

So, Mr. Chairman, I really look forward to this engaging panel on the best way to address some of these important issues. And with that I yield the remainder of my time to my friend, Mr. Kennedy.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

[The prepared statement of Mr. Rush follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Kennedy. Thank you very much, Mr. Rush, for yielding, and many thanks to you and Chairman Upton for holding this hearing, among others, in the Powering America series.

To all the witnesses, thank you for being here this morning, and particularly to Ms. Tepper from our Commonwealth. Thank you for your work and dedication, all that your office continues to do for our Commonwealth. Grateful that you are here today.

During my time as a member of Congress, I have unfortunately become all too aware of the complexities of the electricity markets, particularly in New England. I have learned quickly that the more complex a system becomes, the more likely it is that somebody is getting short-changed. This dynamic is all too real in the electricity sector, particularly for consumers who are either unaware, shut out, or simply unable to participate in the process, yet continue to bear the increased cost.

While already paying the highest retail electricity rates in the lower 48, our region is about to get hit with yet another increase this winter. What has become clear to me is that there is no simple fix to this challenge, which makes the work that we all are trying to undertake all the more critical.

I look forward to your testimony and working with you to increase transparency and to amplify consumers voice and its important debate. Thank you. And I yield back.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

[The prepared statement of Mr. Kennedy follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. [Presiding.] The time has expired. And chair would indicate that -- sorry we started a little late, we had votes on the House floor. And in order for us to listen to you, I am going to put my statement into the record and yield back my time.

I know Mr. Pallone would like to say a few things, so I will yield for an opening statement to the ranking member of the full committee, Mr. Pallone.

[The prepared statement of Mr. Upton follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Pallone. Thank you, Mr. Chairman. I want to commend you and Mr. Rush for putting together today's hearing to examine consumer perspectives and concerns with respect to electricity. We have an outstanding set of witnesses, including the Director of New Jersey's Division of Rate Council, Stefanie Brand, who is here representing the National Association of State Utility Consumer Advocates. I have had the pleasure of working with Ms. Brand, who has served in her role in both Republican and Democratic administrations. And I can tell you that she is a fierce, thoughtful, and successful advocate for our State's ratepayers. Thank you for being here.

This is an extremely important topic to delve into, and it couldn't come at a more critical time, particularly given Energy Secretary Perry's ill-conceived and wholly unjustified effort to commandeer the Federal Energy Regulatory Commission's rule making process, to provide unduly preferential and discriminatory rates to coal and nuclear generators.

If adopted by FERC, it will certainly result in increased cost to consumers with no significant benefit, and it will mark the beginning of the end of competitive electricity markets. I understand the concern around closure of non-economic coal and nuclear power plants. Nuclear plants, in particular, not only employ hundreds of thousands of people and provide financial benefits to the communities that surround them, but they provide large amounts of carbon-free energy

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that help make it possible to meet our Nation's climate goals.

However, Secretary Perry's proposal represents an unprecedented attempt to usurp policy making functions that belong to Congress and the States. This proposal is not about regulation and markets, which is what the Federal Power Act tasked FERC with. It is about subsidizing certain players in the electricity market at the expense of consumers and other generators who compete against the fuel types favored by the rule.

Regardless of whether you believe that it is a useful or harmful proposition, it is clearly a policy change that is far outside of FERCs' purview. As former FERC Chairman, Norman Bay, recently noted, in order to move forward on the Secretary's proposal, FERC would have to find its own current rules to be unjust and unreasonable, and then find that the new rules favoring coal and nuclear generation are just and reasonable. And that is the kind of back-flip that even the most flexible olympic gymnast would have a hard time pulling off.

We are still -- this is a proposal that is not supported by the facts or even by the Secretary's own grid reliability report. And that is a view shared by many on both sides of the aisle. For instance, the R Street Institute, rightly called the proposal an arbitrary backdoor subsidy to coal and nuclear plants that risks undermining electrical competition throughout the United States. And going on to say, the consumers would ultimately bear a hefty and unnecessary bill

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

from any such Draconian intervention.

Meanwhile, Gerry Cauley, president of the organization tasked by law with overseeing the grids reliability recently declared that the state of reliability in North America remained strong and the trend line shows continuing improvement year after year. Moreover, much of the Secretary's proposal seems to be anchored to the idea that somehow renewables and even national gas-fired generation are somehow a threat to a reliable grid.

And I have certainly been a critic of national gas overbuild and pipeline safety, but I have not expressed doubt about the reliability of our Nation's natural gas system, the way this administration has, in its efforts to justify subsidies for coal and other favored fuels.

Not only has there been no empirical evidence to date to support the Secretary's proposal, in the modern history of electricity in this Nation there has not been a significant blackout caused by a lack of generation adequacy. In fact, according to a 2000 report by the Bush administration, the largest blackout in U.S. history was caused not by a lack of resources, but rather by management and programming failures by a single Ohio utility, First Energy, which lead to actions that turned -- which should have been a localized situation into an event affecting some 50 million people. That had nothing to do with generation mix.

And it is critical to note that in that situation, nuclear-based

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

load power did not contribute to the stability of the grid with nine nuclear power reactors shut down the result of loss of backup power. So as I stated at our reliability hearing, I firmly believe that it is time to start looking at reliability in new and different ways. The technology has transformed dramatically over the past 10 years or so, perhaps faster than our policies and our rate making models have been able to keep up with.

We should carefully reexamine the old approaches to reliability, resiliency, and rate making, to seriously consider whether our long term interests are better served by charting a new course. But, unfortunately, the Secretary's proposal is a power play, essentially, designed to move things in precisely the opposite direction. He wants to move us away from a modern balance fuel mix, lower consumer costs, and fewer environmental externalities, and back towards a time when coal was king and consumers had no control.

So I urge FERC to reject this proposal and I hope that all my colleagues will join me in helping move our policies forward towards a more resilience, reliable, and cost effective grid that benefits consumers as well as protects the environment. Thank you, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. The gentleman's time has expired. We are going to move to the testimony of our panel at this point.

I want to say, we appreciate you submitting your testimony in advance, it is part of the record. If you are able to actually go through your remarks maybe faster than 5 minutes, that would be appreciated because we are expecting votes again in about 30 minutes. So perhaps we can get to questions at that point.

We are joined first by Joe Bowring, President, Monitoring Analytics, Independent Monitor for PJM. Welcome.

