

Testimony of Michael Bardee, Director, Office of Electric
Committee on Energy and Commerce Subcommittee on Energy and Power
May 19, 2015

Thank you Chairman Whitfield and Members of the Subcommittee.

Thank you for inviting me to appear before you today. I am here today as a Commission staff witness, and my remarks do not necessarily represent the views of the Commission or any individual Commissioner.

Section 1201 of the Discussion Draft seeks to resolve conflicts between requirements of the Federal Power Act Section 202(c) and environmental laws. I support the concept in Section 1201. Operating a power plant in compliance with Section 202(c) should not cause a violation of environmental laws.

Section 1202 of the Discussion Draft would require the Commission, in coordination with NERC, to perform reliability analyses of major rules proposed or issued by other federal agencies, if they may impact an electric generating unit and have an annual effect on the economy of \$1 billion or more.

The number and type of rules that might be subject to this section is unclear. Thus, it is difficult for me to foresee the ramifications of this section. Also, the Commission has the expertise to evaluate this type of analyses but generally has not maintained the tools and data to perform such analyses itself on the proposed timelines.

If Congress gives the Commission this responsibility, Section 1202 should be clarified so that planning authorities must timely conduct and provide the analyses and information requested by the Commission. In this way, Section 1202 would rely primarily on their existing processes for identifying and addressing reliability issues, while allowing the Commission to ensure consistent, objective analyses of these rules.

Section 1204 of the Discussion Draft would allow the Department of Energy, in certain circumstances, to require actions to address grid security emergencies. The Commission has approved standards for cybersecurity, physical security and geomagnetic disturbances. Last week, the Commission proposed to approve, but require changes to, an additional standard for GMD events.

Section 1204 would address concerns that the current processes for developing standards are too slow, too open and too unpredictable for emergencies. But while Section 2014 authorizes requirements to protect against imminent danger, it should be clarified to also address restoration of grid reliability after an unforeseen attack or event.

Section 1208 would require the Commission to direct each RTO and ISO with a capacity market

or comparable market to demonstrate how it meets certain requirements. The requirements include integrated system planning practices such as having a diverse generation portfolio and stable pricing for customers.

In general, the Commission prefers to rely on competitive forces when reasonable, but recognizes that traditional regulatory approaches are sometimes needed in wholesale electricity markets.

Section 1208 takes a different approach and would impose on RTO and ISO capacity markets a broad overlay of traditional regulatory requirements. This approach may reduce the potential for these markets to provide consumers with the benefits achievable through competitive forces, and may cause unnecessary conflicts between federal and state regulatory efforts.

It would be preferable to not codify such an approach and instead allow the Commission to adapt market rules over time with the goal of maximizing competitive forces.

In conclusion, thank you again for inviting me to testify today. I would be happy to answer any questions you may have.