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# Federal Power Act/Energy: U.S. House Energy and Commerce Committee June 10th Letter to Federal Energy Regulatory Commission

## Arkansas Environmental, Energy, and Water Law Blog

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The Chairman of the United States House of Representative Energy and Commerce Committee and Chairman of the Subcommittee on Energy and Power ("collectively" committee) sent a June 10<sup>th</sup> letter to the Chairman of the Federal Energy Regulatory Commission ("FERC") regarding:

... the perspectives of the Federal Energy Regulatory Commission ("FERC" or Commission) on the current and future state of the organized electricity markets you oversee pursuant to the authorities granted by Congress and the Federal Power Act.

The committee Chairmen state that they have:

... followed with keen interest the many market, regulatory and technology changes currently affecting the electricity sector.

The June 10<sup>th</sup> letter references committee awareness of changing consumer expectations and the availability of "advanced, consumer-facing technologies in the electricity space are empowering consumers to make smarter decisions in energy usage, while providing utilities new, more efficient ways to generate and distribute power." The letter further notes concerns regarding competitiveness of wholesale electricity markets which are attributed to problems with their respective regulatory frameworks.

Cited as "evidence" of an evolution taking place are two Supreme Court decisions regarding the scope and reach of the Federal Power Act and the jurisdiction of the FERC and how new products and programs fit into the existing statutory regulatory regimes. The decisions cited are *Federal Energy Regulatory Commission v. Electric Power Supply Association* and *Hughes v. Taleen Energy Market, LLC*.

The committee poses to the FERC chairman five questions, which include:

1. Have the competitive markets fared as expected since restructuring began over 20 years ago, particularly in terms of market efficiency, capital investment, reliability, electricity rates, and consumer impacts?
2. Are the competitive markets equipped to promote, integrate and adapt new technologies, new products and services, and state and federal policy changes?

3. What is the Commission's view as to how non-FERC jurisdictional federal and state actions, such as the Federal Production Tax Credit or state and energy mandates, impact the operation of wholesale markets generally, and specifically, in terms of impacts on reliability, resource and technology neutrality, and wholesale power process?
4. How do new technologies, programs, incentives, and policy changes at the state and federal levels affect the jurisdictional "bright line"? Is that line becoming increasingly blurred as a result of such changes?
5. Does the Federal Power Act continue to be well-suited for today's electricity sector? Is it well-suited for the electricity system of the future?

[A copy of the June 10<sup>th</sup> letter can be downloaded here.](#)