**STATEMENTS OF JOE BOWRING, PRESIDENT, MONITORING ANALYTICS, INDEPENDENT MARKET MONITOR FOR PJM; REBECCA TEPPER, CHAIRMAN, CONSUMER LIAISON GROUP FOR THE ISO-NEW ENGLAND REGION; MARK VANDERHELM, VICE PRESIDENT OF ENERGY, WALMART; JOHN HUGHES, PRESIDENT AND CEO, ELECTRICITY CONSUMERS RESOURCE COUNCIL; STEFANIE BRAND, DIRECTOR, NEW JERSEY DIVISION OF RATE COUNSEL; AND TYSON SLOCUM, DIRECTOR, PUBLIC CITIZEN ENERGY PROGRAM**

**STATEMENT OF JOE BOWRING**

Mr. Bowring. Thank you, Mr. Chairman, and members of the subcommittee. And thank you for the opportunity to appear before you today. My name, as you said, is Joe Bowring. I am the Independent

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Market Monitor for the PJM wholesale power markets. I do not speak for PJM. I speak for the market monitor.

The role of the independent monitor, as defined by FERC, and included in the tariff, is to help ensure that the PJM markets are competitive by proposing market rules that incent competition, by monitoring for market power and by reporting on the markets. And while I am on a panel of consumer advocates, the role of the market monitor is not to be consumer advocate. I am an advocate for efficient, competitive wholesale power markets, which bring clear benefits to customers, as well as to suppliers of power.

PJM is the largest wholesale power market in the world. The largest competitive wholesale power market in the world covering 13 States and the District of Columbia. The goal of competition in the wholesale power markets is to provide customers wholesale power at the lowest possible price. The PJM markets work. The PJM markets bring customers the benefits of competition. But the PJM markets, as we have, heard, face new challenges that threaten the viability of competitive markets.

One benefit of competitive power markets is they are dynamic, flexible and resilient. The PJM market has resulted in a reliable system despite significant changes in underlying market forces. Technical innovation and lower gas costs have been key market forces. The PJM, as we know, there have been very significant unit retirements.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

They have also been substantial new entry, all driven by market forces. The PJM market design has worked flexibly to address both market exit and entry without preferences for any technologies. The results of new entry has been lower costs and increased reliability.

So, particularly, in times of stress on markets and on some particular generating technologies, nonmarket solutions may appear attractive. Top down, integrated resource planning approaches are tempting because it is easy to think that experts know exactly the right mix and location of generation resources, and the appropriate definition of diversity, and the appropriate definition of reliability, and therefore, which technologies should be favored.

Subsidies are tempting because they maintain existing resources and provide increased revenues to asset owners in uncertain markets. Cost of service regulation is tempting because guaranteed rates of return and fixed prices may look attractive to asset owners in uncertain markets.

But once the decision is made that market outcomes must be fundamentally modified, it will be virtually impossible to return to markets. The subsidy model is inconsistent with the PJM market design and constitutes a significant threat to PJM markets.

The issue of external subsidies continued to evolve in 2017. Ohio subsidy proceedings and Illinois subsidy proceedings originated from the fact that competitive markets resulted in the retirements of

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

specific uncompetitive generating units. And regardless of the specific rationales offered, the proposed solution for all those units was unit specific subsidies. The subsidies were not to accomplish broader goals, they were to save particular units.

The recent Department of Energy, NOPR, proposes a much broader market intervention through cost of service regulation for specific unit types that would have a correspondingly large and negative impact on PJM's competitive wholesale power markets.

The proposed subsidy solutions ignore the opportunity cost of subsidizing uneconomic units. They suppress energy and capacity market prices and suppress incentives for investment in new, higher efficiency thermal plants, but also suppress investment incentives for innovation in the next generation of energy supply technologies and energy efficient technologies. These impacts are large and long lasting.

Subsidies are contagious. If uneconomic resources are artificially retained, this will suppress prices and create a need for additional subsidies for the remaining units. Competition in the markets will be replaced by competition to receive subsidies.

There is no reason to intervene in the markets in order to provide reliability and resilience. If PJM or FERC or DOE identify a need for greater reliability, it can be addressed using market mechanisms not out of market mechanisms. Competitive markets were introduced as an



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

alternative form of regulation to ensure that the wholesale power is provided at the lowest possible price.

The PJM markets are working. The PJM markets provide competitive, reliable, and resilient out comes. The PJM markets should be permitted to continue to work. And I was 40 seconds short of the 5 minutes. Sorry for not being shorter. Thank you.

[The prepared statement of Mr. Bowring follows:]

\*\*\*\*\* INSERT 1-1 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. Thank you. Next we are joined by Rebecca Tepper, Chair of the Consumer Liaison Group for the ISO-New England Region. Welcome. Make sure you turn the switch on your mike there.

#### STATEMENT OF REBECCA TEPPER

Ms. Tepper. Thank you for having me, Mr. Chairman. And thank you to the rest of the committee, and particularly, thanks to Congressman Kennedy for the nice words, and for your fierce advocacy on behalf of consumers in Massachusetts, really, everyone appreciates that.

So my name is Rebecca Tepper and I am the Chief of the Telecom and Energy Division of the Massachusetts Attorney General's Office. But I also have the honor of being the Chair of the Consumer Liaison Group for ISO-New England, and that is why I am here today.

Thank you for holding this hearing and for recognizing the importance of consumer participation in the decisionmaking processes at our RTOs. I think sometimes we forget what meets when RTOs make decisions, and what it means to sort of the everyday consumer. You know, decisions about market operations, they effect whether your grandma who lives on a fixed income is going to be able to afford to keep her lights on. Decisions about reliability, they affect whether that hospital is going to be able to stay online 24 hours a day.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Decisions about electric reliability determine whether your manufacturing facility is going to be able to stay in your town and whether people are going to be able to continue working. And decisions about transmission affect your States's ability to get power from where it is to where the people are living.

So these are important decisions for every single person that lives in an RTO, and I think we have to keep those in mind when we think about consumer participation.

FERC and the RTOs have recognized that it is important to give voice to the people in businesses who ultimately use and pay for electricity. With FERC's guidance, many RTOs have developed mechanisms to educate consumers and allow consumer participation in the stakeholder process. In New England there are currently two main avenues for customers to participate, The Consumer Liaison Group or becoming a member of NEPOOL.

The Consumer Liaison Group was formed to meet the need for heightened communication between RTOs and their stakeholders pursuant to FERC Order 719. In my written testimony, I provided a lot of information regarding the history and the governance, so I will not go over all of that.

Today I will tell you about, just quickly, about our core work, which is we have quarterly, meetings, which attract a diverse group between 75 and 100 attendees at every meeting, they are open to the

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

public. They are held throughout New England in the different States to allow broad participation. We generally have a keynote speaker, and then we have ISO available for updates and to answer questions. And then we usually have a panel discussion to get differing views on particular issues. Just to give you a sense, our recent meetings have addressed solar, cybersecurity, clean energy initiatives, and transmission development under FERC Order 1000.

