

**U.S. Senate Committee on Energy and Natural Resources  
September 7, 2017 Hearing: Pending Nominations  
Questions for the Record Submitted to Mr. Richard A. Glick**

**Questions from Senator Ron Wyden**

**Question 1:** The Jordan Cove Energy Project is a proposed Liquefied Natural Gas (LNG) export terminal at the Port of Coos Bay in Southwestern Oregon. FERC denied the 232-mile pipeline and export facility project in 2016. In February, Jordan Cove entered into FERC's pre-filing phase, and expects to officially refile its application for FERC approval by the end of September. While there is considerable local support for Jordan Cove, there are also local concerns about the potential environmental impacts of the project and the use of eminent domain.

In April the Trump administration met with officials from Jordan Cove. After the meeting, *The Washington Post* reported that a Trump advisor stated "the first thing we're going to do is we're going to approve a pipeline in the Northwest." This statement generated a fair amount of controversy in Southern Oregon, and in response, our Oregon delegation of U.S. Senators sent a letter to Trump demanding that he avoid political interference in the FERC process.

I strongly believe that FERC – an independent agency with a longstanding tradition of bipartisanship and that operates under a deliberative process that includes broad stakeholder engagement and strict adherence to the law -- must be free from undue political influence.

**Do you think it is appropriate for a senior White House official to exert public pressure on FERC to make a formal determination about any given project?**

**Should you be confirmed as a FERC commissioner, will you commit to avoiding, and when appropriate, reporting to the relevant authorities, any inappropriate activity that could be interpreted as political interference from the White House in FERC's deliberative permitting process in Oregon and nationwide?**

**Earlier this year, I requested president Trump restore bipartisanship at the Commission by nominating commissioners from both parties. How will you commit to working in a fair, balanced, bipartisan and transparent fashion during all of your FERC dealings?**

**Answer:** FERC is an independent regulatory agency. It would be inappropriate for any White House official to pressure FERC through any means on the outcome of a particular Commission decision. If I am confirmed, I will avoid any political interference from the White House on all matters before the Commission.

FERC typically operates in a bipartisan fashion. I understand the vast majority of Commission decisions are unanimous. During my career – both in government and in the private sector – I have tried to commit myself to working on a bipartisan and transparent basis. I intend to bring this same attitude to the Commission should I be confirmed.

**Question 2:** I am concerned about abuse of eminent domain by the natural gas and pipeline industries in recent years, aided and abetted by premature and improper FERC authorization of

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eminent domain. A review of FERC's approval process is needed, because of the ramifications of the certificate, which grants the holder the ability to exercise eminent domain.

**If confirmed, will you take steps to review, and revise if necessary, the eminent domain proceedings at FERC?**

**Also, can you commit to holding an evidentiary hearing, as articulated in FERC's official policy, when a significant amount of eminent domain is implicated in a project?**

**Answer:** I understand that the Natural Gas Act statutorily conveys the ability to exercise eminent domain authority to the pipeline company once it has received a Certificate of Public Convenience and Necessity.

If confirmed, I will work with my colleagues to consider and address the concerns of landowners impacted by the Commission's pipeline siting process.

**Question 3:** Energy storage is one of the most rapidly growing energy technologies out there, and it can provide multiple benefits to the grid. Storage would also reduce the overall cost of electricity to American homes and businesses by allowing low-cost energy produced at night from any source to be stored to meet peak demand during the day when less efficient, more expensive generation sources are added to meet peak demand. Since this cycle repeats itself day in and day out, storage could help lower everyone's electric bills 365 days a year.

FERC currently has a proposal before the Commission to more effectively integrate electric storage resources into organized wholesale markets to enhance competition and help ensure that these markets produce fair and reasonable rates. Proponents of energy storage are concerned that the Commission is slow walking the rulemaking process.

To get my vote, I'm going to need to see you commit to removing unfair barriers to energy storage--and other emerging technologies, like distributed energy resources--in the wholesale electricity markets.

**Do you agree FERC should be promoting technology-neutral competitive markets?**

**Will you be supportive of completing the current FERC energy storage rulemaking, in a way that gives storage a clear signal that it can participate in wholesale markets?**

**Answer:** It is not FERC's role to promote any specific technologies. However, I believe it is imperative that FERC acts to eliminate barriers to technologies that constitute undue discrimination under the Federal Power Act, which may include rules that prevent a technology from participating in FERC-jurisdictional markets.

I do not believe it would be appropriate for me to comment on a specific matter that I may be called upon to vote. But I do commit to thoroughly reviewing the record associated with the

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proposed rulemaking that would remove barriers to the participation of electric storage and certain types of distributed generation in organized wholesale markets.

**Question 4:** A broad coalition in Oregon, including consumer advocates, electric utilities and environmental groups, has championed recent legislation to increase the renewable portfolio standard to 50% for our state. The state legislature made that decision and the governor signed that into law. Now, in some FERC-supervised markets, this sort of democratic process is under attack. FERC recently held a technical conference to explore those assaults on state authority.

