

M E M O R A N D U M

March 25, 2024

From: Akin Gump Strauss Hauer & Feld LLP
Re: Summary of Senate Committee on Energy and Natural Resources Hearing to Consider Nominations to the Federal Energy Regulatory Commission

On Thursday, March 21, 2024, the Senate Committee on Energy and Natural Resources held a [hearing](#) to consider nominations to the Federal Energy Regulatory Commission. This memorandum provides a high-level summary of the hearing.

The following witnesses testified before the Committee:

- [Mr. David Rosner](#), Nominee, Federal Energy Regulatory Commission for the term expiring June 30, 2027
- [Ms. Lindsay See](#), Nominee, Federal Energy Regulatory Commission for the term expiring June 30, 2028
- [Ms. Judy Chang](#), Nominee, Federal Energy Regulatory Commission for a term expiring June 30, 2029

The following Members participated in the hearing:

Chair Joe Manchin (D-WV)	Ranking Member John Barrasso (R-WY)
Sen. Martin Heinrich (D-NM)	Sen. Mike Lee (R-UT)
Sen. Alex Padilla (D-CA)	Sen. Cindy Hyde-Smith (R-MS)
Sen. John Hickenlooper (D-CO)	Sen. Bill Cassidy (R-LA)
Sen. Catherine Cortez Masto (D-NM)	Sen. Lisa Murkowski (R-AK)
Sen. Angus King (I-ME)	Sen. Josh Hawley (R-MO)
Sen. Maizie Hirono (D-HI)	Sen. Steve Daines (R-MT)
	Sen. John Hoeven (R-ND)

Member Opening Statements

Chair Joe Manchin (D-WV) Opening Statement

- The Committee convenes to deliberate on three pending nominations for the Federal Energy Regulatory Commission (FERC), welcoming nominees Judy Chang, David Rosner, and Lindsay See.
- FERC's role involves ensuring an adequate supply of electricity and natural gas at fair prices, protecting consumers, and promoting the public interest.

March 25, 2024
Page 2

Ranking Member John Barrasso (R-WY) Opening Statement

- If confirmed, Mr. Rosner's transition to an independent role warrants exploration of his personal perspectives on pertinent issues.
- I have concerns with Ms. Chang's stance on natural gas prices and infrastructure.
- Ms. Chang's previous statements expressing skepticism towards natural gas infrastructure development raise questions about her alignment with FERC's responsibility to ensure abundant natural gas supplies at reasonable prices.
- While each nominee brings distinct qualifications and experiences to FERC, rigorous examination of their perspectives and commitments to FERC's statutory objectives is essential to ensure effective governance in this critical regulatory body.

Witness Testimony

Chang Testimony

- My career in finance and economic consulting within the energy sector allowed me to leverage my engineering and economics background to address various energy sector challenges, such as wholesale electricity market design and infrastructure planning and development.
- In 2020, I had the privilege of serving in Governor Charlie Baker's administration in Massachusetts, where I gained invaluable insights collaborating with colleagues and stakeholders to formulate a consensus vision for long-term power system planning in the New England region.
- Drawing from my experiences in both the private sector and state government, I appreciate the critical importance of ensuring the reliability and affordability of energy systems.
- If confirmed, I pledge to uphold these principles by evaluating each proceeding before the Commission, prioritizing reliability and affordability while rigorously assessing the specific circumstances of each case.

Rosner Testimony

- Over the past 17 years, I have been fortunate to engage with energy policy within and outside the federal government, enabling me to develop expertise across economic, technological, and regulatory spheres.
- Throughout my career, I have strived to build consensus on complex energy issues by working across ideological lines.
- FERC's primary responsibility is to ensure the reliable operation of the country's electric grid, which is foundational to achieving our economic and policy objectives.

March 25, 2024

Page 3

- If confirmed, I am committed to upholding this mission by respecting the realities of our current energy resources while embracing the opportunities presented by emerging technologies.