But I want to be clear about what the CLG is and what the CLG is not. So the CLG is primarily an educational entity, it provides for a wide range of stakeholders, not just the State consumer advocates, to gain a better understanding of the ISO processes, and learn how ISO-New England actions impact customers. I think the CLG has successfully provided consumers with pricing data and information about their retail bills.

It has taken some of the mystery out of the ISO-New England process and increased transparency. But what it is not is an advocacy group that represents consumer's interests. As it operates today, the CLG has no formal role in the ISO-New England stakeholder decisionmaking process. It is simply not a substitute for NEPOOL membership and participation in the ISO stakeholder process.

My office is a member of NEPOOL. We devote a lot of resources to it. We have saved consumers \$60 million over the last couple of years doing that. But not everybody can do that. And it

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

is -- certainly not most consumers can do that, can devote the resources necessary to be informed and productive contributors to the stakeholder process. They are complicated. They are expensive. And they are time consuming.

So very quick, I will give you four ideas about how I think things could be improved. First, I think it is helpful to establish a CLG, to have an educational component. I think it would be most effective with their own executive director.

Second, I think we should establish a stable funding mechanism that enables all State consumer advocates to fully participate in the RTO stakeholder process. This could be done either by providing funds to individual offices or through an association of consumer advocates, like the CAPS program at PJM.

Third, I think we should require all RTOs to consider cost in their decisionmaking, and provide cost impact analysis, including retail bill impacts on major proposals, and reasonable alternatives offered by stakeholders.

And, finally, to increase communication between RTO boards and consumers by having consumer representation on the board, and having board members come to stakeholder meetings with consumers. Thank you very much.

[The prepared statement of Ms. Tepper follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* INSERT 1-2 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. Thank you. Next we are joined by Mr. Mark Vanderhelm, VP of Energy for Walmart. Thank you.

#### **STATEMENT OF MARK VANDERHELM**

Mr. Vanderhelm. Thank you, Chairman Upton, and thank you the members of the subcommittee for the opportunity to provide testimony.

My name is Mark Vanderhelm, I lead the energy procurement for Walmart. Fundamentally, we are looking at using less. What we do use, we would like to pay less for, and we focus on paying less for, and we would like to turn that greener. That is the focus for my role.

We operate in the 50 States, District of Columbia, and Puerto Rico. As part of that role, I oversee Texas retail energy, a wholly owned subsidy of Walmart, which participates in the wholesale markets, and operates as a competitor electric supplier directly serving our stores in 11 states. The Walmart energy team works to deliver on Walmart's mission to save our customers money, so they live better, and we pass those savings on to our customers through cost management and through energy efficiency.

We are market advocates and we are advocates of customer sited electricity and increasing that stakeholder process. Customer engagement in regulatory and stakeholder arenas is critical, especially as the industry transitions to a business model in which

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

customers sited generation sources become as important to the system as you utility-owned resources.

Competitive wholesale electricity markets and customer choice and retail electricity markets are integral to our success. When paired together, they create direct economic benefits to our stores and our customers. Competitive wholesale markets also provide the transparent and easily transactable platform for the procurement of renewable energy. As an example, in Texas, we are able to procure directly wind supply that serves our stores without utility or regulatory intervention, based on the wholesale construct that exists there in Texas.

Customer choice gives us the freedom to choose a supplier that best meets our business goals, with services offerings that provide choices on price, reliability, and generation mix. The contrast of monopoly utilities companies, they are essentially guaranteed recovery for their costs from customers, competitive suppliers must offer superior service, better prices, and the investment is borne by their shareholders.

The benefits of competitive wholesale markets, this is an interesting statistic, customer choice are clear. When we compare our costs from 2006 to 2017, the reduction -- and when we have customer choice, there is a reduction of 7 percent on average. In areas where we don't have customer choice, we have seen an increase in prices like



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

14 percent. Extremely relevant to understand the impact of having that customer choice.

States and utilities should be encouraged to develop new competitive wholesale markets or expand existing markets. And Walmart recommends that the subcommittee explore policy changes that allow FERC to streamline those regular approvals. The development of renewable energy associated infrastructure creates a secure electric grid in the long term, and an economic opportunity and jobs in the short term.

To that end, Walmart has established aggressive goals. We have committed to 100 percent renewable over the longer term. For 2025, we have committed to 18 percent reduction in our greenhouse gas footprint aligning ourselves with science-based targets. As a subset of that, that also includes energy efficiency, but as a subset of that is the commitment to 50 percent renewable by 2025.

We have 480 offsite and onsite renewable energy projects in operation and under development in seven countries and in 18 U.S. States and Puerto Rico. Walmart is deploying cutting-edge customer-sighted technology. We have six large battery systems, we have over 50 fuel cells, and we have 100 locations with electric vehicle charges, 300 electric vehicle charges at those 100 locations. So we are active in that customer-sighted sources of electricity, and use of electricity.

Customer choice should extend to customer activities behind the meter. Whether those activities generate or save electricity. A

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

number of States limit the financing mechanism through which a customer can procure on-site generation technology, which ultimately limits the adoption of those technologies. Walmart typically uses a PPA structure leveraging capital from external parties and operations from external parties.

However, the technology employed by customers is becoming more responsive to grid -- sorry. The discussion around PPAs and other financing models has largely been focused on on-site installations. The technology deployed by customers is becoming more responsive to grid conditions and transactive with customers and market participants.

As it is the case with on-site solar, new technologies could be construed as challenges to the business of the incumbent utilities, and the response could be to limit their financing structures, able to be used to deployment.

To unleash the potential benefit of customer-sighted technology, the Federal Government should implement clear policies that give customers the freedom to install the technology on their homes and businesses that they want, and to finance it however they choose.

I appreciate the comments and the opportunity to present testimony.

[The prepared statement of Mr. Vanderhelm follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* INSERT 1-3 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. Thank you. Next, we are joined by John Hughes, President and CEO of the Electricity Consumers Resource Council. Welcome.

#### STATEMENT OF JOHN P. HUGHES

Mr. Hughes. Thank you, Chairman Upton, and other members of the subcommittee. I represent large U.S. manufacturers, they have facilities all over the United States, and especially within the footprints of the Nation's ISOs and RTOs.

We were founded in 1976 in anticipation of the enactment of the law called PURPA, and our initial focus was Title I of the PURPA that included several Federal rate making standards. ELCON played a key role in the implementation of those standards at the State level to ensure that they would produce economically efficient and non-discriminatory rates.

Beginning in the 1980s, our focus shifted to PURPA Title II, many ELCON members had a steam requirement at their manufacturing facilities. And PURPA Title II enabled them to use a technology known as cogeneration or combined heat and power for great economic advantage. This technology makes it easier to produce both steam and electricity at this site, and is quite cost effective. These members that we had in those days were champions in the use of natural gas-fired

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

and combined cycle generation units.