**Do you support the federal government trampling states' rights to pursue state energy policies, such as renewable portfolio standards? Or do you think states should have the authority to establish their own energy policy through their constitutional rights? Given that FERC has endorsed markets and competition for energy and ancillary services, is it your opinion that this approach can be successfully used for any and all providers of all reliability-related services?**

**Answer:** States, not FERC, have traditionally had jurisdiction over utility resource decisions such as decisions to establish state renewable portfolio standards.

I believe reliability-related services can be successfully procured as a part of a competitive market but that these services are not necessarily reliant on the existence of a competitive market. Energy markets and the manner that ancillary services are obtained differ throughout the country. I believe that organized energy markets benefit consumers in those parts of the country that have adopted that structure. However, I also respect the decisions of other parts of the country to rely on a more traditional approach.

**Question 5:** The Pacific Northwest has a long history of beneficial bulk regional exchanges between California, taking advantage of the AC-DC Interties, a major high-voltage transmission import-export path which allows both regions to integrate unprecedented penetrations of renewables cost-effectively and reliability at scale. Inter-regional, and economically beneficial electricity transmission is often neglected by the utility industry because of divisions in service areas, states' boundaries, and preferences of utilities to take narrow view of economic benefits.

**How will you facilitate the development of interregional transmission projects shown to provide more efficient or cost-effective solutions to regional needs?**

**How will you ensure that interregional evaluation processes and cost allocation methods encompass the full range of benefits (e.g., reliability, resilience, security, facilitating state policies, and congestion/planning reserve margin reduction) provided by interregional projects? What opportunities will each affected Regional Transmission Organization have to study the project proposals?**

**Answer:** I understand that the Commission has explored the issue of interregional transmission development in recent years. In 2011, the Commission issued Order No. 1000, which attempted

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to improve coordination between neighboring transmission planning regions for new interregional transmission facilities. Order No. 1000 also required each public utility transmission provider to participate in a regional transmission planning process that has an interregional cost allocation method. My understanding is that, to date, the Commission has issued final orders approving interregional transmission coordination procedures for all the pairs of neighboring transmission planning regions that were required to comply with Order No. 1000, and has continued to examine issues related to interregional transmission development as these pairs implement their interregional transmission coordination procedures.

In June 2016 the Commission convened a technical conference that examined, among other things, interregional transmission coordination. During the technical conference, several speakers, as well as some FERC Commissioners, raised the issue of whether the Commission should do more to facilitate interregional transmission development. Following the technical conference, the Commission requested post-technical conference comments on several issues related to interregional transmission development. If confirmed, I look forward to reviewing the record and addressing this matter with my colleagues.

The Commission required in Order No. 1000 that, to be eligible for interregional cost allocation, an interregional transmission project must be selected in each region's regional transmission plan for purposes of cost allocation. As a result, Order No. 1000 provides that all potential interregional transmission projects must be considered through each transmission planning region's regional transmission planning process before those projects are eligible for interregional cost allocation, regardless of whether or not the transmission planning region is also a Regional Transmission Organization.

**Question 6:** Former FERC chairman Norman Bay made comments before he left, noting that it is "inefficient to build pipelines that may not be needed over the long term and that become stranded assets." He also suggested that simply considering precedent agreements may not be an adequate measure of need.

**How would you define need for a gas pipeline? Is having customers for the pipeline's capacity enough? How is that decision-making changed if those customers are the same entities-- or affiliates of those entities--involved in seeking approval for the pipeline?**

**As commissioner, what steps would you take to promote public participation, transparency, and confidence in FERC's pipeline certification process by incorporating community, landowner and scientific inputs?**

**In your view, should FERC have a significantly different process for its certification of gas pipelines than it does for interstate transmission lines?**

**Answer:** Pursuant to the Natural Gas Act, the Commission is required to determine that proposed interstate natural gas pipeline projects are consistent with the public convenience and necessity. Consideration of whether a pipeline is needed is part of that determination. The

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Commission issued a Policy Statement in 1999 outlining what factors FERC would look to in order to determine whether a proposed pipeline is needed. If confirmed, I look forward to reviewing Commissioner Bay's statement and the 1999 Policy Statement further to assess whether it accurately assesses need as part of the Commission's review process.

I believe that public engagement is essential to FERC's pipeline certification process. The Commission is required to issue decisions based on the facts set forth in the public record. This typically includes input from affected landowners, the general public, and other agencies. I look forward to addressing steps the Commission may take in promoting greater public participation, transparency, and trust in the pipeline certification process with my colleagues, if confirmed.

Congress has decided that FERC should have primary responsibility for the siting of interstate natural gas pipelines while the states should have the main responsibility over the siting of electric transmission lines. In 2005, Congress did grant the Commission limited backstop authority regarding the siting of electric transmission facilities. However, court decisions have strictly limited FERC's authority to narrow situations.

**Question 7:** Also in his departing comments from FERC, former chairman Bay noted that it is "in light of the heightened public interest and in the interests of good government, I believe the Commission should analyze the environmental effects of increased regional gas production from the Marcellus and Utica."