See Testimony

- As West Virginia Solicitor General, I have been involved in energy-related matters, gaining insights into grid reliability, regulatory frameworks, and the essential role of states in energy generation and distribution.
- If confirmed, I pledge to uphold the principles of congressional delegation and to fulfill FERC's mandate with impartiality and diligence.
- I am dedicated to advancing FERC's mission of ensuring energy reliability, facilitating infrastructure development, and promoting fair interstate electricity markets.

Member Questions

Chair Joe Manchin (D-WV) Questions

- What are FERC's most important responsibilities?
 - **Chang:** FERC's most important responsibilities are ensuring grid reliability and energy affordability.
 - **Rosner:** FERC's most important job is grid reliability.
 - **See:** Reliability is the most important aspect of the Commission's work.
- Do you need to understand the difference between dispatchable and intermittent power?
 - **Chang:** To ensure the reliability of our grid, we need a mix of many resources. Each resource has its place in providing reliable service for our nation.
- Do you prioritize maintaining reliability as technology evolves and transitions occur within the energy sector?
 - **See:** Yes, reliability is essential and requires a thorough examination of all available options. I am committed to addressing the concerns surrounding our dispatchable resources and preserving open access for new participants in the energy market.
 - **Rosner:** I agree with Ms. See and believe there is strength in a diverse resource mix.
 - **Chang:** I agree with Mr. Rosner.
- Are you concerned about the 2 million megawatts of power currently withheld from the grid due to insufficient capacity?
 - **Rosner:** The internet connection queue has approximately 2 million megawatts waiting to connect. This is an economic opportunity for the country, and timely infrastructure build-out is essential.

March 25, 2024

Page 4

- **See:** I agree with improving transmission and ensuring it happens smoothly. FERC needs to take its responsibility under the *Natural Gas Act* ([P.L. 109-58](#)) seriously in terms of a thorough and efficient review.
- **Chang:** I support infrastructure build-out to ensure the U.S. has reliable energy sources.
- What is your opinion on our current energy production?
 - **Chang:** The energy level we produce enables us to be a strong competitor and leader in all energy production technologies.
 - **Rosner:** The energy level produced has served our economy well by creating jobs and opportunities across the resource mix.
 - **See:** We can be proud of our existing resources, but when it comes to FERC's role in being fuel-neutral, it is essential to look at the critical value that each of those sources provides.

Ranking Member John Barrasso (R-WY) Questions

- Does your recent statement that supports the expansion of energy infrastructure encompass pipelines?
 - **Chang:** If confirmed, I would aim to provide reliable and affordable service.
- Given the report that New England may lack sufficient natural gas pipeline infrastructure to meet the region's winter fuel demand, do you still believe it is fiscally irresponsible to invest in pipelines?
 - **Chang:** I am in favor of expanding gas infrastructure and supplies in New England.
- If confirmed, would you assess the scope of the FERC's authority?
 - **See:** Yes, it is essential to understand FERC's role in fulfilling the duties delegated by Congress. I would consider it my duty to implement the laws that Congress establishes.
- Will you commit to acting promptly on the pending liquefied natural gas (LNG) export projects?
 - **See:** I understand the directive to apply the DOE's role when it comes to licensing the export. I do not see how that changes FERC's statutory responsibility when it comes to timely and efficiently processing any licensing applications that come before it.
 - **Rosner:** FERC must review these projects. I would support FERC's longstanding practice of proceeding to review applications when they are ready.
 - **Chang:** Yes, I look forward to the opportunity to work on this topic.