Our basic principle of regulation is market-based solutions are preferred over command and control. We were instrumental in the early year -- around the turn of the century in restructuring the utility industry in this country and the creation of the ISOs and RTOs. We have faith in those institutions to this day.

You have probably heard from Gerry Cauley's speech a couple of weeks on a central reliability services. NERC has been working for several years on defining these services as a means for sustaining the highly reliable grid that we have. FERC has, in the past, has been using these services and has created markets for them. They have, however, backed off from creating markets for one particular one, primary frequency response, and we have been negotiating with that agency to try to make amends on that.

Price formation is a big issue at FERC. They began a series of rulemaking beginning the 2014 to try to improve the prices that come out of the ISO and RTO markets. We believe that the markets have gotten a little bit too complex and lack transparency. A more simple market structure we believe makes the market operate more efficient and transparent.

One of the problems with the existing FERC jurisdictional markets is the overlay of capacity markets. We do not believe that these markets are necessary. ERCOT, which is the non-jurisdictional RTO in

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

the State of Texas, is an energy-only market, and they operate quite well without the need for this capacity market.

Another problem that we have in the ISO and RTO markets is the rules and market design keeps changing all the time. There is no way for a large manufacturer to plan and forecast what their costs might be going out several years because the market rules are subject to change.

Now, I want to get to the DOE 403 proposal. We are dead set against this proposal. We believe that it will destroy the ISO and RTO markets, if not, destroy the competition in those markets. What the attempt here is to create a big ATM machine for uneconomic obsolete coal and nuclear plants. Estimates of the costs to consumers of this proposal range from \$800 million to \$3.8 billion a year. Roughly a third of that would get passed on to the industrial infrastructure of this country.

We will strongly weigh-in at FERC in opposition to this. What can Congress do? In H.R. 8, which you passed about a year and a half ago, there was a proposal in there for a study by the Government Accountability Office, GAO, to do an assessment of the ISOs and RTOs in this country. We support such a study. Hopefully it won't be an obituary for the ISO and RTOs as a result of the 403 proposal.

We would urge another study to be formed by GAO on the need for these capacity markets. A lot of money is being transferred from

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

consumer pockets through the ISOs to suppliers, as a result of these capacity markets. We challenge the need for them.

Finally, I want to thank the commission -- or the subcommittee for this opportunity. And I would like to take my last seconds to urge you that if you tamper with the law of PURPA, especially Title II, be careful, it works in most applications in this country and at most States, and CHP is not the problem.

[The prepared statement of Mr. Hughes follows:]

\*\*\*\*\* INSERT 1-4 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. Thank you. Votes have been called on the House floor, so we will do one more. We will do Stefanie Brand, Director of New Jersey Division of Rate Council, and then we will adjourn and come back after the votes.

Ms. Brand.

#### STATEMENT OF STEFANIE A. BRAND

Ms. Brand. I will do my best to talk quickly. Good morning, Chairman Upton, members of the subcommittee. Congressman Pallone, thank you for your kind words and for everything you do for New Jersey's consumers.

I am the Director of the New Jersey Division of Rate Council, which is charged by statute with representing consumers at both the State and the Federal level. I am also a member of the executive committee of NASUCA, which is an association of over 40 offices like mine throughout the country. And our office and other members of NASUCA have been actively involved in pressing for greater consideration of the needs and interests of consumers, both the RTOs and FERC. And, frankly, it has been a very long and uphill battle.

At PJM, the sheer number of issues and meetings makes it very difficult for consumers to participate. The stakeholder process is very complex and requires attendance at many meetings. In September



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

alone there were 44 meetings over 22 days. And while a lot of them are accessible by phone or on the web, most of the work occurs in the hallways or on the sidelines. And so that makes physical presence a priority, if not a necessity. And that can be a tremendous strain on offices like ours.

The consumer advocates within PJM formed a group called CAPS, Consumer Advocates of PJM States, that allows us to pool our resources so that we speak together with a stronger voice. We have an executive director who is present at the most important meetings, and he represents us as a group. And individual offices have stepped up efforts to vote and participate. Even with this increased focus, our participation is limited in less than the other sectors of PJM.

There are a few potential solutions to increase consumer participation at the RTOs. The first would be to identify and make available sources of funding for groups like CAPS. The amount that would be needed is very small. CAPS funding amounts to about a penny a year per residential customer.

Consumer participation in the RTOs could also be improved if consideration of the interest of consumers was made a more central part of the RTO's mission. Ensuring that rates are just and reasonable is an essential goal of the Federal Power Act. It should also be an essential goal of the RTOs.

While CAPS represents a significant step forward, consideration

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

of the interests of consumers remains inadequate. PJM's primary function is to keep the lights on. And it freely admits that it does not necessarily factor in the ultimate cost when putting forth proposals or approving projects. While we certainly share PJM's interest in keeping the lights on, we believe that cost should be taken into account early in the process so that customers get the service they need but at a just and reasonable price.

The failure to adequately consider costs early enough is something that needs to change to make the system work better for consumers. With respect to the markets, competition should keep prices at a reasonable level. Up until now, at least, the competitive markets have worked for New Jersey rate payers and that we have benefited from our participation in them. However, as time has gone on, there have been more and more administrative changes to the market rules so that it is hard to even call them a market.

Since 2010, there have been 27 significant filings made to modify the rules of the capacity markets, and they have changed in just about every year since 2007. So what is the impact of this for consumers? First, the system is so opaque and confusing and constantly changes, that the average consumer will never make sense of it.

In New Jersey, generation transmission costs, which flow through PJM, account for nearly 60 percent of a customer's bill. And there is really no way for customers to understand how those numbers are

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

derived.

Second, the complexity of the rules, I believe, leads to higher prices. There are so many fixes each time a particular problem or issues arise that consumers end up paying more. In fact, as we are seeing now, even when the market does work, favoring lower price generation sources and bringing overall prices down, the generators faced with those lower prices then seek changes to undo the market results.

Rather than leveling the playing field, these efforts raise the entire playing field so that everyone pays more. We do have a strong independent market monitor at PJM, and the access and independence of the market monitor is essential, not only to protect competition, but also to foster confidence in the markets by regulated entities and the public.

At FERC, nearly all proceedings are conducted on paper with limited opportunity for public input. There is generally no opportunity for cross-examination on factual issues and no oral argument on legal or policy issues. Consumers need real representation at FERC to protect their due process rights. Increase transparently and more opportunity for public participation would advance that important directive.

There is a bill pending, H.R. 2656. There are also some provisions existing in the Federal Power Act, to create an office of

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

consumer advocacy at FERC, and that would also provide intervenor funding. This legislation should be supported and it is supported by us, and I hope that you will support it as well. Thank you for the opportunity.