**As Commissioner, if confirmed, can you commit to directing Commission staff to conduct such studies on new and expanded pipelines?**

**Answer:** The Commission is responsible for complying with NEPA as part of its interstate natural gas pipeline certificate process. NEPA requires that FERC consider all reasonably foreseeable environmental impacts associated with the addition of a new pipeline. The U.S. Court of Appeals for the D.C. Circuit recently ruled that the Commission failed to properly comply with NEPA when it approved a pipeline project without adequately considering the downstream greenhouse gas emissions that will result from burning the natural gas that pipeline will transport. If confirmed, I commit to complying with NEPA's requirements.

**Question 8:** Chairman Bay also noted that "where it is possible to do so, the Commission should also be open to analyzing the downstream impacts of the use of natural gas and to performing a life-cycle greenhouse gas emissions study." It is my opinion that FERC should incorporate climate considerations into their evaluation of the environmental impacts of proposed natural gas pipelines and liquefied natural gas export facilities, as required under the National Environmental Policy Act.

**As Commissioner, if confirmed, can you commit to including climate change considerations and analysis in the environmental review conducted on new and expanded pipelines?**

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**Questions from Senator Bernard Sanders**

**Climate Change**

**Question 1:** Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?

**Answer:** Yes. There is substantial evidence to conclude that greenhouse gas emissions associated with human activity are contributing significantly to climate change.

FERC does not regulate greenhouse gas emissions. That requires action from the states, Congress and other federal agencies, such as the Environmental Protection Agency. I believe that it is imperative that FERC acts to eliminate barriers to emerging technologies and services that constitute undue discrimination under the Federal Power Act, which may include rules that prevent participation in FERC-jurisdictional markets by sustainable energy sources.

**Question 2:** Energy prices impact all American families. Yet climate change poses catastrophic economic, environmental, and social threats to all Americans. Delaying action on climate change has severe long-term costs. Moreover, renewable energy sources like wind and solar are the cheapest available, and are not subject to the sorts of wild price fluctuations that we see with fossil fuels. When combined with aggressive energy efficiency, they can provide cheaper energy over the long term than dirty fossil fuels.

If confirmed, what steps will you take to help the U.S. transform its energy system, as quickly as possible, from one based on carbon-intensive fuels to one based on clean, sustainable fuels?

**Answer:** While FERC's policies are resource- and fuel-neutral, FERC can, however, eliminate barriers that are impeding the ability of electric generation technologies or energy efficiency products from being compensated for the value they provide wholesale electric markets. I commit to, if confirmed, working with my colleagues to eliminate these barriers, which could help reduce greenhouse gas emissions.

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In addition, as your question suggests, certain renewable electric generation technologies are increasingly cost competitive with more traditional forms of generation. Demand for renewable electricity will likely grow in competitive wholesale electric markets administered by FERC.

**Question 3:** What role do you see FERC has in increasing the reliability of the electric grid in the face of increasingly extreme weather like Hurricanes Harvey and Irma, while ensuring generation is sustainable?

**Answer:** As severe weather events increase, we must take seriously the need to protect reliability and enhance grid resilience. Pursuant to section 215 of the Federal Power Act, the Commission approves reliability standards that are developed by the North American Electric Reliability Corporation (NERC) and enforces those standards. The Commission may require NERC to develop a reliability standard to address a certain matter. The reliability standards are generally resource neutral. I understand that the Commission looks to NERC, which it certified as the Electric Reliability Organization, to perform event analysis for extreme weather events on an interconnection-wide basis. NERC's analysis considers the use and performance of all resources to assess the risks to reliability during extreme weather events. If confirmed, I will work with my colleagues on these matters.

**Question 4:** Are reforms needed to the wholesale markets to support distributed energy resources? If not, do you commit to ensuring that wholesale markets continue to support distributed energy resources? If so, what could be done to ensure wholesale markets better support distributed energy resources?

**Answer:** Distributed energy resources are primarily regulated at the state level and demand for these resources are mainly impacted by state policies. However, these resources also can benefit wholesale electric markets. For instance, energy storage facilities located behind the meter can offer voltage and frequency support that can maintain the reliability of the bulk power system. The wholesale markets, however, do not always compensate distributed energy resources for the value they provide.

Last year the Commission released a proposed rulemaking that would lower potential barriers energy storage and aggregated distributed energy resources may face to participate in the organized wholesale electric markets regulated by FERC. I do not believe it would be appropriate for me to comment on a specific matter that I may be called upon to vote. But I do commit to thoroughly reviewing the record associated with this proposed rulemaking, should I be confirmed.

### **Costs to Consumers**

**Question 5:** In what ways can FERC prevent economic harm to low-income Americans?

**Answer:** The Commission is responsible for ensuring that the rates, terms, and conditions associated with transactions for the wholesale sale and transmission of electricity in interstate

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commerce and the interstate transportation of natural gas are just and reasonable and not unduly discriminatory.

FERC relies upon competitive markets to establish the just and reasonable rate for most wholesale sales of electricity. It is essential that the Commission uses its authorities to prevent market manipulation to ensure that the rates charged are not excessive.

**Question 6:** In Vermont, energy efficiency investments have saved \$279 million in avoided regional transmission system upgrades. What additional steps can FERC take to aggressively promote the use of energy efficiency and other strategies to avoid unnecessary expensive new transmission lines and new baseload power plants?

