

**The Washington Post Energy 202 Live
Interview with FERC Chairman Kevin McIntyre
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Steven Mufson: I'd like to introduce my guest today, Kevin McIntyre, the Chairman of the Federal Energy Regulatory Commission. Before we get started I want to remind our audience here in the room and those watching online that you can tweet questions for Chairman McIntyre using #202live. And I'll pose a few of those questions later on our discussion. Well, welcome here to Washington Post Live.

Chairman Kevin McIntyre: Thank you, Steve, great to be here with you.

Steven Mufson: Usually you wouldn't juxtapose the phrase "lively time" and the Federal Energy Regulatory Commission, but it's been a pretty lively time, I think, for you already. And I thought we'd start by talking about one of the more controversial things, the Energy Department's initial effort to try to get the FERC to approve increased compensation for coal and nuclear plants in the name of resilience and reliability. And so I'd like to hear you talk a little bit more about that but also, as you know, you sort of left the door ajar a bit by saying 'Let's take a look at this issue of resilience,' so I thought we could start by talking a bit about what you mean by this holistic approach and what is resilience and is there any connection between resilience and the issue of cost and competition.

Chairman Kevin McIntyre: OK, sure. Let's cover a few those bases. First, yes. At the time I arrived in the FERC, I was sworn in on December 7. Yes, my first day, a date which will live in infamy. At that time, already pending before the FERC and thus awaiting my attention, was this notice of proposed rulemaking that had been sent to the FERC by the Secretary of Energy, under rarely used authority under section 403 of the Department of Energy Organization Act. The fact that it was rarely used doesn't, in my view, particularly as a lawyer, make it any less valid. It was validly proffered to us for our consideration. And yes, as you have said, it was premised on the idea of the security of our bulk power system, the resilience of our power system. And although under the legal standards that apply to the FERC's processing of such a proposal, we were unable to accept it in the form that was given to us, and our actions, our official action on it reflected that view. All five of us commissioners at the FERC voted that we could not accept it in its form, but we did acknowledge and in fact embraced, the concept of resilience as something that really does cry out for attention. So we initiated our own proceeding to address that. And that proceeding is under way now. We have invited comment from all of industry and other stakeholders as to whether there are attributes to resilience that we should recognize among different types of electric resources, and if so, what should be the treatment of those resources for purposes of providing compensation to them.

Steven Mufson: Well, do you think one of the key attributes, you think that will go along with resilience, and does that have something to do with what you pay for the power generated by those facilities.

Chairman Kevin McIntyre: Well, we're trying to figure that out now. But certainly in my view, as a conceptual matter, we're not doing it right if we don't recognize what the attributes are, define them sufficiently to justify action upon them, and ensure that we get the compensational aspect of it right. This is not unique to resilience attributes. We already have certain types of functions that are performed by different types of electric generating resources in different ways. For example, providing voltage support to our transmission grid, providing frequency response – these are highly technical concepts, but certain types of electric generating facilities are recognized as being able to provide these types of supportive measures, we call them ancillary services. The services are not pure transmission and they're not pure generation in the customary sense, but do help keep our grid functioning well, and those attributes are recognized in official FERC policy and are compensated accordingly. So it wouldn't be beyond the pale to think that if we could identify with sufficient specificity what are the resilience attributes that merit compensation, then we can move to that compensation calculation stage.

Steven Mufson: But they wouldn't necessarily be, say, you know 90 days' fuel supply on site.

Chairman Kevin McIntyre: They would not necessarily be, that's right.

Steven Mufson: Because I think you know I think a lot of people, especially people who are skeptical about the future of coal plants, think that this is sort of a solution in search of a problem, and I was wondering whether you know you share that view.

Chairman Kevin McIntyre: I wouldn't describe it as a solution in search of a problem. I do think that the spate of extreme weather events we've had over the past several years have given us a lot of data and ability to study exactly how our grid performed with a particular eye toward seeing whether there are certain types of generating resources that did better than others, that were more reliable than others, during those very challenging operational circumstances. So we are going through that analysis. It started with the polar vortex a couple of years ago and then the more recent so-called bomb cyclone weather events of 2017 and 2018.