[The prepared statement of Ms. Brand follows:]

\*\*\*\*\* INSERT 1-5 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Upton. Thank you. We will now take a recess. It will probably be 30 to 40 minutes long while we have the votes. So I would tell members we have six and half minutes left in the vote series.

[Recess.]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

RPTR ALDRIDGE

EDTR HUMKE

[11:43 a.m.]

Mr. Olson. [Presiding.] We will come to order. And as we go through our statement by witnesses. We have one more to go. We saved the best for last.

Mr. Slocum, you have 5 minutes, sir.

#### STATEMENT OF TYSON SLOCUM

Mr. Slocum. Absolutely. Thank you so much, Mr. Chairman

So I am Tyson Slocum, and I am the energy program director for Public Citizen. Public Citizen is a national not-for-profit membership-based group. We have got over 400,000 members and supporters across the United States, many of whom live in FERC jurisdictional markets and pay energy prices that are set in those markets.

We see that consumers are facing three broad threats in today's power markets. First is that there are political and regulatory efforts by owners of what we see as mismanaged and uneconomic generation assets seeking billions of dollars in bailouts, whether that is through the Department of Energy's cost of service proposal or whether it is

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

through market tweaks as was discussed before with the various RTO capacity markets. This is a huge threat to consumers.

Second, the regional transmission organizations were really designed to accommodate the interests of transmission owners and generation owners. And they oversee a complex stakeholder process where details of market rules are deliberated and largely written. And this is a process that does not include the public interest very well, and there needs to be fundamental reforms to the way that those regional transmission organizations administrate those stakeholder processes.

And, third, it has now been 577 days since the Federal Energy Regulatory Commission has failed to respond to a proposed rulemaking to create and fund the office of consumer advocate that -- the office of public participation that, among other things, could provide intervenor compensation to members of the public who meaningfully contribute to FERC dockets. And so addressing these three things is paramount in order to ensure that consumers are being adequately protected in markets.

So first I think it is important just to note that we are in the midst of a remarkable transition in America's energy markets that is really being driven by innovations in the production, transmission, and consumption of electricity.

And there are three factors that are contributing to those innovations. One is just the proliferation of inexpensive renewables,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

especially utility scale. Second is continuing flat-lining demand. And especially when you factor in economic growth, demand is actually decreasing as a share of American economic output. And second is cheap natural gas.

And those three innovations are providing lower costs, more resiliency, and more sustainable energy systems and are absolutely benefiting consumers. But with any sort of disruptive transition, you are going to have economic losers. And those economic losers right now are predominantly mismanaged and not well run nuclear and coal base load units that frankly cannot effectively compete against superior competition.

And throughout history, we see decisions that are made by industries. Either you improve efficiencies and compete with your rivals, or you turn to Government institutions or regulatory agencies and attempt to get bailouts for your inefficient operations. And that is really what this Department of Energy bizarre rulemaking before FERC is about. It is about accommodating and prioritizing these inefficient base load nuclear and coal generation units.

And you don't have to take my word for it that there's no crisis of reliability from the retirement of nuclear and coal plants. That is what the North American Electric Reliability Corporation has concluded. That is what the Department of Energy's own August staff report, that there is no reliability crisis. That, in fact, we are



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

seeing resiliency and reliability benefits from the energy transition that we are seeing to renewables and lower demand.

The thing on RTO reform that needs to happen in order to protect consumers, I think that Congress and FERC needs to contemplate whether or not we need to split the regional transmission organizations in two, retain their function as the physical operator of the bulk power market, but separate out from the RTOs the job of administrating the stakeholder process where tariffs and market rules are developed.

And the third thing that can be done to protect consumers is for Congress to start weighing in and get FERC to support the proposed rulemaking to create and fund the office of public participation, including providing intervener funding to the public.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Slocum follows:]

\*\*\*\*\* INSERT 1-6 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Olson. Thank you, Mr. Slocum.

Now it is fun time where members get to ask 5 minutes of questions alternating between Republican and Democrat. And since I have the gavel now, I give myself 5 minutes for questions.

My first question is for you, Dr. Bowring. The DOE order tip to FERC on electricity markets to how we value resources has certainly sparked some conversations. It is something of a scramble among power generators and even large consumers. The most colorful descriptions I have heard came from our new FERC commissioner, Robert Powelson. He said, regarding concerns, if the rule does undue competitive markets, quote, "when that happens, we are done. I am done," end quote.

Wow. That is pretty strong.

Sir, I would like to share your thoughts on what is happening with larger and older power plants and PGM. Do you think the stress being faced by coal nuclear plants is a sign by flaw in the market or just market force at work, or a combination of the two?

Mr. Bowring. I think it is entirely market forces at work. Despite some of the commentary, not all nuclear power plants are uneconomic. Some are uneconomic. To the extent that they are retained artificially in the market, they make other nuclear power plants as well as other coal plants worse off. So subsidies are counted on the market, they actually make the market work less well. And if you extend it even further, they will -- as some have said, they will

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

ultimately destroy the market. So it is about market forces. It is uneconomic resources being replaced by economic resources.

Mr. Olson. Thank you.

Question for you, Mr. Vanderhelm, from Walmart. In your testimony, you gushed about my home state of Texas -- I -- appreciate that -- and that Walmart has the goal of going 100 percent renewable. You talked about the example that you are contracted directly with wind farms in my home State. As you know, Texas, it is the number one State in American for wind. We are number one. Bigger, prouder, better.

Can you talk a little about your experience in choosing your own generation sources and why it is important to Walmart?

Mr. Vanderhelm. It is important for Walmart, first and foremost, because it is economic. The thing that I always make sure that people understand is, while Walmart has these aggressive renewable energy goals. I work for the part of the organization that is part of operations. So we are executing on that procurement based off of the economics associated with it. That is the first and foremost one.

Obviously, we see our mission as an organization is broader than just shareholder economics, and that enables us to also show the benefits to our associates, the customers as well, in terms of turning our portfolio greener.

Mr. Olson. Thank you.

How do you balance your cost through generation purposes? How

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

do you make that balance?

Mr. Vanderhelm. Sorry. How do we make the determination to --

Mr. Olson. The balance between your cost -- your generation preference, for example, wind power. How do you balance that here is our cost and just -- any idea? Any insights on how you guys look at that?

Mr. Vanderhelm. Yeah. Absolutely. We would always preferential -- first of all, you know, something which is cheaper before -- you know, before something which is more expensive. So, again, I think your question implies that somehow renewables are more expensive. I just want to make sure that, you know, that is a win-win. In other words, we are identifying both the greener power and cheaper power, we go down that path. We are moving as quick as we can in all parts of the country. Thanks to Texas for providing the construct that enables us to execute there quicker. But we are looking at doing it across the country. And we are constantly looking at green power which is more cost-effective than brown power.