**Answer:** FERC has taken steps to allow demand resources, such as energy efficiency, to be integrated into the competitive markets it oversees. For example, customer demand resources must be considered on a comparable basis to the services provided by comparable generation resources in local transmission planning processes where appropriate. Additionally, public utility transmission providers must consider proposed non-transmission alternatives on a comparable basis when evaluating potential transmission solutions in their regional transmission planning processes. I also understand that PJM and ISO-NE, two of the organized markets FERC oversees, provide a mechanism for energy efficiency investments to participate in and receive compensation for their capacity value from the wholesale capacity market.

**Question 7:** If confirmed, will you commit to just and reasonable rates for consumers, not just for market participants?

**Answer:** Yes. One of FERC's most significant roles is protecting consumers.

**Supporting the Policy Goals of Individual States**

**Question 8:** Approximately 30 states have passed renewable portfolio standards. States are enacting these policies for a wide variety of reasons including fuel diversity, environmental benefits, and economic development. If confirmed, how would you act to protect these states' clean energy policy?

**Answer:** States, not FERC, have traditionally had jurisdiction over utility resource decisions, such as decisions to establish state renewable portfolio standards.

**Question 9:** While recognizing that FERC must place a premium on system reliability, many states have established aggressive energy policy goals. Vermont, for instance, is committed to reducing greenhouse gas emissions by 90% by 2050. Should you be confirmed, what steps will you take to give more weight to the policy goals of individual states like Vermont?

**Answer:** The states, not FERC, have authority over utility resource decisions such as the authority to require a particular generation mix to meet greenhouse gas emissions goals. If



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confirmed, I will balance FERC's responsibility to ensure that the grid is reliable and wholesale electricity rates are just and reasonable with the policy goals of individual states. On May 1-2, FERC held a technical conference to explore the interplay between wholesale markets and states' policy goals, including their support of particular resource attributes or externalities. If confirmed, I look forward to working with my colleagues to review the record in that proceeding.

**Stakeholder Influence**

**Question 10:** If confirmed, how will you work to prevent undue influence on FERC by the fossil fuel industry?

**Answer:** I commit that, if I am confirmed to serve as a Commissioner, I will not allow the fossil fuel industry or any other interested group to unduly influence any action I take. I also will work with my colleagues to promote transparent decision-making processes and for the Commission to reach out for input from affected parties that do not have the resources to sufficiently participate in FERC proceedings.

**Question 11:** One of FERC's most important responsibilities is to investigate market manipulation and enforce related rules. Is FERC devoting adequate resources to these enforcement activities? Are the fines sufficient? If confirmed, what steps will you take to sustain and improve on FERC's enforcement capacity and success?

**Answer:** If we are going to rely on competitive markets to produce just and reasonable wholesale electricity rates, it is imperative that those markets be free from market manipulation. Congress in 2005 gave FERC additional authority to prevent market manipulation. In my opinion, FERC's Office of Enforcement has done a good job of policing jurisdictional markets. If confirmed, I will work with my colleagues to ensure that the enforcement program continues to receive adequate resources and vigorously performs its duties.

**Question 12:** FERC is incredibly complicated, and the barrier to entry for someone to simply understand FERC proceedings, much less to participate, is extremely high. Stakeholders with considerable financial resources can participate, but everyone else is effectively excluded. How can FERC do a better job of ensuring all interested parties can meaningfully participate in FERC processes?

**Answer:** It is important that FERC's proceedings be transparent and accessible. As you point out, not all stakeholders potentially impacted by a Commission decision have the resources necessary to monitor Commission proceedings on a consistent basis. If confirmed, I will work with my colleagues to promote greater transparency and accessibility.

**IMAPP and Regional Initiatives**

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**Question 13:** New England has a regional ISO engaged in the process known as IMAPP – integrating markets and public policy. The ISO and FERC are beginning to acknowledge these administrative markets are in conflict with some of the objectives states have with regard to energy policy.

If confirmed, would you support efforts, such as in New England, to develop fixes to wholesale markets to better implement state policy goals?

**Answer:** The Commission held a technical conference on May 1-2 to examine the interplay of state policy goals and the wholesale energy and capacity markets. If confirmed, I look forward to reviewing the record in that proceeding.

**Question 14:** Energy markets do not accurately reflect environmental costs, including the social costs of carbon pollution. Do you believe that FERC and wholesale market operators should continue to explore how to better integrate the real cost of carbon pollution into our energy markets?

**Answer:** FERC's policies are resource- and fuel-neutral. If the states that comprise an RTO or ISO agree on a particular market design measure that prices greenhouse gas emissions, FERC could approve the measure if it meets the standards required by the Federal Power Act.

**Question 15:** The New England region saw considerable price increases in the region's forward capacity auctions (FCAs) in 2014. In recent auctions, costs have come down, while the region has been able to secure sufficient resources to maintain system reliability. Part of the reason why auction prices came down is because ISO-New England included more renewable energy in its installed capacity requirement (ICR). ISO-New England has continued to improve its inclusion of renewable energy in the ICR calculation, but could do better.

