

June 24, 2021

Chairman Richard Glick
Commissioner Neil Chatterjee
Commissioner James P. Danly
Commissioner Allison Clements
Commissioner Mark C. Christie

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

Re: Former Commissioners' Letter

Dear Mr. Chairman and Commissioners,

On June 2, 2021, you received a letter from nine former FERC Commissioners, urging the Commission to use "broad authorities and tools" to establish ubiquitous RTO wholesale markets across the country. We write you to express our concern with this suggestion, for we fear the implication is to encourage FERC to abandon its long-standing policy of providing for voluntary RTO membership for utilities and the states that regulate them.

As former state regulators, we collectively have decades of energy regulatory experience. We hail from different regions of the country. We come from different political parties. We have different experiences with wholesale market structures and we have different views regarding the operations of existing RTOs. Nonetheless, we share a common belief: FERC should continue to allow states and utilities the flexibility to participate in wholesale market structures that work best for their citizens and electricity customers. Any movement to upend this policy risks doing grave damage to the state-federal relationship, putting FERC and the states on a path towards confrontation. This would undermine both the federal-state balance of the Federal Power Act, and the historic comity between state and federal regulators. It also would threaten to impede grid transformation by unilaterally imposing an unexpected new market construct that may work at cross-purpose with clean energy investment decisions states have already made.

One of the benefits of FERC's voluntary RTO regime is that it has allowed states the flexibility to make independent assessments about the value proposition of various wholesale market paradigms. For some states, this has meant its utilities joining an RTO, an ISO, or more than one RTO/ISO. Other states have chosen to participate in Energy Imbalance Markets or seek alternative market platforms. Others remain in bi-lateral markets for reasons arising from geography, industry structure and electric generation resource base. But in all cases, state leaders make decisions about how their utilities participate based on what they believe is in the best interests of their citizens.

Furthermore, the voluntary nature of RTOs ensures that the RTOs themselves have an incentive to establish a value proposition that encourages membership. That not all states have embraced one organized market design should be an indication that there are still alternatives that

individual states may find more attractive. We would suggest that if FERC has an institutional interest in expanding wholesale market structures, then the best method to do so is to focus its attention on fixing, and reforming existing markets in collaboration with states, while granting flexibility to those that may seek a different path for their citizens. Top-down initiatives to impose an RTO mandate everywhere may well inhibit the sort of clean energy transition that is already taking place across the country – including in those states that have chosen to remain outside of RTOs.

We are concerned that FERC moving towards a mandatory RTO membership requirement would ultimately become a distraction that neither furthers the goals of the states, nor FERC. Rather than working together to ensure that the changing grid meets the needs of consumers, mandatory RTOs would become a flashpoint in the state-federal relationship. Collectively, the public interest will be better served by state and federal regulators seeking common ground, working towards shared goals, and not fighting each other in the Courts and in Congress. We hope you will agree and maintain FERC's prudent and well-established stance towards voluntary RTO membership.

Sincerely,

Tony Clark
Former NARUC President
Former Chair/Commissioner North Dakota Public Service Commission
Former FERC Commissioner

David Coen
Former NARUC President
Former Member Vermont Public Service Board

Philip Jones
Former NARUC President
Former Commissioner Washington Utilities and Transportation Commission

Jim Sullivan
Former NARUC President
Former President Alabama Public Service Commission

Stan Wise
Former NARUC President
Former Chair/Commissioner Georgia Public Service Commission

Susan Ackerman
Former NARUC Electricity Committee Chair
Former Chair Oregon Public Utility Commission

Edward Finley
Former NARUC Electricity Committee Chair
Former Chair North Carolina Utilities Commission

James Atterholt
Former Chair Indiana Utility Regulatory Commission

Ron Brisé
Former Chair/Commissioner Florida Public Service Commission

Raymond Gifford
Former Chair Colorado Public Utilities Commission

John “Butch” Howard
Former Chair/Commissioner South Carolina Public Service Commission

Mike Huebsch
Former Commissioner Wisconsin Public Service Commission

Jon McKinney
Former Chairman/Commissioner West Virginia Public Service Commission

Ann Pongracz
Former Chair Nevada Public Utilities Commission

John Quackenbush
Former Chair Michigan Public Service Commission

Brien Sheahan
Former Chair Illinois Commerce Commission

Gregory Sopkin
Former Chair Colorado Public Utilities Commission

Bob Stump
Former Chair/Commissioner Arizona Corporation Commission