Mr. Olson. Well, thank you. I want to close the challenge for my friend from Massachusetts who is not here. So Ms. Tepper, you are from Boston; is that correct?

Ms. Tepper. Yes, I am.

Mr. Olson. Okay. As you know, my colleague, Mr. Kennedy, knows, his Boston Red Sox, your Boston Red Sox, are in Houston, Texas,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

right now. They are about to be destroyed by my Houston Astros. The first pitch is at 4:08 Texas time. And you remember, just last week, my Astros played four games in Fenway Park. They were three Astro wins, one Red Sox win, outscored 24 to 13 over four games.

And so please pass on if you want participate in a little bet, a little friendly wager. If the Red Sox win, very unlikely, I will eat a big bowl of Massachusetts clam chowder with the press there. Chowder. But if my Astros win, as expected, you-all come down and have a big hot bowl of Texas chili with the press there. Is that --

Ms. Tepper. Oh, we are on. That sounds great. Yes.

I look forward to you having some chowder.

Mr. Olson. Without objection, so ordered.

Chowder.

All right my time has name expired. I now call upon the gentleman from Illinois, the ranking member of the subcommittee, Mr. Rush, for 5 minutes.

Mr. Rush. Is it chowder, chili service, or over?

Mr. Olson. Oh, no. Just going to start. We are playing a five-game series with the Red Sox there. Houston Astros versus the Boston Red Sox, as I mentioned. We just closed out the regular season by going three and one in Fenway Park. It is bad news to the Red Sox. The Redcoats are coming, the Redcoats are coming.

But you have got 5 minutes, my friend.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Rush. It is going to take me to 5 minutes to recover.

To all the panelists, I would like to quickly go down the line and ask who takes issue with the recent DOE NOPR on grid reliability pricing? Please give me a "yes" or "no" if you have a problem with the NOPR. And if so, is it based on process or on the substance or both?

Mr. Bowring. Yes. I have an issue with it on both process and substance. The process is too fast. The substance is wrong. It is inconsistent with markets. It will contribute to destroying markets.

Ms. Tepper. We too have a problem with process and substance.

Mr. Vanderhelm. Same. Issue with both process and substance. Our concern about its impact on the competitiveness of markets by putting that type of additional adder in their revenues. Also, our concern about the process and the accelerated review period that has been suggested.

Mr. Hughes. Ditto those remarks. I would also add that our read of the DOE proposal is that DOE is saying that U.S. manufacturing jobs are not as good as the jobs of economically obsolete coal and nuclear plants.

Ms. Brand. I will add my voice to the chorus. We oppose it both on substance and on procedure. I think it basically illuminates the competitive markets, and I think that the process shows exactly what we were talking about today about how difficult it is to be heard. And

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

so we oppose it on both grounds.

Mr. Slocum. The Department of Energy proposal is terrible. And I don't think anyone likes it except for those entities that have economic vested interests in the uneconomic nuclear and coal-fired power plants. Public Citizen is on the same side as this issue as the American Petroleum Institute, which has been pointed out to me as probably the first time in history that that has happened.

The process is always problematic. There was no reason for FERC to fast track this rulemaking. So it is important for Congress to get some answers from FERC as to why they did that. And it just again shows how critically important the creation of an office of public participation is at FERC, because all of a sudden, we have got some huge issues of concern to consumers that are moving very quickly through FERC. And Congress is on record with creating the office of public participation that the public interest needs more assistance in order to have an equal seat at the table.

Mr. Rush. Thank you very much. Again, to all of the panelists, and I wish you would keep your answers brief on this question, do you believe the RTO stakeholder process serves the interests of consumers, or do you believe these consumer interests are consistently underrepresented in this process? And what reforms will you recommend to the subcommittee?

Mr. Bowring?

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Bowring. Yes. Thank you.

So consumers are represented. I don't think the representation is effective as it could be, and I think it is because of a lack of resources. So for the reasons that my colleagues here on the panel have indicated, I think customers need to be strongly represented in the RTO stakeholder process, and it is not currently as strong as it could be.

Ms. Tepper. I would agree with that. And one of the suggestions that I think would be helpful would be to provide a stable funding mechanism for the State consumer advocates, something maybe like what they are doing in New England. We have a State process where -- it is called NESCOE where the States get money from -- as a group, get money through the tariff. And they are able to then participate. They have their own staff, and they are able to go to all of those 100 meetings. And they are meaningfully participating with doing their own studies. Right now the way it works is that consumer advocates simply don't have that kind of resources to be able to participate in that kind of way.

Mr. Vanderhelm. I would first say that, for the large consumers, that we do have an opportunity to participate and always welcome greater participation from all the stakeholders, whether it be in the deregulated markets, ISOs and RTOs, or in the regulated process that is also relevant throughout the U.S.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Hughes. ELCON exists to intervene where necessary at FERC. And so we are generally pleased with our ability to effect that agency. At the ISO and RTO level, we have some serious problems there. There are just too many of them, too many meetings. And we are just totally incapable of providing that coverage on an effective basis.

Ms. Brand. We have gotten a stable source of funding in PJM for consumer advocates, but I would say that it is still not enough. We work a lot. We have stepped up our participation. We are trying to be heard. But the way the process is set up, it is just so difficult to have our voice heard among all of the members of PJM that I still think that more needs to be done.

Mr. Slocum. Yeah. I agree. The RTOs are just an administrative nightmare. They are way too complicated. And the issues that they are deliberating on a daily basis have profound financial impacts on consumers. And consumers do not have an equal seat at the table. And there need to be fundamental reforms of the governance and transparency structures of the RTOs to more properly reflect the contributions of all the stakeholders, and particularly the public interest.

Mr. Rush. Thank you, Mr. Chairman.

I yield back.

Mr. Olson. The gentleman yields back. Instead of using 5 minutes of my time for taunting the Red Sox fans like Ms. Tepper,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

I will recognize the ranking member of the full committee, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

I wanted to ask Ms. Brand some questions, if I could. And thanks again for being here.

A recent report commissioned by American Municipal Power states that more than half of the \$24.3 billion in transmission projects in PJM in 2012 were unneeded to comply with the RTO or Federal reliability requirements and were not subject to rigorous review. So three questions. First, what can be done to ensure that reliability requirements are thoroughly evaluated in a transparent manner with active involvement from impacted stakeholders?

Ms. Brand. Well, I think that process could be reformed as well. There are some transmission projects that are needed for reliability. NERC will identify a problem and ask PJM or the RTO to solve it. But then there are a whole bunch of other projects that are proposed by the transmission owners because they are incredibly lucrative for the transmission owners. The returns on transmission are huge, so everyone wants to build whatever they can.