Steven Mufson: So now FirstEnergy has come back, and the Department of Energy has come back, trying to invoke the idea that there's an emergency that involves, perhaps above all, FirstEnergy's nuclear and coal plants but perhaps a bit more broadly, or perhaps not, but maybe you could talk a bit about whether you think we have an emergency on our hands or not.

Chairman Kevin McIntyre: I don't think we have an emergency on our hands right now, in the sense of the ability of our grid to perform today, and in the coming weeks and months. I don't think we have that sort of situation. However, that's not my call. Section 202(c) of the Federal Power Act, which was the basis on which FirstEnergy has made its submittal to the Department of Energy, has its own standards spelled out there and I trust the Secretary of Energy and his team at DOE to perform their own valid

analysis of that, and to determine whether or not any further action is necessary.

Steven Mufson: But it does seem like an odd thing to invoke. I mean, these are old statutes that, you know, were created in a different context. One of them, for Truman to use against the steel industry – it just doesn't seem like this is that kind of comparable situation.

Chairman Kevin McIntyre: Yes, it's perhaps not the most obvious fit. Even section 202(c) of the Federal Power Act tees off of the concept of continuance of a war in which the United States is involved, as being kind of the baseline circumstance that would justify a DOE order to certain types of facilities to either begin operating or continue operations. That statute does go on to encompass in a more generic fashion some sort of ongoing emergency of similar import. So I agree with the suggestion of your question that the fit is perhaps not the most obvious one. I'm certain that DOE has a handle on that issue and will analyze that in making its decision.

Steven Mufson: So there is another request from an ISO in New England about saying, keeping some facilities open order to bolster the economic health of an LNG import facility. Does that seem like a more reasonable request, and how would you view that?

Chairman Kevin McIntyre: I don't know. As you know I am but one of five voices-slash-votes on the Commission. I don't like to get ahead of my colleagues on matters such as that. So I won't hit that one directly. But you know, I think that considerations like that are completely valid.

Steven Mufson: I wanted to also ask you a bit about FERC's relationship with the states. You know, I don't need to tell you you're part of a patchwork of organizations and agencies that deal with the electric grid and gas pipelines, so I was wondering how you see your priorities fitting together with those in the states, especially in areas where we have renewable portfolio standards that are envisioning a much higher level of renewables, for example. How does that all fit together with your goals and is there some sort of conflict there that you might have to resolve at some point?

Chairman Kevin McIntyre: There is an inherent tension. I wouldn't say rises to the level of the conflict. But there is an inherent tension there between the state roles and the federal role. Let's face it, we have a federal system of law and government. We at FERC have our statutorily spelled out role. And the states have somewhat broad license to make their own policy decisions about what sorts of resource mixes they prefer for the satisfaction of energy needs within their respective footprints. And we at FERC must take whatever power comes onto the grid, and our role is kind of the economic insurer of justness and reasonableness of rates and terms and conditions of service. So a given state may say we want X percent of the electric generation in the state to come from renewable resources. That power is generated, does make its way onto the grid, whose markets we regulate. And our obligation is to ensure that all of that takes place on the terms and conditions that are just and reasonable and not unduly discriminatory. The tension comes in where someone can look at the resource mix that comes out of a

given state or group of states or region and say, 'Doesn't this amount to a thumb on the scale in favor of this type of resources and against that type of resource?' And the question is not a crazy one. It's one that we have to make some policy sense out of, hence the tension.

Steven Mufson: Right. I mean, to what extent do you feel that some innovations both in renewable energy as well as in storage may be changing the nature of this calculation?

Chairman Kevin McIntyre: They unquestionably are changing it. I personally view that as a good thing. I think all of the various technological advancements that we have seen the last couple decades have been nothing but helpful to our electricity sector, our energy sector in general. Every public official in America says in answer to the question, 'How should we satisfy our nation's energy needs?' All the above. And I don't think you can really legitimately be in all-of-the-above person unless you recognize the roles of all of these various types of not only your electric generating resources, but some of the technology that has advanced even without being pure generation. You referenced storage, that's increasingly important. Demand response – the agreement in advance to reduce consumption of electricity under certain operational circumstances, and other such steps.

