

**Written Testimony of Allison Clements
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**Before the Committee on Energy and Natural Resources
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Chairman Manchin, Ranking Member Barrasso, and Members of the Committee, thank you for the opportunity to testify this morning. The Commission's core responsibility under the Federal Power Act (FPA) is to ensure reliable, affordable electric service for the American public. Its core responsibility under the Natural Gas Act (NGA) is to assure just and reasonable rates for the interstate transportation and sale of natural gas and the consideration of gas infrastructure consistent with the public interest. For several decades the Commission has met these objectives by adapting its regulations to reflect changing circumstances, which include technological advancements, shifting economic and market dynamics, the emerging cyber threat, and evolving federal, state, and local energy regimes and policies.

While the Commission's adaptation to change is familiar, the current magnitude of the challenges driving the need for change is unprecedented. My testimony today describes three priorities the Commission should pursue to satisfy our obligation to protect customers while facilitating a robust, reliable, and resilient federal energy system.

First, we must safeguard the energy system against extreme weather.

Members of this Committee in particular understand the suffering and issues posed by excessive temperatures, drought and wildfires in the Western half of the nation, increasing frequency and severity of hurricanes in the Gulf Coast and Eastern seaboard, and unusual heat domes and extreme cold around the country.¹

Current policies are not adequate to meet these new realities. The Commission has appropriately opened a docket examining challenges posed by extreme weather. Policy issues

¹ U.S. Gov't Accountability Office, GAO-21-423T, *Electricity and Grid Resilience: Climate Change is Here and Expected to Have Far-Reaching Effects and DOE and FERC Should Take Actions* (2021). In August, 104 large fires were burning in the United States. See Madeline Holcombe, and Joe Sutton, *Wildfire conditions expected to continue in the West*

cannot be boiled down to just a reliability standards problem, just a market design or resource adequacy issue, or just a transmission planning failure. As FERC and NERC staff described in the preliminary findings from the extreme cold weather event in Texas and the Central U.S. (Storm Uri), we must address extreme weather risk across these areas holistically to ensure system reliability and resilience.

While staff's inquiry into Storm Uri remains ongoing, I anticipate that necessary changes will include updating reliability standards, improving planning practices to better assess which resources will truly perform when needed, and facilitating the construction and enhancement of infrastructure to ensure the energy system performs reliably during these events. We should also consider market designs to ensure that they value the important flexibility service that many resources, including hydropower and fast-ramping batteries, provide to the system. Given that the challenges presented implicate the overlapping jurisdiction of other regulatory bodies, the Commission must work cooperatively with other entities in implementing solutions.

Second, we must reform FERC's regulations to facilitate construction of cost-effective high voltage transmission infrastructure.

Action to spur construction of high voltage transmission infrastructure is a priority for two reasons. First, as was affirmed in initial analysis of Storm Uri, grid responses to extreme weather events continue to benefit from the reliability and resilience value of linking grid regions together via high voltage transmission. Earlier polar vortex events, in 2014 and 2019, similarly illustrated this critical reliability value.²

Second, the U.S. transmission system is not equipped to integrate new resources that otherwise outcompete existing resources and meet consumer demands for clean energy. Declining costs of wind, solar, and hybrid (wind or solar plus battery storage) generation, which

through next month as dozens of fires are burning in the US, CNN, Aug 17, 2021, available at <https://www.cnn.com/2021/08/17/weather/us-western-wildfires-tuesday/index.html>. *See also* Theresa Waldrop, CNN, "Hurricane Ida took down more power poles in 2 states than Katrina, Ike, Delta and Zeta combined, power company says," Sept. 8, 2021, available at <https://www.cnn.com/2021/09/07/us/hurricane-ida-aftermath-louisiana-tuesday/index.html>.

² *See e.g.*, North American Electric Reliability Corporation, "2019 State of Reliability," June 2019 at viii.

make up the majority of new supply seeking to connect to the grid, are making these technologies competitive. Continued development of these resources will not only contribute to decarbonization mandates and commitments by states, cities, corporations and utilities, but will also lower electricity costs for all customers, across all states.

Current transmission planning practices do not adequately account for this changing grid mix. Instead, they generally plan grid upgrades in a piecemeal fashion that examines reliability, economic, and public policy benefits in siloes, based on analysis that is not sufficiently forward-looking to protect customers. The result has been inadequate buildout of the high-voltage transmission system, leading to overloaded interconnection queues and costly project development delays. Nearly 750 gigawatts of generation are mired in interconnection queues across the country, including nearly 700 gigawatts of renewable generation.³

It is clear that a significant buildout of transmission is the optimal approach to capturing the benefits that low-cost clean energy resources present. A leading study from Princeton University, for example, estimates that a least-cost approach to reaching a national net zero greenhouse gas emissions target would require roughly 60 percent more high voltage transmission infrastructure than exists today by 2030, and a tripling of such infrastructure by 2050.⁴

Failure to act will endanger both customers and broader system reliability. The Commission in July issued an Advance Notice of Proposed Rulemaking (ANOPR) that examines

³ See Joseph Rand, *Queued Up: Characteristics of Power Plants Seeking Transmission Interconnection as of the End of 2020*, Lawrence Berkeley National Laboratory, May 2021, available at https://eta-publications.lbl.gov/sites/default/files/queued_up_may_2021.pdf. In the nation's two largest RTO regions, Midcontinent Independent System Operator (MISO) and PJM Interconnection (PJM), 80% and 79%, respectively, of the total capacity in the interconnection queue comes from solar and wind projects. See MISO, *Generator Interconnection Queue – Active Projects Map*, available at <https://giqueue.misoenergy.org/PublicGiQueueMap/index.html>; PJM, *New Services Queue*, available at <https://www.pjm.com/planning/services-requests/interconnection-queues.aspx>.

