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United States Senate

COMMITTEE ON
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February 15, 2022

The Honorable Richard Glick
Chairman

The Honorable James Danly
Commissioner

The Honorable Allison Clements
Commissioner

The Honorable Mark C. Christie
Commissioner

The Honorable Willie L. Phillips
Commissioner

Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Dear Chairman Glick and Commissioners:

Thank you for your responses to my December 15, 2021 letter. Consistent dialogue with the Federal Energy Regulatory Commission (“Commission” or “FERC”) is part of my oversight obligation as Ranking Member of the Committee on Energy and Natural Resources. As I have written before, the Commission’s orders directly impact whether American families have access to abundant, affordable, reliable and resilient supplies of energy.

The significance of the Commission’s work for the American people has never been clearer. Recent events in the United Kingdom provide just one example of what is at stake when regulators of natural gas and electricity make decisions that cause energy to become more expensive and less reliable. The events in the U.K. are a warning for our country. They dramatically demonstrate that insufficient natural gas presents a dangerous snowballing effect.

The U.K. regulator’s decision to close the country’s largest natural gas storage facility left British markets vulnerable to spikes in the price of natural gas.¹ In the last 12 months, the U.K. regulator has raised rate caps for *electricity* 66%. This action was prompted by the combination of high natural gas prices and less than expected

¹ Competition and Markets Authority, *Rough Gas Storage Undertakings Review Final Decision*, at 18-19 (2017). [Rough gas - Final decision \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554447/Rough_gas_-_Final_decision_publishing.service.gov.uk)

wind-generated electricity from the North Sea. In 2022, by one account, 1 in 10 Britons may have to decide between “heating and eating,”² or falling victim to “energy insecurity.”

You are the federal regulators we count on to keep energy insecurity from increasing in the United States. By one estimate, a 10% increase in home energy prices in the United States would force an additional 7 million people to spend an additional 10% of their income on home energy. This burden would drive almost a million Americans into poverty.³ Moreover, a failure in the reliability of natural gas or electric service can quickly become a matter of life and death.

The good news is that the record of our correspondence over the last 11 months shows that the five of you share my conviction that, as Commissioner Clements put it, there is “no higher priority [for FERC] than helping assure the public receives affordable and reliable electric and natural gas service.”⁴ It is clear that all of you embrace Chairman Glick’s commitment “to put [natural gas] certificate orders up for a vote when they are ready to proceed . . . even if [the Chairman] would be in the minority and [would decide he is] compelled to dissent.”⁵ There is also consensus that the Commission must issue legally durable orders and foster regulatory certainty.

The bad news is that the same correspondence shows that Commissioners starkly disagree about the steps FERC should take to serve these priorities. I agree with the assessment of Commissioners Danly and Christie. Current FERC policies are endangering reliability and may lead to the kind of price spikes recently seen in Europe.

The Commission’s *Sunshine Act Meeting Notice* for its next regular open meeting (to be held on February 17, 2022) shows that you may soon take up two critical matters: the Commission’s expected revisions to its 1999 Pipeline Policy Statement (“Policy Statement”)⁶ and its Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews (“GHG Considerations for NG Project Reviews”).⁷ Your orders in these proceedings must not increase threats to the reliability and sufficiency of interstate natural gas service or wholesale electric service.

The revised Policy Statement and the new GHG Considerations for NG Project Reviews must enable FERC to process natural gas applications in a timely manner. At the same time, these orders must increase, not decrease, regulatory certainty. The Commission can and must meet its obligations under the Natural Gas Act and the National Environmental Policy Act without letting environmental considerations eclipse its highest priorities for reliability and affordability of electric and natural gas service. Meanwhile, the Commission must demonstrate that pending revisions to the Policy Statement or the new GHG Considerations for NG Project Reviews will not further delay action on currently pending applications for Certificates.⁸ As I read your responses to my letter of December 15, 2021, it appears that, to serve a stated desire that its orders survive judicial review and despite prior assurances to the contrary, the Commission will subject natural gas projects to unnecessary and potentially crippling delays.

