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Hearing on
FERC Perspective: Questions Concerning EPA's Proposed Clean Power Plan and other Grid Reliability Challenges

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

I am honored to serve as the Chairman of the Federal Energy Regulatory Commission (FERC or Commission). I have appeared before this Subcommittee several times in my roles as a Commissioner and Acting Chairman of the Commission. Today I appreciate the opportunity to testify at this hearing on EPA's Proposed Clean Power Plan and other Grid Reliability Challenges.

Reliability has been a top priority for me throughout my more than four years on the Commission, and it has constituted a growing portion of the Commission's work after the passage of the Energy Policy Act of 2005, which, among other things, granted the Commission new authority over reliability. FERC supports the reliability and security of the electric grid in several ways. For example, FERC is responsible for authorizing the construction of certain energy infrastructure, such as interstate natural gas pipelines, liquefied natural gas terminals, and non-federal hydropower generation. In addition, as part of our responsibility to ensure just and reasonable rates, FERC works to ensure that energy markets provide appropriate signals for investment in needed infrastructure, including wholesale electric generation and transmission facilities. Finally, FERC oversees the development and enforcement of mandatory reliability standards for the bulk power system.

These areas of FERC's work are increasingly important as the nation's resource mix changes in response to a number of factors, including increased availability of natural gas, growing use of renewable energy generation in response to state and federal policies such as renewable portfolio standards, and new environmental regulations. Although these drivers of power supply changes are largely outside of the Commission's jurisdiction, we must be aware of, and adapt to, these developments in order to carry out our responsibilities to promote reliability and ensure just and reasonable rates for customers. With respect to new environmental regulations, FERC has worked with other federal and state regulators, regional transmission organizations (RTOs) and independent system operators (ISOs), the North American Electric Reliability Corporation (NERC), industry, and other stakeholders to understand the potential impacts. In addition, we have worked, and will continue to work, to ensure our regulations and policies concerning

energy markets, infrastructure, and grid operations accommodate and support compliance with these requirements.

Supporting Reliability through Infrastructure, Markets and Rates, and Mandatory Reliability Standards

Before discussing how FERC helps sustain reliability as environmental regulations change, it is important to first understand the many ways in which FERC's work supports reliability.

First, a reliable grid requires the timely development of needed energy infrastructure. The Commission supports such infrastructure development both directly, through its authority to permit the construction of natural gas pipelines, LNG terminals, and non-federal hydropower generation, and indirectly, through its rate authority under the Federal Power Act, Natural Gas Act, and Interstate Commerce Act. For example, the Commission plays a role in the development of interstate electric transmission facilities through its responsibility to ensure just and reasonable rates for wholesale power transmission service. The Commission recently revised its methodology for calculating the return on equity for interstate transmission facilities. This revised methodology will help promote investment in needed transmission infrastructure while ensuring that transmission rates remain just and reasonable. In addition, FERC's work on transmission planning processes facilitates the development of needed transmission infrastructure by requiring more open and cost-effective regional and inter-regional transmission planning.

Second, the Commission's oversight of energy market rates and structures supports reliability by facilitating the development of accurate price signals and efficient market rules. One example of this is our ongoing work to ensure centralized forward capacity markets adequately support the procurement and retention of resources to meet future reliability and operational needs. In addition, because it is crucial that energy and ancillary services markets send the appropriate price signals to attract investments needed to sustain reliability, the Commission recently announced a new proceeding to evaluate issues regarding price formation in the energy and ancillary services markets operated by RTOs and ISOs. The Commission is also working to improve the efficiency of its markets by addressing the coordination of scheduling practices of natural gas pipeline capacity and electricity markets, in light of increased reliance on natural gas by electric generators.