And what happens is that the need -- both for the RTEP projects and for the supplemental projects, the need for the projects is not adequately reviewed at PJM. On an RTEP project, once they say it is needed, you don't go back and revisit that, even if things change and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

there is no longer a need for that particular line.

So I think greater scrutiny needs to be made, and they need to go revisit their prior decisions on a regular basis to make sure that we are only building the transmission that is actually needed, because it represents a huge part of the customer's bill, and there is just no point in building transmission that is not needed.

Mr. Pallone. All right. Thanks.

Then in your opinion, how can we build transmission projects more cost-effectively while minimizing impacts to local communities and their environment?

Ms. Brand. Well, cost-effectively I would argue that the returns that are granted by FERC for transmission are completely off the charts. Some utilities are getting close to 12 percent return on these projects, which, in this economy, is a bit crazy. You know, there is some pain always when you are building a transmission project in any community that it goes through. But if it is needed, then people, I think, are more willing to accept it. The problem really comes in when you have these huge transmission lines that are just gashing a hole through a community, and then it turns out they are not needed. And that is what really needs to stop.

Mr. Pallone. Because, obviously, project costs get passed along to the rate payers, can there be specific criteria that have to be met by States before utilities or transmission operators are allowed to

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

move forward with planning these large-scale infrastructure projects?

Ms. Brand. Well, in terms of the cost, it is a pass-through. The States don't really have a role in determining how they get charged for it. The States will have a role in specific siting of a transmission project. But, again, it is a difficult process.

We are going through a situation in New Jersey right now where there is a trial that has been going on for months to try to figure out whether or not it is being put in the right place. And the utility's goal is to get it built and to start earning on it, whereas the people who are in the path of that line are often -- they don't have a significant voice or they are just in the way.

Mr. Pallone. Well, you know, that is in my district, so I appreciate your commenting on it.

The last thing. I worry that drastically overestimating load forecasts on a regular basis can lead to unnecessary buildup and must be paid for by rate payers. Are there any checks and balances in place to encourage PJM not to overexaggerate forecasts? And then, in your opinion, what can PGM do to minimize transmission projects that are approved or built and then underutilized resulting in high-stranded cost?

Ms. Brand. Well, PJM has traditionally overpredicted its load. There is no question that we come in at a lower level. There is a lot of advances in technology, and people are actually conserving. So

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

their load forecasts have been high for a very long time.

They did change the rules a little while back so that they don't revisit projects once they have been approved as necessary to resolve reliability violations. And they did that because they were trying to avoid the disruption that occurs when you approve a project, then you take it out, and then you approve a project, and then you take it out. But the end result is that we are now building transmission that is no longer needed based on the load profile. So I think they need to go back and have some form of regular review of these projects to make sure they are still needed, especially if they haven't started.

Mr. Pallone. All right. Thanks so much.

That you, Mr. Chairman.

Mr. Olson. The gentleman yields back. The chair now calls upon the gentleman from Texas, another Houston Astros fan, Mr. Green, for 5 minutes.

Mr. Green. Thank you, Mr. Chairman, and thank our committee, because we have held a number of these hearings over the last few weeks and months looking at the reliability issue.

And Mr. Vanderhelm, in your testimony, you talk about the integral competitive wholesale markets -- or contribute to Walmart's success. But before you answer, I want to thank Walmart, because I have a district in the Houston area. And I had a number of Walmart trucks coming to churches in our district who were -- facilities to

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

get food, and you-all are great corporate citizens, both in North and East and Southeast Harrison County.

Mr. Vanderhelm. Thank you for your comments.

Mr. Green. But the competitive electricity market that was created in Texas, and it has been very successful, is that an integral part of Walmart's success?

Mr. Vanderhelm. It certainly has enabled us to both continue to be able to procure electricity at lower prices year upon year by having that competitive market there just for all the stores. And as I mentioned in my testimony, enables us to directly contract with renewable energy or any other type of energy where it is delivered directly at the hub where we would be buying our retail energy.

Mr. Green. When your customers see the lights go out, what are the most prevalent reasons? Is it lack of generation?

Mr. Vanderhelm. No, sir.

Mr. Green. Okay. A recent study, released this week, showed that, from 2012 to 2016, showed 96.2 percent of all sources of energy disturbance came from severe weather events, not generation and capacity, or fuel supply emergencies which account for less than 0.008, less than a hundredth of single percent. 2014, NERC released a report reviewing the polar vortex. In this report, NERC found that the extreme cold froze many coal piles rendering them useless for power generation.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Can the witnesses talk about issues from the polar vortex and how that affected customers like the one I mentioned? Is there any -- is that true?

I am from Texas. We don't get snow but about every 10 years. I am sorry we get hurricanes and tropical storms every 7 or 8 years.

Mr. Bowring. It was cold during the polar vortex. One of the things it illustrated was that the performance incentives were not in place in the capacity market. That has since been addressed. The forced outage rate for combustion turbines and other units is very high, but it was not a result of absence of fuel. It was the result of primarily mechanical problems at the units.

Mr. Green. Any other witness?

Ms. Brand. Well, after the polar vortex, PJM did make some rule changes and did take steps to try to make sure that we won't get that close again to not having enough generation. And we haven't even tested it yet. And already there are people saying that it wasn't enough. So I would definitely advocate for let's see if the solution we came up with works before deciding that it didn't.

Mr. Green. In a number of these hearings, we have heard -- and, of course, it doesn't take a Texan too much to brag, but that we have some really good success in our competitive market in witness after witness in different panels. That is why I was skeptical this last week of Secretary Perry's recent DOE rulemaking announcement that would

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

fundamentally change the structure of free energy markets.

We created that when he was the Governor of the State. We have heard multiple times how competitive free markets for energy benefit consumers in a variety of ways. In this proposed and, I think, rushed rulemaking, the Secretary is suggesting it is in the national interest to subsidize industry like coal who can keep 90-day fuel supply on-site moving that number up from the existing 71 to 74 days.

Can anyone on the panel comment on how 90 days of frozen, soggy coal is better than 71 to 74 days? Do you see this rulemaking is making your grid reliable?

Mr. Bowring. Sir, it is our view that subsidizing particular technologies on economic technologies is not necessary to make the grid more reliable. The grid has been reliable and resilient, and continues to be that way as a result of competitive markets.

Ms. Tepper. I think you could look at New England as a good example of how one can make a change in the markets and adjust. You know, we now have the lowest prices, wholesale prices, in New England than we have had since 2003. We don't have a reliability problem. Many studies have shown we have no reliability problem. And we have reduced our air emissions by -- SO2 by 96 percent.