March 25, 2024
Page 5

Sen. Martin Heinrich (D-NM) Questions

- Will you commit to engaging tribal stakeholders as part of the FERC rulemaking process?
 - **Chang:** Yes, I would look closely at this issue and how it affects our tribal nations.
 - **Rosner:** Yes, I commit to engaging tribal stakeholders.
 - **See:** Yes, diverse voices are important as a matter of due process and accountability.
- Given that many reliability issues result from outages caused by state-regulated distribution systems, how do you reconcile FERC's authority with its responsibility to ensure grid reliability?
 - **See:** Grid reliability is a central goal and responsibility. I would look closely at FERC's authority under Section 215 of the *Federal Power Act* ([P.L. 115-325](#)) regarding mandatory reliability standards. I would also look at FERC's power in organized markets to ensure affordable rates and adequate resources.
- Do you believe we need clear standards for what constitutes reliability?
 - **See:** Clarity is essential regarding regulation. I defer to Congress if it decides the law needs more clarity.
- Do you agree that interregional transmission is critical to ensuring reliability?
 - **Rosner:** Interregional transmission is an important issue, as it has been deemed a solution to reliability threats.
 - **Chang:** I have been analyzing interregional transmission and believe many benefits are associated with building out our transmission infrastructure.
 - **See:** Transmission is an important issue when it comes to ensuring reliability.
- Would you commit to ensuring a final rule with strong provisions on interregional transmission capacity?
 - **Rosner:** Interregional transmission would be a priority for me.
 - **Chang:** If confirmed, my priority is to understand our current constraints and advance the transmission build-out of this country.
 - **See:** I would look forward to working with the FERC staff on this issue.

Sen. Mike Lee (R-UT) Questions

- Do you agree that only states that directly and measurably benefit from transmission lines should bear the construction cost?
 - **Rosner:** I agree that only those who benefit should pay for transmission.
 - **See:** I agree with Mr. Rosner that costs need to be commensurate with the benefits. It is important for FERC to consider fair allocation in terms of reasonable rates.

March 25, 2024

Page 6

- **Chang:** I agree that beneficiaries should pay in the context of transmission cost allocations.
- Is it your view that FERC should be involved in regulating environmental and climate impacts beyond what the *National Environmental Policy Act* (NEPA; [P.L. 91-190](#)) requires?
 - **Rosner:** I would refer to the *Natural Gas Act* to consider questions before FERC.
- Is it appropriate for FERC to regulate downstream emissions for a natural gas pipeline project?
 - **Chang:** The *Natural Gas Act* does not specify greenhouse gas (GHG) emissions as a criterion for denying pipeline projects.
- What role should FERC play in the climate change transformation described in the Citizens Climate forum panel?
 - **Chang:** The context of that speech is about our contributions to the climate crisis. If confirmed, I will ensure I follow the law established by Congress.
- Should climate change factor into public interest determinations?
 - **Chang:** I understand that the *Natural Gas Act* does not specify climate change in its determination.

Sen. Alex Padilla (D-CA) Questions

- Can you discuss how regional coordination can improve efficiency, reduce costs, and reduce emissions?
 - **Chang:** I worked on regional market analyses in the West, assisting many stakeholders. The regional market can bring benefits to ratepayers and consumers. Regional coordination could increase the efficient use of transmission and resources.
- Would you support allowing for flexibility among regions to collaborate on market development?
 - **Chang:** I respect states across the West to make choices of the market design they want to participate in.
- Can you share the importance of having an adequate amount of technical staff?
 - **Rosner:** It is essential to have a fully staffed Commission with the expertise to process issues.
- Would you use your platform to increase staffing at FERC and oppose the proposed budget cuts?
 - **See:** I would be committed to working with Congress on this topic.
 - **Rosner:** A fully staffed agency is a priority of mine.
 - **Chang:** I appreciate the value of an adequate staff. I commit to work on this topic.

