

**Tom Tiernan:** Hi, I'm Tom Tiernan of the Foster Report. Welcome to another edition of Industry Insights, where we speak with policymakers on hot topics in the energy industry. Today I'm with Neil Chatterjee, Chairman at FERC, the Federal Energy Regulatory Commission. Thank you for taking this time to speak with me.

**Chairman Chatterjee:** Absolutely.

**Tom Tiernan:** So we're recording this on November 15 and you're Chairman. There's an open meeting tomorrow on the 16th and, first off I guess, do you know when Kevin McIntyre and Rich Glick will be able to complete the full roster of the Commissioners here?

**Chairman Chatterjee:** I don't know that yet. I know that there is paperwork that has to be done and commissions that have to be signed. I imagine that will happen in short order, but I don't have any clarity on timing at this time.

**Tom Tiernan:** OK. President Trump has designated Kevin McIntyre to become Chairman when he is sworn in, so you will be a Commissioner, and I don't know if you have any expectations for that change, or if you offered any advice to Mr. McIntyre coming in from the private sector.

**Chairman Chatterjee:** You know I don't really have advice to give him. Kevin's a guy who has got a lot of experience, is a very smart and thoughtful guy. I've gotten to know him a little bit, going through this experience, on the personal level. I'm very much looking forward to working with him. He's not just intelligent, but a very gregarious person. I think we will work very well together.

I think from my vantage point, you know, the circumstances in which I came into this, you know, having been a Commissioner for two days and then all of a sudden being designated as Chairman, serving for a period now where I came to the Commission – I think I'm the first Republican that had even been seated on the Commission in almost 10 months; I think I was the first Republican Chair of the Commission in almost eight-and-a-half years. I've been the first person in decades probably to come in ice cold, having never served as a Commissioner before, if you don't count the day-and-a-half that I was a Commissioner before I became Chair.

And I came in at a time where we had this unprecedented absence of a quorum for seven months that had led to a pretty substantial backlog, coupled with project approvals, major policy statements on hydro and cybersecurity, continued work on enforcement, and you add on top of all that the Department of Energy's NOPR, which is easily the most significant action that this Commission has had to contend with in probably decades and will no doubt be the most significant thing that I'll have to contend with during my tenure here Commission.

All that is to say, I'm grateful for the opportunity and the experience. It's certainly unorthodox the way that I came into this. Most people come in, they serve as a

Commissioner and then they become Chairman. I actually think I'll be a much more effective Commissioner having had this experience on the front end. Seeing how all the program offices work, seeing how the place functions, seeing what comes through the Chairman's office. I'm actually excited to take that experience and leverage it as Commissioner. I don't know if you can tell so far, I'm no shrinking violet. I intend to be a force at the Commission throughout my time here.

**Tom Tiernan:** So it was somewhat unique, your experience. So not really relatable for Mr. McIntyre?

**Chairman Chatterjee:** You know in some ways, and I'm proud of the work that we've done. You know, I hope I've cleared a lot of it out of the way for him, getting through the backlog and navigating the NOPR. Now obviously a lot will depend on what steps we take on December 11 going forward. But in some ways this unique period in which I've occupied this office – it's completely unique in the history of this Commission – and going forward I think Kevin's experience is likely to be a little different at least in that a lot of the real buildup from this unusual circumstance that led to this, we will be through it. I was joking with some of my colleagues that if you look at a per capita basis, the duration of my Chairmanship, what we've done, it's probably the most significant Chairmanship in the history any board or commission.

**Tom Tiernan:** Sure. You have a record.

**Chairman Chatterjee:** Either that or it is a really cool internship, one way or the other.

**Tom Tiernan:** So you mentioned the NOPR, the primary topic dominating a lot of the headlines on the grid resilience, and you've mentioned you hope to take an interim measure, some kind of interim step while a long-term solution is being considered and possibly addressed. Do you have any sense of where your fellow Commissioners stand on the notion of an interim step as we get closer to that December 11 deadline?

**Chairman Chatterjee:** Not yet. You know I think I really want to want to flesh things out first and get it in a presentable way to my colleagues. I've really tried in a lot of ways to take into account some of the concerns that they had raised and expressed about the initial submission of the NOPR. Concerns about having disruptive impact on markets, about our approach being legally defensible. And I'm hopeful that when we ultimately flesh this out what we will land on is the long-term rulemaking process that I think even if you look at people's comments who were opposed to the NOPR they acknowledge that looking at the question of resilience and security, coupled with long-term reliability risk, resilience risk, these are questions worth looking at. Understanding what our generation mix will look like in the future if certain assets are prematurely retired and we have a fuel mix that is comprised largely of gas and renewables. What are the consequences of that? What, you know, are the impacts of that? Are there, in fact, attributes that baseload coal and nuclear plants have that aren't being valued and do we need those?

