

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF THE COMMISSIONER

August 1, 2011

The Honorable Lisa A. Murkowski
United States Senator
Committee on Energy and
Natural Resources
Washington, D.C. 20510-6150

Dear Senator Murkowski:

Thank you for your letter of May 17, 2011, and for the opportunity to share with you my thoughts on these important issues.

With regard to questions 1-7, I have no further information to add to the responses provided by Chairman Wellinghoff and Commissioners Norris and LaFleur, and by Commissioner Moeller, in their letters dated August 1, 2011. However, with respect to questions 8, 9 and 10, I wish to separately set forth my own views regarding the relationship between the Federal Government and users, owners, and operators of the bulk electric system.

Regulated public utilities are obligated to serve electricity ratepayers. Congress assigned to FERC authority with respect to the reliability of the bulk electric system in 2005. The United States has superb records in both environmental protection and electric reliability. I remain committed to ensuring the reliable operation of our Nation's electric grid. Reliable service of electricity is essential to the health, welfare, and safety of the American people and necessary to serve our economy. However, I recognize that environmental protection laws and regulations are important to the well-being of our Nation as well.

Question 8 highlights the problem of an entity ensnared in the dilemma of conflicting laws or regulations. I have not researched whether compliance with an EPA regulation could excuse a violation of a FERC-approved reliability standard and I have not reviewed, nor do I comment on, the authority of the United States Department of Energy to address these issues. However, the users, owners and operators of the bulk-electric system should not be compelled by their government to choose between compliance with environmental laws or with FERC-approved reliability standards. Put differently, regulated entities should not have to elect which agency's penalty they would rather face. Requiring public utilities to make such a Hobson's choice does not serve consumers and, frankly, is not good government.

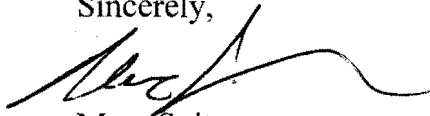
But I also believe that both the regulated and the regulators can and must do more to ensure that regulated entities do not find themselves in the position of having to make a Hobson's choice. First, FERC and the EPA need to be proactive to ensure that reliability concerns are considered and addressed in any analysis by the EPA of its environmental regulations affecting utilities. To this end, I recommend that FERC and the EPA continue their dialogue but in a more formalized and expansive fashion. Given the integrated nature of today's society, such coordination would ensure that the EPA will not enforce its rules in a vacuum.

Second, the electric industry recognizes its obligation to comply with both environmental regulations and FERC-approved reliability standards and to plan their systems to reliably serve consumers while complying with environmental requirements. In the first instance, the regulated entity, with better knowledge of its operations and requirements, should seek to harmonize how it will meet the various regulatory requirements it faces. It must have adequate time to do that.

Finally, I suspect it will be the rare situation when a regulated entity finds itself, notwithstanding adequate planning, in a position of having to choose between compliance with one regulator's rules over another's. In that instance, however, it should be the duty of the regulators to work together, and with the regulated entity, to find a resolution that best assures reliable operation of the electric grid and compliance with environmental standards.

I thank you very much for inquiring as to the relationship between affordable and reliable electricity service and environmental regulation. I hope the foregoing discussion has been responsive to your letter, and I invite any further questions or comments on this critical topic.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marc Spitzer', with a long, sweeping horizontal line extending to the right.

Marc Spitzer
Commissioner
Federal Energy Regulatory Commission