



## FERC Oversight Hearing Focuses on Clean Power Plan and Natural Gas Permitting Issues

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FERC's role in ensuring reliability as the CPP compliance moves forward, and its ability to oversee wholesale electricity markets as the CPP drives changes in the generation mix, were key concerns for House members attending the hearing. For example, in his opening statement, Subcommittee Chairman Ed Whitfield (R-KY) expressed his view that the EPA has "leapfrogged" FERC and "granted itself authority over electricity well beyond anything in the Federal Power Act," with the result that FERC has "become a helpless bystander."

In response to these concerns, Chairman Bay expressed confidence that any reliability issues arising from compliance with the CPP can be effectively managed. He emphasized that FERC examined potential reliability issues during technical conferences held earlier this year. He also noted that, based on the information gathered in those conferences, FERC provided suggestions to EPA that were adopted in the final CPP (including the requirement that state plans undergo a "reliability review" prior to submission to EPA, as well as the "reliability safety valve" to address unanticipated reliability issues once state plans are in place). Chairman Bay further reiterated that FERC staff and the EPA will be meeting on a regular basis to analyze reliability issues that could arise under the CPP.

Not all of the commissioners were as optimistic as Chairman Bay regarding the potential reliability and market impacts of the CPP. Commissioner Clark—FERC's lone Republican appointee—expressed concerns regarding the ability to develop the infrastructure needed (including natural gas pipelines and electric transmission) to effectuate the massive shifts in generation contemplated by the CPP within the compliance timelines laid out in the final rule,

and the potential cost impacts to consumers of compliance in some states. He also suggested that FERC should have a more explicit role in reviewing state plans to ensure that they will not negatively impact grid reliability. Finally, alluding to ongoing legal challenges to the CPP, Commissioner Clark worried that “states [will] make enormous investments in meeting a rule that ultimately three or five years down the line is vacated by the Supreme Court.” To avoid this result, Commissioner Clark suggested that there should “at least be a pause in” the CPP—by either legislation or litigation—“so it doesn’t go into effect, and we don’t start having some of these large investments being made.” Commissioner Clark’s suggestion, if adopted, would be akin to a judicial stay of the CPP, which several states and industry groups have already sought before the U.S. Court of Appeals for the D.C. Circuit.

Members also expressed concern regarding FERC’s ability to continue to make timely decisions on natural gas pipeline permit applications, particularly since additional pipelines are proposed to support increased use of natural gas for power generation. Coincidentally, on the same day as the hearing, debate began on Energy and Commerce Committee Chairman Fred Upton’s (R-MI) H.R. 8, the North American Energy Security and Infrastructure Act of 2015, which contains provisions to address these very issues.

In response to these concerns, Chairman Bay noted that “about 90 percent-plus” of the project applications that FERC receives “are certificated within one year” and that FERC has added additional resources to its Office of Energy Projects to address the uptick in filed applications. He hinted that FERC may seek additional funds in a future fiscal year to add more resources to address such applications, however.

For his part, Commissioner Clark noted that processing applications to site new natural gas pipeline and electric transmission infrastructure is increasingly challenged by a new kind of opposition. While landowners directly impacted by such infrastructure have always sought to express their views about particular projects, Commissioner Clark explained that such projects are now facing more general “just say no” opposition from interest groups intending to block or delay certain categories of new energy infrastructure (such as all new natural gas pipelines). This new kind of opposition has the potential to create additional delays in the permitting of needed infrastructure, he suggested.

Other issues discussed at the hearing included FERC’s Order No. 745 (now before the Supreme Court); the physical security and cybersecurity of the grid; generation resource adequacy in the face of looming coal-fired, power plant retirements; the economic health of baseload

resources, such as nuclear and coal; and the encouragement and integration of smart-grid technologies.

## Categories

Energy Regulation, Markets & Enforcement

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