I think we're all in agreement that these are questions worth asking and answering. I just want the interim step to ensure that if we ask those questions and we come back and the answer is, yes, we did in fact need those assets, I don't want to have regrets that they're gone and we can't get them back. And honestly I'm a little befuddled as to why this is even controversial, this idea that we should thoughtfully and carefully and cautiously examine the future of our power markets and what our grid looks like and what our generation mix will be while we take prudent steps to ensure that short-term market pressures don't drive certain resources out of our generation mix until we understand what the implications of that would be. I honestly don't see why that's a controversial thing.

**Tom Tiernan:** In the past when we've spoken or you've spoken at different events, you said you don't intend to harm markets...

**Chairman Chatterjee:** Correct.

**Tom Tiernan:** ...you don't intend to take some step that's going to disrupt the markets too much and that there's a way to take an interim step without affecting dispatch, without throwing too much of a wrench. But some of the comments that have been filed at the Commission talked about the cost to consumers. If you compensate resources at an additional level, the consumer is going to pay for that. How do you thread that needle of not disrupting markets? There's going to be a cost effect with it.

**Chairman Chatterjee:** Sure. So there are two points with that. One is, as I've talked about, you know, my hope is that we can find a way to, on an interim basis, find a way to compensate these assets so that they can stay afloat while we do the longer-term analysis. And I want to ensure that the interim step is linked to adoption of the longer-term rulemaking. Because without that linkage, look, the interim step is going to be messy and complicated, the longer-term solution is going to be messy and complicated. The reason we are in this situation and required bold leadership from Secretary Perry is because these are the kinds of complex, vexing questions that if not tackled head-on linger forever.

I don't want the longer-term process to linger forever either. So you link it to the interim step, go about finding the answers to those long-term questions while casting that interim lifeline. But doing in a way that we could put limitations in place so that some of these assets which would receive resilience payments would still have to bid in their marginal costs. So they would not alter dispatch and would not change market behaviors. And we would have to have, we would have to be zealous in enforcing that they did continue to bid in at their marginal cost and that as their marginal costs were reduced because they were receiving these resilience payments that we be vigilant in ensuring that they continued to bid in at their marginal cost in the energy markets and not distort those markets and not alter dispatch. I think there's a way to do that and that minimizes the impact on changes to market behaviors and market distortions.

To the question of consumer cost, I'm not going to hide the fact that, yes, there is going

to be some kind of cost implication here while we do the interim step. That's why I want to be clear that it's just an interim step tied to a longer-term rulemaking so that people are clear and the market signal is sent that this isn't forever, it's just a short-term measure. I also think, quite frankly, that it's in ratepayers' interest to look at these long-term questions about resilience and security. The way that we plan for outages on the grid now, we know what happens if one generator goes down. What happens if you have multiple generators go down and you have a cascading effect?

You have to separate this concept of resilience from reliability. Reliability is great, we hit the switch and the lights come on. We are very blessed in this country that we have a reliable grid. But when it comes to resilience and the possibility that through a natural disaster, a man-made disaster, physical attack on our energy infrastructure, cyber attack on our energy infrastructure – anything that had a long-term debilitating effect – we weren't able to have a resilient bounce back, that could have effects that, forget about the economic costs, think about the social costs, the safety, the culture costs. If we lose power for two or three days right now it's very disruptive to American life. Think about extended periods of outages. The consequences of that would be significant.

Furthermore, let's say we do this analysis without an interim step and some of these plants are prematurely retired and then we find out that we actually needed them. What would the cost then be to finding a way around that? If you shut down nuclear plants, once that nuclear plant is shut down it is gone. The cost and time that would entail to build out new nuclear generation would be far more costly than the precautionary interim step of throwing a lifeline while we do the longer-term analysis. And if these units retire, what's the cost of new generation? What's the cost of new transmission?

**Tom Tiernan:** That's what I was getting at. Do you expect to have some kind of economic analysis to do the, "Here's a no action idea. Here's an interim measure." The cost benefit analysis of that kind of assessment, and is there enough time to get that done by December 11?