How can ISO-New England's consideration of energy, efficiency, renewable generation, and improved metrics in the forward capacity auctions that value the benefits of carbon-free generation help reduce system costs and improve system reliability?

**Answer:** Reducing system costs and ensuring reliability is important. As the costs of wind and solar power continue to decline, these resources are playing an increasingly important role in organized wholesale electric markets. I understand that, in recognition of certain public policy initiatives, ISO New England recently prioritized the modeling of behind the meter renewable resources in making adjustments to its ICR. Further, ISO New England and other independent system operators are seeking to accommodate efforts by the states to promote certain public policy initiatives. The Commission held a technical conference on May 1-2 on the issue of harmonizing wholesale market structures and state policy initiatives. I look forward to reviewing the record from the technical conference should I be confirmed.

**Question 16:** Large-scale renewable generation currently faces a large barrier for bidding into the FCAs because of upfront costs. If confirmed, will you commit to working with the New

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England ISO to continue reducing the barriers to including more renewables into the ICR and for bidding into its energy auctions?

**Answer:** The ISO New England's capacity market rules are complex, and constructing the ICR is an important part of those rules. I understand the importance of appropriately recognizing the increasing presence of renewable energy resources while keeping the grid reliable. If confirmed, I look forward to addressing this issue with my colleagues.

**Natural Gas Pipeline Infrastructure**

**Question 17:** While instilling important powers in the federal government, the Clean Water Act also ensures the protection and respect of states' rights. Section 401 of the Act explicitly states that no [federal] license or permit shall be granted until the certification required by this section has been granted or waived. Similarly, the U.S. Supreme Court has said Section 401 requires States to provide a water quality certification before a federal license or permit can be issued and without [Section 401] certification, FERC lacks authority to issue a license.

Given the language of the Clean Water Act and its interpretation by the Courts, do you think it appropriate that FERC is routinely issuing its Certificates of Public Convenience and Necessity for pipeline projects prior to all affected states rendering their decisions on Section 401 certification? If confirmed, will you commit to ensuring all relevant state level permits are granted prior to issuing a Certificate of Public Convenience and Necessity for any pipeline project?

**Answer:** I understand that it has been Commission policy to issue conditional certificates of public convenience and necessity for natural gas pipeline projects, and that those certificates preclude natural gas companies from commencing construction until they have obtained all necessary authorizations under federal law, including certification under the Clean Water Act. If confirmed, I commit to learning more about the reasons the Commission grants conditional certificates and the potential implications associated with doing so.

**Question 18:** Under federal law, a private party is not allowed to legally challenge FERC approval of a pipeline project until they have first submitted a rehearing request to FERC, and FERC has affirmatively granted or denied that request. Rather than do one or the other, FERC's practice has been to issue a tolling order in response to such requests, which puts the request under further consideration. The result is that communities are put into legal limbo, unable to challenge the FERC decision until a final grant or denial is issued from the agency. Routinely FERC leaves people in that legal limbo for months, and sometimes over a year, while it allows the applicant to exercise the power of eminent domain and advance construction.

Do you see the use of tolling orders as an abuse of power by FERC? If confirmed, will you commit to either affirmatively grant or deny a rehearing request?

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**Answer:** Both the Federal Power Act and the Natural Gas Act require that FERC issue a decision on a request for rehearing within 30 days or, if the Commission does not act within that time, the request will be automatically denied. FERC employs tolling orders, in part, because the Commission sometimes needs more than 30 days to sufficiently review and respond to a rehearing request.

However, in my opinion, the Commission sometimes takes far too long to issue a final decision on a rehearing request. These delays are unfair to parties seeking rehearing because they cannot seek review of a FERC decision in the Court of Appeals until the rehearing request is actually denied. If confirmed, I commit to working with my colleagues to expedite the Commission's review and final action on requests for rehearing.

**Questions from Senator Al Franken**

**Question 1:** As you know, FERC released Order 1000 to identify transmission needs and solicit competitive transmission projects by requiring regional transmission planning and interregional coordination. As the recently released DOE grid reliability study notes, transmission is critical to improving the reliability and resilience of the grid. Furthermore, both wind and solar need transmission to move the power from the rural places where it is generated to the urban markets where it is consumed. And a lack of transmission capacity is preventing further development of renewables. Do you support FERC Order 1000? What are the barriers to interregional transmission lines and what can FERC do to remove those barriers?

**Answer:** This country needs additional electric transmission capacity both to access remotely located renewable resources and to reduce congestion to enhance grid reliability and minimize consumer electric rates. I support the goals of Order No. 1000, which include promoting the identification of more efficient or cost-effective transmission facilities and removing certain obstacles to the development of those facilities.

In June 2016, FERC convened a technical conference to discuss competitive transmission development and the issues that have arisen associated with interregional transmission planning. If confirmed, I look forward to reviewing this record with my colleagues and addressing this issue with my colleagues.

