

**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.**

1 NEAL R. GROSS & CO., INC.

2 RPTS WALTER

3 HIF107030

4

5

6 OVERSIGHT OF THE FEDERAL ENERGY REGULATORY

7 COMMISSION AND THE FY 2019 BUDGET

8 TUESDAY, APRIL 17, 2018

9 House of Representatives

10 Subcommittee on Energy

11 Committee on Energy and Commerce

12 Washington, D.C.

13

14

15

16 The subcommittee met, pursuant to call, at 10:00 a.m.,  
17 in Room 2123 Rayburn House Office Building, Hon. Fred Upton  
18 [chairman of the subcommittee] presiding.

19 Members present: Representatives Upton, Olson, Barton,  
20 Shimkus, Latta, Harper, McKinley, Kinzinger, Griffith,  
21 Johnson, Long, Bucshon, Flores, Mullin, Hudson, Walberg,  
22 Duncan, Walden (ex officio), Rush, McNerney, Peters, Green,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

**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.**

23 Doyle, Castor, Welch, Tonko, Schrader, Kennedy, Butterfield,  
24 and Pallone (ex officio).

25 Staff present: Samantha Bopp, Staff Assistant; Daniel  
26 Butler, Staff Assistant; Karen Christian, General Counsel;  
27 Kelly Collins, Legislative Clerk, Energy/Environment; Wyatt  
28 Ellertson, Professional Staff, Energy/Environment; Margaret  
29 Tucker Fogarty, Staff Assistant; Adam Fromm, Director of  
30 Outreach and Coalitions; Jordan Haverly, Policy Coordinator,  
31 Environment; Zach Hunter, Director of Communications; Mary  
32 Martin, Chief Counsel, Energy/Environment; Drew McDowell,  
33 Executive Assistant; Brandon Mooney, Deputy Chief Counsel,  
34 Energy; Mark Ratner, Policy Coordinator; Annelise Rickert,  
35 Counsel, Energy; Dan Schneider, Press Secretary; Peter  
36 Spencer, Professional Staff Member, Energy; Jason Stanek,  
37 Senior Counsel, Energy; Austin Stonebraker, Press Assistant;  
38 Hamlin Wade, Special Advisor, External Affairs; Everett  
39 Winnick, Director of Information Technology; Priscilla  
40 Barbour, Minority Energy Fellow; Jeff Carroll, Minority Staff  
41 Director; Jean Fruci, Minority Energy and Environment Policy  
42 Advisor; Rick Kessler, Minority Senior Advisor and Staff  
43 Director, Energy and Environment; John Marshall, Minority  
44 Policy Coordinator; Alexander Ratner, Minority Policy

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

45 Analyst; Tim Robinson, Minority Chief Counsel; Andrew  
46 Souvall, Minority Director of Communications, Outreach and  
47 Member Services; Tuley Wright, Minority Energy and  
48 Environment Policy Advisor; and C.J. Young, Minority Press  
49 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.**

50 Mr. Upton. Good morning, everybody. Oh, man. Becoming  
51 a theme. That's good.

52 So we are lucky to have all five members of the Federal  
53 Energy Regulatory Commission at our hearing today to discuss  
54 the priorities of this independent agency and the challenges  
55 of regulating industries that are undergoing significant  
56 transformation.

57 Since our last oversight hearing in 2015, FERC itself  
58 has also experienced a number of changes with addition of  
59 four new members, so I welcome all of you here today and look  
60 forward to hearing your individual perspectives on some very  
61 complicated and technical issues ranging from grid resilience  
62 to battery storage to cybersecurity.

63 The past year has been challenging for the commission,  
64 having struggled without a functional quorum for more than  
65 six months, and during that period utility filings became  
66 backlogged and decisions were delayed on matters ranging from  
67 utility rate applications to million-dollar interstate  
68 natural gas pipeline proposals.

69 Fortunately, I understand that FERC operations have  
70 returned to near normal, having cleared much of that backlog,  
71 allowing the commission to turn its attention towards a host

**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.**

72 of issues ranging from controversial changes to the RTO  
73 capacity markets to how new energy infrastructure projects  
74 should be evaluated under FERC's certificate policy.

75 As we recently heard at your hearing on energy  
76 infrastructure, building new pipelines and electric  
77 transmission towers is not a easy or simple task.

78 Affected landowners know their rights and they have  
79 organized campaigns to oppose new energy projects, sometimes  
80 protesting at FERC's doorstep.

81 I understand that Chairman McIntyre announced that the  
82 commission is now taking a fresh look at its 1999 policy to  
83 evaluate the need for new natural gas pipelines.

84 Obviously, a lot of changes have occurred over the last  
85 20 years in the way infrastructure is developed. So I would  
86 be interested to hear what may come from that review.

87 Another topic that has consumed much attention in the  
88 industry and at FERC recently involves the question of the  
89 bulk power system's ability to anticipate, withstand, and  
90 recover from disruptive events.

91 This topic of grid resilience became a source of much  
92 heated debate we heard from Secretary Perry just last week  
93 that the national security of this country is jeopardized --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

94 those are his words -- if we don't take steps to protect the  
95 grid.

96 I understand that FERC is flagged as a top priority and  
97 has directed each of the RTOs and ISOs to provide detailed  
98 information regarding the state of grid resilience.

99 The committee is reviewing the RTO's submissions to FERC  
100 and will seek and track the anticipated responsive comments  
101 through early next month. FERC's jurisdictional electricity  
102 markets have also been a topic of frequent discussion during  
103 our Powering America hearing series.

104 We have heard concerns from market participants that  
105 range from the need for updated PURPA regs to changes to  
106 FERC's transmission planning rules under Order 1000.

107 Additionally, recent pricing proposals developed by the  
108 RTOs and ISOs aimed at accommodating state policies represent  
109 a fundamental shift in how resources set prices in the  
110 wholesale markets.

111 Commissioner LaFleur deserves credit for focusing on  
112 that issue last May when she was chairman. But, as these  
113 federal-state jurisdictional issues play out in filings at  
114 FERC and in litigation at the various courts of appeals, we  
115 should consider the differences between an impact of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

116 wholesale and retail electricity markets.

117           So these are tough issues and I recognize that you've  
118 got a lot on your agenda right now. However, despite the  
119 tough work and challenging issues FERC faces, I'd like to  
120 point out that the commission is consistently ranked among  
121 the best places to work in the federal government, based on  
122 employee surveys and your success in maintaining such high  
123 marks by your 1,500 staff members is noted.

124           With that, I want to thank the commissioners again for  
125 appearing today. I look forward to your testimony and the  
126 questions and interactions that we have between us.

127           [The prepared statement of Mr. Upton follows:]

128

129 \*\*\*\*\*INSERT 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.**

130 Mr. Upton. With that, I recognize the ranking member of  
131 Energy Subcommittee, Mr. Rush, my friend from Illinois.

132 Mr. Rush. I certainly want to thank you, Mr. Chairman,  
133 for holding this very timely hearing today. I look forward  
134 to hearing from the FERC commissioners on some of the more  
135 pressing issues regarding the reliability and the resiliency  
136 of the nation's electric grid.

137 Mr. Chairman, just last week this subcommittee heard  
138 from Secretary Perry on what he considers a very real concern  
139 regarding grid reliability, specifically, Mr. Chairman, the  
140 topic of DOE intentionally using its emergency authority  
141 under Section 202(c) of the Federal Power Act to grant the  
142 request made by First Energy to issue an emergency must-run  
143 order for 85 coal and nuclear plants within the PJM  
144 interconnected came up more than once.

145 In fact, Secretary Perry, Mr. Chairman, seemed to be  
146 sounding the alarm that we are quickly heading toward a point  
147 of no return when the imminent retirement of several coal and  
148 nuclear plants would leave our nation in a situation where we  
149 would be unable to meet our energy demands if we do not act  
150 soon.

151 Mr. Chairman, I look forward to hearing 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.**

152 commissioner's views on these critical issues. Another topic  
153 of great debate during last week's DOE hearing focused on the  
154 March 2018 study by the National Energy Technology  
155 Laboratory, or NETL.

156 That report highlighted the use of coal during the  
157 prolonged cold snap that the nation experienced between  
158 December 2017 and January 2018.

159 The NETL study concluded that within the PJM region,  
160 coal provided the most resilient form of generation during  
161 this cold blitz and went on to say that without the available  
162 capacity from coal facilities then PJM would have experienced  
163 power shortfalls and widespread blackouts.

164 However, Mr. Chairman, just this past Friday, PJM issued  
165 its own response to the NETL study refuting those conclusions  
166 and stating that PJM indeed had adequate amounts of resources  
167 to supply power and then not need to invoke emergency  
168 procedures.

169 PJM also noted that, while coal and nuclear played an  
170 important role during this period, that was more due to  
171 economic factors and it really never faced any reliability  
172 threats.

173 Mr. Chairman, and the agency responsible for ensuring

**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.**

174 the reliability of the nation's electrical grid, I look  
175 forward to hearing directly from the FERC commission on this  
176 and other important issues.

177 Specifically, I would like to commend the agency for its  
178 recent unanimous vote finalizing the rulemaking allowing for  
179 distributive energy resources to compete in wholesale  
180 markets. This vote marks an important step in the right  
181 direction by allowing advanced technologies such as demand  
182 response, energy storage, electric automobiles, and  
183 photovoltaics potentially in the wholesale market.

184 Unfortunately, Mr. Chairman, I also have some concerns  
185 regarding the recent study -- recent, rather, policy change  
186 determining how impacting stakeholders may intervene in  
187 pipeline review.

188 I'd like to hear from the commission on its  
189 justification for a less lenient in allowing interveners to  
190 join proceedings that are, quote, "out of time" and how these  
191 new changes might impact public input and participating in  
192 the pipeline review process.

193 That said, Mr. Chairman, I look forward to engaging the  
194 commissioners today and I will yield back the balance of my  
195 time.

**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.**

196 Mr. Upton. The gentleman yields back.

197 The chair would recognize the chair of the full  
198 committee, the gentleman from the good state of Oregon, Mr.  
199 Walden.

200 The Chairman. Thank you, Mr. Chairman.

201 Good morning. Welcome to our FERC commissioners. We  
202 are delighted that you're here. I think the last time we had  
203 all the commissioners before the committee was in 2015, and  
204 so we are delighted that you're here.

205 But this is the first time under the chairmanship of  
206 Commissioner McIntyre. So we look forward to the discussion  
207 that will take place.

208 FERC oversees, as you all know, many critical aspects of  
209 our nation's energy infrastructure and industry, and through  
210 the authorities provided by Congress, namely, the Federal  
211 Power Act and the Natural Gas Act, the commission regulates  
212 the interstate transmission of electricity, natural gas, and  
213 oil and reviews proposals to build LNG terminals, interstate  
214 natural gas pipelines, and oversees the licensing of hydro  
215 power projects, all of which are very, very important to our  
216 country and to my state.

217 Our nation's energy industry is at the forefront of 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.**

218           unprecedented period of change driven in part by changes in  
219           fuel mixes, technological innovation, and market competition.

220           Declining natural gas prices, stable demands, zero cost  
221           generation resources, greater efficiency -- they've all led  
222           to a generation mix differentiated not solely by cost but  
223           through operational characteristics such as dispatchability  
224           flexibility and ramping.

225           So a well-functioning energy system is dependent on  
226           competitive markets. However, in some wholesale electricity  
227           markets, certain generation resources such as coal and  
228           nuclear are struggling to recover costs and remain  
229           competitive.

230           In some cases, under wholesale market rules, inflexible  
231           generation units are not permitted to set price. This  
232           presents real challenges for cost recovery, which could,  
233           ultimately, have an impact on the reliability and resiliency  
234           of our electricity grid.

235           So I am hopeful that FERC will take this matter  
236           seriously as it conducts its review of comments regarding  
237           resiliency in the organized electricity markets.

238           At the same time, advances in digital information  
239           technologies are driving real change, creating new

**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.**

240 opportunities for more intelligent and dynamic energy  
241 systems.

242 Many of these advanced energy technologies have  
243 applications on the distribution side and behind the meter  
244 beyond the regulatory reach of FERC.

245 However, given the interconnected nature of our grid, we  
246 are beginning to see their impacts on the bulk power system  
247 and wholesale electricity markets.

248 Of course, as our generation mix shifts toward natural  
249 gas, we are going to need more pipelines to transport gas  
250 from producing wells and user consumers.

251 New England is especially feeling that crunch, as we  
252 have heard, as we saw when they had to import LNG from Russia  
253 on two occasions this year to meet market demands.

254 So I am hopeful that Chairman McIntyre's review of  
255 FERC's procedures for evaluating applications for new gas  
256 pipelines will result in more efficient and timely decisions.

257 I understand that FERC will be taking formal action on  
258 this review at its open meeting on Thursday. With our  
259 abundant shale resources, we can be entirely self-sufficient  
260 on natural gas.

261 But we must construct new pipelines to do that. While

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

262 cross border trade with our neighbors in Canada and Mexico  
263 may be a win-win, we should never have to be reliant on the  
264 Russians for imports again.

265 Since taking the gavel as chairman of this committee,  
266 I've made it my promise to always put the consumer first in  
267 everything that we do. The modern consumer expects greater  
268 control, convenience, and choice when it comes to their  
269 energy consumption.

270 I am excited about the changes taking place and the  
271 opportunities that it presents to our nation's economy and  
272 energy security.

273 With that, I'd like to thank all of you for willingness  
274 to participate in this public service and in this hearing and  
275 I look forward to your testimony.

276 As you all well know, we also have another subcommittee  
277 meeting at the same time on telecommunications issues so you  
278 will have members, including myself, coming and going.

279 We really value your testimony and your long public  
280 service and we look forward to a partnership together for  
281 America's future.

282 With that, Mr. Chairman, I would yield back the balance  
283 of my time.

**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.**

284 [The prepared statement of Mr. Walden follows:]

285

286 \*\*\*\*\*INSERT 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.**

287 Mr. Upton. The gentleman yields back.

288 The chair would recognize the ranking member of the full  
289 committee, Mr. Pallone, from New Jersey.

290 Mr. Pallone. Thank you, Mr. Chairman.

291 I am pleased that there is finally a full slate of five  
292 commissioners at FERC. Last year, I voiced my concern that a  
293 lot of important work was put on hold for an extended period  
294 of time because the commission lacked a quorum, and it's a  
295 pleasure to have all five of you here with us today.

296 First, I'd like to thank the commission for its decision  
297 to reject Secretary Perry's notice of proposed rulemaking to  
298 provide cost recovery for certain coal and nuclear facilities  
299 that are no longer economical.

300 This proposed rule is a threat to competitive  
301 electricity markets and would have led to higher energy  
302 prices for consumers.

303 With Secretary Perry's proposed rulemaking now behind  
304 us, we must turn our attention to the feedback that the  
305 commission receives from the regional transmission  
306 organization as it relates to current resiliency risk.

307 I would also like touch briefly on FERC's authority to  
308 review applications for the construction of interstate

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

309 natural gas pipelines.

310 For years I've expressed concern with the process FERC  
311 uses to review pipeline applications and its tendency to  
312 green light the construction of potentially unnecessary  
313 pipeline projects.

314 Overbuilding our natural gas pipeline system has many  
315 negative impacts on the public. Ratepayers ultimately foot  
316 the bill for the construction of these pipelines whether they  
317 are necessary or not.

318 Homeowners in the path of a pipeline also have little  
319 recourse to stop pipeline companies from seizing their land  
320 through eminent domain.

321 It's time for a new approach. I believe a more regional  
322 review of these projects should be implemented rather than  
323 the current process where every pipeline appears to be  
324 reviewed individually without any consideration of other  
325 pipelines in the area.

326 And I was encouraged by Chairman McIntyre's announcement  
327 in December that FERC will review its 1999 pipeline policy  
328 statement. I hope this review leads to a new pipeline policy  
329 that provides greater protections to property owners and more  
330 holistic review process that looks at all pipelines in a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

331 given region.

332 I've also heard from many property owners and advocacy  
333 groups that FERC is not nearly responsive enough to the  
334 public. More needs to be done at the commission to provide a  
335 greater role for the general public and the FERC process.

336 My colleague, Representative Schakowsky, had introduced  
337 a common sense bill that would create an office of public  
338 participation in consumer advocacy at FERC and such an office  
339 would provide an important resource for everyday citizens who  
340 typically lack the ability to navigate the complex FERC  
341 process.

342 And finally, I'd like to address FERC's grid storage  
343 order number 841, which was issued in February. I've long  
344 advocated for finding ways to introduce more distributed  
345 energy and energy storage into our electric grid and removing  
346 the many barriers preventing storage benefits from reaching  
347 consumers.

348 And so I am fully aware that there are some technical  
349 changes that grid operators and utilities will have to  
350 overcome, it can be done and I am pleased that FERC has  
351 directed the RTOs to evaluate how storage can add value to  
352 our electricity markets.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

**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.**

353           So, again, let me conclude by welcoming everyone here  
354 today. Thank you, and I yield back, Mr. Chairman.

355           Mr. Upton. Gentleman's time has expired.

356           We are now prepared to hear testimony from each of the  
357 commissioners. We welcome you. Thank you for submitting  
358 your testimony in advance. It'll be made part of the record.

359           We will let you spend five minutes each summarizing your  
360 statements and at that point we will go to questions on both  
361 sides.

362           So Mr. McIntyre, welcome. Good to see 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.**

363 STATEMENTS OF THE HONORABLE KEVIN J. MCINTYRE, CHAIRMAN,  
364 FEDERAL ENERGY REGULATORY COMMISSION; THE HONORABLE CHERYL A.  
365 LAFLEUR, COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION;  
366 THE HONORABLE NEIL CHATTERJEE, COMMISSIONER, FEDERAL ENERGY  
367 REGULATORY COMMISSION; THE HONORABLE ROBERT F. POWELSON,  
368 COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION; THE  
369 HONORABLE RICHARD GLICK, COMMISSIONER, FEDERAL ENERGY  
370 REGULATORY COMMISSION

371

372 STATEMENT OF MR. MCINTYRE

373 Mr. McIntyre. Thank you, Chairman Upton. Likewise.

374 Thank you. Good morning, Chairman Upton and Ranking  
375 Member Rush, and distinguished members of this subcommittee.

376 My name is Kevin McIntyre, and since December I have had  
377 the privilege of serving as the chairman of the Federal  
378 Energy Regulatory Commission, FERC.

379 FERC is an independent federal agency that regulates  
380 important aspects of our nation's electric, natural gas,  
381 hydro power, and oil pipeline industries.

382 As chairman, I am particularly pleased to be serving  
383 alongside my esteemed fellow commissioners who are also  
384 appearing before you today.

**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.**

385 I could not have hoped for a more engaged, better  
386 informed, and more public spirited group of colleagues than  
387 these.

388 My goals as chairman include the fostering of continued  
389 excellence at FERC, which was recently recognized as you,  
390 Chairman Upton, mentioned -- recognized in a prominent  
391 national ranking of the best places to work in the federal  
392 government as the number-one mid-sized agency.

393 My goals also include making FERC's actions as open,  
394 transparent, fair, and efficient as possible. A top  
395 substantive priority of mine is to protect and promote the  
396 resilience of our bulk power system, as has been mentioned  
397 here this morning.

398 On January 8, we initiated a proceeding to evaluate the  
399 state of that grid resilience. We are still receiving the  
400 incoming public comments in response to our issuance in that  
401 proceeding, and as we are informed by those comments and  
402 deliberate on them, we will make determinations as to whether  
403 additional action by FERC is warranted in this critical area.

404 I also am pleased that FERC is beginning a review of our  
405 1999 policy statement on the certification, our term for the  
406 approval process for interstate natural gas pipeline

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

407 facilities.

408 As a matter of good governance, I believe that it is  
409 appropriate for us, as with any other governmental body, to  
410 review our policies and processes from time to time to  
411 explore whether any improvements can be made.

412 Our review of gas pipeline certification processes is  
413 timely in light of the many changes that the natural gas  
414 industry has witnessed in the past 20 years.

415 In addition to these specific goals and priorities, as  
416 chairman, FERC is continuing to consider many other important  
417 issues. My fellow commissioners will address some of those  
418 in their testimony before you here this morning.

419 With that, I thank you for this opportunity to be -- to  
420 appear before you.

421 [The prepared statement of Mr. McIntyre follows:]

422

423 \*\*\*\*\*INSERT 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.**

424 Mr. Upton. Thank you.

425 Ms. LaFleur, welcome.

**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.**

426 STATEMENT OF MS. LAFLEUR

427

428 Ms. LaFleur. Thank you, Chairman Upton, Ranking Member  
429 Rush, and members of the subcommittee.

430 My name is Cheryl LaFleur. I've been a commissioner at  
431 FERC for nearly eight years and have appeared before this  
432 committee several times. Got a little lonely last year so I  
433 am extremely happy to be here this morning with the full  
434 commission.