March 25, 2024
Page 7

Sen. Cindy Hyde-Smith (R-MS) Questions

- Is FERC an economic regulator and not an environmental policymaking body?
 - **Chang:** Yes.
 - **See:** Yes.
 - **Rosner:** Yes.
- Will you be willing to challenge the faulty assumptions of other agencies if they threaten grid reliability?
 - **Chang:** Reliability is foundational. I will ensure that anything that might affect our systems' reliability has the proper levers for FERC to ensure reliability.
 - **See:** Given that FERC is responsible as an economic regulator, it is important to share diverse perspectives. Expert consulting and advising are essential in this space.
- How do you perceive the impact of overcharges on natural gas consumers in light of the proposed amendment to the *Natural Gas Act*, which would grant FERC refund authority in cases where consumers were unfairly charged?
 - **See:** Ensuring affordability is crucial for Americans in their daily lives. I am dedicated to applying the standards outlined in the *Natural Gas Act*, taking into account the specific circumstances and facts presented. If Congress decides to provide clearer and more direct authority in this regard, I would defer to their decision.
 - **Rosner:** Prioritizing reasonable prices and affordability is paramount to me. If confirmed, I am committed to providing technical support to your staff as they deliberate potential changes to the statute.
 - **Chang:** I am committed to gaining a deeper understanding of this issue, as one of my primary responsibilities is to ensure that costs remain reasonable. I am supportive of any enforcement actions undertaken by the Office of Enforcement in addressing this matter.

Sen. John Hickenlooper (D-CO) Questions

- Are you committed to exploring the advantages of establishing minimum transfer capabilities between regions?
 - **Chang:** I advocate for ensuring reliable service, which includes constructing essential and advantageous infrastructure such as interregional transmission facilities. However, I recognize regional variations in needs and priorities. If minimum transfer standards are to be applied, I am eager to delve further into understanding these regional distinctions and priorities, and collaborate on finding effective solutions.

March 25, 2024
Page 8

- **Rosner:** I agree with the assessment that interregional transmission is pivotal in addressing the grid reliability challenges exacerbated by weather conditions. Addressing this issue, among others, holds promise for enhancing grid resilience. If confirmed, I am committed to exploring potential solutions to this reliability concern alongside my colleagues.
 - **See:** I agree with the concerns about reliability. It is essential to look at all options that could help us address that problem.
- Considering the extended timeframe for infrastructure development, do you fear that we are lagging behind our counterparts in terms of our interregional capacity?
 - **See:** I would approach this issue by examining FERC's specific responsibilities and authorities in this domain.
 - **Rosner:** Ensuring the timely construction of necessary infrastructure would be a top priority for me.
 - **Chang:** I am apprehensive about both reliability and the associated energy costs across different regions. I am supportive of beneficial transmission and inter-regional transmission where necessary. FERC should undertake proper long-term planning and forecasting to assess transmission needs and their optimal locations.

Sen. Bill Cassidy (R-LA) Questions

- What is your perspective on whether FERC has the authority to incorporate GHG emissions into commission reviews?
 - **Chang:** According to the *Natural Gas Act*, GHG emissions are not specified as criteria for evaluating natural gas pipelines.
- Does this mean you would not vote to deny a project based on these emissions?
 - **Chang:** My understanding is that the current statute does not designate GHG emissions as criteria for denying gas projects.
- Would you refrain from using GHG emissions as a criterion for denying a permit?
 - **Chang:** I will adhere to the law.
 - **Rosner:** I would look at the *Natural Gas Act*.
 - **See:** The rule is to follow the law and to look at the criteria that Congress has given to FERC.
- What is your perspective on the long-term role of natural gas in the U.S. energy system?
 - **See:** I prioritize reliability concerns and recognize the significant role of natural gas in our energy system.
 - **Rosner:** I am firmly committed to developing the infrastructure necessary to power our country.
 - **Chang:** Maintaining current levels of natural gas generation is essential for ensuring a reliable grid.
- Do you support using regulations to impede the development and deployment of fossil fuels in our grid?

March 25, 2024
Page 9

- **Chang:** Under the *Federal Power Act*, FERC does not have jurisdiction over resource selection. It operates as a technology-neutral and economic agency.