Finally, FERC directly oversees reliability of the grid by approving mandatory reliability standards for the bulk power system pursuant to Congress' direction in section 215 of the Federal Power Act. Reliability Standards are developed by NERC, pursuant to an open and inclusive stakeholder process, and submitted to the Commission for review and approval. These standards support the day-to-day blocking and tackling work necessary to keep the lights on, like tree trimming and relay setting coordination. Nearly 10 years after Congress enacted FPA section 215, I believe FERC has established a solid track record with respect to "blocking and tackling" activities, issuing more than 60 orders on new or modified reliability standards on a wide range of issues, including, among others, reliability planning criteria and protection system maintenance and testing. FERC is also making significant progress on emerging issues, like

cybersecurity, geomagnetic disturbances and physical security. We have approved the Version 5 Critical Infrastructure Protection (CIP) standards, which require that all bulk electric system cyber assets receive a level of protection commensurate with their impact on the grid. We also recently approved the first of two required standards on geomagnetic disturbances (GMD) and just this month proposed to largely accept the first-ever physical security standard for critical facilities.

With that overview of FERC's work to support grid reliability, I will now turn to FERC's activities to sustain reliability under a number of new environmental regulations – including EPA's recently-proposed Clean Power Plan – which are, as I noted above, one of the factors driving major changes in the nation's electric generation resource mix.

Sustaining Reliability Under New Environmental Regulations

EPA is of course responsible for promulgating environmental regulations under the statutes it implements. However, FERC can and should help the EPA understand the implications that such regulations may have on electric reliability and support utility compliance with those regulations where necessary and to the extent possible. Importantly, the Commission's work related to EPA regulations is not limited to interactions with EPA, but also includes collaboration with states, industry, and other stakeholders to evaluate how those regulations will impact the industries that FERC regulates.

One recent example of collaboration between FERC, EPA, state regulators and other stakeholders is on the EPA's Mercury and Air Toxics Standards (MATS) rule. The Commission has monitored and assessed the potential impact of the MATS rule since the rule was issued in 2011, and that work is ongoing. In conjunction with the issuance of the MATS rule in 2011, the EPA indicated that it will seek advice from the Commission, among others, on requests for extra time for electric generators to comply with the rule. In response, FERC issued a policy statement in May 2012 outlining how it will advise the EPA on whether the failure to operate a specific unit might lead to a violation of a Commission-approved reliability standard. The policy statement also detailed the Commission's intention to continue addressing the potential impact of this and other EPA rules on reliability with state commissions in a regularly scheduled public forum, the National Association of Regulatory Utility Commissioners (NARUC)/FERC Forum on Reliability and the Environment, which I co-chaired with Commissioner Moeller and our state colleagues. The Forum met six times over a two-year period and included regular attendance by senior EPA officials. In addition, the Commission has addressed the impacts of the MATS rule as part of technical conferences on reliability held since 2011. Finally, FERC staff also participates in regular conference calls with EPA, DOE, and the RTOs/ISOs to discuss implementation of EPA rules, including the MATS rule, and obtain regular updates regarding ongoing compliance.

I believe that FERC's collaboration with the EPA and other stakeholders on the MATS rule provides a good example of how FERC can lend its reliability expertise as the EPA implements new environmental regulations that may impact the nation's grid and power supply, including the recently-announced Clean Power Plan. However, the Clean Power Plan and MATS rule have some significant differences; while the MATS rule is plant-specific and institutes specific limits on emissions for each power plant, the Clean Power Plan directs each state to create its own state

compliance plan to reach an overall emissions reduction goal. In developing their compliance plans, states may choose from among several different tools, and can coordinate regionally. Additionally, the timeline for implementation of the Clean Power Plan is longer than that for the MATS rule. Although the core tenets of the rules are different, I believe that we should build on the collaborative model used to implement the MATS rule and adapt it to the Clean Power Plan.

FERC has closely followed the development of the Clean Power Plan because it is clear that such regulations and related state compliance plans could have implications for the operation of the grid. In addition, because it appears that vital decisions in this area will be made at the state level, I believe it is important to reach out to our state colleagues on these issues. As an example, the continuing FERC/NARUC work on reliability and the environment that I mentioned previously (which has now been folded into NARUC's standing Electricity Committee) has provided a public forum for conversations concerning these issues, including not only FERC and NARUC representatives, but also senior EPA officials and industry representatives. Furthermore, as addressed in my responses to the pre-hearing questions, FERC staff and EPA staff met in the months leading up to the issuance of the Proposal to discuss concepts under consideration by EPA staff.