435 What I am going to discuss today is FERC's regulation of  
436 our wholesale electricity markets and I will also touch  
437 briefly on our oversight of interstate transmission planning.  
438 Both areas are covered more fully in my written testimony.

439 The organized markets that provide electricity to more  
440 than two-thirds of Americans are, roughly, 20 years old now  
441 and I believe they've done a very good job for the nation's  
442 electric customers, promoting efficiency and innovation and  
443 protecting reliability at least cost by deploying resources  
444 over a broader regional footprint.

445 As the committee knows, there are different market  
446 structures in different regions of the country, reflecting  
447 varied state and regional regulatory choices.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

448           Perhaps the most prominent difference is that the  
449 eastern markets -- PJM, New York ISO, and ISO New England --  
450 use mandatory capacity markets to ensure resource adequacy  
451 because all or most of the states in those regions chose to  
452 deregulate generation in the 1990s.

453           By contrast, the Midwestern and Western markets -- MISO  
454 SPP and CISO -- rely primarily on state resource planning for  
455 resource adequacy.

456           The markets have grown dramatically since I've joined  
457 FERC in 2010. In 2013, the Entergy companies and others in  
458 the mid-south became part of MISO, nearly doubling its size.

459           Two years later in 2015, the integrated systems and part  
460 of the Western Area Power Administration in the upper Midwest  
461 joined SPP, marking the first time a federal power marketing  
462 administration chose to join the market.

463           The big story in 2018 is the expansion of markets in the  
464 west. The western energy imbalance market operated by the  
465 California ISO has expanded in recent years to include  
466 utilities in five Western states including several public  
467 power entities and now represents the load of 55 percent of  
468 the western interconnection.

469           Several more entities are scheduled to join in the next

**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.**

470 two years when two-thirds of the electricity in the West will  
471 be shared and balanced by that market.

472 In addition to the group of companies primarily in  
473 Colorado and Wyoming, and are known as the Mountain West  
474 Transmission Group, have indicated their intent to join the  
475 Southwest Power Pool.

476 I think it's really important that these market  
477 expansions are being driven at the state and regional and  
478 company level, not driven by FERC.

479 In fact, I strongly believe that's the only reason  
480 they're happening is that the choices are being made in the  
481 regions. They reflect the increasing and increasingly broad  
482 recognition that sharing resources over a large footprint can  
483 sustain reliability and save money for customers, especially  
484 at a time of substantial resource change.

485 FERC has worked hard to make sure the markets do what  
486 they're supposed to do. We've taken a number of steps to  
487 make sure that markets are fair for all resources including  
488 emerging technologies.

489 We've also worked to ensure grid resilience by  
490 overseeing capacity market changes to increase compensation  
491 to the resources including baseload that keep the lights on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

492 at times of system stress.

493 In the energy markets, we've taken a number of steps on  
494 market mechanics to improve price formation. The most  
495 challenging issue currently confronting the wholesale markets  
496 is their interplay with state policy initiatives, which my  
497 colleague, Mr. Powelson, will discuss and which I touch on in  
498 my testimony.

499 Finally, I will comment briefly on our work on  
500 interstate transmission. It's been nearly seven years since  
501 FERC issued Order No. 1000 to require regional transmission  
502 planning and cost allocation and require competitive  
503 transmission selection over some projects.

504 All regions of the nation are in some stage of  
505 implementing Order 1000 at this point. Five of them have had  
506 competitive transmission processes and have proven that it  
507 saves customers money.

508 They've also proven that it's hard to do and that we  
509 have a lot more work to do on this, and it's something the  
510 commission is going to continue to monitor and work on.

511 And with that, I will thank you again for the  
512 opportunity and look forward to your questions.

513 Thank 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.**

514 [The prepared statement of Ms. LaFleur follows:]

515

516 \*\*\*\*\*INSERT 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.**

517 Mr. Upton. Thank you.

518 Mr. Chatterjee, welcome. Good to see 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.**

519 STATEMENT OF MR. CHATTERJEE

520

521 Mr. Chatterjee. Thank you. Great to see you, Chairman  
522 Upton, Ranking Member Rush, distinguished members of the  
523 subcommittee.

524 Thank you for the opportunity to appear before you today  
525 to discuss the important work FERC is doing to ensure that  
526 the American people have access to reliable and affordable  
527 energy.

528 As a former congressional staffer, it's always a  
529 pleasure to be back on Capitol Hill, and I would like to note  
530 that while I came to the commission from the Senate, I began  
531 my career here in the people's house and never allowed myself  
532 to become a Senate snob. I can't say the same for all of my  
533 former colleagues.

534 I appreciate the subcommittee's attention to the major  
535 energy issues facing our nation as well as its interest in  
536 the role the commission plays in addressing them.

537 I would like to focus my remarks today on our efforts  
538 regarding reliability and the Public Utility Regulatory  
539 Policies Act of 1978, or PURPA, and to touch briefly on a few  
540 of my other priorities.

**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.**

541 I will begin with a look in the area of energy policy  
542 affecting families and businesses across the nation on a  
543 daily basis -- reliability.

544 Congress delegated the FERC the responsibility to  
545 approve and enforce mandatory reliability standards for the  
546 grid, and with our partners at the North American Electric  
547 Reliability Corporation we remain committed to that endeavor.

548 Our reliability standards have progressed considerably  
549 since they first became mandatory and enforceable just over a  
550 decade ago, and today they form an effective baseline for  
551 addressing day-to-day grid reliability issues like tree  
552 trimming, relay setting, communications, system planning, and  
553 emergency operations.

554 Another way the commission works to maintain reliability  
555 is through our oversight of jurisdictional wholesale energy  
556 capacity and ancillary services markets.

557 For example, the commission has recently taken a number  
558 of actions to ensure all new generators provide essential  
559 reliability services such as voltage and frequency control.

560 Those efforts are a good start but more work remains.  
561 Because of historically low natural gas prices and  
562 technological innovation, our country is experiencing rapid

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

563           unprecedented changes in its generation resource mix.

564           These trends promise tremendous benefits to consumers  
565           through lower prices and greater choice. But they also  
566           highlight a need for vigilance as we ensure that reliability  
567           is not adversely impacted.

568           I've been pleased to see the important work that ISO New  
569           England has done in this regard through its assessment of  
570           fuel supply vulnerabilities in its footprint. Its analysis  
571           is an excellent example of how RTOs and ISOs should  
572           proactively evaluate the specific regional risks.

573           I expect that the implications of fuel security for grid  
574           reliability and resilience will continue to be areas of  
575           interest for the commission.

576           Finally, the commission is also taking action to address  
577           other emerging threats such as physical security, geomagnetic  
578           disturbances, and electromagnetic pulses.

579           FERC and NERC have made important strides on these  
580           issues and the commission remains actively engaged with our  
581           government partners and other stakeholders to improve our  
582           knowledge of these threats and evaluate creative ways to  
583           address associated risks proactively.

584           Now, turning to the second topic I would like to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

585 address, which is PURPA, today's energy environment is  
586 fundamentally different from that of 1978, when PURPA was  
587 enacted.

588 Because of this, many stakeholders are rightly asking  
589 whether changes to PURPA are needed to better align it with  
590 our modern energy landscape.

591 While significant changes will require congressional  
592 action, I believe the commission should review our existing  
593 regulations to ensure they fulfil PURPA's mandate of  
594 fostering the development of renewable and co-generation  
595 resources while protecting customers and competition.

596 Before I close, I would like to take a moment to talk to  
597 you on a couple of additional issues that I view as  
598 priorities.

599 First, the commission's current review of the 1999  
600 certificate policy statement. As FERC considers how we  
601 evaluate natural gas pipeline applications, I am committed to  
602 ensuring that we have an efficient and transparent process  
603 that encourages landowner participation.

604 From my perspective, our review should build upon our  
605 process improvement efforts under the recently signed MOU  
606 implementing Executive Order 13807, one federal decision

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

607 policy.

608           Second, I would like to emphasize my continued  
609 commitment to securing our grid against cyberattacks. While  
610 the administration has taken laudable steps already, I  
611 believe these challenges will continue to grow.

612           I strongly support the commission's approach to  
613 addressing cyber threats which consists of mandatory  
614 standards as well as voluntary best practices and information  
615 sharing.

616           Still, more work remains and I look forward to continued  
617 cooperation with my colleagues at the commission and our  
618 partners across the government.

619           I want to take my final seconds to commend this  
620 committee in particular for the work that you guys have done  
621 to really look into these significant issues, not just by  
622 holding this hearing but, Chairman Upton, under your  
623 leadership the past couple of years this committee has done  
624 tremendous work to bring focus to these enormously complex  
625 issue areas.

626           As an alumnus of Congress, I believe firmly in the  
627 legislative branch's co-equal role in our government. And  
628 now having the good fortune to serve the American public at

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

629 the commission, I have come to realize that in dealing with  
630 these enormous challenges we are constrained by the statutes  
631 that govern us.

632 But you all can take a leadership role in addressing  
633 some of these complex issues and I look forward to working  
634 with you and your colleagues to do that in the future.

635 [The prepared statement of Mr. Chatterjee follows:]

636

637 \*\*\*\*\*INSERT 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.**

638           Mr. Upton. Well, thanks for your kinds words. I know  
639           that those are shared on both sides of the aisle so  
640           appreciate that.

641           Mr. Powelson, welcome.

**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.**

642 STATEMENT OF MR. POWELSON

643

644 Mr. Powelson. Good morning, Chairman Upton, Ranking  
645 Member Rush, and members of the subcommittee. I also want to  
646 echo what my colleagues have said earlier in thanking you for  
647 inviting us here this morning.

648 My name is Robert Powelson. I am honored to serve as  
649 the commissioner on the Federal Energy Regulatory Commission.  
650 In fact, I was honored to go through the process with my  
651 colleague, Commissioner Chatterjee, and let me just say it's  
652 an honor to serve in this capacity.

653 Before joining the commission in August, I spent nine  
654 years as a member of the Pennsylvania Public Utility  
655 Commission. I spent four and a half years as chairman and I  
656 also served -- I had the honor in 2017 as serving as  
657 president of the National Association of Regulatory  
658 Commissioners.

659 So it's -- when I look to my right and my left, the  
660 people I serve with here, it's a collegial body and the  
661 people that represent this agency are world class, as  
662 demonstrated in recent rankings as a federal agency.

663 My experience, Mr. Chairman, as a state regulator and my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

664 interaction with colleagues at the state commission level  
665 across the country, have informed in my appreciation and  
666 understanding of the FERC's role in interfacing with the  
667 states.

668 Since joining the commission, I've approached each of my  
669 decisions with an understanding of how the determinations  
670 impact, as was mentioned earlier, families and businesses  
671 nationwide.

672 I've also prioritized my engagement with stakeholders  
673 from all backgrounds and geographic regions to ensure that I  
674 hear a variety of viewpoints and my decisions are fully  
675 informed.

676 For purposes of my testimony here this morning, I am  
677 focusing on two areas. First, I will discuss the evolving  
678 grid, in particular, how the nation's generation resource mix  
679 has changed in just the last decade.

680 The second issue is one of just a huge priority for all  
681 of us, and that's the proactive cybersecurity work that the  
682 FERC is doing.

683 Now, when we talk about the changing electric grid, or  
684 some would call it the evolving grid, what's interesting is I  
685 look at my experience in Pennsylvania where, in 2008, most

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

686 likely 50 percent of our dispatch was from coal.

687 And now, with the evolution of shale plays like  
688 Marcellus, Utica, and the plays in Louisiana and Texas and  
689 Arkansas, there has been a drastic shift in our power mix and  
690 it's having a profound impact on wholesale power prices in a  
691 good way.

692 It's actually, in my home state, has brought a \$5  
693 billion investment in ethylene cracker to Beaver County,  
694 Pennsylvania.

695 It's also changed at the local -- we'll call burner tip  
696 -- where customers with gas purchase costs in LDCs across  
697 Pennsylvania -- seven LDCs -- have dropped over 70 percent, a  
698 direct pass-through savings to customers in the states -- in  
699 the state of Pennsylvania.

700 When we talk about the evolving grid, though, it's also  
701 important to mention the impact that new resources are  
702 having. As mentioned earlier by Chairman Walden, the  
703 evolution of the -- the evolution of battery storage,  
704 renewable energy, and the impact it's also having on the grid  
705 is critically important.

706 Last year in our bulk power system, 10 percent of our  
707 dispatch power came from renewable energy resources. A

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

708 number of states over the last decade have adopted very  
709 successful renewable portfolio standards.

710 I should note for my good friends from the Republic of  
711 Texas, the state of Texas is the number-one wind producer in  
712 the country -- shout out to Mr. -- Chairman Barton and  
713 Ranking Member Olson as well -- and it speaks to the  
714 evolution, again, of our modern-day grid.

715 Now, another tectonic shift is also taking place in our  
716 grid and, unfortunately, it has to deal with the flat demand  
717 for electricity.

718 As I like to say, the way we generate, transmit, and  
719 distribute power in this country is ever changing. The fact  
720 of the matter is the grid is getting more efficient, it's  
721 getting more resilient, and it's clearly getting cleaner.

722 But we are also offering tools to customers. Those  
723 tools include things like energy efficiency, real-time  
724 pricing -- as mentioned earlier, in certain states like Texas  
725 and Pennsylvania and New Jersey, the ability to go out and  
726 shop for retail energy supply.

727 And I note that because a lot of customers are out in  
728 the market -- residential and industrial customers.

729 The last item I want to touch on in cybersecurity, and I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

730 think cyber is really one that keeps us all up at night, and  
731 I am just very proud of the work that this commission has  
732 done, going back to our former chairman, Commissioner  
733 LaFleur, and really working with the states, Mr. Chairman, to  
734 develop protocols and cyber capacities within the state  
735 public utility commissions, and I will talk about that later  
736 on here in the hearing.

737 There's been a number of changing threat vectors in the  
738 bulk power system. There are a number -- as you know, a  
739 number of bad actors out there that want to infiltrate  
740 industrial control systems and wreak havoc on our bulk power  
741 system.

742 But I am proud to report, again, to the work of the  
743 Federal Energy Regulatory Commission, working with the  
744 Department of Homeland Security. More recently, the  
745 leadership demonstrated by Secretary Perry with the launch of  
746 the Office of Cybersecurity within DOE is another great step  
747 forward in addressing overall cybersecurity in this country.

748 So, Mr. Chairman, I look forward to today's conversation  
749 and appreciate the opportunity to be with you and your  
750 colleagues.

751 [The prepared statement of Mr. Powelson 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.**

752

753

\*\*\*\*\*INSERT 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.**

754 Mr. Upton. Thank you.

755 Commissioner Glick.

**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.**

756 STATEMENT OF MR. GLICK

757

758 Mr. Glick. Thank you, Mr. Chairman, and thank you,  
759 Ranking Member Rush, and members of the subcommittee. Thank  
760 you for the opportunity to testify this morning.

761 As a former minority general counsel to the Senate  
762 Energy and Natural Resources Committee -- and maybe I am a  
763 snob, according to Commissioner Chatterjee -- but as a former  
764 counsel to the committee, it's nice to be back on Capitol  
765 Hill and it's good to see some familiar faces from the Joint  
766 House and Senate Energy Bill Conference that took place  
767 during the last conference.

768 I've been a member of the Federal Energy Regulatory  
769 Commission for almost five months. During this short period  
770 of time, the commission has been called upon to consider a  
771 number of challenging matters.

772 Although FERC is not typically an agency that receives a  
773 substantial amount of public attention, the commission's  
774 actions have a significant impact on the lives of everyday  
775 Americans.

776 I witnessed this first-hand while at the Department of  
777 Energy at the end of the Clinton administration. 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.**

778 commission's inability to come together on a unified response  
779 during the height of the Western energy crisis in 2000 caused  
780 consumers to pay significantly more for electricity and  
781 natural gas than they should have. It is imperative that  
782 the five of us safeguard -- work together to safeguard to  
783 public's interest.

784 As everyone here knows, we are in the midst of a  
785 dramatic transformation in the ways Americans produce and  
786 consume energy. This revolution has the potential to  
787 substantially improve our energy efficiency, reduce  
788 emissions, grow the economy, and create millions of new jobs.

789 FERC can help facilitate this transition by removing the  
790 barriers to participation and competition that exist in the  
791 wholesale markets.

792 For instance, the commission can examine market rules to  
793 ensure that they are not unduly discriminating against new  
794 technologies.

795 In February, FERC voted 5-0 to approve a final rule  
796 requiring RTOs and ISOs to facilitate energy storage  
797 participation in wholesale electric markets.

798 Storage technologies such as batteries and pumped hydro  
799 have the potential to play a leading role in the transition

**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.**

800 to the electricity system in the future.

801 As the cost of energy storage continues to decline,  
802 these resources are poised to become a bigger part of the  
803 generation mix, leading to the development of a more robust  
804 grid that can, among other things, help to accommodate the  
805 ever increasing demand for clean renewable resources from  
806 states, corporations, and residential customers.

807 In addition, these storage resources will enhance the  
808 reliability and resilience of the grid by also reducing  
809 electric rates.

810 Today, the cost of using lithium ion battery is less  
811 than one-quarter of what it was at the start of the decade.  
812 Partly as a result of those declining costs, industry  
813 forecasts project that the nation's installed energy storage  
814 capacity will increase by 750 percent in just five years.

815 The commission's action to reduce barriers to help  
816 storage -- reduce barriers to energy storage resource  
817 participation in wholesale markets will help to further this  
818 remarkable trajectory, all the while reducing consumer energy  
819 bills.

820 I believe FERC, pursuant to the Federal Power Act,  
821 should also identify and eliminate other barriers to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

822 participation of new energy technologies and wholesale  
823 markets.

824 For example, the commission last week held a technical  
825 conference to examine the potential participation of  
826 aggregated distributed energy resources in wholesale markets  
827 and the benefits these resources could provide.

828 Chairman Upton and Ranking Member Rush, thank you again  
829 for the opportunity to appear before the committee today. I  
830 look forward to answering your questions and the questions of  
831 your colleagues.

832 [The prepared statement of Mr. Glick follows:]

833

834 \*\*\*\*\*INSERT 7\*\*\*\*\*

**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.**

835           Mr. Upton. Well, thank you all. Appreciate you being  
836 here, and the first thing that I want to raise -- I don't  
837 know if you saw today's Washington Post. This is a copy of  
838 it. I should have made copies for you.

839           But it's entitled -- the headline is "U.S., British  
840 Governments Warn Businesses Worldwide of Russian Campaign to  
841 Hack Routers," and it quotes the Homeland Security assistant  
842 secretary for Cybersecurity, and she says, "Once you own the  
843 router you own the traffic that's traversing the router."

844           And it's pretty clear in this story -- it starts off the  
845 U.S. and British governments on Monday accused Russia of  
846 conducting a massive campaign to compromise computer routers  
847 and firewalls around the world from home offices to internet  
848 providers for espionage and possible sabotage purposes.

849           And as you may know, we are planning to markup tomorrow  
850 a bill that's going to help coordinate things with the  
851 Department of Energy that I believe at least at this point  
852 looks to have pretty widespread bipartisan support by  
853 virtually all of the members of this subcommittee is what I  
854 am told in advance, but, you know, got to wait until you get  
855 there.

856           So, Chairman McIntyre, my question is it's my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

857 understanding that DOE has offered an open invitation for  
858 FERC commissioners to receive intelligence briefings on  
859 cyber-related threats and I am curious to know how many of  
860 you -- how many of those have you might have taken up with  
861 you and your fellow commissioners in terms of the briefings  
862 that have been offered?

863 Mr. McIntyre. Thank you, Mr. Chairman. I don't know  
864 the exact number.

865 Mr. Upton. Obviously, this is an open setting so I  
866 caution everyone in terms of what they might say.

867 Mr. McIntyre. Yes, sir. But let me just note up front  
868 that the issue that you have raised here it would be -- we  
869 would be hard pressed to identify one of greater concern to  
870 us as an energy industry, as regulators of that industry,  
871 and, indeed, as a nation in terms of national security in  
872 this threat of cyberattacks from bad actors, in many cases,  
873 state actors such as you have identified.

874 We are increasingly working with DOE and other  
875 components of the federal government on a daily basis, mostly  
876 at the staff level, Mr. Chairman, to ensure that we stay on  
877 top of these issues and take all appropriate measures that  
878 are available to us, and I know that the staff of each and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

879 every one of my colleagues here has been very much engaged in  
880 that process.

881 You are correct that we have been offered personal  
882 briefings that we are I think in the process of scheduling  
883 and taking. Very, very helpful. DOE has been very helpful  
884 in this regard -- DHS, TSA -- and our level of engagement on  
885 this I think will only continue to increase.

886 Mr. Upton. Do you believe that there's any additional  
887 statutory authority that FERC may need, as you look to the  
888 future?