⁴ Eric Larson, et al., *Net-Zero America: Potential Pathways, Infrastructure, and Impacts, interim report*, Princeton University, Princeton, NJ, December 15, 2020.

how holistic, forward-looking planning, based on a more accurate assessment of future conditions, can avoid such outcomes. The ANOPR asks how we can leverage available modeling techniques to craft more realistic future scenarios to guide planning. It explores how we can better assess the full suite of benefits of large-scale transmission to improve the benefit-cost analyses that inform decision-making. It considers how to integrate transmission planning and generator interconnection—processes that, while separate today, could offer tremendous customer savings and other benefits if co-optimized. Finally, it asks about enhanced oversight and transparency to ensure money is spent wisely.

In working towards this reform, the Commission should continue its efforts to improve state-federal and inter-agency coordination. The FPA’s framework of cooperative federalism and the siting processes that accompany new infrastructure development—state and federal—assure that the Commission cannot successfully play its role in addressing the challenges described above without respect for, and cooperation with, the states and relevant federal agencies.

For example, the Commission’s recent creation of a joint federal-state task force with the National Association of Regulatory Utility Commissioners (NARUC) will examine a broad array of transmission planning issues and opportunities, alongside state partners that are responsible for transmission infrastructure siting. The Commission also recently issued a policy statement making clear that states and utilities are not precluded from pursuing voluntary agreements to plan and pay for new transmission facilities that support their priorities.

Third, we must modernize the Commission’s interstate gas pipeline certification approach to protect the public interest and increase regulatory certainty.

I am eager to achieve a legally durable framework for considering certificate applications under section 7 of the NGA—one that achieves balance and provides consistency and regulatory certainty to both project sponsors and the public we are pledged to serve. The Commission’s outstanding notice of inquiry (NOI) on updating our 1999 Policy Statement on the Certification of New Interstate Natural Gas Facilities (1999 Policy Statement) provides a robust record to consider the perspectives of stakeholders across the energy sector towards this goal.

While we are considering the NOI record, however, we cannot ignore our responsibility to implement the 1999 Policy Statement consistent with our statutory obligations as interpreted

by recent decisions of the D.C. Circuit Court of Appeals. The D.C. Circuit has made clear that the Commission is obligated under both the NGA and the National Environmental Policy Act (NEPA) to carefully consider a project’s potential environmental impacts from greenhouse gas emissions, as well as impacts on environmental justice communities.⁵ The Commission must also more fully consider need in its determination of public convenience and necessity under the NGA, and not rely solely on affiliate precedent agreements.⁶ The D.C. Circuit’s recent vacatur of the Commission’s decision granting Spire Pipeline’s certificate demonstrates the harms that may befall project developers and consumers when the Commission’s decisional process falls short.

As part of this effort I have prioritized improved public participation in Commission proceedings, which will provide more fulsome records that lead to stronger decision-making and more durable outcomes in pipeline certification and other proceedings within the Commission’s jurisdiction. The Commission recently established its Congressionally-directed Office of Public Participation (OPP), which is intended to do just that.⁷

It has been the greatest honor to begin service to the American people. Thank you again for the opportunity to testify today.

⁵ See *Vecinos Para El Bienestar De La Comunidad Costera v. FERC*, 6 F.4th 1321, 1329-31 (D.C. Cir. 2021) (remanding Commission orders approving liquefied natural gas facilities based on inadequate analysis of GHG and environmental justice impacts under NGA and NEPA); *Birckhead v. FERC*, 925 F.3d 510, 519-21 (D.C. Cir. 2019) (Commission has authority under NGA to deny certificate based on environmental impacts, making approval of a proposed pipeline a “legally relevant cause” of downstream GHG emissions for NEPA purposes); *Sierra Club v. FERC*, 867 F.3d 1357, 1374 (D.C. Cir. 2017) (*Sabal Trail*) (vacating and remanding Commission order authorizing natural gas pipeline facilities for inadequate analysis of impacts of downstream GHG emissions).

⁶ *Environmental Defense Fund v. FERC*, 2 F.4th 953, 976 (D.C. Cir. 2021) (*Spire*) (vacating and remanding Commission decision granting certificate to Spire Pipeline STL for impermissible reliance on affiliate precedent agreement).

⁷ Federal Power Act Section 319, 16 U.S.C. § 825q-1.