Sen. Catherine Cortez Masto (D-NM) Questions

- What additional measures can be taken to enhance the interconnection process and streamline new energy projects and electricity resources?
 - **Chang:** If confirmed, I will collaborate with the existing commissioners and staff to identify areas where the interconnection process can be streamlined for new generation projects.
- What are your opinions on the reported backlog of new generation and energy storage, along with the average wait time of five years to connect to the grid?
 - **Rosner:** There is a significant economic opportunity in connecting new technologies to the grid and meeting the demands of emerging industries. Ensuring orderly and timely resource connections is a priority, and I am committed to monitoring the process closely and seeking solutions.
 - **See:** Interconnection is a critical issue. Transparency, efficiency, and reliability in the interconnection process are vital responsibilities of the Commission.
- How can we better ensure that transmission facilities are more resilient against the threats of extreme weather?
 - **See:** Responsibility for mandatory reliability standards and oversight should be a starting point.
 - **Rosner:** I am encouraged by recent efforts at the commission to establish standards for extreme weather resilience. I am committed to prioritizing this issue and working towards improvements.
 - **Chang:** It is crucial to ensure that our infrastructure can withstand extreme weather events both physically and as part of a cohesive system. I pledge to work towards enhancing our country's resiliency measures.

Sen. Lisa Murkowski (R-AK) Questions

- How would you prioritize between reliability, affordability, and emissions reductions?
 - **See:** I prioritize following the law. If I must choose two, I will prioritize reliability and affordability, as dictated by Congress.
 - **Rosner:** My priority is reliability. Affordability naturally aligns with reliability.
 - **Chang:** Reliability is paramount, as widespread outages are intolerable. It forms the foundation of my decision-making process.
- In light of FERC's guiding principles of timeliness and regulatory certainty, do you believe the current regulatory process for licensing and relicensing hydro projects reflects these principles adequately?

March 25, 2024
Page 10

- **Chang:** I believe enhancing and streamlining the regulatory process is crucial to ensure timeliness and regulatory certainty.

Sen. Angus King (I-ME) Questions

- How can FERC prioritize grid expansion over more costly construction options, and what steps can be taken to ensure this prioritization?
 - **Chang:** Embracing advanced technology and innovation can lead the way. Doubling facilities through technological advancements should be at the forefront.
- What measures can FERC take to incentivize advancements in grid development over traditional construction methods?
 - **Rosner:** Adopting a "doing more with less" mindset is essential. I would advocate for strategies that promote efficiency and innovation.
 - **See:** I think it is important that we develop new technologies. I would follow the FERC statute.
- Given FERC's statutory mandate for affordability, how do you propose ensuring that rates reflect the most cost-effective technology?
 - **See:** Affordability is a crucial principle, and it is essential to allow all technologies capable of providing services to compete on an equal footing.
- Should the regulation of the natural gas pipeline system be integrated into the oversight of the electric grid, considering the interconnected nature of these systems?
 - **See:** This is an area where I would defer to Congress's leadership.
 - **Rosner:** I am prepared to offer technical assistance to you and other Committee members to address this matter effectively.

Sen. Josh Hawley (R-MO) Questions

- How do you plan to safeguard the interests of local farmers, ranchers, and citizens whose livelihoods are intertwined with the land when evaluating national transmission corridors?
 - **See:** I am committed to meticulously examining the criteria outlined by you and your fellow members of Congress, ensuring that all pertinent factors are thoroughly considered.
- Will you commit to remembering the people who are actually affected?
 - **Rosner:** Yes.
 - **Chang:** Yes.

Sen. Maizie Hirono (D-HI) Questions

- How will your experiences as the Massachusetts Undersecretary of Energy and Climate Solutions inform your approach to your role at FERC?