889 Mr. McIntyre. That's a good question. In 2005, we were  
890 given the role of ensuring that reliability is intended to --  
891 through our oversight of the electric reliability  
892 organization of the nation and the reliability standards  
893 promulgated by it.

894 And I believe that we are making good use of that  
895 authority. I don't have a specific area right now that I can  
896 identify as something where we would need broader statutory  
897 authority.

898 I am very pleased with this level of increased federal  
899 engagement that I described. My colleagues may wish to add  
900 their own --

**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.**

901           Mr. Upton. Yes, and maybe also can you shed any light  
902 on the degree and frequency of cyberattacks on the energy  
903 infrastructure?

904           Mr. McIntyre. Attacks are constant, but the degree of  
905 severity and the, from the perspective of the perpetrators,  
906 success, that is what varies. But every day, not just  
907 governmental entities but, indeed, the companies that we  
908 regulate are subject to attacks and attempted attacks.

909           Mr. Upton. I would appreciate hearing from the other  
910 commissioners as well.

911           Mr. Chatterjee. Thank you, Mr. Chairman.

912           I think in terms of the interactions that we've had with  
913 DOE and other agencies, I have the good fortune to represent  
914 the commission at an ESCC -- Electric Sector Coordinating  
915 Council -- meeting with a number of stakeholders across the  
916 government and industry looking at these serious issues.

917           I also got to participate in a delegation that included  
918 DOE, DHS, and FERC to travel to Israel to learn about best  
919 practices and ways to stay ahead of these ever-evolving  
920 threats.

921           It's something that I think my colleagues and I all take  
922 very seriously. It is the new reality that we must contend

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

923 with. As we benefit and gain from the technological  
924 innovation that's taking place in this space we have to be  
925 cognizant that it comes with that downside risk of increased  
926 cyber vulnerability and my colleagues and I will all remain  
927 vigilant on this.

928 Mr. Upton. Commissioner LaFleur.

929 Ms. LaFleur. Thank you, Chairman.

930 I've received a number of briefings -- classified  
931 briefings at the Department of Energy over the years. I  
932 actually have one scheduled tomorrow, and I appreciate  
933 Secretary Perry continuing to make them available.

934 In answer to your other question, hacks on the grid are  
935 constant. The National Center for Cybersecurity and  
936 Communications Integration -- whatever NCCIC stands for --  
937 every year electric grid attacks are either a slight majority  
938 or slightly below 50 percent in the public numbers they put  
939 out every year.

940 Fortunately, in part because of the strong standards  
941 that I believe we put in place for the high voltage electric  
942 grid on perimeter security and password security and other  
943 things, they're infrequently successful -- very infrequently  
944 successful with the electric grid.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

945           In terms of what this committee has done, I think this  
946 committee had done an excellent job on the electric grid  
947 side. I used to participate, when I was chairman in some  
948 kind of committee that was across government of heads of the  
949 different agencies, and I think where there's more we can do  
950 that's across the different infrastructure sectors, among  
951 electricity, water, gas, finance, and others, that's where  
952 there's real, I think, weaknesses in sharing information and  
953 learning from each other because they're all quite -- they're  
954 looked at individually on the Hill and in government. But we  
955 all have a lot we have in common.

956           Mr. Powelson. Mr. Chairman, let me also pick up on  
957 that.

958           The outreach that the FERC has done through our Office  
959 of Energy Infrastructure and Security, outreaching the state  
960 public utility commissions and helping state PUCs build their  
961 internal capacity to address cyber, I am very proud of the  
962 work of our Office of Electric -- Energy Infrastructure and  
963 Security along with our Office of Electric Reliability.

964           State public utility commissions have used us as a  
965 resource to go through trainings and we've developed this  
966 checklist that PUCs can use with their regulating utilities

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

967 to help in a management audit.

968 It's been a great collaborative. I will tell you it's  
969 very difficult. When you asked about resources, we could  
970 certainly use more boots on the ground.

971 I am not here to get ahead of my chairman on that but I  
972 will make the request. The work getting out to 50 states and  
973 doing that kind of training requires a lot of boots on the  
974 ground. The good news is we are doing it in a collaborative  
975 approach with NARUC.

976 Commissioners have come into Washington for read-ins.  
977 These are all good things that are evolving. But to the  
978 earlier points, these threat vectors are changing every day  
979 and working -- trying to break down the silo mentalities  
980 between the different federal agencies I think we've come a  
981 long way in the last eight years as a nation to address these  
982 emerging threats.

983 Mr. Upton. Thank you. I know my time has expired so I  
984 will yield to Mr. Rush.

985 Mr. Rush. Mr. Chairman, Chairman McIntyre, back in  
986 January the commission voted unanimously to reject Secretary  
987 Perry's notice of proposed rulemaking that sought to prop up  
988 coal and nuclear facilities.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

989           Instead, the commission wanted grid operators to submit  
990 additional information regarding their ability to judge and I  
991 quote you, "naturally occurring and man-made threats," end of  
992 quote, to their system within 60 days.

993           Where does the agency currently stand on this issue?  
994 Does the commission believe that we are truly heading past  
995 the point of no return when the retirement of coal and  
996 nuclear facilities will leave us in a situation where we will  
997 soon be unable to meet our energy demands if we do not act  
998 quickly?

999           Does the agency support action by states and RTOs, the  
1000 markets, or Congress? Or does it -- does the commission have  
1001 the means and the authority to act on this issue if and when  
1002 it becomes a problem?

1003           Mr. McIntyre. Well, thank you for the question, Ranking  
1004 Member Rush, and also thank you for acknowledging the steps  
1005 that we as a commission have taken thus far.

1006           As you note, our January order did raise the issue of  
1007 the grid resilience and, specifically in terms of steps  
1008 forward, we directed our nation's operators of our regional  
1009 grids -- the regional transmission organizations and  
1010 independent system operators -- to take the first step in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

1011 helping us to build our record on which we would base our  
1012 decision making by submitting to us their own perspectives on  
1013 resilience within their respective footprints.

1014 And those -- that initial round of comment has come in  
1015 from the original transmission organizations and independent  
1016 system operators. Now we are in the subsequent commenting  
1017 phase.

1018 The questions you raised are among the very important  
1019 issues that we will have to grapple with. Are there  
1020 categories of resources or, indeed, even perhaps specific  
1021 important resources that if they were to retire on a  
1022 permanent basis simply go away and exit the scene of  
1023 resources that are available to contribute to the energy that  
1024 serves our nation's energy needs? Would that be something  
1025 that would be harmful to American interests?

1026 A very important issue and a tricky one. So that is  
1027 very much within the scope of the matters that we will be  
1028 looking at as we make our decisions, going forward.

1029 Mr. Rush. I would like to ask any of the other  
1030 commissioners would you care to comment on my question?

1031 Ms. LaFleur. Well, I think, broadly, the commission has  
1032 two major sets of our responsibilities that really 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.**

1033 directed to the resilience of the electric grid.

1034 The first is the market rules to make sure that there's  
1035 enough resources in the market, that there's enough of the  
1036 type of resources that are needed to keep the lights on at  
1037 any given time and that they're properly paid and the markets  
1038 are stable so they'll continue to attract investment and  
1039 resources.

1040 Secondly, the commission has put in place a number of  
1041 broad standards, both the reliability standards we oversee as  
1042 well as some of the rules that Commissioner Chatterjee  
1043 referred to, for example, on frequency response or voltage to  
1044 make sure that if there is an essential reliability of  
1045 services that's in demand because of all the changes on the  
1046 grid, we have it for customers.

1047 I think that Chairman McIntyre really covered very well  
1048 the ongoing resilience proceeding. In terms of specific  
1049 resources that are needed, all of the market operators have  
1050 in place reliability must-run tariffs so if a resource wants  
1051 to retire a test is done to make sure that its retirement  
1052 will not put customer reliability at risk.

1053 If there are changes needed in those tariffs we'll look  
1054 at them. But I think that's a good place to start.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1055 Mr. Rush. Mr. Chatterjee.

1056 Mr. Chatterjee. Thank you, Mr. Ranking Member.

1057 I initially was sympathetic when Secretary Perry  
1058 proposed the notice of proposed rulemaking to the commission.  
1059 Being from Kentucky, having worked for Leader McConnell, I  
1060 saw first-hand the devastating impact that coal plant  
1061 shutdowns had on coal communities throughout Appalachia.

1062 I also believe in climate change and man's role in it  
1063 and believe that we need to mitigate emissions and I believe  
1064 nuclear power will play an essential role in that.

1065 And also am cognizant of the security concerns that  
1066 Secretary Perry himself laid out before this committee last  
1067 week.

1068 That said, none of those issues were relevant to the  
1069 docket that was before us, and I agree with all of my  
1070 colleagues in voting to reject it because the record simply  
1071 did not support compensating plants based on the availability  
1072 of 90-day supply of fuel.

1073 That doesn't mean that Secretary Perry didn't ask the  
1074 right question and I do believe the question of resilience  
1075 that we are examining in this current docket is an essential  
1076 one and I think over the course of time Secretary Perry will

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1077 be proven right.

1078 We are going to ultimately have resilience challenges in  
1079 this country and we need to be prepared for that, and I think  
1080 that this docket will allow for that.

1081 Finally, I will say, to build on the point that  
1082 Commissioner LaFleur made about, you know, existing tariffs  
1083 for reliability must-runs, we've got to evaluate whether they  
1084 work or not.

1085 You know, while Secretary Perry asked the right  
1086 question, perhaps the NOPR was not the right solution. There  
1087 may be other necessary solutions and we may in the coming  
1088 days, weeks, months be confronted with situations where the  
1089 existing tariffs do not allow for, you know, some of the  
1090 accommodations that may be necessary.

1091 I had pushed for a show-cause order that I included in  
1092 my concurrence to the NOPR that I think, as we look back in  
1093 time, may have been the right thing to do.

1094 Mr. Rush. Thank you, Mr. Chairman. I yield back.

1095 Mr. Upton. Thank you.

1096 Mr. Barton.

1097 Mr. Barton. Thank you, Mr. Chairman.

1098 I am going to ask my questions directly to the chairman.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealgross.com](http://www.nealgross.com)

**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.**

1099 But if any of the commissioners wish to add their comments  
1100 they're very welcome to.

1101 The first question, Mr. Chairman, is can you give the  
1102 subcommittee a general idea of what the variances in retail  
1103 cost of electricity in this country is by region from, say,  
1104 the lowest region to the highest region?

1105 Mr. McIntyre. Thank you for the question, Congressman.

1106 No. I am afraid I don't actually have that information  
1107 at hand. It does vary very much by region and that, in turn,  
1108 is often a function of the fuel type that is generally  
1109 consumed within that region.

1110 Mr. Barton. Does anybody on the -- yes, sir, Mr.  
1111 Powelson.

1112 Mr. Powelson. This is not real time, Mr. Chairman, but  
1113 --

1114 Mr. Barton. I don't -- I don't need down to the exact -  
1115 -

1116 Mr. Powelson. Okay. So let's start with probably the  
1117 highest distribution rate in the country is at about 43 cents  
1118 a kilowatt hour on the island of Hawaii.

1119 When we go more inland to the lowest cost of energy, I  
1120 think the Republic of Texas, through retail competition,

**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.**

1121 customers are paying less for power today than they were  
1122 prior to electric restructuring.

1123 So Texas has low rates. The state of Florida, from my  
1124 last anecdotal meeting with officials from their utility, a  
1125 nine-cent kilowatt -- per kilowatt hour all in price. That's  
1126 transmission, distribution, and generation.

1127 So you from Hawaii, we know, at 43 cents to your state,  
1128 maybe Florida, at a low distribution of nine cents.

1129 Mr. Barton. Well, let's exclude Hawaii, since they're  
1130 3,000 miles from the mainland. Is it -- is it fair to say in  
1131 the lower 48 the price difference at retail -- the highest  
1132 would be three times the lowest? Is that a fair  
1133 generalization?

1134 I know I am close. The right answer would be to say  
1135 yes, but if you disagree with me --

1136 [Laughter.]

1137 Mr. Powelson. I don't want to get ahead of my chairman  
1138 so --

1139 Mr. Barton. I mean, it's at least two to one and I  
1140 think if you look at California and compare California to  
1141 Oregon, you're going to -- it's going to be close to three to  
1142 one. Or if you compare Texas to New York, it's going to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1143 close to three to one.

1144 Would you all agree with that?

1145 Now, the reason I ask that question is because  
1146 ultimately what the committee and the Congress and the  
1147 president are responsible for is, for lack of a better term,  
1148 retail electricity prices that the average citizen can pay.

1149 We also want it to be reliable, and we've developed a  
1150 mix of energy sources in this country. You know, some states  
1151 have regulated markets. Some states have deregulated  
1152 markets. Some states pretty much rely on coal. Some states  
1153 have a -- like Texas, we've got a mix of coal, natural gas,  
1154 wind, and some nuclear power and a little solar power.

1155 But our nuclear plants and our coal plants are in  
1156 distress. And my second question is the distress primarily  
1157 caused by market forces, natural gas prices being very low,  
1158 or is it caused by regulatory constraints on the nuclear  
1159 industry and the coal industry?

1160 Mr. McIntyre. Congressman, I will begin. Thank you for  
1161 the question.

1162 Certainly, the low prices of natural gas today that we  
1163 experience in this country due in large measure to the  
1164 revolution in natural gas production methods make for

**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.**

1165 significant head winds for coal and nuclear because it's  
1166 very, very difficult for them to compete in our open and  
1167 competitive wholesale markets against that cheap natural gas  
1168 resource.

1169 As to the regulatory role, hard to say. Certainly,  
1170 nuclear compliance and everything associated with the  
1171 prospect of building a new nuclear generating facility today  
1172 makes for enormous costs that probably has an all but  
1173 prohibitive effect at short-term competition with natural gas  
1174 prices.

1175 Mr. Barton. My time is about to expire.

1176 I asked the first question to bring to the attention of  
1177 the commission and the committee that retail prices vary  
1178 greatly in this country. The cost of generation of  
1179 electricity varies, depending on the fuel source, and the  
1180 regulatory burden, obviously, on nuclear is very high and you  
1181 can argue that it's also very high on coal plants.

1182 If we look for solutions to keep our distressed nuclear  
1183 plants and coal plants in service, we should first look at  
1184 regulatory relief and only then look at market relief.

1185 When you start, in my opinion, to mess with the market,  
1186 which some of these proposals do, in the long run it hurts

**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.**

1187 the consumer because you either have to subsidize that price,  
1188 which drives the retail price up, and eventually you can't --  
1189 you can't sustain it.

1190 So I respect my good friend at the Department of Energy,  
1191 Governor Perry. But I don't think his proposed solution --  
1192 while it's well meaning, I personally don't think it would  
1193 work in the long run.

1194 I would encourage the commission, to the extent you can,  
1195 to look on the regulatory relief side, you know, before we  
1196 begin to look at market -- the market solutions.

1197 And with that, Mr. Chairman, I yield back.

1198 Mr. Upton. Gentleman yields back.

1199 Mr. Pallone.

1200 Mr. Pallone. Thank you, Mr. Chairman.

1201 In my opening statement, I noted that I've long  
1202 advocated for finding ways to introduce more distributed  
1203 energy and energy storage into our electricity grid, and one  
1204 of the reasons for that is that I see too many transmission  
1205 projects needlessly rubber stamped in the name of  
1206 reliability.

1207 There are certainly other ways to address reliability  
1208 than just gold-plating the transmission system. But perhaps

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com



**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.**

1209 when you're a hammer everything looks like a nail.

1210 So today, newer and bigger transmission lines aren't

1211 always the answer to the question of reliability.

1212 Distributed energy resources, renewable and otherwise, along

1213 with efficiency and demand response should be equally large

1214 tools in the box and technology has dramatically transformed

1215 the possibilities for cost-effective generating and

1216 efficiently delivering electricity to homes, businesses, and

1217 manufacturing facilities from a variety of sources.

1218 So I want to commend the commission for recognizing this

1219 with its recent order regarding storage. With storage and

1220 distributed generation, both fossil and renewable base, along

1221 with improving storage options, smart meters, micro grids,

1222 and other technologies have altered the possibilities for

1223 effectively and economically ensuring reliability, and these

1224 technologies have also called into the question the most

1225 basic tenets of rate making and have challenged the

1226 longstanding financial model for utilities.

1227 Now, two years ago -- I want to talk about a local issue

1228 -- two years ago, First Energy JCP&L determined that its

1229 Monmouth County -- where I live -- that its Monmouth County

1230 reliability project is necessary to retain reliability for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1231 the entire regional transmission grid and specifically for  
1232 New Jersey, and they proposed a 10-mile transmission line  
1233 that would run through the district I represent along New  
1234 Jersey Transit's north Jersey coastline.

1235 Ever since JCP&L proposed this project, I've articulated  
1236 concerns about whether constructing this Monmouth County  
1237 reliability project is necessary to accomplish JCP&L's stated  
1238 reliability goals.

1239 Recently, this view was echoed was New Jersey  
1240 Administrative Law Judge Gail Cookson, who ruled that JCP&L  
1241 failed to demonstrate that the transmission line is necessary  
1242 and noted that JCP&L has not seriously considered alternative  
1243 corridors and ignored non-transmission solutions entirely.

1244 In the past, building a new transmission line may have  
1245 been the only way to increase reliability. However, now  
1246 there clearly are other options available. Other options  
1247 include distributing -- distributed generation storage,  
1248 various new grid technologies.

1249 They can only -- not only increase reliability but also  
1250 modernize the grid. So this -- Judge Cookson's decision  
1251 which, you know, I will send to you, but I am going to, you  
1252 know, probably get back to you further, if that's okay, on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1253 this -- but her decision supports my long-held suspicion that  
1254 often projects like this Monmouth County reliability project  
1255 are more about the rate of return for shareholders than  
1256 reliability for consumers.

1257 So my question to all of you is -- whoever wants to ask  
1258 it -- how can you change this dynamic to ensure that  
1259 utilities look at more than just new transmission lines --  
1260 that they look at non-transmission alternatives to ensure  
1261 reliability?

1262 And how can we change incentives so that these non-  
1263 transmission alternatives are still financially attractive to  
1264 utilities? Can anybody, you know, take a guess?

1265 Sure.

1266 Mr. Powelson. Congressman Pallone, your home state,  
1267 working with your state BPU -- and we are seeing it across  
1268 other states like New York with their reinventing the energy  
1269 vision in Ohio, their Power Four docket, is to address  
1270 exactly your point, getting at these non-wire solutions that  
1271 we are seeing now with customer -- greater customer  
1272 engagement behind the meter.

1273 Your state is a leader in that because of the lessons  
1274 learned in the post-Hurricane Sandy where a grid resiliency

**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.**

1275 bank has been launched under the BPU's leadership a lot of  
1276 microgrid investment in your home state.

1277 And these are all good outcomes. It goes back to my  
1278 earlier point of this evolving grid. We are not building  
1279 1,200 megawatt cathedrals anymore. We are doing things  
1280 behind the meter and, yes, in front of the meter -- cleaner,  
1281 more efficient.

1282 Mr. Pallone. Can PERC -- I mean, can FERC play a role  
1283 in this, though, because, you know, everybody says oh, it's -  
1284 - where's the federal government --

1285 Mr. Powelson. Well, to the wholesale piece, and this is  
1286 just my quick observation, we are finding in certain  
1287 jurisdictions where, one, there is a lack in the post-FERC  
1288 Order 1000 world of not really seeing competitive  
1289 transmission being built, and that's a PJM problem.

1290 The other thing is addressing cost caps associated with  
1291 these projects. I have a concern when industrial customers  
1292 come in to the commission as energy users telling us that  
1293 they're seeing a 400 percent increase in transmission costs  
1294 as wholesale prices are dropping.

1295 That's alarming. That tells me that the RTOs at the  
1296 wholesale level of transmission planning are not doing 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.**

1297 good job with cost containment, and we are all paying for  
1298 that as consumers.

1299 So these are the things that I plan to work on with my  
1300 colleagues, and I know Commission LaFleur wants to jump in on  
1301 that.

1302 Ms. LaFleur. Well, just adding to that, first of all,  
1303 legally the transmission planning tariffs that First Energy  
1304 and others live within require consideration of non-  
1305 transmission alternatives. That is what's legally is  
1306 supposed to happen.

1307 I think the problem is sometimes that it's more  
1308 difficult to see the company making money from some of the  
1309 non-transmissional alternatives.

1310 That's where things like our storage rule comes in to  
1311 make sure that those things are fairly paid for, and also the  
1312 work -- I was in New Jersey on Friday at an all-day meeting  
1313 on New Jersey's energy future and the work that's being done  
1314 at the state level to make sure those technologies are  
1315 rewarded so that everyone has an incentive to install them  
1316 like the wonderful work you have done on solar already, where  
1317 New Jersey's a leader.

