Written Testimony of James P. Danly
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Chairman Manchin, Ranking Member Barrasso, and members of the Committee:

Good morning, it is a pleasure to be here today. I very much appreciate the opportunity to appear before the Committee and welcome the opportunity to share my thoughts and answer your questions. While natural gas and FERC's administration of the Natural Gas Act accounted for most of my comments the last two times I appeared before the Committee, today I would instead like to focus on a different subject—the impending, but avoidable, reliability crisis that will likely result from FERC's maladministration of our wholesale electric markets.

The majority of Americans live in regions served by FERC's electric markets. Those markets, the ISOs and RTOs, are FERC-jurisdictional public utilities responsible for operating the transmission systems within their territories and ensuring the economic dispatch of generation to meet demand. They were originally conceived of as a means by which the ratepayer could reap the benefits of competition by ensuring that the least-cost generating unit would be selected to provide electricity. The markets were also designed to send price signals, typically through periodic auctions, to provide the economic incentives to attract new, needed generation investments and promote the orderly exit of existing generating assets that had become economically unviable. That way, so the thinking went, there would always be sufficient generation available to meet peak demand, and the customers would pay the least cost for the most efficient generating units to obtain their electricity.

That, at least, was the theory. What has happened instead is that FERC has distorted price signals and warped incentives in the markets, interfering with price formation and jeopardizing resource adequacy. Most of these market-distorting forces originate with subsidies—both state and federal—and from public policies that are otherwise designed to promote the deployment of non-dispatchable wind and solar assets or to drive fossil-fuel generators out of business as quickly as possible.

The subsidies available to renewable generators are so lucrative that, when participating in procurement auctions, they are able to offer at a price of zero instead of their actual cost. The market signal thereby created is that these new resources can be built for *free*, and thus the cost of power is also free. This, of course, is untrue, and the inevitable consequence is market-wide price suppression. The price suppression deprives other market participants of much needed revenue, leading to the premature retirement of the dispatchable generators which have to offer into the market at their true costs in order to remain viable.

FERC has seemingly done everything in its power to ensure that our markets will fail. FERC eliminated the market's economic guardrail—the minimum offer price rule—which had been established in certain markets to ensure that all generators offered their actual costs to prohibit price suppression. FERC has also directly interfered with price formation by allowing one of our wholesale markets to change the rules of its procurement auction *after* the auction had run in order to lower the resulting prices.

We know that there is a looming resource adequacy crisis. Our market operators have been explicitly telling us as much for years. Both MISO and ISO-NE have warned about upcoming scarcity and PJM, the nation's largest wholesale market, and the one that serves Washington, D.C., has recently raised the alarm about impending shortfalls. Were any more proof required of our markets' failure, in the midst of PJM's dire warnings, somehow the prices in its procurement auction, at a time of impending scarcity, went *down*.

As an engineering matter, there is no substitute for reliable, dispatchable generation. Intermittent renewable resources like wind and solar are simply incapable, by themselves, of ensuring the stability of the bulk electric system. As the wholesale markets' prices are distorted by subsidies, the generation assets with the attributes required for system stability will retire and system stability will be imperiled. Given these market failures, there will be, in time, a catastrophic reliability event. None of us wants this to happen, and I fervently hope to be proven wrong, but if FERC continues to fail in its duty to ensure proper price formation, that will be the inevitable result.

The consequences of premature retirements and resource scarcity are even more acute when you consider the constraints on natural gas supply resulting from the underdevelopment of interstate natural gas infrastructure—again, driven by the FERC's maladministration of the Natural Gas Act. Although I am genuinely delighted that the Commission has recently increased the pace of natural gas pipeline reviews, the policies FERC recently sought to promulgate have had the very effects I predicted at last year's hearing: according to the Energy Information Administration, 2022 saw the lowest quantity of additional capacity added to the natural gas pipeline system since 1995, the obvious result of the FERC's slow walking natural gas pipeline applications over the last two years and the chilling effect of the regulatory uncertainty created by the Commission's issuances. Interstate natural gas infrastructure is absolutely critical: as coal, nuclear and hydroelectric generators retire due to subsidies and public policy choices, the need for natural gas to ensure system reliability continues to grow.

Our markets are failing, and FERC is not acting to fix them. There is no statutory requirement to have these markets—they are inventions of FERC. Other regions of the country, like the Southeast and Intermountain West, operate along the traditional model of vertically integrated utilities overseen by state public utility commissions. There, the rates are, for the most part, substantially lower than in FERC's vaunted wholesale markets and some of the utilities in those regions have not had to resort to firm load shed since the mid-1970s. I am a free marketeer who believes in the power of market forces, but these markets, hobbled as they are by subsidies and FERC's interference, have been undermined to the point that they cannot be relied upon to ensure just and reasonable rates or provide resource adequacy. Our markets are in dire need of repair; FERC must act before there is a truly catastrophic reliability failure.

Again, thank you for the opportunity to address the Committee. I look forward to your questions.