So we are doing that while we are reducing emissions, and we are reducing our load. Last year we reduced our load by 2 percent. So that is from our energy efficiency programs and from solar. So you



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

can make a change. And the markets are flexible enough to accommodate those changes. I think our markets are trying hard right now to accommodate those changes. And it is not a reliability issue.

Mr. Green. What is the base load for the New England market?

Ms. Tepper. You mean what is the major --

Mr. Green. What is your power --

Ms. Tepper. Gas.

Mr. Green. Gas?

Ms. Tepper. Uh-huh.

Mr. Green. Okay. Obviously we would like to sell you more natural gas.

Recently, Hurricane Harvey dumped so much water on Texas that the Electric Reliability Council of Texas had to switch to units from coal to natural gas. Natural gas is by far the largest provider during the storm, although I can also say our nuclear power plant in Southeast Texas continued to function very well.

At the San Jacinto plant site which uses natural gas, the storm dumped 47 inches of the rain and yet it remained in operation. It is frankly just not the case that increasing natural gas-fired plants is threatening reliability of the grid, because we also found out that coal gets soaked with water, and it doesn't work whereas natural gas doesn't.

Mr. Chairman, I want to thank you, thank our witnesses. And,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

again, I appreciate this series of hearings we are having, because it really gets us all up to speed on electrics in generation.

Thank you.

Mr. Olson. The gentleman's time has expired. The chair now calls upon the pride of Clarkson University, Mr. Tonko, for 5 minutes.

Mr. Tonko. Thank you, Mr. Chair. Thank you for your enthusiasm. And thank you for organizing this very informative bipartisan powering America's series.

I certainly have learned a lot. And I thank our witnesses for appearing here. And not just here testifying but also for the significant work you do in a very important arena.

We expect a lot out of our grid. We want it to be clean, reliable, flexible, resilient, and, yes, affordable. We have been holding these hearings, and many witnesses have made great points about the present and future of our electricity systems. But we have to remember: If we want utilities to invest in resiliency or RTOs to require greater reliability, the costs ultimately gets passed down to consumers, and that will hurt affordability.

Developing a modernized grid is about balancing all of these qualities. And members and stakeholders may have different ideas on how to do that best and how to value individual grid attributes. I think this is best done through dialogue which must include transparency and participation in FERC, in RTO proceedings.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

So I want to highlight very important points made by a number of witnesses this morning. Participation in FERC and RTO proceedings is incredibly difficult for consumers. The process can be technically complex, costly, and time-consuming which creates, in its own, a high barrier to participation.

So if I might ask Mr. Slocum: If consumers don't have a seat at the table, does affordability get pushed aside in favor of other grid attributes?

Mr. Slocum. Absolutely. The stakeholder meetings at the various RTOs, that is really where the heavy lifting of market rules and tariff writing occurs. And as has been very well articulated by some of the State consumer advocates in RTOs here, the consumer advocates do not have the resources from a financial standpoint, a staff standpoint to adequately participate in those proceedings. And so as a result, those stakeholder meetings are shaped by those entities that have the resources to contribute.

And that increasingly are the transmission owners, the generation owners. And so as a result, you are seeing a bias coming out of that stakeholder process. And so we have got to recognize that the RTOs are staffed by good, honest, hardworking people. But the structure of the way that they administrate these stakeholder processes, it is fundamentally broken. And we have got to have total reforms to the way that those are conducted or a total separation of that stakeholder

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

function from the RTOs into an entity that is more accountable to the public interests.

Mr. Tonko. Thank you.

Ms. Tepper and Ms. Brand, Do you agree with those sentiments?

Ms. Tepper. Yes. I would add that I think that we have had some successes at ISO New England in being more cost conscious. One of the things that consumer advocates really fought for was having more competition in the transmission -- building of transmission. I think that is slowly happening. I think we have done a good job in integrating energy efficiency into our load forecast price so that we are not buying too much and we are estimating how much energy efficiency is going to be going in the future.

But we have a lot of work to do. ISO and the other RTOs need to have that part of their mission. Part of their mission needs to be also worrying not just about reliability but how much what they do costs.

Mr. Tonko. And Ms. Brand?

Ms. Brand. I would also agree. But I would also say that part of the problem is when they consider costs. A lot of times costs don't even enter into the discussion until we are so far along that everybody has already made up their mind. And we have made some progress. We certainly have. We have the CAPS organization in PJM, and we try to be there on day one to bring costs to the forefront. But it is a very

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

difficult task.

Mr. Tonko. And a number of witnesses described the significant costs and barriers to participate. Ms. Tepper and Ms. Brand, your testimonies describe how multiple entities have pooled their resources in order to have consumer advocates more fully participate. It seems that funding of full-time voice for consumers can be difficult. Are there other ways or compensation structures that would enable more robust participation?

Ms. Brand. Well, we have a tariff provision, so we do have funding. More funding, I think, would make the difference. But also funding of more entities. CAPS does a terrific job of representing the consumer advocates. But, for example, you know, I am sure Mr. Slocum would love to participate in the RTO proceedings. But there is no resources to do it.

So, you know -- and we end up as one voice among many. Even though we are pooling our voices and speaking more strongly, it still cannot -- we are completely drowned out by the transmission owners and generation owners.

Mr. Tonko. And Ms. Tepper.

Ms. Tepper. I definitely would say that the consumer liaison group that I run, the people on the coordinating committee, I think, would universally say that to have a broader participation, not just to the consumer advocates but of businesses, of universities, that

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

requires additional work.

Mr. Tonko. Thank you.

Mr. Chair, if you will indulge me for just 10 seconds.

Mr. Olson. Twenty seconds. How about that?

Mr. Tonko. I want to associate myself with the witnesses' comments about DOE's proposed rulemaking to FERC. Subsidizing noncompetitive generation for a small, if any, grid benefit at massive expense to consumers is wrong. It is bad for individuals. It is bad for businesses. It is bad for manufacturers. And it definitely should not be done through a rushed process.

We need more discussion on proceedings and their merits and not less. And I would say to DOE, please, please keep consumers in mind. This is a bad move.

With that, Mr. Chair, I yield back.

Mr. Olson. The gentleman yields back.

And seeing no further witnesses to ask questions, I would like to thank all the witnesses for your patience during votes and, again, for being here today.

Also, special thanks to you, Mrs. Tepper, for accepting my challenge on behalf of Mr. Kennedy and all Boston Red Sox fans around the world. We are going to take you down.

Ms. Tepper. I will warm up the chowder for you.

Mr. Olson. Got a big hot bowl of steaming chili waiting for you

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

with lots of jalapenos on it. Very hot.

There being no documents for the record and pursuant to committee rules, I remind members that they have 10 business days to submit additional questions for the record and ask the witnesses to submit their responses within 10 business days upon receipt of those questions.

Without objection, this subcommittee is adjourned.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]