1318 I also think that the -- we've done a lot of work on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1319 planning processes to make sure that a company can't just go  
1320 off and plan something. There has to be an open process.

1321 We issued an order last month about supplemental  
1322 transmission projects in PJM requiring more sunlight in the  
1323 planning to make sure that all the alternatives were  
1324 considered including by consumer reps and state  
1325 representatives and others, and those are some of the kind of  
1326 detailed things we can do to make sure that the process  
1327 doesn't ineluctably force in a certain direction.

1328 Mr. Pallone. Mr. Chairman, if I could -- I don't know  
1329 if we are out of time but I would like to be able to get back  
1330 them further on this, with your permission.

1331 Mr. Upton. Yes, absolutely. Absolutely.

1332 Mr. Pallone. All right. Thank you.

1333 Mr. Upton. Perhaps -- I know written questions and  
1334 written answers.

1335 Mr. Pallone. Yes.

1336 Mr. Upton. Is that all right? Is that okay? Great.  
1337 Thank you.

1338 Mr. Pallone. Yes.

1339 Mr. Upton. Mr. Olson.

1340 Mr. Olson. I thank the chair and welcome to our friends

**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.**

1341 at FERC.

1342 I want to discuss pipelines and the MLPs that many  
1343 companies use to finance getting steel in the ground. None  
1344 of the things we talked about today, whether it's gas  
1345 turbines or exports of liquefied natural gas, can happen  
1346 without pipelines.

1347 And this is not the Ways and Means Committee and nor do  
1348 I ever want to be a tax litigator or a tax legislative  
1349 person. But I've heard from a number of Houston area  
1350 companies that are worried by the changes that FERC did of  
1351 whether pipelines can recover their costs under MLP  
1352 structures.

1353 Companies like Ambridge -- Ambridge, who has merged with  
1354 Spectra, said, I quote, "They intend to ask for rehearing of  
1355 this policy change at FERC," end quote.

1356 Their argument is that FERC made this move without a  
1357 long enough time for debate and you all didn't take into  
1358 account that not all MLPs are created equal.

1359 Chairman McIntyre, welcome. You talked about this  
1360 ruling. Do you think your approach was appropriate?

1361 Mr. McIntyre. Yes, Congressman. Happy to address that.

1362 The ruling you referenced is actually -- it was a series

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

**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.**

1363 of steps we took in response to a court of appeals case  
1364 called SFPP and we had before us fairly clear direction from  
1365 the court of appeals to address the so-called double recovery  
1366 issue of taxation.

1367 We felt we had no choice but to take decisive action in  
1368 a manner that we read as being directed by the court. It  
1369 doesn't surprise me that a number of companies out there  
1370 affected adversely monetarily by that would have a quarrel  
1371 with it and they're not bashful in sharing their views with  
1372 us on that, I assure you.

1373 Mr. Olson. Their texts aren't bashful at all.

1374 Mr. McIntyre. Perfectly legitimate. It is their right,  
1375 under their governing statutes, to seek rehearing where they  
1376 are aggrieved by an order of ours. And so we would look  
1377 forward to processing those in accordance with our law and  
1378 procedures.

1379 Mr. Olson. Thank you.

1380 And Commissioner Chatterjee, putting your House thinking  
1381 hat on, any thoughts about this situation with the MLPs and  
1382 the changed law?

1383 Mr. Chatterjee. Yes, sir. I agree substantively that  
1384 the chairman is correct that our hands were tied by 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.**

1385 courts.

1386 Coming from the legislative branch, you know, we focus a  
1387 lot on process and I think -- look, I am new to the  
1388 commission. Four of the five of us are new to the  
1389 commission.

1390 I am not afraid to say that, you know, we are all still  
1391 learning and progressing, and procedurally I do now  
1392 recognize, in looking back, that perhaps there were some  
1393 things that we could have done differently.

1394 For instance, voting during the market day was perhaps  
1395 unfortunate. I think we incorrectly assumed, once we posted  
1396 our Sunshine Act notice, that that was enough of a sort of  
1397 disclaimer that this was coming and that the markets would  
1398 factor that in.

1399 Clearly, that was a misread. I am sympathetic to the  
1400 argument that beyond an NOI process that took place a couple  
1401 -- you know, in the past, maybe a technical conference, some  
1402 more process, you know, could have been necessary.

1403 And so I am always learning and trying to do my job  
1404 better and will try and learn from this experience as well,  
1405 going forward.

1406 Mr. Olson. Thank you. That's the man of the house.

**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.**

1407 My final question is you all know I am not shy about  
1408 supporting LNG exports. In fact, I was in India two weeks  
1409 ago. I left there being -- they called me the congressman  
1410 for LNG exports from America.

1411 I spoke to Secretary Perry last week about how important  
1412 these exports are to Texas, our country, and our world.

1413 Despite that, I've heard some concerns back home that  
1414 you are slipping behind schedules of some very viable Gulf  
1415 Coast LNG projects.

1416 I've heard rumors that FERC had only six to eight  
1417 employees targeted with approving these booming permits.  
1418 I've heard you actually approached the DOE for new members to  
1419 help out with the backlog of approving LNG permits.

1420 To the whole panel or the chairman, is that true? How  
1421 can we help you get these things rolling as quickly as  
1422 possible?

1423 Mr. McIntyre. Thank you for the question, Congressman.

1424 We are paying very close attention to the pending  
1425 applications, not only for LNG export infrastructure but also  
1426 for natural gas pipeline infrastructure.

1427 It's consuming an enormous amount of attention and  
1428 manpower within the agency. We are looking to beef up the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

1429 ranks of our Office of Energy Projects and we are actively  
1430 pursuing hiring in that regard right now.

1431 But if there's any suggestion that we are somehow not  
1432 giving it our full effort right now, I can assure you that  
1433 that that is not the case at all.

1434 It's consuming a huge amount of attention and effort in  
1435 Energy right now.

1436 Mr. Olson. Thank you.

1437 Mr. Powelson, a quick question. Can you say you all?

1438 Mr. Powelson. You all.

1439 Mr. Olson. Very good. Welcome to Texas.

1440 Mr. Upton. The gentleman's time has expired.

1441 The gentleman from California, Mr. McNerney.

1442 Mr. McNerney. I thank the chair and I thank the  
1443 commission, and your opening statements were interesting and  
1444 useful. It's good to see a body working together like this  
1445 and I appreciate that.

1446 Last year, we narrowly dodged the bullet at the Oroville  
1447 Dam when a section of the emergency spillway collapsed.  
1448 Evacuation of over 100,000 people was ordered and there was  
1449 considerable damage to the dam, associated structures, the  
1450 river, and many downstream communities.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1451           In January of this year, a FERC-required independent  
1452 forensic team issued their report on the Oroville incident  
1453 and the report is not flattering at all to the agencies  
1454 responsible for the dam safety.

1455           So I will read you a summary of the report. Although  
1456 the practice of dam safety has certainly improved since the  
1457 1970s, the fact that this incident happened to the owner of  
1458 the tallest dam in the United States under regulation of a  
1459 federal agency with repeated evaluation by reputed outside  
1460 consultants in a state with leading dam safety regulatory  
1461 program is a wake-up call for everyone involved in dam  
1462 safety.

1463           Challenging current assumptions on what constitutes best  
1464 practice in our industry is overdue. So that's the quotation  
1465 from the report.

1466           So this calls into question the adequacy of the FERC  
1467 Part 12(d) regulatory for ensuring comprehensive reviews of  
1468 dam designs and construction.

1469           Mr. Chairman, is the commission planning to revise Part  
1470 12(d) regulations to improve the inspection process?

1471           Mr. McIntyre. Thank you for the question, Congressman.

1472           We don't have a specific plan to address the 12(d)

**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.**

1473 regulation process right now. I certainly acknowledge the  
1474 importance of the issues you raise and, in fact, it wasn't  
1475 only the emergency spillway but, indeed, the main spillway  
1476 that was very much called into question -- the integrity of  
1477 that.

1478 Our office of energy projects is working, literally,  
1479 daily hand in hand with the appropriate California  
1480 authorities to ensure that the remediation process is  
1481 completed in an appropriate fashion so there's complete  
1482 safety all around.

1483 And my understanding, based on conversations as recently  
1484 as yesterday, is that that is -- that that is from our  
1485 perspective going very well and that all involved on the  
1486 Oroville end are doing their job very well.

1487 Mr. McNerney. Okay. Is the commission reconsidering  
1488 its policies with respect to the ways in which information is  
1489 submitted by participants to the license process that  
1490 specifically deal with questions of safety? Will that be  
1491 evaluated?

1492 Mr. McIntyre. Yes. I can tell you that that will be a  
1493 matter of internal deliberation and whether that proceeds to  
1494 any formal commission action is something that I can't say

**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.**

1495 right now.

1496 I do know my colleague, Commissioner LaFleur, may want  
1497 to chime in here.

1498 Ms. LaFleur. Well, I was at the -- commission and  
1499 chairman -- when Oroville happened and spent some time out at  
1500 the dam and it was really an extraordinary event. We were  
1501 very fortunate not to have had loss of life when the spillway  
1502 ruptured.

1503 We really have been responding on three levels and the  
1504 first is the actual facility itself, closely working with the  
1505 Division of Water Resources and the California agencies.

1506 We've had people on site ever since that happened, 24/7,  
1507 for several months to make sure they do what they need to do  
1508 over a two-year period to correct that and, of course, the  
1509 relicensing is pending as well, which we can't talk about,  
1510 but that these issues are being brought in there.

1511 Secondly, looking at other spillways of common  
1512 construction in California, there were several and elsewhere  
1513 to make sure they're all closely inspected and we directly  
1514 learned the lessons of the forensics panel that you  
1515 mentioned.

1516 And third is our own safety program, and in addition 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.**

1517 the forensics panel that you mentioned, we also set up a team  
1518 of outside people to look at how we do our inspections and we  
1519 are waiting for their report and we'll be taking action, just  
1520 as you suggested.

1521 Mr. McNerney. Okay.

1522 To change gears a little bit here, we are experiencing  
1523 more extreme weather events. What steps is FERC taking to  
1524 ensure the resiliency of the grid?

1525 Again, Mr. Chairman.

1526 Mr. McIntyre. Well, we are in the process of doing the  
1527 comment intake I referenced earlier on our grid resilience  
1528 proceeding.

1529 The recent extreme weather events have been instructive  
1530 in this regard and it's varied by region. But, certainly,  
1531 just to pick a region, in New England it's particularly  
1532 challenging -- this bomb cyclone event over the passage of  
1533 last year into this year where increasing amounts of oil-  
1534 generating resources, oil-fired generating resources were  
1535 needed to be called upon in order to ensure the electricity  
1536 needs of that region, triggering, of course, not only  
1537 environmental concerns but significant cost increases.

1538 So these weather events are directly tied to our

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1539 statutory obligation to ensure that the rates are just and  
1540 reasonable and also directly tied to our need to ensure  
1541 reliability of our bulk power system.

1542 Mr. McNerney. Thank you.

1543 Mr. Chairman, I yield back.

1544 Mr. Upton. Gentleman from Illinois, Mr. Shimkus.

1545 Mr. Shimkus. Thank you, Mr. Chairman.

1546 It's great to all you all here today. Thank you for  
1547 coming, and you have got a big portfolio of things that you  
1548 deal with. I am going to stay on the electricity side.

1549 But I just want to mention that New England, the  
1550 Northeast, needs more natural gas pipelines. Just -- you  
1551 know, especially with home heating oil and stuff like that,  
1552 we just got to -- that's why you're in power to help resolve  
1553 the difficulties of crossing state lines and siting and that  
1554 stuff because it just -- just needs to happen.

1555 Let me move to the -- obviously part of your mission  
1556 statement is regulates the transmission and wholesale sales  
1557 of electricity and interstate commerce.

1558 So the first one is, hopefully to you all, is with the  
1559 states intervening to some extent in wholesale market support  
1560 generation, how are you handling 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.**

1561 I mean, what -- that kind of addresses a couple things -  
1562 - reliability possibly. If you're trying to ensure low-cost  
1563 reasonable prices in the wholesale sector, they -- the two  
1564 issues kind of conflict, do they not?

1565 And if -- relatively quickly, because I want to go down  
1566 on a couple other questions.

1567 Mr. McIntyre. Well, you have gone directly to one of  
1568 the trickiest areas that we deal with, Congressman. The  
1569 states have their valid role in making policy choices as to  
1570 energy resources that are preferred by the state and they  
1571 reflect that through their legal decision making.

1572 We have an obligation at the FERC level to ensure that  
1573 the electricity generated by those resources that makes its  
1574 way onto our grid is sold at rates that are just and  
1575 reasonable.

1576 The costs behind that generation are affected by the  
1577 resource policy choices. So we have to be respectful of the  
1578 states' roles while ensuring that we do our federal role  
1579 right of ensuring just and reasonable rates.

1580 Mr. Shimkus. So does everyone, quickly, agree with that  
1581 analysis?

1582 Mr. Glick. Mr. Shimkus, if I could just butt in here

**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.**

1583 for a second.

1584 I think that it's true that we actually have to a  
1585 balancing. But the Federal Power Act gave the states the  
1586 authority over resource decision making, not -- the  
1587 generation resource decision making, not the FERC.

1588 And so I think it's up to the commission within our  
1589 responsibilities to ensure that rates are just and reasonable  
1590 -- wholesale rates are just and reasonable, and also that the  
1591 markets are reliable to accommodate those state policies, not  
1592 to override those state policies, and I think that's an  
1593 important objective -- important objective for us.

1594 Mr. Shimkus. Go ahead. Chime in.

1595 Mr. Chatterjee. I support states' rights.

1596 Mr. Shimkus. I testified to that, I think.

1597 [Laughter.]

1598 Mr. Powelson. I come from a market state, now  
1599 recognizing those regional differences in these markets, as  
1600 Commissioner LaFleur mentioned. Some markets have capacity.  
1601 Some are energy only.

1602 But I am having an epiphany now as a new FERC  
1603 commissioner. States are, clearly, to my colleagues' point,  
1604 are allowed to design things like renewable portfolio

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1605 standards.

1606 But what's happening, Congressman, is we are creating --  
1607 we are bastardizing these markets in such a way where the  
1608 states are picking winners and losers.

1609 They're allowed to do that. But now it's coming at the  
1610 consequences of the capacity market construct. And let me  
1611 just say, Secretary Perry was right. That -- these  
1612 constructs are bastardizing these markets and the  
1613 availability of generators to receive adequate compensation  
1614 for that resource.

1615 And so I might be Debbie Downer here in my approach, but  
1616 it is a concern that we have to be cognizant of to the point  
1617 of giving states flexibility I will say within reason of  
1618 Federal Power Act.

1619 Mr. Shimkus. Okay. Let me throw another one and I --  
1620 sorry to not go to Commissioner LaFleur, but RTOs and ISOs  
1621 are struggling to find consensus to drive the needed  
1622 investments that we say they all need. What can you all do  
1623 about that?

1624 So if we need -- I've been in this on the committee for  
1625 a long time. So I understand when we had regulated markets  
1626 and we went to competition and now we are schizophrenic --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1627 some regulated, some competition -- transmission going across  
1628 state lines.

1629 I think we need to continue for reliability is to make  
1630 sure that we have needed pathways. But we are being told we  
1631 can't fund them.

1632 Do you have a role? Is there something you can do to  
1633 help in the process of the build out?

1634 Mr. McIntyre. In terms of transmission?

1635 Mr. Shimkus. Yes.

1636 Mr. McIntyre. Yes. Well, Commissioner LaFleur  
1637 mentioned the importance of attention to our transmission  
1638 planning processes.

1639 I think that's something that is ripe for evaluation as  
1640 to whether it's working as well as it should, as well as was  
1641 hoped for when we issued our landmark Order 1000.

1642 I think it's a valid question that does indeed cry out  
1643 for attention.

1644 Mr. Shimkus. Okay. If anyone wants to jump in.

1645 My time has expired, but go ahead.

1646 Mr. Glick. I would just add quickly, you know, as you  
1647 know, as you worked on this in 2005 Energy Policy Act, it  
1648 added a provision that provided incentives or allowed FERC to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

1649 provide incentives to provide incentives for transmission.

1650 And I think it's a good time maybe now to revisit that  
1651 policy and are we really incentivizing what we need to do --  
1652 are we incentivizing the right investments and are we  
1653 incentivizing the actual investments that are needed.

1654 And so I would -- I would -- that's what I would look at  
1655 first is the incentives for transmission.

1656 Mr. Shimkus. Yes. My time has expired. I would just  
1657 say if we ever move on infrastructure, expansion of the  
1658 transmission grid might be a good thing to put an  
1659 infrastructure package to.

1660 I yield back. Thank you, Mr. Chairman.

1661 Mr. Upton. Mr. Green.

1662 Mr. Green. Thank you, Mr. Chairman, and since our  
1663 commissioner talked about the Republic of Texas, being a  
1664 Texan and I have the Houston area, and if you look at your  
1665 maps on pipelines you don't see anything. It might be white  
1666 in outer parts of the country but in my area in southeast  
1667 Texas, pipelines are the way we move product, and crude oil  
1668 will come in or natural gas to come to in to make chemicals  
1669 out of it.

1670 Texas was an independent nation for 10 years and some of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1671 us still think we should be. But we lost that battle in  
1672 1865, too.

1673 But we got a pretty good deal in Texas. We -- the  
1674 federal government in 1845 paid off our \$10 million of state  
1675 debt and we got to keep our state lands. And so that's why  
1676 some of our Western states friends have problems. But we  
1677 kept those lands and the federal government didn't get them.

1678 But we are in the middle of a revolution almost, I  
1679 guess, in generation, and our subcommittee has held a number  
1680 of hearings about looking at how other markets do.

1681 And one of the things I want to say is that Texas, a  
1682 decade ago, produced 492,000 megawatts of wind power. This  
1683 last year, Texas produced 58 million megawatts of hours a  
1684 year.

1685 And so we are benefiting from the wind power. In fact,  
1686 there are certain days that wind power actually is producing  
1687 more electricity than coal in Texas. Of course, we also  
1688 benefit from the regional price of natural gas. It's in our  
1689 back yard.

1690 One of my concerns, and we've heard the talk of  
1691 resiliency, and I disagree with Secretary Perry, even though  
1692 I served in the legislature with him many years ago, and he -

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1693 - Texas went the route we have when he was governor for so  
1694 many years.

1695 But many supporters of the proposed subsidies have said  
1696 that we are on the brink of resiliency crisis.

1697 Chairman McIntyre, can you elaborate on the commission's  
1698 views about the state of resiliency in the grid and do we  
1699 face an immediate crisis due to future closing of coal and  
1700 nuclear plants?

1701 Mr. McIntyre. Resilience is now a matter of declared  
1702 priority for the FERC, and we are proceeding in that fashion.  
1703 We are assembling the record that I referenced earlier.

1704 We've heard already from our nation's operators of  
1705 regional transmission organizations and independent system  
1706 operators -- their perspectives and we are awaiting further  
1707 input from stakeholders on it.

1708 It's a critical issue, and there are different ways of  
1709 looking at it. One is operational in terms of is there  
1710 equipment or are there facilities that would be needed to  
1711 help shore up the resilience of the grid.

1712 The other is economic and, in effect, a market -- a need  
1713 to ensure that our markets are properly compensating the  
1714 resources that we regard as important to ensure resilience of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

**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.**

1715 our grid.

1716 So we are looking very hard at those issues now. We'll  
1717 continue to examine the materials submitted to us in the  
1718 record and in the hope of getting this right.

1719 Mr. Green. And you're looking at alternatives too,  
1720 because I know the same problem -- we get about 20 percent of  
1721 our electricity in Texas from nuclear power. We couldn't  
1722 expand it because the investment is not available now.

1723 And so there are other ways and, of course, from Texas,  
1724 as my colleague from Fort Bend County would say, we'd be glad  
1725 to put another pipeline up to the northeast to send them some  
1726 more natural gas or export it around the coast for them.

1727 My colleague, Pete Olson, mentioned -- my next question  
1728 is on the concern about United Airlines Inc. versus FERC, and  
1729 I apologize -- I haven't read that case.

1730 But I always view that mastered limited partnerships,  
1731 it's been so successful in capitalizing pipelines,  
1732 particularly, it's almost like a Chapter S corporation.

1733 You pass through that so it's not corporate double  
1734 taxation, and -- but that would -- if we cannot use that as  
1735 an investment instrument I don't know how we are going to  
1736 continue the expansion of growth -- that I think FERC

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

1737 recognizes we need more pipelines to get product to the  
1738 market where -- so we won't have a resiliency problem.

1739 Mr. Chairman, I realize FERC's public policy as  
1740 precipitated by the D.C. Circuit Court's opinion, I would  
1741 like to know if FERC has conducted its own analysis of  
1742 whether or not double recovery existed before the decision.

