Congress of the United States
Washington, DC 20515

December 22, 2014

The Honorable Philip D. Moeller
Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

The Honorable Tony Clark
Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

The Honorable Norman Bay
Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

The Honorable Colette Honorable
Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Commissioners Moeller, Clark, Bay, and Honorable:

On November 24, 2014, we wrote to Chairman LaFleur seeking clarification about the coordination between the Federal Energy Regulatory Commission (FERC) and the Environmental Protection Agency (EPA) in developing the EPA's Clean Power Plan for existing power plants and other major EPA rulemakings bearing on electric reliability and requesting a FERC Technical Conference. A copy of that correspondence is attached. Chairman LaFleur's reply of December 3 on behalf of the agency and its staff is also attached. On December 9, the Commission announced a set of Technical Conferences to address the issues we identified. We appreciate the Commission's action in establishing the conferences and the promptness of the Chairman's reply.

This letter is to request that each of you review the attached correspondence and provide your views on these matters, especially to the extent that they may supplement or elaborate upon the December 3 correspondence and the attachments. As we see it, FERC testimony before Congress, comments made by Commissioners, documents previously produced that reflect the interactions of FERC staff with EPA staff, as well as the lists of meetings attached to the December 3 correspondence, suggest an apparent pattern of limited substantive FERC input in the development of EPA rules that, unfortunately, has persisted at least since 2011. Your views about the extent of collaboration between FERC and EPA on these matters, and especially about the details of your personal involvement or that of your staff in any or all of the meetings listed in the December 3 correspondence, will contribute significantly to the public record. Accordingly, please provide responses to the following questions:

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1. EPA officials have asserted that staff at FERC actively participated in the development of the Clean Power Plan proposal.[1] Are you aware of, or have you or your staff personally participated in, any meetings or conversations that would support EPA's view of FERC's participation?
2. Given the December 3 correspondence and the attachments, what, if anything, can you tell us about the nature and subject matter of any or all of the listed meetings?
3. Based on the December 3 correspondence, what conclusions, if any, do you draw concerning the quality and impact of FERC's interaction with EPA as it relates to ensuring that EPA rules do not unduly burden electric reliability?
4. To your knowledge, was FERC staff permitted access to EPA documents and proposals or otherwise afforded an opportunity for considered interaction on the substance of the Clean Power Plan proposal?
5. Other than through the announced technical conferences, do you yourself presently anticipate future involvement with EPA before the Clean Power Plan rule or any other pending major EPA rulemaking that in your judgment is likely to bear on electric reliability is made final?
6. At this time are you aware of any established or forthcoming plan by EPA or the FERC staff to include you or your staff in substantive inter-agency interactions on these matters?
7. Based upon your personal knowledge, in its interactions with EPA concerning proposed or final major EPA rules that bear on electric reliability, has FERC acted adequately to protect electric reliability? If your answer is yes, please identify the facts that support your view.

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[1] *See EPA's Proposed Carbon Dioxide Regulations for Power Plants Before the H. Subcomm. on Energy and Power, Comm. on Energy and Commerce*, 113th Cong. (June 19, 2014). EPA Acting Assistant Administrator Janet McCabe testified that "I or my staff have consulted with staff at FERC. They are part of the interagency review process that we always go through, and so they have given us their input on electric reliability." *Id. See also* Erica Martinson, *Whiteboard Archives: EPA Working with FERC On CO_2 Rules*, POLITICO PRO, October 28, 2014 (quoting EPA's Associate Administrator for the Office of Policy as saying: "I think that we're closely in contact with FERC. There's a lot more impact from FERC on EPA's rules that there [sic] is from EPA on FERC's rules.").

Thank you very much for your time and attention. Please provide your responses on or before January 12, 2015.

Sincerely,

Fred Upton
Chairman
Committee on Energy & Commerce
U.S. House of Representatives

Lisa Murkowski
Ranking Member
Committee on Energy & Natural Resources
U.S. Senate

Ed Whitfield
Chairman
Subcommittee on Energy & Power
U.S. House of Representatives

cc:

The Honorable Cheryl LaFleur, Chairman
Federal Energy Regulatory Commission