**Chairman Chatterjee:** I stress that as we've got to think about this in a more thoughtful, holistic manner. People are quick to jump to cost. And I'm just saying, cost as relative to what else? And also, quite frankly, again here we're talking about ratepayers paying for the analysis to find out if resilience and security can be maintained in our grid. I think that's worth paying for. I think there are things with a lot less grid value that ratepayers have paid for in the past.

**Tom Tiernan:** Appreciate the added sense there. Moving off the NOPR, you mentioned how, at one point last week you talked about how since you've been at the Commission your view from inside the building is different. People have a sense of when something is filed at FERC, it's been there a while and they have a sense of how far that proceeding is along and that was a bit eye opening to you. Has there been anything else that since you been here that people outside of the Commission might not appreciate or might not understand?

**Chairman Chatterjee:** In the last week? To make the point again, you know, an example I used when we were talking was the storage NOPR, which had been filed over a year ago and there had been numerous comments submitted. Previous Commission leadership had said that we're moving quickly to resolve this, so my perception from outside the building was that that process was much further along than I came to discover it was when I was inside the building. Not because of the absence of a quorum or any kind of nefarious undertaking, simply because really, really complex undertakings like that take time. There's a lot of smart, thoughtful people, genuine experts throughout the building who really dig deep and investigate and weigh in on these things, and that just takes time.

When I said surprised by that, I actually appreciate it. I appreciate the thoroughness of the work that we do here because at the end of the day the work we do has to remain within the confines of the statutes that govern us and has to be legally defensible. So I applaud the Commission staff for their diligence in ensuring that.

**Tom Tiernan:** I imagine as Chairman part of your role is prioritizing things. You can't tackle a lot of things that aren't as pressing. You mentioned of the storage NOPR. You've made a commitment to Senators Whitehouse and Markey about trying to get that along. You have the storage NOPR pending. Any kind of sense of when you can move that along or are there other priorities that you hope to tackle in the coming weeks?

**Chairman Chatterjee:** So one of the things when I testified before the House of Representatives early in my tenure, people were asking me – you know and this was even before the NOPR had come out – are we holding all new business aside while we work through the backlog. And my comment was, “No, we can walk and chew gum at the same time.” We were able to take on new filings and deal with new matters while still systematically working through the backlog, and we were able to achieve that to where we continue to take in new business and I'm confident that pretty much tomorrow at the open meeting we will be through the backlog. People will quibble as to what “through the backlog” means, and there some matters that because of refusals that are maybe still pending, but for the most part we are through the backlog.

We were able to do that while tackling the NOPR and working through these new issues and, quite frankly, tackling some of these other challenges. So I did impress on the staff that I wanted to try to expedite the process on the storage NOPR and staff has been responsive to that. I'm hopeful that we will resolve that quicker and soon. That said, it's got to be right and it's got to be done well, and that's my priority. But again, there's really talented people in the building. I come from the United States Senate where we juggle you know 50 balls a day at any given moment. And so for me, navigating all these things, I enjoy it.

And so we've been able to look at a number of different priorities. I gave a speech at the Energy Bar Association where I laid out some of my priorities once we get beyond getting through the backlog and the NOPR. Things like looking at how to find better

efficiencies in our project approval process. Things like examining the direction the Commission needs to go when it comes to enforcement and *de novo* review in response to court actions. My focus and interest on cybersecurity because I do feel that while I embrace and am excited about all this technological innovation that is changing the way that we generate and consume electricity, that comes with it increased vulnerability that we need to be prepared for. Finding appropriate ways to incent transmission and infrastructure development so we do it in a smart way. And again, I've been working with my team on PURPA finding ways, in the absence of Congress making substantial changes to PURPA, finding ways that we can work within our own purview to bring PURPA in line with the 21st Century realities in the marketplace.

We're addressing all of these things while navigating everything else, including the storage NOPR, the DOE NOPR, and working through the backlog.

**Tom Tiernan:** That's quite a laundry list.

**Chairman Chatterjee:** But the best thing I did, I'll tell you, is when I came in the door I surrounded myself with an incredible team. My immediate team are some of the best in the business and they help me every hour of every day, coupled with the expertise that we have in the building. But I wanted to give particular shout out to my immediate team and the team on the floor. Commissioner Powelson and Commissioner LaFleur also have great teams around them. They work well with our team and we're able to navigate this difficult terrain pretty seamlessly.

**Tom Tiernan:** Okay. Thank you. I appreciate you taking the time to work us into your schedule.

**Chairman Chatterjee:** Thank you.

**Tom Tiernan:** This is been another edition of Industry Insights from the Foster Report. Be sure to stay tuned for further installments in coming weeks.