March 25, 2024
Page 11

- **Chang:** My tenure in Massachusetts exposed me to diverse energy resources and demand-side reduction strategies. Prioritizing reliability, informed by my experiences, will be paramount as we navigate energy transitions. My work provided insights into the complexities of energy systems, which I intend to apply moving forward.
- Do you believe Congress should delegate authority to agencies, such as FERC, to consider the carbon pollution impacts of energy infrastructure?
 - **See:** My principle is adherence to the law. I would assess what responsibilities Congress has entrusted to FERC specifically.
- If there is no language in the statute mandating consideration of carbon pollution impacts, would you refrain from considering such impacts?
 - **See:** My understanding aligns with the fact that FERC's authority is delineated by Congress.

Sen. Steve Daines (R-MT) Questions

- Do you agree that FERC is an economic and safety regulator and not a climate regulator?
 - **Chang:** Yes.
 - **Rosner:** Yes.
 - **See:** Yes.
- Former Chairman Richard Glick advanced controversial proposals that redirected pipeline approvals towards climate regulations beyond FERC's statutory jurisdiction. Do you agree that Chairman Glick's proposals exceeded FERC's authority, and do you support Chairman Willie Phillips' decision to retract them?
 - **Chang:** I have not fully reviewed all aspects of those policy statements, but I am committed to gaining a thorough understanding of the issues.
 - **Rosner:** I support Chairman Phillips' approach. If confirmed, my focus at FERC will be on ensuring transparent, fair, and legally sound policies grounded in statute and precedent.
 - **See:** It is important to adhere to all applicable laws governing FERC's actions.
- Will you commit to evaluating LNG export terminal approvals based solely on FERC's economic considerations, independent of President Biden's climate agenda?
 - **See:** FERC's independence is crucial in this regard. I will base my evaluations on FERC's distinct statutory authorities.
 - **Rosner:** FERC operates under its own statute, and I pledge to make decisions accordingly and in a timely manner.
 - **Chang:** I agree.
- Do you believe expediting the permitting timelines for hydropower licensing and relicensing is necessary to expand our hydropower portfolio?
 - **Chang:** I am in favor of streamlining and enhancing efficiency in processing licenses and applications.

March 25, 2024
Page 12

- **Rosner:** Timely review of hydropower licenses and relicensing is a priority for me.
- **See:** I recognize FERC's unique responsibilities in this area, particularly regarding safety factors. I am committed to ensuring timely review processes.

Sen. John Hoeven (R-ND) Questions

- Are you willing to ensure that we utilize energy from all sources, including coal, alongside the technologies we are developing and deploying?
 - **Chang:** I envision a promising future where we can capture carbon emissions while continuing to utilize our existing fuel resources.
 - **Rosner:** The past decade has underscored the importance of fuel diversity in addressing grid challenges. If confirmed, I will closely monitor this aspect.
 - **See:** Baseload power concerns are significant. It is crucial to consider all energy sources in our approach.
- How do you address the potential impact on grid stability if externalities are imposed on power providers delivering energy to regional grid systems, potentially undermining the presence of all energy sources?
 - **Chang:** FERC acts as a technology-neutral and economic regulator. While system operators and regional transmission organizations share this approach, if market design appears skewed, FERC should ensure neutrality in project processing, such as transmission projects.
- How would you address this if system operators are biased?
 - **Chang:** We must investigate existing biases. My experience with regional transmission organizations (RTO) and independent system operators (ISO) suggests they typically maintain a technology-neutral perspective.
 - **Rosner:** I believe FERC should adopt a fuel-neutral decision-making approach for the benefit of the American public. Allowing grid resources to fulfill their technical capabilities, regardless of the fuel type, is optimal for grid functionality.
- If system operators skew the playing field, does FERC have a role?
 - **Rosner:** Yes.
 - **See:** Having an accurately functioning market that is sending the right price signals is an important piece of FERC's jurisdiction.
- What do you think about the notion that simplifying projects is necessary for streamlining?
 - **Chang:** I am always in favor of streamlining processes. However, I also understand that some processes are complicated or can be complex.
 - **Rosner:** The timely review of infrastructure is essential.
 - **See:** I agree.

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