

**Rep. David B. McKinley, P.E. (WV-01)**

**Opening Statement, Energy Subcommittee Hearing, DOE Secretary Rick Perry**

**4/12/18**

Mr. Chairman thank you for holding this hearing.

This committee has held numerous hearings over the past four years to examine all aspects of how American electricity is generated and priced into the competitive markets. After hearing testimony from industry experts and government officials, we are no closer to solving the complex question of how to provide a secure and resilient grid. We know recent severe weather along with cyber and physical threats, pose enormous challenges to grid reliability and resilience. The American consumer should not have to worry about the next cold weather event or cyber-attack.

I believe it is time for Secretary Perry to invoke his authority under Section 202(c) of the Federal Power Act or any other emergency authority the President or Secretary of Energy may have. We believe 202c provides the appropriate mechanism to protect the grid. The law gives authority to the Secretary when emergency conditions exist such as a shortage of electricity due to various reasons. The law also states, “or other causes” that threaten the availability of electricity. I believe there are important “other causes” which haven’t adequately been addressed by FERC and the ISO’s and RTO’s.

Our electrical generation system and grid are changing very quickly, as these changes evolve we need to make sure these changes do not have unintended consequences. The rapid rise of natural gas electrical generation has proven to be a fantastic asset and something I will continue to support. However, as quickly as this resource develops, I’m afraid we are overlooking the potential downside associated with being too reliant on one fuel source. Especially a fuel that is dependent upon pipeline infrastructure that many states refuse to allow to be built.

In testimony on January 18<sup>th</sup> of this year, before the Senate Energy and Natural Resources Committee, Gordon van Welie, President and CEO of ISO New England stated, “we’ve known for several years that when it gets cold New England does not have sufficient natural gas supply infrastructure to meet demand for both home heating and power generation”. Now is the time for this administration to act.

There are three very good reasons for Secretary Perry to invoke 202c. America faces an immediate national security threat of a cyber-attack focused on our electric generation industry and energy delivery systems. Our coal and nuclear fleets provides the resource capacity cushion needed to mitigate a potential attack, and a secure fuel source in case a cyber threat is

successful. Prematurely retiring these plants would be detrimental to our fuel security. This alone, is reason enough to invoke 202c. Second, the wholesale electricity markets are broken and have failed to mitigate the market distorting effects of tax subsidies and renewable fuel mandates implemented by states. Finally, it is the proper role of the Secretary of Energy to implement lawful policies to protect our grid and to protect the economic wellbeing of all Americans.

**America faces a national security threat of a cyber-attack focused on our electric generation industry and energy delivery systems.** Two years ago, our office hosted a cyber security seminar in Fairmont, WV. One industry expert who spoke was Joe McClelland who is FERC's cyber security expert. In subsequent meetings with my staff, Mr. McClelland discussed unclassified information about ongoing cyber-attacks on our pipelines.

Just last week an article outlines recent attacks on energy infrastructure. Additionally, "last month, investigators at the Department of Homeland Security and FBI warned energy companies of a year's long Russian hacking campaign that also targeted firms in the nuclear" industry. Pipeline compressor stations are prime targets. A successful attack on one compressor station can affect several natural gas power plants and grid reliability and resilience. Out of an abundance of caution, Secretary Perry should use 202c in *his judgment to best meet this immediate emergency and serve the public interest*. Prematurely retiring coal and nuclear plants would be detrimental to our fuel security needs.

In testimony before this committee we also heard from industry and government experts on the national security aspects of our nuclear power industry. A strong commercial nuclear industry is critical. Three nuclear industry components are intertwined with each other. The United States' nuclear weapons program, the Navy's nuclear propulsion program and reactors, and the nation's commercial nuclear industry. We heard from one witness who said, "The ability of the US to lead in nuclear safety, security and nonproliferation efforts is significantly lessened as commercial activity erodes".

Finally, in a March 2018 CRS Report on physical grid security, they state, "it has not necessarily reached the level of physical security needed based on the sector's own assessments of risk. Bulk power physical security remains a work in progress."