**Question 2:** A few years ago during the severe winter polar vortex, coal stockpiles at utilities in Minnesota repeatedly dropped to dangerously low levels, due to inadequate rail delivery of coal. As a result, a number of coal power plants in Minnesota were idled. This impacted the reliability of the grid and increased costs for consumers, as they paid for the more expensive replacement power that was purchased to make up for lost generation. That's why I pressed FERC to work with all other stakeholders to find a solution to this ongoing problem.

- a. What do you think FERC should do to mitigate the problems with delivery of coal to our power plants?

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- b. Last Congress I introduced the legislation, which would require coordination among key federal agencies when a fuel emergency is declared. Do you think this coordination is a good idea, and how could FERC support such an effort?

**Answer:** Although FERC does not regulate the shipment of coal over the nation's rail lines, the Commission does have responsibility for ensuring that the bulk power system is reliable. It makes sense for relevant agencies to coordinate to prevent reliability problems. If confirmed, I will seek to work with key regulators on this issue.

**Question 3:** Because of its low prices, more and more Americans are using natural gas, both in homes and in industry. And the DOE Energy Information Administration projects that use of natural gas will continue to grow. At the same time, the federal government has approved more than 52 billion cubic feet per day of LNG exports—which is equal to about 70 percent of U.S. demand. Now, the natural gas industry wants more LNG exports because they can get a higher prices overseas. This will increase the price of natural gas here in the U.S.—disproportionately harming domestic industries like the agricultural, paper, and metal manufacturing sectors that will suffer from higher natural gas and electricity prices. It will also increase the price of energy for U.S. families, and be especially burdensome on low-income households because they expend a higher percentage of their income on energy bills. I understand that part of the FERC's responsibility is ensuring just and reasonable electricity rates. So do you think that FERC has a role to play here to make sure we are not unnecessarily increasing the cost of energy for Americans?

**Answer:** FERC's authority over LNG is limited to siting and overseeing the physical LNG export facilities. Congress gave to DOE the authority to authorize LNG exports. As part of this authority, DOE is solely responsible for considering the impacts associated with LNG exports on domestic energy prices.

**Question 4:** As you know, FERC's approval process for natural gas pipelines has gained national attention. Former Chairman Norman Bay released a statement on his last day recognizing the increased public interest surrounding the approval process and encouraging the agency to change how it determines whether approving a pipeline is within the national interest. Traditionally, FERC has relied on a contract with potential shippers to show market demand and therefore demonstrate that a project is in the national interest. But, this is fairly myopic view and Mr. Bay suggests that more comprehensive cost-benefit analysis may be necessary. Mr. Bay also recommended that FERC consider the environmental impacts of increasing gas production allowed by pipeline construction as well as an assessment of lifecycle greenhouse gas emissions. Do you agree with the former Chairman's assessment? If not, why not, and if so, what changes would you suggest?

**Answer:** Pursuant to the Natural Gas Act, the Commission is required to determine that proposed interstate natural gas pipeline projects are consistent with the public convenience and necessity. Consideration of whether a pipeline is needed is part of that determination. The Commission issued a Policy Statement in 1999 outlining what factors FERC would look to in

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order to determine whether a proposed pipeline is needed. If confirmed, I look forward to reviewing Commissioner Bay's statement and the 1999 Policy Statement further to assess whether it accurately assesses need as part of the Commission's review process.

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**Question 5:** Senator Shaheen and I recently reintroduced legislation, the Public Engagement at FERC Act (S. 1240), that will improve public involvement at the FERC and facilitate advocacy at the agency on behalf of residential and small commercial energy consumers. Specifically, the Public Engagement at FERC Act would build off existing language in the Public Utility Regulatory Policy Act (PURPA) and establish an Office of Public Participation and Consumer Advocacy to ensure the public has a strong role in shaping our nation's energy future. It is important that anyone who assumes the role of a FERC Commissioner understands how their decisions are directly or even indirectly impacting private citizens. When FERC evaluates whether a project or agreement is "in the public interest" it is vital that the Commission indeed consult the public.

- a. Do you agree that public engagement should be prioritized during the various proceedings administered by FERC?
- b. If confirmed, what steps will you take to make commission proceedings and processes more accessible to the public?
- c. While I'm not asking you to weigh in on the legislation directly, do you agree with allowing more public participation in the agency through the creations of a dedicated office?

**Answer:** FERC's actions and decisions can have a significant impact on a variety of stakeholders, some of whom do not have the resources necessary to keep track of what the Commission is doing on a 24-hour, seven days-per-week basis. FERC should do what it can to reach out to the stakeholders to both inform them about ongoing proceedings and also to encourage them to provide input. If I am confirmed, I will work with my colleagues to improve the Commission's efforts aimed at enhancing public participation.

Approximately 40 years ago, Congress enacted legislation to establish an Office of Public Participation at FERC. That Office was never actually created because, as I understand it, Congress never appropriated the necessary funding. If Congress provides this funding, I will, if confirmed, work with my colleagues to ensure the Office encourages greater public participation.

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**Question 6:** In 2006, FERC started requiring wholesale generators to file Form 556 Certificate of Qualifying Facility (QF) Status for a small power production facility. I'm concerned that some small, community wind facilities across the country may have missed this change. These projects went through an extensive study process to facilitate interconnection of their wind projects with the transmission grid. These interconnections were ultimately approved by FERC as exempt wholesale generators and have been operating safely. However, in 2006 FERC established a filing requirement for all facilities larger than 1MW, but some missed this change. The filing requires announcing the total electricity generated by the QF.