One project that faces this danger, and serves as an example of the larger national issue, is the Clear Creek Expansion Project, a natural gas storage project in southwest Wyoming (“Clear Creek”). Clear Creek’s application was filed on October 9, 2020. Two months later, FERC issued a notice that it would prepare an environmental assessment (“EA”) for Clear Creek. FERC established May 13, 2021 as its deadline for the

² Brian Sullivan, *UK Power Regulator Approves Record Price Hike for Power Companies*, CNBC (Feb. 3, 2022), <https://www.youtube.com/watch?v=XpDKITx6dAA>

³ *Plenty at Stake: Indicators of American Energy Insecurity*, Senate Energy and Natural Resources Committee Ranking Member Lisa Murkowski and Senator Tim Scott, 113th Congress, September 2014 at 1. [075f393e-3789-4ffe-ab76-025976ef4954](https://www.senate.gov/imo/media/doc/record/2014/09/01/075f393e-3789-4ffe-ab76-025976ef4954) (senate.gov)

⁴ Commissioner Clements February 1, 2022 Response to Senator Barrasso’s December 15, 2021 Letter, at 1.

⁵ Chairman Glick February 1, 2022 Response to Senator Barrasso December 15, 2021 Letter, at 3.

⁶ Docket No. PL18-1-000

⁷ Docket No. PL21-3-000

⁸ See Chairman Glick May 21, 2021 Response to Hoeven, Barrasso, Manchin et al. April 29, 2021 Letter, at 1.

issuance of the EA, a date that came and went. Months later, on August 26, 2021, FERC staff changed its position and said it would prepare an environmental impact statement (“EIS”). On January 20, 2022, the Commission issued a notice that extends the schedule even further. The January 20 notice sets March 15, 2022 for the issuance of the EIS and then records the “Federal Authorization Decision Deadline” 90 days later – or not until mid-June. Under this schedule, it is conceivable that the Commission may not act on this critical project until July 2022 or even later. It is imperative that the Commission complete its work ahead of its schedule and not fall further behind. In any case, the Commission must not require Clear Creek to comply with the revised Policy Statement or the new GHG Considerations for NG Project Reviews.

Administrative delays hit projects in Wyoming particularly hard. Our short construction season effectively begins in May after the spring thaw and continues only through October, when freezing weather begins to set in. Even a delay of a few weeks in a project’s approval often can lead to a much longer delay. According to FERC’s latest schedule for Clear Creek, there is a significant risk of a compounding delay for the start of construction and, ultimately, for the in-service date of this critical Wyoming project. Practically speaking, if the Commission does not act on Clear Creek sooner than the last date on the January 20 notice, for example, by May 31, 2022, the project will be at severe risk of losing an entire construction season. The result could be that Americans across the West will not have the benefits of this natural gas storage until years later than planned. At worst, this delay and uncertainty could cause customers and investors to question whether the project would remain viable. As we have seen in the U.K., natural gas storage is a feature of a robust natural gas system that helps cushion price volatility for consumers.

My constituents have a direct interest in seeing that Clear Creek can go into service as soon as possible. All Americans have an interest in avoiding similar challenges that projects throughout the nation now face. Thus, at a minimum, I urge you to apply the revised Policy Statement and the new GHG Considerations for NG Project Reviews prospectively only.

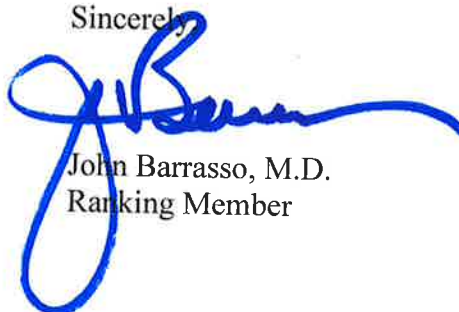
Finally, please answer the following questions:

1. Will you reconfirm that the Commission will not put any application currently under review on hold while it completes its work on these new policies? If not, why not?
2. Will you confirm that projects under review prior to issuances in PL18-1-000 or PL21-3-000 or related proceedings will not be subject to those issuances? If not, why not?
3. If the Commission decides that it is required by the courts and the Natural Gas Act to consider either downstream or upstream greenhouse gas emissions associated with a natural gas project, how will it assure that it is not “double-counting” or exaggerating greenhouse gas effects, for example, by attributing those effects to pipelines as well as to related facilities such as storage facilities or compressor stations?
4. For Chairman Glick, Commissioner Clements, and Commissioner Phillips: why isn’t it possible to consider downstream or upstream greenhouse gas emissions with an EA without performing an EIS?

As each of you has done in the past, please address this letter in an expeditious and appropriate manner consistent with the Commission’s rules.

Thank you for your consideration, and I look forward to your prompt response.

Sincerely,



John Barrasso, M.D.
Ranking Member