

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

October 12, 2017

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Perry:

I write to request additional details regarding the development of the Department of Energy's (DOE) recent efforts to direct the Federal Energy Regulatory Commission (FERC) to provide unduly preferential and discriminatory rates to generators of electricity who use coal and nuclear energy as fuel sources. This proposal represents a major unjustified policy shift that threatens the continued viability of competitive electricity markets just as those markets are finally starting to benefit all consumer classes and the environment.

On September 28, pursuant to the Secretary's authority under section 403 of the Department of Energy Organization Act, DOE issued to FERC a directive and proposed rule which allows for the full recovery of costs "of certain eligible units" through "just and reasonable rate tariffs."¹ This proposal serves to guarantee that uneconomic coal and other "baseload" plants can recover costs through tariffs paid by consumers. However, there is no empirical evidence which indicates the proposed rule in fact would serve "to protect the resiliency of the electric grid."² In fact, a recent analysis by the Rhodium Group of major electricity outages found that between 2012 and 2016 only .00007 percent were due to fuel supply problems.³ Rather, outages are predominantly caused by severe weather impacting the

¹ Letter from Secretary Rick Perry, U.S. Department of Energy, to the Chairman and Commissioners of the Federal Energy Regulatory Commission, *Secretary of Energy's Direction that the Federal Energy Regulatory Commission Issue Grid Resiliency Rules Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act* (Sept. 28, 2017). See also, Department of Energy, *Grid Resiliency Pricing Rule*, 82 Fed. Reg. 46940 (Oct. 10, 2017) (Proposed Rule).

² *Id.*

³ Rhodium Group, *The Real Electricity Reliability Crisis* (Oct. 3, 2017) (rhg.com/notes/the-real-electricity-reliability-crisis).

distribution system – a problem exacerbated by climate change. In modern U.S. history there has never been a significant blackout caused by a lack of generation adequacy, and no reliability concern justifies such subsidies for coal and other favored fuels. The Administration should not propose rules which will result in increased costs to consumers without significant public benefit.

Additionally, I am deeply concerned that this proposal, taken together with the Environmental Protection Agency's (EPA) proposed repeal of the Clean Power Plan, will result in significant harm to consumers, other electric generators, and public health. Additionally, climate change continues to present hazards which are increasingly frequent, dangerous, and expensive. These dangers will only be exacerbated by this Administration's attempts to dismantle efforts to control greenhouse gases in the power sector and push forward an unprecedented and unjustified regulatory proposal to promote coal.

To help determine how and why DOE made the decision to commandeer FERC's rulemaking process to provide unduly preferential rates to nuclear and coal generators at a potential cost increase for American consumers, I ask that you provide and address the following:

1. A list of DOE staff who planned, drafted, edited, reviewed, or provided substantive comments on the Grid Resiliency Pricing Rule Notice of proposed rulemaking, published in the *Federal Register* October 10, 2017. Please note the name, title, number of work hours applied to this rulemaking, and whether these individuals are political appointees or career agency employees.
2. A list of all DOE expenditures related to the preparation of this proposed rulemaking, including the dollar amount of and receipt disbursements for DOE funds used to prepare the proposed rulemaking.
3. Documentation demonstrating compliance with all applicable DOE regulatory development and rulemaking processes, including management review and approvals. Please also provide documentation demonstrating compliance with all applicable legal standards.
4. A list of all meetings, including videoconferences and teleconferences, where DOE staff or leadership discussed the proposed rule with outside organizations. For each, include the meeting date, time, and list of participants, identifying participant name, title, and organizational affiliation.

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I appreciate your prompt response to these issues. If you have questions, please do not hesitate to contact Rick Kessler or Jon Monger of the Democratic Committee staff at (202) 225-3641.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." in a cursive style.

Frank Pallone, Jr.
Ranking Member