

April 13, 2018

TO: Members, Subcommittee on Energy

FROM: Committee Majority Staff

RE: Hearing entitled “Oversight of the Federal Energy Regulatory Commission and the FY 2019 Budget”

INTRODUCTION

The Subcommittee on Energy will hold a hearing on Tuesday, April 17, 2018, at 10:00 a.m. in 2123 Rayburn House Office Building. The hearing is entitled “Oversight of the Federal Energy Regulatory Commission and the FY2019 Budget.” This hearing will review the current priorities of the agency and laws within the Commission’s jurisdiction.

WITNESSES

- **Honorable Kevin McIntyre**, Chairman, Federal Energy Regulatory Commission;
- **Honorable Cheryl LaFleur**, Commissioner, Federal Energy Regulatory Commission;
- **Honorable Neil Chatterjee**, Commissioner, Federal Energy Regulatory Commission;
- **Honorable Robert Powelson**, Commissioner, Federal Energy Regulatory Commission;
and
- **Honorable Richard Glick**, Commissioner, Federal Energy Regulatory Commission.

BACKGROUND

Originally established in 1920 as the Federal Power Commission, the Federal Energy Regulatory Commission (FERC) is an independent administrative agency within the Department of Energy.¹ FERC is tasked with regulating the transmission, reliability, and wholesale sale of electricity in interstate commerce pursuant to the Federal Power Act (FPA),² the transmission and sale of natural gas for resale in interstate commerce pursuant to the Natural Gas Act (NGA),³ and the transportation of oil by pipeline in interstate commerce pursuant to the Interstate Commerce Act.⁴ FERC is also responsible for the implementation and enforcement of the Public

¹ FERC was established in 1977 pursuant to the Department of Energy Organization Act. 42 U.S.C. §§ 7101 *et seq.*

² 16 U.S.C. §§ 791 *et seq.* (Part I); 16 U.S.C. §§ 824 *et seq.* (Parts II and III).

³ 15 U.S.C. §§ 717 *et seq.*

⁴ 49 U.S.C. §§ 1 *et seq.*

Utilities Regulatory Policies Act (PURPA).⁵ In addition, FERC is charged with evaluating proposals to build liquefied natural gas (LNG) terminals and interstate natural gas pipelines, as well as the licensing of over 1,600 non-federal hydropower projects. Finally, through the Energy Policy Act of 2005, FERC has broad authority to prohibit manipulation in wholesale energy transactions and to assess significant civil monetary penalties.

FERC's stated mission is to "[a]ssist consumers in obtaining reliable, efficient, and sustainable energy services at a reasonable cost through appropriate regulatory and market means." To fulfill its mission, FERC identifies the following primary goals: (1) to ensure just and reasonable rates, terms, and conditions of jurisdictional energy services; (2) to promote safe, reliable, secure, and efficient infrastructure that serves the public interest; and (3) to use resources effectively, adequately equipping FERC employees for success, and executing responsive and transparent processes that strengthen public trust.⁶

FERC is comprised of up to five commissioners, each of whom is nominated by the President and confirmed by the U.S. Senate for a five-year term. One of the five commissioners serves as Chairman, as designated by the President. FERC's organizational structure consists of 12 program offices and employs approximately 1,465 people.⁷ FERC recovers the full cost of its operations through annual charges and filing fees assessed on the industries it regulates. This revenue is deposited into the U.S. Treasury as a direct offset to FERC's appropriation, resulting in no net appropriation. For Fiscal Year 2019, FERC is requesting from Congress an annual appropriation of \$369,900,000, with over two-thirds of this amount to be budgeted for employee salaries and benefits. This request reflects a slight increase over its 2018 enacted budget of \$367,600,000.

In early 2017, with the departure of former Chairman Norman Bay, FERC lacked a quorum to conduct business. This period lasted for an unprecedented six months, from February thru August, and prevented the Commission from voting on any matters before the agency, resulting in an extensive backlog. In anticipation of the gap, FERC issued an order delegating additional authority to senior staff in the absence of a quorum of commissioners.⁸ These authorities included accepting and suspending rate filings, extending time for action on matters where it is permitted by statute, responding to waiver requests and uncontested filings, and accepting uncontested settlements, in addition to all pre-existing delegations. This delegation of authority was rescinded on August 24, 2017, shortly after FERC's quorum was re-established by the confirmation of Commissioners Neil Chatterjee and Robert Powelson.⁹ On December 7, 2017, Kevin McIntyre was sworn in as FERC's new Chairman.

Among FERC's major recent initiatives, Chairman McIntyre announced on December 21, 2017, that the agency will be reviewing its policies on certifying natural gas pipelines, noting that FERC's existing policies are nearly 20 years old and that the energy landscape has changed since then. Additionally, on January 8, 2018, FERC initiated a proceeding to examine the

⁵ 16 U.S.C. §§ 824a *et seq.*

⁶ [FERC Strategic Plan](#), FY 2014-2018 (March 2014).

⁷ [FERC FY 2019 Budget Request](#), (Feb. 12, 2018).

⁸ [Agency Operations in the Absence of a Quorum](#), 158 FERC ¶ 61,135 (Feb. 3, 2017).

⁹ [FERC News Release](#), (Aug. 10, 2017).

resilience of the bulk power system after simultaneously closing a request by the Department of Energy for FERC to issue a rule compensating certain generating resources with on-site fuel supplies. In this new proceeding, the six operators of the jurisdictional wholesale power markets were directed by FERC to provide detailed information regarding its individual efforts to ensure the resilience of its bulk power system. FERC is currently reviewing those responses and is now awaiting the filing of responsive comments by interested parties. Chairman McIntyre has said that this proceeding will remain a top priority and the Commission will promptly decide whether additional action on the issue is warranted.

As the nation's energy industry undergoes a period of transformation due to technological innovation, market competition, and changes in State policies, FERC must be prepared to respond. The interconnected bulk power system and pipeline networks are facing challenges, including capacity constraints, unpredictable market conditions, and aging infrastructure. The Committee will continue to exercise close oversight over FERC to ensure that the nation's energy delivery systems remain efficient and provide for the safe, reliable, and affordable delivery of electricity and fuels to American consumers. To this end, the Committee is responsible for ensuring that FERC's statutory authorities, notably those derived from the Federal Power Act and the Natural Gas Act, reflect a changing energy landscape.

ISSUES

The following issues may be examined at the hearing:

- FERC's regulation of the wholesale electricity markets, including energy and capacity markets;
- Electric transmission infrastructure planning, development, and operations;
- Siting and construction of interstate natural gas pipelines and LNG import/export facilities;
- Hydropower licensing;
- Assessing the resilience of the bulk power system and how to mitigate threats, including physical and cyber security;
- FERC's efforts to detect and prosecute market manipulation, and current enforcement practices; and
- Existing FERC regulations and policies regarding PURPA.

STAFF CONTACTS

If you have any questions regarding this hearing, please contact Brandon Mooney, Jason Stanek, Annelise Rickert, or Mary Martin of the Committee staff at (202) 225-2927.

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Federal Energy Regulatory Commission