Steven Mufson: Storage must be increasingly part of that whole picture. Do you have a vision as to what the grid is going to look like, say, 10 or 15 years from now? I remember some years ago hearing Jon Wellinghoff, you know, paint his vision of, you know, cars that would be part of the storage for the grid, and we face a situation where, perhaps, more and more cars will be plugging in to the grid. So how do you see your ability to accommodate all those things going down the road a bit?

Chairman Kevin McIntyre: There's no question in my mind that storage will become increasingly a part of our grid and the reality of the operation of our grid. And God bless the electrical engineers who have to keep it all functioning, because it is changing in real time. And much of it involves power that's being put onto our grid at the distribution voltage level – that is to say, the lower voltage levels, not the big spine of interstate transmission that we think of when we even use the term grid. And so all of that has to be accommodated operationally in addition to policy-wise. It's going on right now. It's a good thing in my view. We recently took action at the FERC to direct the operators of our nation's wholesale electricity markets to remove any undue barriers that they can identify to the full participation in our energy markets of storage resources. In other words, to treat storage as if it were what we call bulk power transactions, the same as a sale of a chunk of wholesale power from one entity to another or into an organized market. So the ball is currently in the court of the operators of the nation's wholesale energy markets to come back to us and tell us exactly how they're going to do that to really open the door wider for storage as a valid resource that may participate in our markets.

Steven Mufson: Do you think it's a legitimate goal for those who want to de-carbonize the grid, to make it a greener thing? That would, of course, be the whole idea of having

electric cars. It's not as much a point if there isn't a greener grid.

Chairman Kevin McIntyre: Well, FERC itself is not an environmental regulatory agency, so that's not really a matter for our decision. It's certainly something we're seeing in state decision making. And as I've noted that's something we must accommodate in our own FERC role.

Steven Mufson: So I also wanted to ask you a bit about cybersecurity. There have been warnings about Russian campaigns to insert malware onto the energy infrastructure, and I was wondering what you've seen in this area, and what sort of strategy you might have for combating that kind of intrusion.

Chairman Kevin McIntyre: I think in your prior segment, Senators Hoeven and Heinrich did a real nice job of laying out some of the basic concepts on this topic. And I agree with something that was said by Senator Heinrich, that the day is not going to come on we may declare victory, at least in our lifetimes, over cyber problems. It is a matter that commands constant vigilance. We at FERC are constantly vigilant on the matter. We are in increasingly close coordination with other federal governmental counterparts, including most importantly the Department of Energy itself, and we monitor this stuff all the time because the threats are real, and involve highly sophisticated players, state actors and other entities that mean us harm as a nation, as an economy. They mean to harm our national security and mean to harm our populace. So we have to pay constant attention to it. In 2005, Congress gave to the FERC oversight over our nation's reliability, electric reliability, and empowered us to identify an organization that would be in charge of promulgating regulations for the assurance of reliability. That organization is the North American Electric Reliability Council, or NERC. And today we have a robust and widespread system of reliability standards in place that include, within their scope, cyber protection. So this is something that gives us an official function and monitoring and asking ourselves constantly whether that suite of regulations, reliability standards, is doing what it is intended to do in terms of the protection of our grid from cyber standpoint.

Steven Mufson: Do you see a conflict between these defensive measures, and the openness and accessibility of the grid? Because it seems as though the increasing number of ways you can connect with the grid could potentially all offer areas of vulnerability.

Chairman Kevin McIntyre: That is a real concern. In fact, we talk about a lot of technological advancements in energy leading to what we often here refer to as the smart grid. It's possible that in certain respects our smart grid is a little too smart, and that's a little too electronically accessible. There might be certain areas where we need to dumb down our grid a little bit for cyber protection reasons.