**The wholesale electricity markets are broken and have failed to mitigate the market distorting effects of tax subsidies and renewable fuel mandates implemented by states.** Dozens of witnesses have testified, hundreds of studies and millions of articles have been written about the market distorting features of our tax code. We have also heard from the ISO's and RTO's saying, "the markets are working", while ignoring the impact of these subsidies and tax policies have on the wholesale electricity market. It seems the only competition that is relevant in their minds is natural gas versus coal, the playing field is not level.

On a per-megawatt-hour basis, in FY 2013 solar received \$231 of support and wind received \$35, while natural gas and petroleum received 67 **cents** and coal received 57 **cents**, a factor of 405 times to one! And we are to believe this is a fair market? From a witness before this committee, *“Artificially promoting the development of wind and solar actually raises the true cost of electricity generation, because it is currently much cheaper to produce electricity (all things considered) through coal and natural gas plants, rather than new wind and solar”*.

PJM this Monday, acknowledged the short comings of their market and the distorting effects of subsidies by filing with FERC a plan to properly compensate base load power generators for the value they provide to the market. “Left unaddressed the subsidies will crowd out efficient, competitive resources.... we seek the appropriate balance that respects state policy while avoiding policy impacts of a state’s subsidies on the market as a whole and on other states.”

Critics say that invoking 202c is a bailout for the coal industry. This is not correct. The reason coal is at an economic disadvantage is due to conscious policy decisions made by Congress and state legislatures around the country. These politicians have distorted the market to such an extent that secretary Perry correctly stated, "We don't have a free market in that industry and I'm not sure you want one." Temporarily invoking 202c will give the markets and regulators the time needed to correct their policy decisions. A policy where all fuel sources are treated fairly and valued for the security they bring is the outcome we seek.

**It is the proper role of the Secretary of Energy and President Trump to implement lawful policies to protect our grid and to protect the economic wellbeing of all Americans.** Congress also has a role in asking for policies to be implemented. In this regard, 23 members of Congress signed a bipartisan letter to President Trump asking that 202c be invoked. A second bipartisan letter with four additional members of the House “urge immediate action” by the President to keep Ohio’s only two nuclear plants open.

In a time where it is the policy of this administration to achieve energy dominance, Americans had to worry about their lights staying on during the recent Cyclone Bomb weather event. In addition, American’s had to import Russian LNG just to make sure they remained warm during a relatively minor weather event. We were put into this situation by the shortsighted policies by New England politicians. What happens the next time?

In January of this year, ISO New England published a report detailing the crisis they face.

- ***Fuel-security risk***—the possibility that power plants won’t have or be able to get the fuel they need to run, particularly in winter—is ***the foremost challenge to a reliable power grid in New England.***
- ***The region is vulnerable to the season-long outage of any of several major energy facilities***

ISO-New England recently asked FERC to keep Exelon's Mystic Generating station online, saying their retirement could put electricity reliability at risk. The early retirement of units 8 and 9 at the plant would pose an "unacceptable fuel security risk to the region during the winter months," ISO-NE said in a memo. We cannot agree more. The same should be done nationwide.

The shortsighted renewable policies implemented by some states has led to 73 gigawatts of electricity being imported from Canada, equivalent of 70-120 power plants. Each of the power plants replaced by the Canadian power were an economic driver in their communities. Each plant provided essential tax revenue to support the local government and services. In my state, one such plant provides 30% of the local tax revenue. If this plant is closed due to unfair competition and bad policy decisions made on the national level, it will threaten hundreds of West Virginian's economic security.

### **Conclusion**

I urge Secretary Perry to exercise the powers granted to him via section 202c for a temporary two-year period. This will allow the markets and policy makers the time needed to come up with a correct and fair solution addressing national security and past bad policy. Once we prematurely retire nuclear and coal fired plants we potentially put our economy in jeopardy. Once a plant closes it will not come back. A time out during this rapidly changing time, is a wise thing to do.

We have been warned about potential problems on the immediate horizon, but because of our polarizing politics our institutions have been unable to respond to the challenge. There were those who said the Titanic was unsinkable, experts after the fact said we were not creative enough to imagine 911, now we should not foolishly put our grid at risk. Please invoke 202c to help all Americans.