In one case, a company MinWind failed to start filing with FERC, and subsequently sought a waiver from FERC for the Form 556 filing arguing that they did not know about the rule. But, the waiver was denied and the company was assessed a substantial repayment obligation equivalent to the interest that they have been unfairly accruing since 2006. The amount was large enough that they were forced to file for bankruptcy. While I do not know the specifics of this case, in general, this seems like an onerous requirement that if not handled appropriately could drive more companies into bankruptcy. Will you commit to working with me to find a solution to this issue?

**Answer:** I recognize the need to provide adequate notice of regulatory requirements to industry and have appropriate remedies for failures to comply. If confirmed, I look forward to working with you on this matter.

**Question from Senator Steve Daines**

**Question:** Baseload power generation is important for keeping the grid stable and efficient. Do you agree that we need to support and prioritize baseload generation, such as coal, natural gas and hydropower?

**Answer:** Baseload generation, along with more flexible electric generation resources, intermittent generation, such as wind and solar, energy efficiency, and demand response, have all contributed to the reliability of the bulk power system.

I believe FERC should not exercise its authority in a way that prioritizes any specific types of electric generation resources over others. Instead, the Commission must be a fuel-neutral regulatory body.

The Department of Energy's recent grid study concluded that recent retirements of baseload generation facilities have not adversely impacted electric grid reliability. The study did recommend, however, that policymakers examine whether future retirements will impair reliability. It is certainly an issue that should continue to be examined.

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**Questions from Senator Joe Manchin III**

**Question 1:** Regarding the Department of Energy's recently released grid reliability study, I would like to get your opinion on a couple of conclusions that the Department of Energy came to regarding the extent to which regulatory burdens as well as certain federal policies have forced the premature retirement of baseload power plants including:

1. The biggest contributor to coal and nuclear plant retirements has been the advantaged economics of natural gas fired generation.
2. Dispatch of variable renewable energy has negatively impacted the economics of baseload plant.
3. Investments required for regulatory compliance have also negatively impacted baseload plant economics, and the peak in baseload plant retirements (which occurred in 2015).

The Department then recommends developing a comprehensive strategy for long-term reliability and resilience.

Do you agree with these assumptions?

How will you work to address these challenges in your role at FERC?

**Answer:** I agree with the grid study's conclusions that low natural gas prices are the primary cause of the difficulties that coal and nuclear electric generation facilities have faced in competitive electric markets and that other factors, including increasingly cost competitive solar and wind renewable electricity generation and environmental regulations, have also played a role.

As I testified at my confirmation hearing, FERC does not show a preference for any particular fuel; rather, FERC's role is to ensure that the markets for the electricity generated proceed in accordance with law and remain just and reasonable and not unduly discriminatory. I believe FERC's role should be to take a hard look at the issues discussed in DOE's report, including the reliability and resilience implications, if any, of additional losses of baseload generation.

**Question 2:** Today, our reliability organizations and electric utilities are tasked with maintaining our electric grid in an increasingly challenging environment. A perfect storm of factors has put baseload units at risk. In the meantime, aging infrastructure, extreme weather events, the threat of cyberattacks, a rapidly changing fuel mix, and overregulation are increasingly testing our nation's electric grid. Several times throughout the month of January 2014, the upper Midwest and Mid-Atlantic experienced temperatures below zero. The Eastern portion of the PJM grid flirted with rolling blackouts. Interestingly, following the winter of 2014, AEP reported that nearly 90% of its coal plants scheduled for retirement ran during the Polar Vortex. Coal helped keep the lights on.



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Do you have concerns regarding the reliability and resiliency of our grid in light of the nuclear and coal-fired units that have gone off-line since the Polar Vortex or are scheduled to go off-line?

How are we valuing the reliability and resilience that certain fuel types offer?

**Answer:** The DOE grid study concluded that recent retirements of baseload electric generation, such as coal and nuclear units, have not adversely impacted grid reliability. The study did recommend that we should continue to monitor the potential reliability impact of further baseload generation retirements. FERC, NERC and DOE should do so.

With respect to resilience, the recent staff report by the DOE notes that criteria defining resilience are not yet well formulated. If confirmed, I would work with my colleagues to better understand grid resilience, how it can be measured, and whether the Commission needs to act to ensure that these attributes are further compensated.

**Question 3:** One of the major criticisms that I hear from West Virginians regarding pipelines that are being developed in our state is that FERC does not allow for enough public engagement and is “abusing” its power. As you know, there are several major pipelines being developed in the mid-Atlantic and Northeast. I support the environmentally responsible development of energy infrastructure as long as that development includes public engagement – particularly for landowners along the pipeline route – so that their voices are heard.

Can you discuss how you will support public engagement at FERC and ensure that landowner and community concerns are appropriately addressed?

