

Energy Regulatory Alert

President Obama Nominates Tony Clark to Fill FERC Vacancy

January 25, 2012

On Tuesday, January 24, 2012, President Barack Obama formally nominated Tony Clark to be a member of the Federal Energy Regulatory Commission (FERC) for a term expiring on June 30, 2016. Mr. Clark, a Republican, is the chairman of the North Dakota Public Service Commission (PSC) and was first elected to the PSC in 2000. His current six-year term ends on December 31, 2012. If confirmed, Mr. Clark would replace former Republican FERC Commissioner Marc Spitzer, who resigned on December 14, 2011.

Prior to his election to the PSC in 2000, Mr. Clark, 40, served as labor commissioner in the cabinet of former North Dakota Gov. Ed Schafer, as a state legislator in the North Dakota House of Representatives and as a North Dakota Tax Department aide. He also previously served as chairman of the North Dakota Republican Party. In November 2010, Mr. Clark was elected to a one-year term as president of the National Association of Regulatory Utility Commissioners (NARUC) and formerly served as chairman of the NARUC Telecommunications Committee. Mr. Clark, who is not an attorney, earned bachelor's degrees in political science and history education from North Dakota State University and a Master's in Public Administration from the University of North Dakota.

Sen. John Hoeven, R-N.D., recommended Mr. Clark for the vacant FERC position to Sen. Mitch McConnell, R-Ky., who then nominated Mr. Clark for the Obama Administration's consideration. "Tony is a highly capable commissioner," said Sen. Hoeven in a statement, who "will bring a great amount of knowledge and expertise" to the FERC. "North Dakota has benefitted from his leadership, and now is the time for him to take a national advisory role," Sen. Hoeven continued. Current NARUC president David Wright also applauded Mr. Clark's nomination, citing the "important consumer perspective" he would bring to the FERC. Sen. Kent Conrad, D-N.D., also has praised the selection.

Prior to joining the FERC, Mr. Clark will need to be confirmed by the Senate. That confirmation process will include a hearing before and vote of the Senate Energy and Natural Resources Committee, of which Sen. Hoeven is a member, as well as a vote of the full Senate.

Various federal/state energy regulatory tensions could create "tough choices" for Mr. Clark, if confirmed, including with respect to the FERC's attempts to secure a larger role for itself in electric transmission line siting, which he might favor; proposals for increased regionalization in transmission line cost allocation; rate-based incentives for new transmission line construction; regional, collaborative transmission planning; and "Smart Grid" implementation. Mr. Clark has been committed to pipeline safety, and recent developments in the Keystone XL pipeline controversy could factor into his confirmation process. Despite that potential, however, most commentators seem to agree that Mr. Clark's confirmation process is unlikely to be particularly controversial.

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