



## ***Slaughtering the Independent Agency? What *Trump v. Slaughter* Means for FERC***

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On June 29, 2026, the United States Supreme Court issued *Trump v. Slaughter*, fundamentally reshaping presidential removal authority over independent regulatory agencies. The decision overruled a 90-year-old precedent established in *Humphrey's Executor v. United States*, which had upheld the constitutionality of commissioner removal protections in the Federal Trade Commission Act (FTC Act). As written, the FTC Act permits a commissioner's removal "only for inefficiency, neglect of duty, or malfeasance in office." In *Slaughter*, the Court was asked to reevaluate this standard following the President's removal of a Democratic-appointed FTC commissioner from office in 2025 without cause. Finding for the President, the Court held that removal was permissible because the FTC Act's for-cause removal protections for commissioners violate the separation of powers, specifically, the President's removal power under Article II. The Court explained that the FTC exercises executive power because it promulgates binding rules, investigates and enforces those rules through administrative adjudications, and brings civil enforcement actions in federal court. It found that because it exercises these executive powers, its commissioners "must therefore be controlled by the Chief Executive, in whom such power is vested." While previous recent cases addressing the scope of the Removal Power, *Seila Law LLC v. Consumer Financial Protection Bureau* and *Collins v. Yellen* purported to preserve some kernel of *Humphrey's*, the Court made clear that "[i]f anything more is left of *Humphrey's*, we overrule it."

The *Slaughter* decision has immediate implications for the Federal Energy Regulatory Commission (FERC). FERC's organizing statute creating a five-member commission, the Department of Energy Organization Act, contains identical for-cause removal protections as

those in the FTC Act struck down by *Slaughter*. Although the Court cautioned that it did not determine “the fate of officials not before us,” and on the same day left open the question of for-cause removal protections for the Federal Reserve in *Trump v. Cook*, *Slaughter’s* disclaimer may be insufficient to insulate FERC commissioners from similar removal. Like the FTC, FERC promulgates binding rules, investigates regulated entities, adjudicates enforcement matters and brings civil enforcement actions. If these features place the FTC “well within the heartland of executive power,” they appear to do the same for FERC, making its commissioners subject to at-will presidential removal.

FERC’s future now looks quite different. In an [amicus brief](#), 11 former FERC commissioners argued that eliminating for-cause removal protections could risk “transforming FERC into a politically partisan body.” They explained that FERC has historically been able to reach bipartisan consensus because its structure allows “economic and engineering expertise, rather than partisan politics or each individual commissioner’s policy preferences, to guide decisionmaking.” They argued that if commissioners are now removable at will, FERC could become more susceptible to political pressure and instability from one president to the next.

Even before *Slaughter* issued, FERC had taken steps to align itself with Presidential directives. As [explained](#) by Akin in October 2025, FERC initiated an advanced notice of proposed rulemaking (ANOPR) related to large load interconnections at the direction of the U.S. Secretary of Energy. The ANOPR resulted in a multi-pronged Federal Power Act section 206 investigation launched last month into all six of the country’s FERC-regulated organized power markets, described in greater detail [here](#). FERC has also taken multiple steps to advance the permitting of infrastructure regulated under the Natural Gas Act, including proposed [reforms](#) to its blanket certificate regulations for interstate natural gas pipelines. With *Slaughter* undoubtedly giving the President greater influence over FERC than before, questions may arise as to whether the outcomes of these proceedings were the product of political interference or independent expert judgments, especially in light of the executive branch’s [position](#) that the President and the Attorney General shall provide authoritative interpretations of law for the executive branch. Although FERC already has a majority of Republican-aligned commissioners, unfettered removal provides another tool for presidents to use to pressure agencies to cooperate with their policy aims, regardless of the political party affiliation of the particular commissioner.

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