

**Testimony of Commissioner Cheryl A. LaFleur  
Federal Energy Regulatory Commission  
Before the House Subcommittee on Energy and Power  
Of the Committee on Energy and Commerce  
United States House of Representatives**

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Chairman Whitfield, Ranking Member Rush, and members of the Subcommittee:

Thank you for the opportunity to testify.

My name is Cheryl LaFleur, and in July 2010, I was confirmed as a Commissioner of the Federal Energy Regulatory Commission. In my past career, I had the privilege of serving electric and natural gas customers in New England and New York. That experience taught me firsthand just how important electric reliability is to real people and real communities. Since joining the Commission a little over a year ago, I have made reliability one of my top priorities. I appreciate the opportunity today to discuss the potential impact the EPA's regulations may have on electric reliability.

For some time now, we have been hearing about the EPA's proposed air and water regulations and their potential to affect our energy supply. Although not all of these regulations are final, I believe it is important to consider them as a package when assessing their potential effect on reliability. This is because the owner of a power plant will appropriately consider all of its EPA compliance obligations, among other factors, in determining whether it is economically feasible to retrofit or repower a unit, or whether it makes economic sense to retire the unit.

The decision to retrofit or retire is dependent on facts and judgments that are specific to each unit. While it is possible for a state or regional planning authority to model different

retirement scenarios, these scenarios are based on assumptions that cannot account for the highly sensitive and confidential financial information that a unit owner is likely to rely on in making its decision.

Should the owner of a power plant decide to retire a unit because the unit cannot be economically retrofitted to meet the new EPA regulations, it must notify the state or regional planning authority of its decision. The regional planning authority must then determine the reliability implications of the retirement and consider next steps: (1) is there enough available generation and/or transmission to allow the unit to retire without adversely affecting reliability, or (2) will the retirement create the need for new generation, transmission, or other resources (such as demand-side resources) in order to maintain reliability?

Like a unit owner's decision to retrofit or retire, the reliability consequences of a retirement will be dependent on the specific facts of each case, each locality, and each region. While the EPA regulations are not expected to affect our resource adequacy as a nation, they may present reliability issues in particular localities or regions. In some regions, conditions may be such that a retirement, or even several retirements related to the new EPA regulations will not create a reliability concern. In other areas, the retirement of even a single unit may create the need for an alternative.

In this regard, I believe that for studies about the potential effects of the EPA regulations to have the most accuracy and predictive value, they must be conducted after the regulations are final and unit owners have decided whether to retrofit or retire. Studies under these conditions do not require the extensive number of assumptions required for a nation-wide analysis and are more likely to identify the regions that may face reliability concerns.

If a retirement does create a potential reliability issue, the unit owners, in conjunction with state and regional planning authorities, must determine what resources will replace the unit, how long it will take to bring the replacement resources into service, and what to do in the interim. Given the long lead times for certain types of resources, there may be a gap of time when a replacement facility is not available, but the retiring unit is no longer compliant with EPA regulations. In such cases, a time-limited waiver of EPA regulations may be needed. In some cases, a “reliability must-run” (RMR) contract may also be needed to allow the power plant to operate within certain discrete parameters for a limited period of time.

It is important to note that the process I just described is not unique to potential retirements related to the EPA’s regulations. State and regional planners have used, and continue to use, this general process for any retirement, including those driven primarily by market conditions. The EPA regulations are significant in that they present the potential for significant retirements in the same timeframe. As I have said, however, whether and how this affects reliability is dependent on the highly specific facts present in each region and locality.

Once the local reliability considerations of a particular unit’s retirement are known, there will need to be flexibility in specific cases. I believe that the EPA should and does understand this issue.

I do believe, however, that any waivers or flexible solutions must be targeted and discrete. Specific reliability analyses at the local and regional level are much more meaningful than nation-wide estimates. The circumstances of each retirement and need for replacement facilities are fact-specific. I do not personally support a blanket delay of EPA regulations, but will certainly champion specific extensions where needed for reliability.

Because of our jurisdiction over regional transmission planning, utility rates, and reliability standards, FERC should be actively involved in these issues when they arise. I believe that FERC can play an important role in discussions among regional planning authorities, regional reliability entities, the North American Electric Reliability Corporation, utilities, states, and the EPA. While FERC does not have authority to require utilities to build generation or transmission capacity for the adequacy of electric facilities or services, it can use the authority and expertise it does have to help ensure that planning processes allow utilities and planners to assess reliability issues as early as possible, so that adequate measures can be put into place to assure grid reliability.

For example, FERC can examine and approve market rules designed to facilitate reliability. In this regard, the Commission has previously approved locational pricing and forward capacity markets as mechanisms to send price signals about where and when new supply resources are needed. I believe that these market constructs, while not present in all parts of the country, properly price the marginal value of capacity and help to mitigate the concerns that would arise in their absence. I also believe that it would be helpful for FERC to sponsor a workshop (or series of workshops) that brings together states, utilities, regional authorities, and other stakeholders to discuss the impacts of the EPA regulations and assess what tools we collectively have at our disposal. As my remarks suggest, I believe we should focus on ensuring that planners have the tools to respond to local and regional reliability issues.

I believe that we as a nation can ensure that the EPA's proposed air and water regulations do not adversely affect reliability, provided we ensure that there is coordination and flexibility in their implementation.

Thank you very much.