1743 Has FERC thought there was a problem at the policy prior  
1744 to the United case.

1745 Mr. McIntyre. That's a matter that was in effect handed  
1746 to us by the court so we had no choice really as a regulatory  
1747 agency but to take it at face value and to act upon it.

1748 We had no independent analysis of the double recovery  
1749 issue as is customary under the statutes that govern our  
1750 actions.

1751 We act in accordance with the arguments that are put  
1752 forward for us by the litigants, in most instances, and this  
1753 was such a situation.

1754 Mr. Green. I thought the court directed the FERC to  
1755 consider how it could demonstrate there was no double  
1756 recovery. Is FERC looking at that particular issue to be  
1757 able to answer whatever the circuit court said?

1758 Mr. McIntyre. Well, here too, back to legal processes,

**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.**

1759 I suspect that we will have no choice but to look closely at  
1760 that issue in light of further procedural steps that the  
1761 parties will have a right to invoke, such as request for  
1762 rehearing.

1763 Mr. Green. Okay. Mr. Chairman, thank you, and I know  
1764 the jurisdiction of that typically is in Ways and Means. But  
1765 since it deals with FERC we have some jurisdiction in our own  
1766 committee.

1767 So we might look at that to make sure we don't eliminate  
1768 this ability for investment in the pipelines that the whole  
1769 country needs, and I will yield back my time.

1770 Thank you.

1771 Mr. Upton. Thank you.

1772 Gentleman from Ohio, Mr. Latta.

1773 Mr. Latta. Thank you very much, Mr. Chairman, and  
1774 thanks to the commissioners for being with us today. Really  
1775 appreciate it and hearing your views.

1776 Commissioner Powelson, if I could start my questions  
1777 with you. As you point out in your testimony, under the  
1778 Energy Policy Act of 2005, FERC was given the authority to  
1779 oversee the reliability of the bulk power system.

1780 This included the authority to improve mandatory

**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.**

1781 cybersecurity reliability standards and first -- during the  
1782 first half of 2018 we have seen new stories about hackers  
1783 working to undermine the safety and security of our nation's  
1784 energy infrastructure including cyberattacks launched by  
1785 Russian agents against the power grid energy, nuclear, and  
1786 commercial facilities and critical manufacturing sectors.

1787 Would you go into more detail about what FERC is doing  
1788 to address these attacks and how will you work with the North  
1789 American Electric Reliability Corporation to reassess and, if  
1790 necessary, revise the reliability standards?

1791 Mr. Powelson. Thank you, Congressman, for your  
1792 question.

1793 First and foremost, these reliability standards, which  
1794 apply to users, owners, and operators of the bulk power  
1795 system, were developed, as you mentioned, by NERC, and I  
1796 think we continue to collaborate with other federal agencies  
1797 in those compliance measures.

1798 You also have on top of that the critical infrastructure  
1799 protocols, or CIP standards, and I mentioned earlier in my  
1800 testimony the collaborative effort with NERC and working with  
1801 the ISACs and the collaborative effort around the utilities,  
1802 the gas industry, and the other impacted entities, working in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1803 collaboration together.

1804 Some have reported back they think these -- some of  
1805 these reporting requirements are a little onerous. I would  
1806 refrain from saying that because, again, we can't really cut  
1807 corners on cybersecurity.

1808 We've got to give you all peace of mind that we are  
1809 protecting and applying the needed resources to protect the  
1810 bulk power system. And as I mentioned earlier, these threat  
1811 vectors are changing radically, daily, and it's important  
1812 that we continue to work with the other agents. That's why I  
1813 gave a nice shout out this morning to Secretary Perry and the  
1814 leadership that DOE has shown on this issue with the  
1815 launching of their new Office of Cybersecurity.

1816 Mr. Latta. And we appreciate it. When the secretary  
1817 was here when he gave his testimony, let me just follow up,  
1818 because to address the threat of cyberattacks to our energy  
1819 grid, I am working with my colleague, Representative  
1820 McNerney, introducing two bipartisan pieces of legislation.

1821 These bills, H.R. 5239, the Cyber Sense Act, and H.R.  
1822 5240, the Enhancing Grid Security Through Public-Private  
1823 Partnership Act, was the subject of a legislative hearing in  
1824 the subcommittee last month.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1825 Under H.R. 5239, the secretary of energy would be  
1826 directed to establish a voluntary cyber sense program to test  
1827 cyber secure products intended for use in the bulk power  
1828 system.

1829 The secretary would then maintain a database on these  
1830 products and the technologies and provide technical advice to  
1831 energy stakeholders to develop solutions to mitigate  
1832 identified Cybersecurity vulnerabilities.

1833 You mentioned in your testimony that FERC has worked  
1834 closely with DOE to maintain an awareness of emerging cyber  
1835 threats.

1836 Do you think this policy would help improve the safety  
1837 and security of our energy infrastructure and would help  
1838 address these threats?

1839 Mr. Powelson. Congressman, I think it is a wonderful  
1840 effort that we -- any type of legislative construct that  
1841 recognizes, one, collaboration in the cyberspace; two,  
1842 adequate capacity building even in -- even at the state  
1843 level.

1844 So I can just at first glance tell you I would be very  
1845 supportive of a bipartisan bill to give those resources to  
1846 DOE.

**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.**

1847           Working with the FERC, as Chairman McIntyre mentioned,  
1848 we do have a strong collaborative effort in place with TSA,  
1849 FMSA, DOT, Homeland Security, and I think this is another  
1850 example of how we can build on those capacities.

1851           Mr. Latta. Thank you.

1852           Chairman McIntyre, I've long believed in an all of the  
1853 above energy policy. Our nation has vast energy resources  
1854 that need to be utilized and we should be doing everything we  
1855 can to make sure that our energy industries grow.

1856           By doing this, we can make sure that we are truly energy  
1857 independent. Mr. Chairman, do you believe that it is of  
1858 vital importance to our national security that we continue to  
1859 maintain a diverse portfolio of energy sources for  
1860 electricity generation?

1861           Mr. McIntyre. Very much so, Congressman.

1862           I, too, express my view in the same terms. All of the  
1863 above is the appropriate approach to how we should satisfy  
1864 our electricity needs as a nation.

1865           All different types of electrical generating resources  
1866 and other resources indeed -- storage, distributed energy  
1867 resources, and the like.

1868           Where this will be tested is in the very tricky area

**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.**

1869 that a number of us have addressed here today -- the  
1870 interplay between state resource choices and our federal role  
1871 of ensuring that our markets operate properly.

1872 If we really do mean that we are committed to an all of  
1873 the above resource policy, can we be content to see a  
1874 category resources go away and exit the scene?

1875 Very, very tricky public policy question that we are  
1876 grappling with as we proceed with our grid resilience work.

1877 Mr. Latta. Well, thank you very much.

1878 Mr. Chairman, my time is expired and I yield back.

1879 Mr. Upton. Mr. Doyle.

1880 Mr. Doyle. Thank you, Mr. Chairman.

1881 Good morning and thank you all for appearing before us  
1882 today. Many of us are running between two hearings  
1883 simultaneously. So I apologize that I wasn't here to hear  
1884 your testimony.

1885 Commissioner Powelson, as a fellow Pennsylvanian, I am  
1886 going to pick on you first. At your confirmation hearing  
1887 last year you said, what I learned from my experience in  
1888 NARUC is that what works in Pennsylvania might not work in  
1889 other jurisdictions, and you highlighted the proud  
1890 appreciation that we all have for individual states' rights

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1891 in supporting our state energy policies.

1892           However, I also read that you may have some reservations  
1893 explaining that state interventions come with consequences to  
1894 reliability and I can't argue with Secretary Perry's point  
1895 that these markets aren't pure but the policies all sound  
1896 good and I respect that.

1897           But the reality is the policies aren't synchronizing  
1898 with the system and therein lies a significant challenge.  
1899 Your testimony highlights an inherent tension -- the  
1900 oversight role of FERC with the independence of the states.

1901           And I know my good friend, Representative Shimkus, asked  
1902 for some additional clarification here. But I wasn't present  
1903 for that.

1904           So I understand you said you felt the commission should  
1905 respect states' rights within reason. Do you think FERC  
1906 oversight or potential intervention will or should be applied  
1907 on a case by case basis? Do you think that Congress ought to  
1908 provide additional clarity here also?

1909           Mr. Powelson. Congressman Doyle, I will start -- well,  
1910 I think the FERC is well equipped, if you look at some cases  
1911 that we've had over the last decade -- Talen Energy v. Hughes  
1912 in Maryland, Talen Energy v. Solomon in New Jersey -- recent

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

1913 constructs of addressing in the post-Polar Vortex, we had an  
1914 issue in PJM with a 24 percent forced outage rate. We dealt  
1915 with capacity performance.

1916 So I think the markets and the work that the FERC does,  
1917 we have the tools to address these issues. When you say case  
1918 by case basis, if I look over those cases where we had to  
1919 send a loud and clear message to the state of New Jersey and  
1920 the state of Maryland on capacity resources being subsidized  
1921 in the market and, by the way, it would have had with  
1922 generation in Pennsylvania, we -- the FERC, in terms of a  
1923 rule of law, did its job and the court recognized that.

1924 I have said it earlier. I am very proud of my  
1925 Pennsylvania experience. Pennsylvania has a very successful  
1926 renewable portfolio standard led under Governor Rendell and  
1927 former DEP Secretary Katie McGinty.

1928 Let me give you, as a former state senator, what  
1929 happened. In that construct, we looked at picking -- the  
1930 state picked really 13 categories of what qualifies for a  
1931 renewable portfolio standard.

1932 Well, guess what? Back then I remember there were  
1933 pushes to get nuclear as part of that RPS. It was outright  
1934 rejected.

**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.**

1935           So here we are today is we are having conversations.  
1936           That state construct in Pennsylvania, as an example, did not  
1937           recognize the value of nuclear power.

1938           And if the state wants to go down that path, we are  
1939           seeing it more recently this past week in New Jersey, they're  
1940           more than willing to do so.

1941           My drawing the line in the sand is how it impacts the  
1942           wholesale power markets. And once we surrender that flag  
1943           it's -- you know it's -- we are out of business. We've got  
1944           to protect the sanctity of those organized markets.

1945           So I recognize that as a Pennsylvanian but I also  
1946           recognize in my new role that oversight of those highly  
1947           functioning well organized markets.

1948           Mr. Doyle. And many Pennsylvanians, including myself,  
1949           are strong supporters of nuclear power. It both satisfies  
1950           reliability issues and it's also carbon free, and I think  
1951           there should be alarm bells going across the country as we  
1952           see how many of these plants may not go through relicensing  
1953           and they're going to be replaced mostly for baseload capacity  
1954           with -- whether it's natural case or something else that  
1955           emits greenhouse gases and it makes it almost impossible for  
1956           us to meet our climate change goals.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

1957 Commissioner LaFleur, I want to quote from your  
1958 statement regarding the NOPR because I think it's exceptional  
1959 in describing the current situation we face.

1960 The commission -- and this is your quote, "The  
1961 commission should continue to focus on its efforts not on  
1962 slowing transition from the past but on easing the transition  
1963 to the future.

1964 We must continue to guide grid operators in sustaining  
1965 reliability and resilience within a system that is likely to  
1966 be more cleaner, more dynamic and, in some instances, more  
1967 distributed, and deployed by an efficient market for the  
1968 benefit of customers."

1969 I am amazed by the technological developments we've  
1970 witnessed in the energy sector. The pace has gone from a  
1971 walk to a jog to a sprint.

1972 And looking into the next decade or two decades from  
1973 now, how do you think the regulatory bodies or agencies need  
1974 to change to better reflect and adapt to these changes and  
1975 what can we do here at our committee to facilitate those  
1976 changes?

1977 Ms. LaFleur. Well, thank you for the question and for  
1978 the compliment.

**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.**

1979 I think one of the points of stress in the future is  
1980 going to be the line between federal and state, not because  
1981 of any overweening ambition on the part of this commission or  
1982 the federal government but because we are seeing more  
1983 distributed resources, even behind the customer meter,  
1984 collectively behaving just like a central station resource.

1985 And sometimes even more resilient because of the ability  
1986 to modularize them if there's any kind of a weather event or  
1987 an attack.

1988 So I think that we -- as has been mentioned, we had a  
1989 two-day tech conference last week. But I think figuring out  
1990 how we best deploy those resources for the future is where we  
1991 are the -- where the public policy people, like everyone in  
1992 this room have to be working now because the technology is  
1993 coming so quickly.

1994 Mr. Doyle. Thank you.

1995 Mr. Chairman, thank you very much.

1996 Mr. Upton. Mr. Harper.

1997 Mr. Harper. Thank you, Mr. Chairman.

1998 Thanks to each of you for being here and for the  
1999 dedicated job that you're doing on important issue.

2000 Maybe as a follow up to Mr. Doyle's questions, Mr.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2001 Chairman, if I could ask you, traditionally the regulation of  
2002 DERs had been the jurisdiction of states and localities.

2003 However, with the issuance of Order No. 841 and its  
2004 proposal for the aggregation of DERs for the purpose of  
2005 participating in wholesale electricity markets, FERC could  
2006 expand its authority at the expense of states and localities.

2007 So my question would be was how will you deal with any  
2008 jurisdictional challenges that may come about?

2009 Mr. McIntyre. Thank you for the question, Congressman.

2010 There are a couple of different things going on here.  
2011 One is electricity storage resources and then, separately  
2012 from that, distributed energy generating resources.

2013 As to each category, honestly, I am not particularly  
2014 troubled by any sort of jurisdictional creep because that  
2015 power would make its way onto our grid in a way that we could  
2016 regulate it only after it had been aggregated and put forth  
2017 to a market that we regulated -- a wholesale electricity  
2018 market.

2019 And there certainly is no attempt on the part of this  
2020 commission to in any way thwart the ability of the state, for  
2021 example, to determine in a retail level transaction what the  
2022 owner of the generating resource would be -- what level that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2023 owner would be compensated.

2024 And so, honestly, I don't see that as being a  
2025 particularly great concern.

2026 Mr. Harper. Well, thank you for that answer.

2027 And Mr. Chairman, if I may ask you, you know, certainly,  
2028 as you know, we talk about energy infrastructure. It's a  
2029 very capital intensive venture, and Wall Street investors  
2030 require a very high degree of regulatory certainty and sound  
2031 rate making policies before committing capital.

2032 Does FERC currently have a methodology in place to set  
2033 transmission ROEs?

2034 Mr. McIntyre. Yes, we do, sir, longstanding.

2035 Mr. Harper. Okay. Longstanding. And how many  
2036 complaints are currently pending regarding transmission ROEs?

2037 Mr. McIntyre. We have a number of them pending.

2038 Mr. Harper. A ballpark. You said a number.

2039 Mr. McIntyre. A dozen or so.

2040 Mr. Harper. Okay. So what is the timetable for  
2041 resolving those complaints that you just mentioned?

2042 Mr. McIntyre. Those matters are actively being worked  
2043 upon within our agency right now. They are not subject to a  
2044 specific timetable. They are something are -- we are paying

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2045 attention to.

2046 Our most important job, obviously, is to get it right.

2047 Mr. Harper. Obviously, and we want you to do that.

2048 That's good.

2049 Under EPACT 2005, FERC developed a policy, and that's in  
2050 Order 679, I believe, which provides for incentive rate  
2051 treatment to encourage the development of transmission line  
2052 infrastructure.

2053 While this policy had been in effect since 2006, can you  
2054 elaborate on the status of this incentive policy now?

2055 Mr. McIntyre. It's something that Commissioner Glick  
2056 mentioned as -- in his view as something that probably is  
2057 ripe for some fresh attention.

2058 In a general sense, I would agree with that.

2059 Mr. Harper. Commissioner Glick, do you care to comment?

2060 Mr. Glick. Thanks, Mr. Harper.

2061 I -- you were exactly right. So in 2005 Congress did  
2062 provide FERC the authority to provide incentive rate making  
2063 and the commission did have an incentive rate making policy  
2064 and there was a believe that the commission was going too far  
2065 in providing incentives for too many activities.

2066 So the commission subsequently issued an new policy

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2067 statement that somewhat retransformed that particular policy  
2068 and I think that the criticism may be that the commission may  
2069 have gone too far in the other direction.

2070 I think that we need to take a fresh look at the  
2071 policies or are we incentivizing the right things.

2072 For instance, we incentivize RTO participation but a lot  
2073 of people already -- utilities are participating in RTOs  
2074 regardless of whether they have an incentive or not. But we  
2075 really should be incentivizing are we using transmission  
2076 capacity more efficiently -- are we using new technologies to  
2077 make transmission capacity more efficient.

2078 Those are the type of things that I think Congress gave  
2079 us the authority to do and I think it's a good idea to take a  
2080 look at it.

2081 Mr. Harper. Are we still seeing our transmission  
2082 developers still filing applications for incentive rates? Is  
2083 that still happening?

2084 Mr. Glick. Absolutely. We do often.

2085 Mr. Harper. Okay. And are you -- do you believe it's  
2086 at the appropriate rate and amount?

2087 Mr. Glick. I think there are -- we have to take that on  
2088 a case by case basis. I actually dissented from one of those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

2089 particular cases. But for the most part, I think the  
2090 commission has approved those -- those incentive rates.

2091 Mr. Harper. Thank you, Commissioner Glick.

2092 And with that, I yield back, Mr. Chairman.

2093 Mr. Upton. The chair recognizes the lady from Florida,  
2094 Ms. Castor.

2095 Ms. Castor. Thank you, Chairman Upton, and welcome to  
2096 our -- FERC commissioners, thank you for being here today.

2097 In the hearing last week on the Department of Energy  
2098 budget with Secretary Perry, I asked him about research and  
2099 development investments in energy storage because energy  
2100 storage is so crucial to increasing America's renewable  
2101 energy sources, incorporating them, and modernizing the  
2102 electric grid.

2103 And even though the budget doesn't really match what  
2104 we'd like to do, I think the Congress will come back and say  
2105 we are committed to doing this just like we did in the  
2106 omnibus bill.

2107 In fact, I noticed the Department of Energy just this  
2108 morning issued a big press release on solar technology and  
2109 investments.

2110 So but I have to say I was heartened by FERC's recently

**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.**

2111 issued order, a 5 to 0 vote to remove market barriers for  
2112 energy storage to participate in wholesale markets in the  
2113 bulk power grid, because allowing energy storage should  
2114 compete with fossil fuels like gas and coal will enhance  
2115 competition.

2116 It will help us develop more clean energy resource and  
2117 hopefully keep electric rates affordable for the average  
2118 American. And experts say that the number-one issue in clean  
2119 innovative technologies is being able to integrate renewable  
2120 energy with the large bulk transmission grid.

2121 So I commend you on your recent efforts to accommodate  
2122 the growing clean renewable energy sources.

2123 However, the commission declined to also eliminate  
2124 barriers for distributed energy resources, something that we  
2125 were just talking about, which would help further integrate  
2126 renewable sources into the electric grid.

2127 I saw in one press report it said that the commission  
2128 was disappointed that you could not issue an order similar to  
2129 your storage decision for distributed energy resources.

2130 So Mr. Glick, why did the commission not remove market  
2131 barriers for distributed energy sources, like it did for  
2132 energy storage, and what's the next step?

**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.**

2133 Mr. Glick. Thank you for your question, Ms. Castor, and  
2134 I agree with you, I think the technologies origin and  
2135 distributed energy resources are the wave of the future and  
2136 are going to provide significant amount of benefits.

2137 I think the commission had a number of -- there's still  
2138 some questions that were left during the rulemaking process  
2139 about reliability and how we interact with the states in  
2140 terms of the distributed resource aggregation.

2141 So we actually had a technical conference last week. We  
2142 had a two-day conference, seven panels. I think we had  
2143 enough information, in my opinion, to address the issue.

2144 The commission has a statutory responsibility to make  
2145 sure that we don't -- that there's no undue discrimination  
2146 again as any particular technologies and I think this is a  
2147 good example where I think we are required to address this  
2148 matter.

2149 Ms. Castor. So what are the next steps? You have the  
2150 technical conference. Mr. McIntyre, what's next on your  
2151 agenda on this?

2152 Mr. McIntyre. We did, indeed, have the technical  
2153 conference. It was a two-day technical conference. A lot of  
2154 very, very good input from stakeholders of various roles

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2155 within the industry and I anticipate -- I agree with  
2156 Commissioner Glick that the record that we are assembling  
2157 through that process will enable us to take steps comparable,  
2158 I would suggest, to the steps that you noted with regard to  
2159 storage.

2160 That's -- I am not intending to forecast a particular  
2161 outcome. I am just saying that we've got enough now to go on  
2162 the make a determination about what the appropriate steps  
2163 forward are.