**Answer:** FERC’s actions and decisions can have a significant impact on a variety of stakeholders, including landowners and communities potentially impacted by a proposed natural gas pipeline. Some of these stakeholders do not have the resources necessary to keep track of what the Commission is doing on a 24-hour, seven days-per-week basis. FERC should do what it can to reach out to the stakeholders to both inform them about ongoing proceedings and also to encourage them to provide input. FERC has taken several actions aimed at further encouraging greater public participation in proceedings involving pipeline applications. If I am confirmed, I will work with my colleagues to further improve the Commission’s efforts aimed at enhancing public participation.

**Questions from Senator John Hoeven**

**Question 1:** Electric reliability is a critical issue, especially as it relates to baseload power and ensuring our country has the assets needed to maintain low-cost electricity.

For example, the previous Administration’s EPA has promulgated substantial new regulations on electricity producers that would have subjected them to unachievable mandates and artificial

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compliance schedules. Together, the EPA's attempts to reduce emissions would have driven up electricity rates for customers and potentially compromise the reliability of our power grid.

- How will you approach reliability issues going forward?
- What role can fossil fuels play in ensuring electric reliability and baseload power?

**Answer:** The Energy Policy Act of 2005 provided FERC the authority to approve and enforce mandatory standards (which are proposed by NERC) for the reliability of the bulk power system. Protecting the reliability of the grid is one of FERC's most important functions and, if I am confirmed, I will work with my colleagues to continue to prioritize grid reliability.

Fossil fuels, along with other electric generation resources, including nuclear, wind and solar, as well as energy efficiency and demand response, have all contributed to the reliability of the bulk power system.

I believe FERC should not exercise its authority in a way that prioritizes any specific types of electric generation resources over others. Instead, the Commission must be a fuel-neutral regulatory body.

The Department of Energy's recent grid study concluded that recent retirements of baseload generation facilities, much of which were coal plants, have not adversely impacted electric grid reliability. The study did recommend, however, that policymakers examine whether future retirements will impair reliability. It is certainly an issue that should continue to be examined.

**Question 2:** In order to become truly North American energy secure, we need the infrastructure to deliver our energy resources from producers to consumers. I have sponsored the North American Energy Infrastructure Act that would require FERC to approve natural gas import or export applications to Canada or Mexico within 30 days of filing.

- What is your view on the increased need for energy infrastructure?
- What is FERC's role in ensuring adequate pipeline capacity?
- Do you support efforts to increase our energy infrastructure network with Canada and Mexico?

**Answer:** Adequate infrastructure allows consumers to have access to a variety of energy resources. FERC reviews natural gas pipeline projects to determine whether they are consistent with the public convenience and necessity, which may include facilities for the import or export of energy with Canada and Mexico.

**Question 3:** In North Dakota, rural electric co-ops ensure that over 350,000 consumers have access to reliable and affordable electricity.

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The Federal Power Act exempts rural electric co-ops from FERC jurisdiction and this statutory exemption contributes to the state's affordable electricity rates.

- Do you plan to adhere to the Federal Power Act and continue to exempt rural electric co-ops from FERC jurisdiction?

**Answer:** Rural electric cooperatives that receive Rural Utilities Service financing or that sell less than 4 million MWh per year are exempt from most FERC regulation under the Federal Power Act. If confirmed, I commit to honoring this exemption.

**Question 4:** Two of the industries FERC regulates – electricity and natural gas – are growing closer together as gas increases its share in electricity markets. This ties together the reliability of natural gas supply and the reliability of electricity supply like never before. This makes it all the more important that gas pipelines get sited timely when they are needed and not get bogged down in environmental reviews that, in the name of being thorough, can be overly burdensome while adding questionable value. We have had projects delayed, for example, by consideration of greenhouse gas emissions. Fortunately the guidance requiring consideration of GHGs was rescinded in April.

Both Congress and the Administration have made it plain in law and by executive action that they want infrastructure reviews to be accelerated.

- Will you work to ensure that gas infrastructure is sited promptly and not unnecessarily delayed by overly bureaucratic reviews?

**Answer:** If confirmed, I look forward to reviewing the Commission's policies and processes for considering pipeline applications with my colleagues to ensure that all relevant factors are appropriately considered in the Commission's review process as efficiently as possible. FERC owes it to all stakeholders, not just the pipeline applicant, to make a decision on an application for a certificate of public convenience and necessity in a timely manner.

**Question from Senator Bill Cassidy**

**Question:** In your testimony, you referenced your goal of creating American jobs while reducing emissions. In 2016, India received the 4<sup>th</sup> largest amount of liquefied natural gas from the United States yet was the 4<sup>th</sup> largest emitter of CO<sub>2</sub> in 2015, due to 60% of energy coming from coal generation. What impacts do you believe a more robust American LNG export industry would have on global emissions and U.S employment?

**Answer:** Electric sector greenhouse gas emissions will decline if natural gas-fired electric generating facilities replace some coal-fired generation. However, whatever gains that come from replacing coal with gas will be lost if methane emissions associated with the increased production and transportation of natural gas rise. It is important that industry take the necessary

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steps to minimize and prevent methane emissions to achieve greenhouse gas emission reductions associated with a switch from coal to gas generation.