Once the Clean Power Plan entered the Office of Management and Budget (OMB) interagency review process, FERC provided input to the EPA primarily from a reliability perspective. Among other recommendations, FERC staff emphasized that in light of EPA's proposal to rely on increased capacity factors for natural gas fired generation resources, gas pipeline adequacy should be considered from a regional perspective, not just a national perspective, due to existing constraints on the system. With respect to the EPA's proposed reliance on increased deployment of renewable resources, FERC staff provided input regarding the general timeline for the construction of transmission to remote resources and identified specific studies that explored questions about dependence on a significant amount of renewables to ensure adequate ancillary services. FERC staff also emphasized that, in order to promote efficient compliance with the Clean Power Plan, the EPA should not only allow but also encourage regional compliance.

As I mentioned earlier, the Commission can support state efforts to reliably comply with the Clean Power Plan both directly, through its authority over permitting of certain infrastructure, particularly natural gas pipelines, and indirectly, through its statutory rate authority, market oversight, and collaborative roles with states and other important stakeholders. With respect to infrastructure, the proposed rule contemplates power supply changes that could require substantial investments in additional infrastructure over the multi-year compliance period to ensure reliability, particularly with respect to increased utilization of gas-fired generation. As a result, I believe that it is important that the Commission continue its work to support the timely development of needed energy infrastructure.

The Commission should also consider whether changes to rate structures and market rules will be needed to support reliable implementation of the state compliance plans. These efforts could include both current Commission initiatives and new initiatives, as appropriate. For example, the Commission held a technical conference in April of this year to explore the impacts of the polar vortex on the RTOs and ISOs. The Commission is in the process of assessing the comments from the April conference, including how the changing resource mix fits with the Commission's

ongoing assessment of the ability of capacity markets and other resource adequacy constructs to meet the future reliability and operational needs of the electric system. This and other Commission initiatives will play a critical role in determining whether adjustments to Commission-jurisdictional rates and markets will be needed to sustain reliability as states implement their state compliance plans.

Finally, once EPA promulgates a final rule and states begin to develop and implement their state compliance plans, I believe FERC, along with NERC and the RTOs/ISOs, should continue to work with the states, industry, and the affected stakeholders to provide needed information and assistance. As the state compliance plans are implemented, FERC must also monitor any reliability impacts from the Clean Power Plan on an ongoing basis. Once the state compliance plans are developed, I believe that the Commission could assist as appropriate in the determination of whether they are simultaneously achievable. One compliance approach available to states under the proposed rule is the use of regional cooperation to meet carbon reduction targets. In the electric sector, the Commission has supported regional approaches for market efficiency and transmission planning purposes, and I believe that regional approaches under the Clean Power Plan could play an important role in facilitating compliance with the rule. In this regard, believe it may be helpful if EPA's process for approving state compliance plans, or modifications to those plans, could include a way to consider interstate and regional reliability issues and address them adequately.

Some stakeholders have questioned whether EPA's Clean Power Plan will have an adverse impact on the overall reliability of the bulk power system. I am mindful of these concerns. As this Subcommittee is aware, the states are just beginning the process of developing their compliance plans in order to comply with the proposed rule and have been provided with significant flexibility in their compliance approach. As the states develop their compliance plans, I believe that the Commission will have a role in evaluating the compliance proposals' impacts on matters under the Commission's jurisdiction, including infrastructure, market rules, and reliability.

Conclusion

Clearly, the Commission must remain engaged with EPA, states, industry, and other stakeholders in the coming years as new EPA regulations are implemented. I believe that recent experience with the MATS rule demonstrates that the Commission takes its role in reliability seriously, and I look forward to continuing the Commission's work on these important issues. I thank the Subcommittee for giving me the opportunity to appear before you today, and I welcome any questions you may have.