2164 Ms. Castor. So would stakeholders still have the  
2165 ability to weigh in with FERC?

2166 Mr. Glick. Yes, ma'am.

2167 Ms. Castor. Okay.

2168 Ms. LaFleur, where do you think this is going? What  
2169 advice would you give to stakeholders and folks in the public  
2170 who are interested in weighing in?

2171 Ms. LaFleur. Well, the advice I always give is to be as  
2172 specific as possible to help us and that's true even more so  
2173 in this docket because of the real complexity of what we are  
2174 looking at.

2175 There are only two macro issues. The first is the money  
2176 issues, you know, where you have these deployed distributed

**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.**

2177 storage resources that can be paid at the state level. They  
2178 can be used by the customer or they can be paid at the  
2179 wholesale level.

2180 Who pays what to whom, how do we figure out we don't  
2181 have double counting and so forth -- I think that'll require  
2182 some very specific rules. But the more suggestions we get,  
2183 the better.

2184 The second is the operating issues of how the different  
2185 control centers talk to each other. We've got some great  
2186 testimony on that. I think one of the big issues we are  
2187 going to have to think about as a body now is how uniform we  
2188 make the rules as we put them out versus allowing regional  
2189 variation.

2190 We heard a lot from the people -- some of the people who  
2191 testified about wanting different regions to go in different  
2192 directions here.

2193 I am somewhat of the belief that the technology is  
2194 marching so quickly that we should try to figure out what  
2195 best practices are now. But that's what we'll be debating  
2196 and I think we'd like input on that.

2197 Ms. Castor. Well, thank you very much. I think it is  
2198 an exciting time for the development of clean 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.**

2199 technology and I commend you on your interest in pushing this  
2200 forward. Thank you very much.

2201 Mr. Upton. Mr. McKinley.

2202 Mr. McKinley. Thank you, Mr. Chairman.

2203 Over the past eight years on this committee, we've heard  
2204 a lot of comments in hearings about the -- our aging coal and  
2205 nuclear fleet -- that it's out there, and unfortunately, in  
2206 many regards, it's very expensive to upgrade those facilities  
2207 and, in so doing, when they do make those upgrades, sometimes  
2208 they lose their competitiveness and it puts them in a  
2209 dilemma.

2210 Now, what we are talking about now is, again, is we have  
2211 across this country a 531 coal-fired power plants shuttered  
2212 in the last 10 years.

2213 We've had 11 nuclear power plants have closed down  
2214 during that period of time, and we keep having hearings --  
2215 keep discussing it -- but I want to move from the abstract to  
2216 something concrete.

2217 I've got a power plant in Pleasants County, West  
2218 Virginia. It's a 1.3 -- 1,300 megawatt -- 1.3 gigawatts of  
2219 power. They tried to sell that plant back in -- because it's  
2220 a merchant plant -- they tried to move it over to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

**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.**

2221 regulated and they were denied.

2222           So as a result, the operator now is seriously  
2223 considering -- and I believe it'll happen before the end of  
2224 the year -- of declaring bankruptcy and shutting that plant  
2225 down.

2226           Just follow the ramifications of that. This is a small  
2227 county. Thirty percent of the tax revenue comes from that  
2228 power plant -- 30 percent. So 30 percent, that's an  
2229 overnight reduction that's going affect their school system.

2230           What about their EMS? What about their hospital? All  
2231 of the things that the country provides services are now a 30  
2232 percent reduction as a result of this.

2233           It goes further. We can further this domino effect. If  
2234 this power plant closes down, there's a very high likelihood  
2235 the coal producer that supplies that power plant will similar  
2236 declare bankruptcy.

2237           If he declares bankruptcy, his relief will be to get  
2238 away from his pension, is UMWA pension responsibility, which  
2239 currently now funds 120,000 retirees.

2240           Now, the object would be, if that's reduced, they would  
2241 fall -- they would be shifted over likely to the federal  
2242 pension guarantee fund.

**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.**

2243           But I've got a letter from the pension guarantee fund  
2244 that says don't put those 120,000 on us because then we'll go  
2245 under.

2246           So you see the domino effect of this. A mere request --  
2247 somehow provide some assistance so they could be an existing  
2248 power plant and have been -- have been rebuffed.

2249           So I am just curious about -- you know, wouldn't -- just  
2250 wouldn't it be more efficient and prudent to try to find a  
2251 vehicle -- a means, whether it's a 403, whether it's a 2028  
2252 some modification of that so we can keep some of our marginal  
2253 power plants operative?

2254           So, Mr. Chairman, if I could ask you, when FERC denied  
2255 the 403, was there a -- did anyone come up with what the cost  
2256 to the consumer could have been if we had -- if 403 had been  
2257 imposed on, let's say, in Pleasants County power plant?

2258           Do any -- does anyone have an idea what the costs could  
2259 be just to keep it operating?

2260           I guess the answer is none of you know.

2261           Mr. McIntyre. I am sorry, Congressman.

2262           You refer to the costs of the secretary of energy's  
2263 fourth NOPR directed to us?

2264           Mr. McKinley. Just what would it cost to keep 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.**

2265 power plant operating. Are you talking about \$50 a year per  
2266 customer?

2267 Mr. McIntyre. I do not have that figure.

2268 Mr. McKinley. Could you get that to me? Because this -  
2269 - we have reason to believe it's less than \$50 a year per  
2270 customer and they -- the consumer currently is paying \$50 a  
2271 year for tree trimming.

2272 That's hundreds of jobs that could be lost -- the  
2273 pensions that could be lost for our miners and our  
2274 steelworkers, all that would be affected with this.

2275 I think we have a moral responsibility to look at this  
2276 thing holistically rather than just an ideological fight  
2277 against what we think is a free market and I think too many  
2278 of you have said both publicly and privately that we really-  
2279 are questioning whether we have a free market system in  
2280 energy.

2281 Would you agree -- let me just ask you, do we have a  
2282 free market system in energy?

2283 Mr. McIntyre. We do not have a perfect market system in  
2284 energy, that is certain.

2285 Mr. McKinley. Okay. Because I think, Mr. Powelson, you  
2286 said in Pennsylvania that without the subsidy for wind and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2287 solar there wouldn't have been any build up there. Is that  
2288 correct?

2289 Mr. Powelson. I put it in the context of the renewable  
2290 portfolio standard, how it was designed.

2291 Mr. McKinley. Okay.

2292 Mr. Powelson. We also, though, in our RPS I believe we  
2293 have a requirement set aside for waste coal in that RPS.

2294 So yes, your point -- to the chairman's point and to --  
2295 and to Secretary's point, these are not pure markets.

2296 There's been --

2297 Mr. McKinley. Thank you. I don't think they are  
2298 either. So I will just close with again, I am asking look  
2299 seriously at the bigger picture -- what we are going to do to  
2300 communities like Pleasants County. A 30 percent overnight  
2301 loss of tax revenue -- how are they supposed to meet their  
2302 education demands, their health care needs?

2303 Thank you. I yield back.

2304 Mr. McIntyre. Thank you, Congressman.

2305 Mr. Upton. Mr. Tonko.

2306 Mr. Tonko. Thank you, Mr. Chair, and thank you, Chair  
2307 McIntyre and all of our commissioners for appearing here this  
2308 morning.

**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.**

2309           Last month, I held a round table with a variety of  
2310 stakeholders interested in storage, and everyone agreed that  
2311 Order 841 was a necessary step forward to lower barriers for  
2312 storage's participation in the markets.

2313           Chairman McIntyre or Commissioner Glick, do you believe  
2314 that reducing barriers and enabling greater storage  
2315 deployment will be beneficent to grid reliability and  
2316 resilience?

2317           Mr. McIntyre. I will jump in first.

2318           I think every avenue for reliable energy that can make  
2319 its way to our grid can only help resilience and reliability,  
2320 hence my expression earlier of my support for an all of the  
2321 above approach to satisfying our nation's energy needs.

2322           Mr. Tonko. Thank you, and Commissioner Glick.

2323           Mr. Glick. Thank you, Mr. Tonko.

2324           I agree. There are numerous benefits with access in  
2325 distributive resources and aggregating distributed resources.

2326           I would point out that, too, would be one, increased  
2327 competition in the market will certainly lower wholesale  
2328 electric prices, but secondly, I think it gives RTO and ISO  
2329 operators more input, more understanding of what's going on  
2330 behind the meter, which is certainly, I think, an increasing

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2331 concern with regard to the reliability of the grid.

2332 Adding aggregation to the mix would actually increase  
2333 and enhance reliability on resilience.

2334 Mr. Tonko. Thank you. That's good to hear, because I  
2335 believe it has a number of significant benefits -- reduction  
2336 of peak demands, integration of variable renewable energy,  
2337 frequency of regulation and congestion relief.

2338 So it's encouraging. As this order moves forward, I  
2339 hope you will continue to seek to reduce barriers for  
2340 emerging technologies and work to resolve issues from the  
2341 distributed energy resources technical conference.

2342 But I also want to address another recent issue that was  
2343 considered by the commission. The relationship between FERC  
2344 electricity markets and state policies is not a simple one.  
2345 But, certainly, states have a significant role in determining  
2346 their generation mix.

2347 I want to ask about ISO New England's competition  
2348 auctions with sponsored policy resources proposal. In  
2349 paragraph 22 the commission's order states, we intend to use  
2350 the minimum offer price rule to address the impacts of state  
2351 policies on the wholesale capacity markets, and minimum offer  
2352 price rule will be the, quote, "standard solution" to manage

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2353 the impact of state policies.

2354 I know that there's been some discussion about state  
2355 opportunity, state rights. But Commissioner Glick, I would  
2356 like to hear from you.

2357 I know you dissented due to this section. Can you  
2358 explain your concerns about the use of MOPR to interfere with  
2359 state policies?

2360 Mr. Glick. Thank you, Mr. Tonko.

2361 Yes, I did dissent and dissent in large part to that  
2362 paragraph 22 that you referenced.

2363 In large part, I don't believe the Federal Power Act  
2364 gives FERC the ability to make resource decision making --  
2365 resource decisions.

2366 I think it's up to the states to do that. In addition  
2367 to that, I have some grave concerns that it's actually going  
2368 to dramatically increase the cost of electricity in these  
2369 regional markets as well because states may still choose to  
2370 pursue these policies, but if their -- if those resources  
2371 have been replaced with another generation of resources it's  
2372 just going to lead to overbilling and then consumers are  
2373 going to pay more.

2374 Mr. Tonko. And thank you for 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.**

2375           And do you believe there's a role for governmental  
2376 programs to address legitimate policy considerations that  
2377 arise as a consequence of power generation such as clean air  
2378 or climate change, if I dare mention that?

2379           Mr. Glick. Absolutely. These electric markets, for the  
2380 most part, don't take into account externalities. So I think  
2381 states and the federal government both have a role in  
2382 ensuring externalities such as greenhouse gas emissions need  
2383 to be addressed in another manner.

2384           Mr. Tonko. And I believe you're indicating this, but  
2385 just for clarity, if MOPR is a standard solution, could it  
2386 result in consumers paying more to prop up generators that  
2387 run counter to the policies adopted by those states?

2388           Mr. Glick. Absolutely. That's one of my significant  
2389 concerns, yes.

2390           Mr. Tonko. In my home state of New York, we recently  
2391 implemented a clean energy standard to make significant  
2392 reductions in greenhouse gas pollution, which is not  
2393 currently priced into the market.

2394           Should New York have the right to determine its energy  
2395 future and protect its citizens from environmental impacts?

2396           Mr. Glick. Certainly New York should have the right 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.**

2397 I think one of the concerns if you are supportive of these  
2398 capacity markets is that if state policies are then  
2399 overturned by FERC decision making those states are going to  
2400 cause their utilities to pull out of these capacity markets.

2401 Mr. Tonko. Uh-huh. And I know you all supported the  
2402 storage order. But similarly, we are seeing states enact or  
2403 consider mandates and incentives for storage resources.

2404 Like you all, states have recognized the benefits of  
2405 these technologies including reliability benefits and want to  
2406 see them as part of their resource mix.

2407 As storage resources are able to participate in capacity  
2408 markets, might some of these state policies come into  
2409 conflict with the MOPR solution?

2410 Mr. McIntyre. I think there's a very little danger of  
2411 that under paragraph 22.

2412 Mr. Chatterjee. If I could just add to that,  
2413 Congressman, in regards to specifically paragraph 22.

2414 I voted for the underlying CASPR order because I thought  
2415 it was important and a necessary step in ISO New England. I  
2416 put a great amount of time and effort into it.

2417 Having worked in this chamber before, you don't always  
2418 agree with every single word of legislative text on a 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.**

2419 that you vote for and I think, going forward, I thought it  
2420 was more important that CASPR pass than to focus on, you  
2421 know, every word of paragraph two, what's in there, and I  
2422 agree with the valid concerns that you're raising.

2423 Mr. Tonko. So with that being said, is there a need for  
2424 addressing this as we go forward?

2425 Mr. Chatterjee. I think that, as the chairman quite  
2426 eloquently spoke to earlier, that juxtaposition, that  
2427 collision between market forces and our wanting to uphold  
2428 these markets with state policy rights and state  
2429 interventions that is going to be something that we continue  
2430 to juggle with and I, for one, believe that, you know, some  
2431 accommodation is necessary.

2432 Mr. Tonko. Well, I am proud of the efforts my state is  
2433 making and as a downwind state we don't want to be impacted  
2434 by poor policy.

2435 So with that, I appreciate all of your comments and I  
2436 yield back, Mr. Chair.

2437 Mr. Upton. Gentleman's time has expired.

2438 The gentleman from Illinois, Mr. Kinzinger.

2439 Mr. Kinzinger. Thank you, Mr. Chairman.

2440 Thank you all for being here and spending some time with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



**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.**

2441 us today. We appreciate it, and I just want to thank you  
2442 also for your commitment to making sure that our homes and  
2443 businesses have reliable energy.

2444 I think we all recognize how vital your mission is to  
2445 our nation's economic and national security. That being  
2446 said, our main concern about the resiliency and reliability  
2447 of our energy supply.

2448 For years now, we've recognized the precarious situation  
2449 that our nuclear plants are in. My district is home to four  
2450 nuclear power plants and -- which is the most in the country  
2451 and it accounts for 12 percent of the nation's nuclear power.

2452 These plants provide good jobs. They're good for our  
2453 environment and I think we've seen that they're proven  
2454 performers during extreme weather events, whether it's Polar  
2455 Vortex, hurricanes, things like that.

2456 Yet, two plants in Illinois are still almost closed.  
2457 Thousands of jobs and a significant amount of clean energy  
2458 were almost lost. The state of Illinois had to step in to  
2459 recognize the important role that these plants play in our  
2460 state economy but also in the reliability of our energy  
2461 supply.

2462 Unfortunately, now other plants in other states 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.**

2463 facing the same fate. So to the whole panel, as you know, in  
2464 some wholesale energy markets certain resources like nuclear  
2465 are struggling to recover costs and remain competitive, which  
2466 has led to the earlier retirement of plants that could  
2467 otherwise continue to run for decades.

2468 Do you think energy markets can better value resource  
2469 attributes for all types of energy generators and what about  
2470 resiliency and reliability specifically?

2471 Mr. McIntyre. Congressman, I will jump in first here.  
2472 Thank you for the question.

2473 Mr. Kinzinger. Sure.

2474 Mr. McIntyre. We have acknowledged here the importance  
2475 of ensuring that states are able to exercise their legitimate  
2476 role in making resource decisions and expressing resource  
2477 preferences through law, such as you have acknowledged that  
2478 Illinois has done with regard to the nuclear fleet there, and  
2479 we just have to ensure that with regard to the wholesale  
2480 markets that we oversee that rates are indeed just and  
2481 reasonable, which is our longstanding statutory standard, and  
2482 that nothing done at the state level amounts to a pressing of  
2483 the thumb on the scale or, as my colleague, Commissioner  
2484 Powelson has said, picking winners and losers in a way that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2485 we would regard as inconsistent with the statutory role --

2486 Mr. Kinzinger. But let me ask you, like, kind of more  
2487 deeply on that, if you look at -- is there a value to the  
2488 reliability issue? Are we just -- I mean, is there a value  
2489 to resiliency, reliability, things along that line?

2490 Mr. McIntyre. As to nuclear?

2491 Mr. Kinzinger. Yes.

2492 Mr. McIntyre. Certainly my view is we very much need to  
2493 be an all-of-the-above. We need an all-of-the-above policy  
2494 in terms of satisfying our nation's generating needs and I  
2495 certainly personally include nuclear in that mix.

2496 Mr. Kinzinger. Well, I mean, that's great. I  
2497 appreciate that.

2498 But the question is do you think that you can better  
2499 value resource attributes like that to nuclear, for instance?

2500 Mr. McIntyre. That's a question that's before us now in  
2501 our ongoing proceeding on grid resilience. Are there  
2502 resilience attributes that are present but are not being  
2503 adequately compensated?

2504 If the answer to that question is yes, then I think  
2505 we've got to decide what steps are appropriate.

2506 Mr. Kinzinger. Okay. Anybody else want to add to 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.**

2507 Mr. Powelson. I would pick up on it. I heard earlier  
2508 from Chairman Walden we talked about customers and customers  
2509 having choice in these competitive markets.

2510 In your state, your former governor and your legislature  
2511 adopted electric restructuring. Those nuclear plants you  
2512 referenced, customers paid a competitive transition charge as  
2513 part of a stranded cost investment.

2514 And so where we are today in my state and your state  
2515 where we have -- we are the second largest nuclear production  
2516 state -- where something that was, quote, "too cheap to  
2517 meter" is coming back into the market, whether it's a value  
2518 around resiliency, and we are being asked -- theoretically,  
2519 your constituents are being asked to do another stranded cost  
2520 for those assets.

2521 So if I am a gas operator or I am an emerging technology  
2522 in the market, I am not getting any type of backstop for my  
2523 resource, and I could be clean and efficient and resilient.

2524 So I think, to the chairman's credit, we are looking at  
2525 that and developing this record. There are characteristics  
2526 of nuclear plants that will clear in these markets.

2527 It's a concern that I've seen in my state that where a  
2528 standalone nuclear reactor like Three Mile Island is under

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2529 tremendous stress, and why is that?

2530 Well, it's because 100 miles north up the 83 corridor is  
2531 gas coming out of the ground at \$1.21 per MMBTU and a power  
2532 plant that has a much lower cost to run and can provide  
2533 baseload resource on the grid.

2534 Mr. Kinzinger. And I -- but I think the question is  
2535 long term. How do we value the fact that that may change?  
2536 It may go from \$1.20 to a billion dollars, right? In which  
2537 case now we find ourselves, as some European markets and  
2538 other markets have that undervalued nuclear power in a tail  
2539 chase against the cost of electricity.

2540 Specifically, I just got back from Australia and  
2541 they're, like, finding themselves in that kind of a situation  
2542 as well.

2543 So my time has run out. I thank you all for being here  
2544 and, Mr. Chairman, I yield back.

2545 Mr. Upton. Thank you.

2546 The chair would recognize Mr. Griffith.

2547 Mr. Griffith. Thank you, Mr. Chairman. I appreciate it  
2548 very much. A lot of good information floating around here.

2549 I want to go talk about pipelines. We've talked about  
2550 how we need pipelines to get the natural gas where it needs

**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.**

2551 to go, particularly in the northeast.

2552 But in the Commonwealth of Virginia, we have two  
2553 pipelines coming through right now pretty much at the same  
2554 general area, and people have a lot of questions and I have a  
2555 lot of questions, and FERC can do a better job.

2556 And I talk to you all about this because a lot of you  
2557 all are new and we got to figure it out. And so I  
2558 appreciate, Mr. Chairman, you revisiting the 1999 standing  
2559 policy on pipe -- policy on pipeline applications. But let  
2560 me just tell you about the one coming through my district.

2561 One comes through my district and one doesn't but  
2562 they're fairly close together. I learned about when a member  
2563 of a board of supervisors in the county called me up and said  
2564 there's surveyors all over the county. Nobody knows what  
2565 they're doing but they claim it has something to do with a  
2566 gas pipeline.

2567 Now, that's not your all's fault. I get it. That's  
2568 somebody else's fault -- the folks who were, you know, not  
2569 informing the elected officials. But I didn't know anything  
2570 about it. The county didn't know anything about it. Nobody  
2571 knew anything.

2572 Then comes FERC, adding insult to injury. Had two

**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.**

2573 public hearings. Goodlatte, Hurt, who was here then, and  
2574 myself begged for more public hearings so that people could  
2575 travel a shorter distance to get to these hearings because it  
2576 was affecting their communities.

2577 Didn't happen. Crickets. And so I am glad you're  
2578 looking at it and I -- and I am going to assume, Mr. -- or  
2579 Chairman McIntyre, that this new plan that you're looking at  
2580 will review the public comment meeting process as part of  
2581 your evaluation.

2582 Is my assumption correct? Yes or no.

2583 Mr. McIntyre. Yes, it is correct. That's very much  
2584 within the scope of what we intend to review.

2585 Mr. Griffith. And can I further assume that you are  
2586 committed to working to ensure there's a method by which FERC  
2587 offers full and transparent comment from the public about  
2588 potential projects? Can I make that assumption as well? Yes  
2589 or no.

2590 Mr. McIntyre. Yes.

2591 Mr. Griffith. I have a bill and it's been so  
2592 frustrating that Senator Tim Kaine and I -- we don't  
2593 generally agree on a lot of things -- we both have bills in.  
2594 Now, we got different versions because we don't always agree

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2595 on things, but we have bill in on this.

2596 Mine is H.R. 2893, the Pipeline Fairness and  
2597 Transparency Act, and this is to express these concerns that  
2598 our constituents have been living with now for several years  
2599 and still feel very frustrated.

2600 But I would like to even look at going further than  
2601 that. So I want your -- you all's input on that. But I  
2602 would also like input on things that we can do like on  
2603 placing the lines, on putting the lines in the same corridor.

2604 While the folks in that corridor may not appreciate it,  
2605 you don't have two different sets of communities all across  
2606 the Commonwealth of Virginia being disrupted, and then maybe  
2607 taking a look at where are -- where are the companies and  
2608 what are the policies where the companies are placing not  
2609 only the pipeline but the pumping facilities to move the pipe  
2610 down the line and do they need to be quite as big. A lot of  
2611 folks are concerned about that.

2612 So as we go forward, are you all willing to work, and I  
2613 would ask each of you, are you willing to work with us to try  
2614 to get some legislation that makes folks feel like it's not  
2615 just being crammed down their throats but they actually have  
2616 input and that somebody out there is actually listening?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

2617 Mr. McIntyre. We welcome the opportunity to work with  
2618 you on that. I don't want to leave you with the false  
2619 impression that we don't have mechanisms in place today for  
2620 proper public input because we certainly do, and one of the  
2621 key issues that's before us even in our -- under our existing  
2622 policy is to make a determination as to whether a particular  
2623 project is needed and that's to root --

2624 Mr. Griffith. Okay.

2625 Mr. McIntyre. Sorry to interrupt, sir.

2626 Mr. Griffith. Well, and I will be happy to give more  
2627 answer, but my time is running out and I've got another  
2628 subject to hit.

2629 But will just tell you the frustration level in Virginia  
2630 is so high, that while you all have a system I appreciate you  
2631 looking at it because it apparently isn't working to give  
2632 confidence to the public, and I appreciate that.

2633 Now I've got to move on to some issues related to  
2634 businesses and homes that are on that -- on non-federal  
2635 hydropower project facilities.

2636 I have gotten a lot of questions from Friends of Claytor  
2637 Lake that I will submit for the record and hope that you all  
2638 will answer after the fact because we have some real issues

**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.**

2639 related to shoreline management plans.

2640 This issue didn't really develop until in the last 10 or  
2641 15 years and so we have some questions about how that goes  
2642 forward.

2643 I picked up Robert Hurt's bill on shoreline management,  
2644 the SHORE Act, which is H.R. 1538, and I hope that you all  
2645 give us some input on that.

2646 But I think this is something that we need to work on  
2647 together, because a lot of folks feel their property rights  
2648 have been affected and, of course, economic development has  
2649 been affected as well.

2650 So I look forward to working with you all on those  
2651 issues as well, and I see that my time is up and, Mr.  
2652 Chairman, I yield back.

2653 Mr. Upton. The gentleman yields back.

2654 Dr. Bucshon.

2655 Mr. Bucshon. Thank you, Mr. Chairman.

2656 Chairman McIntyre, in your testimony you state that one  
2657 of your top priorities is to protect and promote the  
2658 resilience of the bulk power system.

2659 I am pleased to hear that we share this same priority.  
2660 But I remain concerned with the lack of urgency to address

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2661 properly valuing reliable and fuel security energy sources.

2662           There are many sources of energy that can power the grid  
2663 and I am a supporter of an all-of-the-above energy strategy.  
2664 However, after every major winter storm, whether it be the  
2665 2014 Polar Vortex or the most recent bomb cyclone, studies  
2666 conclude that coal-fired electricity was needed to prevent  
2667 major blackouts, establishing coal-fired electricity as one  
2668 of the most reliable, fuel-secure, and affordable energy  
2669 sources available.

2670           Just so you know, every coal mine in the state of  
2671 Indiana is in my district and many of the coal-fired power  
2672 plants.

2673           Even with its reliability, coal-fired power plants  
2674 continue to retire in alarming numbers for many of the  
2675 reasons we've already discussed. Thirty-nine coal-powered  
2676 generating units have been forced to close in my home state  
2677 of Indiana alone.

2678           I am supportive of the efforts you're taking to properly  
2679 value traditional baseload generation that provide our nation  
2680 with a more reliable and secure grid.

2681           But I am concerned that if we don't act soon, more coal  
2682 plants will continue to retire prematurely, leaving my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2683 constituents in my state without reliable energy and many of  
2684 the risks -- that risk of losing their jobs, as was outlined  
2685 by the -- Congressman McKinley about how that goes down the  
2686 line.

2687 This is why I have introduced H.R. 5270, the Electricity  
2688 Reliability and Fuel Security Act, which would create a  
2689 temporary tax credit covering only a small portion of the  
2690 cost to operate and maintain existing coal-fired power  
2691 plants.

2692 And in fact, just yesterday, Senator Capito from West  
2693 Virginia introduced a companion bill to H.R. 5270 in the  
2694 Senate showcasing the urgency of this matter.

2695 I believe the temporary tax credit, which would last for  
2696 five years, is necessary to maintain the reliability and  
2697 resilience of the grid while policy makers work together to  
2698 agree on a long-term plan for the grid.

2699 We need a little bit more level playing field. Chairman  
2700 McIntyre, can you provide an update on FERC's efforts on this  
2701 issue and are you supportive of congressional action to  
2702 maintain a reliable grid while the commission collects  
2703 comments on how to best address grid reliability.

2704 Mr. McIntyre. Yes, sir.

**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.**

2705           The question you have raised about coal is very much  
2706 wrapped up within our grid resilience work, particularly  
2707 given the way that the grid resilience topic was teed up for  
2708 us in the first instance by Secretary Perry with the Section  
2709 403 action -- the NOPR that was presented to us for our  
2710 consideration.

2711           So we have to look at this and ask ourselves the  
2712 question whether those coal-fired generating resources are  
2713 contributing grid resilience attributes in a way that cries  
2714 out to be compensated at levels higher than they currently  
2715 are receiving in the -- in the marketplace.

2716           If the answer to that question is yes, then I think we  
2717 have to address the very difficult question of what are --  
2718 what is it appropriate for us to do about that. The question  
2719 is completely legitimate and, as you suggest in your  
2720 statement, Congressman, this is broader than just grid  
2721 resilience.

2722           I mean, there are economic issues here in play as well.  
2723 So we understand how important the issue is.

2724           Mr. Bucshon. Yes. I mean, when we are buying -- when  
2725 we are importing LNG for energy sources and we are using a  
2726 lot of energy from our friends in Canada, you know, to turn 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.**

2727 blind eye to our own ways to generate energy, at least in the  
2728 short run, is not the right thing.

2729 Mr. Chatterjee.

2730 Mr. Chatterjee. Congressman, I just want to echo that I  
2731 share your sense of urgency. I am optimistic about the  
2732 resilience proceeding and the docket that we have ongoing.

2733 But I am concerned that it'll take time and that's why,  
2734 during the course of our consideration of Secretary Perry's  
2735 NOPR, I had advocated for an interim solution.

2736 What I've come to learn in the subsequent months since  
2737 we dealt with that NOPR is there are real challenges and in  
2738 sight of the situation in New England -- the ISO New England  
2739 fuel security study, you know, highlights that and I do think  
2740 the moment will come sooner rather than later when we are  
2741 going to have to confront this and your sense of urgency is  
2742 right on and look forward to seeing how the legislative  
2743 effort you have progresses.

2744 Mr. Bucshon. Thanks.

2745 And also just because -- all of the above, earlier this  
2746 Congress the House unanimously passed my bill 2872, the  
2747 Promoting Hydropower Development at Existing Non-Dams Act.

2748 You probably are -- may or may not be aware of 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.**

2749 But it would promote hydropower development at existing non-  
2750 power dams by establishing an expedited licensing process for  
2751 qualifying facilities that would result in a decision on an  
2752 application two years or less.

2753 Senator Portman and Senator McCaskill just recently  
2754 introduced a companion bill in the Senate and I think we have  
2755 a good chance of getting that across the finish line so that  
2756 we can convert some non-hydro power generating dams across  
2757 this country in ones that produce long-standing clean energy.

2758 Thank you. I yield back.

2759 Mr. Upton. Mr. Johnson.

2760 Mr. Johnson. Thank you, Mr. Chairman, and thank the  
2761 commission for being here with us today.

2762 I've been closely following the discussion surrounding  
2763 DOE's NOPR that the commission rejected. As some of you  
2764 probably know, my district in eastern and southeastern Ohio  
2765 is home to an abundance of natural energy production,  
2766 particularly natural gas and coal.

2767 So these issues hit especially close to home and I take  
2768 notice when major employers in my district speak out on this  
2769 issue. For instance, the CEO of Murray Energy recently  
2770 stated that FERC did not do its job when it rejected this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2771 proposal -- that is, the DOE NOPR.

2772 Commissioner Powelson, I believe you recently made some  
2773 comments indicating that you disagree with Mr. Murray. Can  
2774 you expound on that?

2775 Mr. Powelson. I take offense to the word feckless being  
2776 used to colleagues that I serve with here, and as I mentioned  
2777 earlier --

2778 Mr. Johnson. That term was what again?

2779 Mr. Powelson. Feckless, used to describe the FERC, my  
2780 colleagues, and the 1,320 employees that show up to work  
2781 every day to do their job around safety and economic  
2782 regulation and making sure our wholesale power markets are  
2783 functioning. So --

2784 Mr. Johnson. I think your testimony -- I mean, your  
2785 statement on social media, though, was more about conducting  
2786 a debate, right?

2787 Mr. Powelson. I refrain from going down that path. I  
2788 thought it was inappropriate and I dialled it back rather  
2789 quickly.

2790 Mr. Johnson. All right.

2791 Commissioner Chatterjee, I've read your testimony and  
2792 wondered if you had any further thoughts on this issue.



**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.**

2793           Mr. Chatterjee. Yes, sir. Obviously, throughout our  
2794           consideration of the DOE NOPR, I expressed great sympathy  
2795           with what Secretary Perry had proposed and I saw first-hand  
2796           during my time serving Leader McConnell and working in the  
2797           Kentucky delegation, working with folks like yourself through  
2798           various energy caucuses in the Congress the impact -- the  
2799           severe impact that was taking place in whole communities  
2800           throughout Appalachia, throughout Kentucky, throughout Ohio.

2801           The challenge we had is, you know, serving at the  
2802           commission at the independent regulator. We have to work  
2803           based on the record that was before us and, unfortunately,  
2804           the record did not support compensating fuel sources based on  
2805           having that onsite fuel capability.

2806           That doesn't mean that the question that was posed by  
2807           Secretary Perry wasn't the right question and that doesn't  
2808           mean that in our further work we won't be able to address  
2809           these sensitive issues.

2810           But speaking to the manner in which the NOPR was  
2811           handled, I am a conservative. I believe in a narrow  
2812           interpretation of statute and my narrow reading of the record  
2813           in this case was it simply didn't support it, and while I  
2814           have deep sympathy for the sentiments that Mr. Murray, folks

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2815 in your community, are expressing and the concerns they have  
2816 about the economic impact, the job impact, the cultural  
2817 impact of these shutdowns from the seat I sit in now, our  
2818 records simply didn't support taking action at that time.

2819 Mr. Johnson. Thank you for clarifying.

2820 Moving on to another subject, we've also discussed  
2821 cyberattacks and data policy violations have been issues  
2822 recently and frequently highlighted in the news -- attacks on  
2823 U.S. government agencies and universities including FERC, for  
2824 example, the recent Energy Services Group attack, and the  
2825 platform policy violation by a Facebook developer.

2826 In light of these events, what are the commission's  
2827 thoughts on its current security practices for protecting  
2828 sensitive information such as CEII, Critical Electric Energy  
2829 Infrastructure Information, that FERC collects and regulated  
2830 -- from regulated energy companies and shares with third  
2831 parties?

2832 Is there any discussion on evaluating methods to  
2833 strengthen those practices? And let me -- let me go back to  
2834 you, Commissioner Powelson, in light of your focus on  
2835 cybersecurity in your testimony. Do you have any insight on  
2836 this issue?

**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.**

2837 Mr. Powelson. Well, I think the work that's being done  
2838 right now working with NERC and refining some of these  
2839 standards, one, there's kind of four points we are looking  
2840 at.

2841 One is the vendor remote access to data, also software  
2842 authenticity and information system planning, and then vendor  
2843 risk management.

2844 This all coincides with what I call the, say, best  
2845 practices around cyber hygiene, and to your point of that  
2846 critical infrastructure information being lockboxed and  
2847 protected is critically important. You mentioned the  
2848 situation that unfolded at the FERC where our internal system  
2849 was violated.

2850 We are still looking at that issue, making assessments  
2851 on what kind of data might have been exposed, and I think to  
2852 the work of the folk at the FERC, we seem to be in a good  
2853 spot in developing proper protocols around fishing  
2854 expeditions and making sure that we are hygiene proficient as  
2855 well, and that's what happened in that particular case.

2856 Mr. Johnson. Okay. Well, thank you very much.

2857 Mr. Chairman, I yield back.

2858 Mr. Upton. Mr. Long.

**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.**

2859 Mr. Long. Thank you, Mr. Chairman, and thank you all  
2860 for being here today and for your testimony.

2861 Chairman McIntyre, recently City Utilities of  
2862 Springfield, Missouri, has seen a substantial rise in  
2863 transmission costs in the Southwest Power Pool. Most of  
2864 these costs are related to funding transmission projects  
2865 outside of Missouri.

2866 Some of the projects allow utilities to access renewable  
2867 energy located outside the state. However, the benefits far  
2868 outweigh by the rise in transmission costs for the projects  
2869 located far away.

2870 Southwest Power Pool's own studies have shown the City  
2871 Utilities' transmission costs and energy prices are  
2872 substantially higher than other customers in the Southwest  
2873 Power Pool.

2874 What will FERC do to address the issue of rising  
2875 transmission costs in the Southwest Power Pool's footprint?

2876 Mr. McIntyre. I am not familiar with the study you  
2877 reference, Congressman. But I will say that, as a general  
2878 matter, our transmission costs allocation is subject to  
2879 policies under a landmark order we call Order 1000 that  
2880 governs our transmission planning processes and the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2881 determination of how to allocate the cost of transmission  
2882 projects across their geographic footprint.

2883 Generally speaking, it would be surprising that a  
2884 particular entity paying those transmission costs is paying  
2885 significantly higher than other entities served by the same  
2886 facility.

2887 Mr. Long. These are studies that Southwest Power Pool -  
2888 - they had their own study, City Utilities -- Southwest Power  
2889 Pool did. So I will get you that information, and if you can  
2890 have your folks look into it and get with my people, I would  
2891 really appreciate it because --

2892 Mr. McIntyre. Yes, I was going to make that offer.  
2893 We'd be delighted to.

2894 Mr. Long. It sounds like an egregious situation.

2895 So what will FERC -- will FERC address the concerns that  
2896 some customers like the City Utilities are paying for assets  
2897 for which they have no benefits?

2898 Mr. McIntyre. Well, we do have processes in place today  
2899 that enable any entity that feels that it is paying for  
2900 something it should not have to pay for -- in effect, to  
2901 initiate a complaint proceeding with us -- and our role at  
2902 that point would be to address the merits of the complaint

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2903 and determine whether there is legitimacy to it and, if so,  
2904 what steps we should take to remedy the situation.

2905 Mr. Long. Okay. Well, I know you have --

2906 Mr. McIntyre. This is also something we can follow up  
2907 on.

2908 Mr. Long. Yes. I know you have some good folks and I  
2909 have some good folks so, hopefully, we can get them together  
2910 and I think we are going to be in close contact for a while  
2911 on that until we get some answers.

2912 Mr. McIntyre. I would welcome that.

2913 Mr. Long. Thank you.

2914 And Commissioner Chatterjee, in May or on May 22nd in  
2915 2011 -- I had been in Congress for five months -- and we had  
2916 an F5 tornado ravage through Joplin, Missouri, in my district  
2917 -- killed 161 people, took out 8,000 homes, 500 businesses,  
2918 leaving over a hundred -- well, I already said that -- 161  
2919 people dead and thousands without power.

2920 In your testimony, you talk about the importance of  
2921 planning for potential catastrophes as it relates to electric  
2922 vulnerabilities in a region and you highlight the work being  
2923 done by IOS New England.

2924 Can you talk about the proactive working being done 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.**

2925 mitigate these risks and how other RTOs and ISOs can plan for  
2926 catastrophic weather events?

2927 Mr. Chatterjee. I want to start, Congressman, with  
2928 saying that, you know, I mean, such events like that are just  
2929 -- they're tragic. They can devastate communities and,  
2930 obviously, we all need to work collectively to get ahead of  
2931 these kinds of tragedies.

2932 We at the commission, you know, focus on electric  
2933 reliability and in ensuring that power remains available,  
2934 that the lights stay on.

2935 The reason we are undergoing this resilience proceeding  
2936 is we want to make sure that in the event that the power goes  
2937 off that it can be restored quickly. I think as these types  
2938 of severe weather events become the new normal, we've got to  
2939 take great steps to get ahead of that.

2940 I was actually in Georgia last week meeting with folks  
2941 from Georgia Power about the extensive efforts that they take  
2942 in advance of storm preparation and afterwards. And so I  
2943 think the private sector will continue to do a tremendous  
2944 job.

2945 I think our linemen and women are some of the bravest  
2946 people in this country. They should be honored and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

2947 recognized for the sacrifices that they make and we at the  
2948 commission will continue to do our job to maintain electric  
2949 grid reliability and I am counting on the great linemen and  
2950 women of our country to be responsive in the light of tragic  
2951 events like, unfortunately, to your district.

2952 Mr. Long. Okay. Thank you.

2953 And I am running close to be out of time so, Chairman  
2954 McIntyre, I have a question that I will get to your folks  
2955 from my folks, once again, concerning the Iranian hackers'  
2956 attempt to breach FERC's computer systems and I know we are  
2957 in an unclassified setting here.

2958 I was going to have you explain as much in a  
2959 unclassified setting as you can. But I will submit that in  
2960 writing to your office and I would like to have some answers  
2961 on that. And also what steps are being taken to prevent this  
2962 from happening again?

2963 Mr. McIntyre. Absolutely, sir. I look forward to  
2964 following up with you and your staff on that.

2965 Mr. Long. Mr. Chairman, I yield back.

2966 Mr. Upton. Mr. Walberg.

2967 Mr. Walberg. Thank you, Mr. Chairman, and thanks to the  
2968 panel.



**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.**

2969 This is a panel we've looked forward to for a long time.  
2970 It's good to have you all here.

2971 I want to -- I want to dive right in with a fairly  
2972 straightforward question which I hope will be just a simple  
2973 yes/no answer. We can all agree that the energy landscape is  
2974 vastly different than it was back in 1978 and even in 2005.

2975 Do you believe that PURPA should be updated or modified  
2976 to reflect today's energy environment? Yes or no, and  
2977 beginning with the chairman.

2978 Mr. McIntyre. Yes, I believe it's time for us to look  
2979 at that issue.

2980 Ms. LaFleur. Yes. I think it would be timely for  
2981 Congress to look at PURPA.

2982 Mr. Chatterjee. Yes, but I think not only should  
2983 Congress look at PURPA but FERC should look at our own  
2984 regulations and see what steps we may be able to take.

2985 Mr. Powelson. Yes, PURPA needs to be modernized.

2986 Mr. Glick. I think it's -- I think it's appropriate for  
2987 FERC to take a look at some of the issues of PURPA but I  
2988 think the major issues that were addressed in the 2005 Energy  
2989 Policy Act need to be addressed by Congress in terms of  
2990 PURPA's future.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

2991 Mr. Walberg. Well, I appreciate the fact that it's a  
2992 generally yes answer. I think PURPA right now is holding us  
2993 back on an all-of-the-above energy plan.

2994 It's intentions, certainly, assisted in moving forward  
2995 renewables. But right now, we are holding back some of the  
2996 renewables in being more efficient in the process. So I  
2997 appreciate that.

2998 Chairman McIntyre, I am pleased that FERC held a PURPA  
2999 technical conference in June 2016. The docket has been open  
3000 for nearly two years now and I am curious as to the time line  
3001 for acting and what possible actions you believe the  
3002 commission could take.

3003 Mr. McIntyre. There are a number of different actions  
3004 we could take. As has been referenced, any significant  
3005 overhaul of PURPA would have to come from the Congress.  
3006 Within the scope of FERC, some of the issues that we look at  
3007 and that we hear from constituents on -- constituencies, I  
3008 should say -- stakeholders on, are have we properly treated  
3009 the question of how a particular project is measured.

3010 Some accuse some of the players in industry as engaging  
3011 in gamesmanship in how they slice the size of a project -- to  
3012 take a project of a certain size and break it into smaller

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

3013 components for purposes of PURPA treatment so that it gets  
3014 the benefit of being considered to be a so-called qualifying  
3015 facility under PURPA.

3016 That's one of many examples I could give you. The  
3017 states have a role here too because it is the states that  
3018 determine the rate at which PURPA generators are compensated  
3019 -- the so-called avoided cost rates.

3020 So I think that these are issues that we can look at  
3021 within our existing statutory authority.

3022 Mr. Walberg. I appreciate hearing that. I would agree  
3023 with you and I agree in looking at PURPA myself that while  
3024 Congress I think ought to take action on it, yet there are  
3025 significant changes -- significant upgrades, modifications  
3026 that I believe FERC can make on your own, and then we can  
3027 follow on and be an asset to you.

3028 Commissioner Chatterjee, you stated in your testimony  
3029 that significant changes related to PURPA would require  
3030 congressional action, as we agree. But I am under the belief  
3031 that FERC can address many issues with PURPA right now,  
3032 including problems with the one-mile rule, which I think goes  
3033 into gaming, as you talked about, Chairman, and reduce the  
3034 20-megawatt threshold of a QF in organized markets if the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

3035 FERC decided to do.

3036 So would you consider, Mr. Chatterjee, fixing the one-  
3037 mile rule and adjusting the megawatt size of QFs in organized  
3038 markets a significant change?

3039 Mr. Chatterjee. Thank you for the question,  
3040 Congressman. Just to clarify, what I said in my testimony  
3041 was that major structural changes to PURPA need to come from  
3042 Congress but that does not mean that we can't look at things  
3043 within FERC's own regulations and I do believe both issues  
3044 that you have identified the one-mile rule and the 20-  
3045 megawatt threshold are things that FERC could consider and  
3046 address.

3047 I think the record is already there to potentially act  
3048 on the one-mile rule and while additional development of the  
3049 record could be helpful on the 20-megawatt threshold, there  
3050 is already arguably enough in the existing record that the  
3051 commission could proceed on it.

3052 And in the limited time I served as chairman I stated  
3053 that this was a top priority of mine and I hope to work with  
3054 Chairman McIntyre and my colleagues to work on these and  
3055 other elements of it.

3056 While you have an excellent bill, the likelihood of 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.**

3057 bill getting through my former colleagues in the United  
3058 States Senate could be a challenge and therefore I think it's  
3059 incumbent upon us to do what we can.

3060 Mr. Walberg. Don't curse the project.

3061 [Laughter.]

3062 Thank you. I see my time has expired so I yield back.

3063 Mr. Upton. Mr. Duncan.

3064 Mr. Duncan. Thank you, Mr. Chairman.

3065 Commissioner Powelson, you mentioned in your opening  
3066 statement I believe that FERC is aware of the frequency of  
3067 cyber and physical threats to the nation's infrastructure and  
3068 that you believe that threat is only increasing.

3069 And I want to commend the commission for making cyber  
3070 and physical security a top priority. How can Congress work  
3071 together with you and with the administration to make this a  
3072 top priority in our upcoming infrastructure reform bill?

3073 Mr. Powelson. Congressman, great question, and I think  
3074 it starts with where we've evolved over the last eight years  
3075 with cyber -- building these cyber protocols. Interagency  
3076 cooperation has been critically important.

3077 It started off really as a silo mentality, and now the  
3078 dissemination of that information and that capacity building,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

3079 as I mentioned earlier, down to the states, your state  
3080 included, that's a big challenge, going forward.

3081 But I think it's a resource issue. Resources as -- you  
3082 know, our operation at the FERC there's probably 20 to 25  
3083 people who are fully engaged in this effort -- the effort  
3084 that Secretary Perry is undertaking with his Office of  
3085 Cybersecurity another step forward.

3086 But I just think it continues to evolve. There's no  
3087 silver bullet to this, if I could use that expression  
3088 lightly.

3089 Mr. Duncan. Are you all working with any private  
3090 entities? And I guess the question is are you familiar with  
3091 what Clemson University is doing with grid simulator and  
3092 infrastructure simulator down in Charleston? Are you all  
3093 familiar with that?

3094 Mr. Powelson. So two things that you're seeing across  
3095 the states that we are involved with -- one is the GridX  
3096 exercise, which I understand is run by NERC. We also have  
3097 these tabletop exercises in my home state. We did what we  
3098 call a black sky event and you look at all these different  
3099 scenarios and under I guess Chairman --

3100 Mr. Duncan. Is it primarily looking at cyberattacks

**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.**

3101 when you do that?

3102 Mr. Powelson. It is all part of that, yes.

3103 Mr. Duncan. Because, I mean, you're familiar with the  
3104 geomagnetic storm that have hit in the northeast and Canada -  
3105 - power outages and -- you know, we've got to be prepared for  
3106 both natural GMDs but also EMPs -- manmade -- because we've  
3107 got "Rocket Man" in North Korea that could definitely send a  
3108 nuclear weapon into the atmosphere and create an EMP and I  
3109 hope that you guys are looking at that as well.

3110 Mr. Powelson. I think from a preparedness posture, I  
3111 think we -- I can say we are. But it is -- again, it's  
3112 evolving. Again, another great step is the work at DOE in  
3113 their cyber office, and collaborating with the states. I  
3114 firmly believe we are helping states build much-needed  
3115 capacity.

3116 Mr. Duncan. Can we drill down on that, helping states?  
3117 And let me ask how you're helping, say, the private or the  
3118 small cooperative -- electrical cooperatives in the states.  
3119 What are you doing to help those guys?

3120 Mr. Powelson. I don't know. That's a good question.  
3121 The reason I don't know is some of these entities are not  
3122 regulated by a state public utility commission. They're part

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

3123 of public power.

3124 But I do know that public power is participating in  
3125 these cyber protocols. So --

3126 Mr. Duncan. Just bringing it up with Duke Energy then,  
3127 and you're working with companies like Duke and Southern?

3128 Mr. Powelson. We are.

3129 Mr. Duncan. Okay. In what ways? I mean, technical  
3130 advice, you know, inviting them to these simulations?

3131 Mr. Powelson. Well, Southern -- under their chairman  
3132 and CEO Tom Fanning, he's a leader in the ISAC. We also do  
3133 it through an audit process.

3134 Lynn Good, who runs Duke Energy, is also active in that.  
3135 We've had through the working groups at EEI, the evolution of  
3136 a cyber mutual assistance protocol which, again, was a newly  
3137 tasked effort.

3138 So these are -- again, these are merging resources that  
3139 are coming out of the discussions here in Washington. I  
3140 think it's a good -- it's a good posture for us to be -- to  
3141 be leading.

3142 But there are challenges and I think those challenges  
3143 start with providing those resources to build up these  
3144 capacities.



**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.**

3145 Mr. Duncan. As we work on the infrastructure bill. I  
3146 am one member of Congress that hopes we will look at grid  
3147 hardening as part of the infrastructure package that we do.

3148 Let me just ask one further question. Duke Energy has  
3149 the Bad Creek project in northern Pickens County, which has a  
3150 hydro storage facility to pump water from Lake Jocassee to a  
3151 hydro storage facility, release it. Turns the turbines  
3152 during peak demand, provide electricity for that demand, and  
3153 then during low peak it'll pump the water back up, reverse  
3154 the turbines, and store that water.

3155 It's a great energy storage concept. I know we are  
3156 doing that with solar power. How active are you all involved  
3157 with -- I think Ms. Castor asked that question -- with the  
3158 hydro storage for basically battery capacity for wind and  
3159 solar?

3160 Mr. Glick. Mr. Duncan, if I may, I think we actually  
3161 issued a rule several weeks ago which actually provides --  
3162 and it's not only for battery storage but also for pump  
3163 storage in terms of facilitating their participation in the  
3164 wholesale markets and I think that's -- I think in addition  
3165 to that, the commission has authority over the licensing of  
3166 hydro projects as well. So we'll be involved in that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

3167 For the most part, it's actually just facilitating or  
3168 ending or eliminating those market barriers that currently  
3169 exist for those types of technologies participating.

3170 Mr. Duncan. I thank you for that.

3171 My time is expired. I yield back.

3172 Mr. Upton. Mr. Lance.

3173 Mr. Lance. Thank you, Mr. Chairman, and I want to thank  
3174 you and Ranking Member Rush for permitting me to participate  
3175 today. I am a member of the full committee but I am not a  
3176 member of this subcommittee.

3177 Chairman McIntyre, on January 19th, FERC issued a  
3178 certificate of public convenience and necessity to the  
3179 PennEast Pipeline Company authorizing a natural gas pipeline  
3180 through Pennsylvania and New Jersey, including in the  
3181 congressional district that I serve.

3182 The certificate also gave PennEast the legal ability to  
3183 file eminent domain lawsuits against private landowners. As  
3184 FERC opens a docket to re-examine the pipeline certification  
3185 policy, what kinds of measures will you consider to ensure a  
3186 robust economic analysis of public need, especially in those  
3187 instances when precedent agreements are largely signed with  
3188 affiliates of the owner like in the case of PennEast?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

**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.**

3189 Mr. McIntyre. Well, as you know, Congressman, we have  
3190 initiated a fresh look at our 1999 certificate policy  
3191 statement that addresses some of these issues.

3192 We are looking forward to robust public input, input  
3193 from stakeholders and the public on the important issues  
3194 involved here including the ones that you have cited.

3195 Mr. Lance. I thank you.

3196 Commissioner LaFleur, how will you ensure a project's  
3197 environmental impacts are sufficiently considered, a topic  
3198 you discussed in your concurring opinion?

3199 Ms. LaFleur. I think that's one of the main issues we  
3200 will be teeing up for looking at when we look at the policy  
3201 statement, both how we best do our environmental work on the  
3202 traditional parts of the pipeline but also downstream impacts  
3203 of the end uses that the pipeline contributes to, including  
3204 climate impacts. I think that'll be directly to that.

3205 Mr. Lance. Commissioner Chatterjee, what steps will you  
3206 take to prevent negative consequences on landowners, a  
3207 concern you described in your concurring opinion?

3208 Mr. Chatterjee. Yes, sir.

3209 I did have concerns about landowner protection and it's  
3210 something that as we explore the revisitation of our pipeline

**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.**

3211 certificate process I want to ensure that landowners' voices  
3212 are heard, that they understand the steps available to them  
3213 to potentially, you know, mitigate concerns that they may  
3214 have -- rerouting and other types of elements.

3215 I want to make sure that they feel that their voices are  
3216 recognized as part of that process and there's a commitment.

3217 Mr. Lance. Thank you.

3218 Commissioner McIntyre -- Chairman McIntyre, as FERC  
3219 reviews the pipeline certification policy, how will you  
3220 ensure state and local rights are adequately protected?

3221 This past June, the New Jersey Department of  
3222 Environmental Protection denied PennEast a freshwater  
3223 wetlands individual permit and a water quality certificate,  
3224 which are required to begin construction under the Natural  
3225 Gas Act.

3226 What steps, if any, will FERC take to safeguard state  
3227 and local autonomy?

3228 Mr. McIntyre. There are certain actions that are well  
3229 beyond our reach in terms of our ability to restrict state  
3230 roles assigned to them by statute.

3231 Often, it is the case that these questions that come up  
3232 have to be resolved by the courts and I do not expect that 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.**

3233 change anytime soon. But, certainly, we are reflective of  
3234 and respectful of the state's role.

3235 Mr. Lance. Thank you. It's my considered judgment that  
3236 this is not in the best interest of the United States. It's  
3237 certainly not in the best interest of New Jersey, and we in  
3238 New Jersey -- our state officials have significant concerns  
3239 with this.

3240 Some of the pipeline would be under preserved land and  
3241 there is in the underlying statute I think written in the  
3242 1930s a belief in comity with state statutory law and I would  
3243 hope that the commission would re-examine all of this.

3244 On a completely unrelated issue, Chairman McIntyre, with  
3245 regard to FERC's March 15th revised policy statement on the  
3246 treatment of income taxes for masters limited partnerships,  
3247 could you please explain your rationale in advancing a  
3248 blanket prohibition of recovering of an income tax allowance  
3249 for oral MLPs? You may have discussed this previously. But  
3250 I respectfully ask you that question.

3251 Mr. McIntyre. Yes, that's fine, Congressman.

3252 We were faced with an appellate court decision directing  
3253 us to address that specific issue. We took action that we  
3254 regarded as appropriate in light of the directives from 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.**

3255 court.

3256 Mr. Lance. Does any other member of the commission wish  
3257 to discuss that?

3258 Commissioner LaFleur.

3259 Ms. LaFleur. I would just say that even before the  
3260 United Airlines case that led to the March order there was an  
3261 earlier case where we were chastised by a court for double  
3262 taxation.

3263 It's been brewing ever since then. We did a notice of  
3264 inquiry and took a lot of testimony from people in the  
3265 pipeline industry and others to try to build a full record  
3266 and did not find any way to achieve the requirements of the  
3267 court other than the way that we --

3268 Mr. Lance. Thank you for your responses, and I yield  
3269 back three seconds. And thank you very much, Mr. Chairman.

3270 Mr. Upton. Gentleman's time has expired.

3271 Mr. Kennedy.

3272 Mr. Kennedy. Thank you, Mr. Chairman.

3273 I want to thank all our witnesses for being here. It's  
3274 nice to have a full complement of the commissioners  
3275 testifying before Congress. Grateful for your service.  
3276 Grateful for the time.

**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.**

3277           For those of you that I have not met yet, I look forward  
3278 to working with you. For those of you who I have, welcome  
3279 back.

3280           Over the past five years, I've become very familiar with  
3281 FERC processes, more so than I ever thought I would. I've  
3282 appreciated the willingness of both members from the  
3283 commission and, critically, your staff to engage with both me  
3284 and my staff on this issue and I look forward to continuing  
3285 that cooperation in the future.

3286           As you all know, the issue of transparency and the  
3287 opportunity to be heard have been a focal point of my work  
3288 here in Congress and with the commission, and you have heard  
3289 the issue about transparency come up a number of times from  
3290 my colleagues today.

3291           Several years ago, ratepayers in my home region, ISO New  
3292 England, were shut out of the administrative and judicial  
3293 review processes due to an unintended consequence in the  
3294 Federal Power Act.

3295           Chairman McIntyre, I gratefully appreciate your comments  
3296 in your written testimony describing your commitment to  
3297 transparency, sir, and as I've said before, if there's any  
3298 lesson that I've learned from Washington is that the more

**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.**

3299 complex an issue is, the more likely that someone's being  
3300 taken advantage.

3301 So we've worked on a bipartisan basis on this committee  
3302 to advance, in my estimation, a straightforward bill to  
3303 address that issue. We are working with our colleagues in  
3304 the Senate to try to find agreement on the legislation.

3305 Under Section 205, the rates are allowed to take effect  
3306 by operation of law if the commission does not act within a  
3307 statutory time period of 60 days.

3308 To start, I guess, with Mr. Glick, to the extent that  
3309 you know, sir, how often does that happen? How often does it  
3310 take -- do rates take effect by operation of law? Are you  
3311 familiar at all?

3312 Mr. Glick. Thank you, Mr. Kennedy.

3313 I don't -- I couldn't give you an exact number. I will  
3314 supply that for the record.

3315 I can tell you it is -- it is relatively rare, although  
3316 it is certainly foreseeable. We have five commissioners now,  
3317 you would think, but the commissioners do recuse themselves  
3318 on certain occasions and you could very well have a 2-2 vote,  
3319 in which case the commission would actually not be able to  
3320 stop or either -- or prevent a particular proposed change in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



**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.**

3321 the tariff under Section 205 of the Federal Power Act from  
3322 becoming law.

3323 Mr. Kennedy. And is there a difference -- if, for  
3324 instance, the commission fails to act within 60 days? A  
3325 difference in the actual distinction?

3326 Mr. Glick. The only distinction is that, and I think as  
3327 you pointed out, that the party that feels itself aggrieved  
3328 doesn't have the ability to seek rehearing or take it on  
3329 appeal to the D.C. Circuit.

3330 Mr. Kennedy. And how do we know if a commission  
3331 actually deadlocks? Is there a requirement that a vote be  
3332 held or is that more out of custom than formal practice?

3333 Mr. Glick. There's not requirement a vote can be held.  
3334 If, again, if the commission doesn't act at all within 60  
3335 days it automatically -- the tariff change automatically goes  
3336 into effect.

3337 Mr. Kennedy. And so, Mr. Glick, what is the commission  
3338 doing to ensure that aggrieved parties are not locked out of  
3339 that review process?

3340 Mr. Glick. Well, again, I think -- I think that, at  
3341 least for this particular issue, I think it does require a  
3342 congressional change, and I know you have a bill and there's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

**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.**

3343 a bill in the Senate as well Mr. Markey has put forward.

3344 But I think that -- I think the best we can do is  
3345 actually ensure as much transparency as possible and involve  
3346 public participation. But if there is a 2-2 deadlock we are  
3347 unable -- I don't think we have the authority currently to  
3348 address that.

3349 Mr. Kennedy. And I appreciate that, sir, and I guess I  
3350 would go back to Mr. McIntyre, given your comments about  
3351 transparency.

3352 Your thoughts on this issue and whatever else the  
3353 commission should be doing or can be doing to take on that  
3354 issue of transparency.

3355 Mr. McIntyre. Thank you, Congressman.

3356 It's a valid concern, but I personally am heartened by  
3357 the fact that it arises very, very rarely, and I don't have a  
3358 figure for you either. But the one I've heard informally  
3359 within the agency is once every dozen years or so.

3360 Mr. Kennedy. And, Mr. McIntyre, and I appreciate that,  
3361 sir. I don't mean to make light of that. The fire hydrants  
3362 outside my street haven't been used all that frequently  
3363 either. I am glad they're there because when they do need to  
3364 be used I hope they work.

**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.**

3365           And so, respectfully, and understood that it doesn't  
3366 happen very often, but when it does, it comes with a fairly  
3367 big consequence, as we saw if -- in FCCA for residents in  
3368 Massachusetts.

3369           And so just because it doesn't happen very often I don't  
3370 think -- well, we can be heartened by it -- doesn't mean that  
3371 we shouldn't address the fact because when it does it can be  
3372 a big deal.

3373           Mr. McIntyre. I agree with you. In terms of  
3374 legislative approach, if this is something where it would be  
3375 helpful for us to work with you on language, we'd be happy to  
3376 do that, because language wise right now under existing law,  
3377 unless a party is aggrieved by a commission order -- an order  
3378 of the commission -- it cannot go forward to judicial review.

3379           And so the lack of an order is what would be a stymieing  
3380 factor there.

3381           Mr. Kennedy. Yes, I agree.

3382           Ms. LaFleur.

3383           Ms. LaFleur. Well, I am on record in favor of the Fair  
3384 Rates Act. I believe I've testified or done it in a QFR or  
3385 something before.

3386           I think it would be a good improvement to the Federal

**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.**

3387 Power Act. I was on the commission. I was the chairman of  
3388 the commission when we split 2-2.

3389 We did put out statements of the underlying views in  
3390 dispute to provide transparency and I think we worked very  
3391 hard to avoid deadlocks.

3392 I did believe -- I was in the group that thought that  
3393 the rates were just and reasonable but I think the act would  
3394 be a good improvement.

3395 Mr. Kennedy. I appreciate that.

3396 Thank you, Chairman.

3397 Mr. Upton. Thank you.

3398 Be that there are no further members wishing to ask  
3399 questions, I would like to thank all of our witnesses for  
3400 appearing today for sure.

3401 Before we conclude, I want to ask unanimous consent to  
3402 submit the following documents for the record: a letter from  
3403 the Utilities Technology Council and a joint letter from the  
3404 American Public Power Association and the National Rural  
3405 Electric Cooperative Association.

3406 [The information follows:]

3407

3408 \*\*\*\*\*INSERT 8\*\*\*\*\*

**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.**

3409           And in pursuant to committee rules, I remind members  
3410           that they have 10 business days to submit additional  
3411           questions for the record. I would ask that the witnesses  
3412           submit their response within 10 days upon receipt of those  
3413           questions if you can.

3414           Without objection, this subcommittee stands adjourned.

3415           [Whereupon, at 12:53 p.m., the subcommittee was  
3416           adjourned.]