Steven Mufson: I also want to ask you about pipelines a bit, because that also falls in your bailiwick. And particularly want to ask about your attitude toward efforts to obstruct some pipelines, but also about some of the efforts to build them. I'm particularly

interested in the conflict in Ohio at the moment with the Rover pipeline. Energy Transfer Partners has had a lot of accidents, I guess you could say, in Ohio. And the Ohio EPA has actually tried to block the completion of the pipeline in order to address some of these issues. And FERC has come in, I believe, and helped push it, push it forward. Maybe you could comment about that conflict in particular.

Chairman Kevin McIntyre: Sure, well, where there are matters that are pending before us pertaining to a particular company or project, I refrain from comment. However I will say as a general matter, that what we do when we have such matters before us, which is to say, a matter that is awaiting an official FERC approval for infrastructure, whether it be a natural gas pipeline or hydroelectric project or otherwise, our Office of Energy Projects works very, very closely with the developer and ensuring that developer is taking all appropriate steps to safeguard the environment, and to adhere to best practices in construction and siting and so on. So that process is well under way. And on the overall category of infrastructure, I would say that one of the things I committed to in taking this job was to look for ways to streamline the process of approving or, if the circumstances call for it, declining to approve a particular project – to try to streamline that, eliminate any undue delays in our processing of the applications, and to enhance transparency and predictability of the process. So I'm hoping that we will continue to make progress in that regard.

Steven Mufson: I guess just to stick with this for another moment, the reason why this one sort of jumped out at me as opposed to all the many pipelines is that there was an agreement with FERC that specifically barred the destruction of certain historic sites, which was done, and there has been quite a lot of spilling of drilling mud in the construction of the line that Ohio EPA said, you know, was extremely unusual.

Chairman Kevin McIntyre: But here, too, we see the interplay between federal and state roles. Another instance I would point to is efforts to build pipelines to New England. You won't find a person in industry who can say that New England doesn't need new natural gas pipeline capacity, and yet because of the state role in approving Clean Water Act approvals, in granting Clean Water Act approvals, or as the case may be, in New York, declining to grant Clean Water Act approvals, we have a situation that has emerged that amounts to the exercise of a veto power over federally administered projects. And, is that appropriate? Who can say? These are valid questions. But we're just trying to do our utmost to, as I say, kind of streamline and be efficient in our own role.

Steven Mufson: So how do you deal with the situation in New York, if you think it's extremely important to get a pipeline up to New England?

Chairman Kevin McIntyre: Any real change in that area would require action by Congress. Because we at FERC are the lead agency for these approvals, that goes only so far.

Steven Mufson: Let's see. Maybe we want to, oh, I know. So, LNG plants. This is

another area where you are involved in approvals. I've heard, oddly enough, some people criticize FERC, the current FERC as opposed to the Obama FERC, for possibly being even slower in giving approvals for some LNG export facilities. What's happening in that area now?

Chairman Kevin McIntyre: There's a couple of things going on. First in LNG, the government, the federal government approvals involved are basically bifurcated between FERC and the Department of Energy. DOE approves the actual export of the energy commodity, liquefied natural gas, and FERC is in charge of giving thumbs up or thumbs down on the proposed facility, the LNG terminal that would be involved in the export. As to a comparison between where we at FERC are now versus the prior presidential administration, it's largely a matter of the numbers. There are today a lot more proposals before us awaiting our action than was the case some years ago during the kind of the core of the Obama administration. I think it was roughly a half dozen or so that were being processed for approval or not approval, and now, right now, I think we have something like 15 or 16 awaiting our action. So that presents a large workload for our Office of Energy Projects staff. They're doing a great job of working through it, working very closely with the project sponsors. Generally speaking, the project sponsors are very responsive to the need for information and analysis. So, these are highly complex, resource-intensive projects, and so to determine whether or not to approve them is not a simple overnight process.

Steven Mufson: And is there a point where you think there would be too many of these facilities, given the resource here and the demand for natural gas here in the states?

Chairman Kevin McIntyre: Not necessarily, particularly if we move ever-, as we appear to be doing, evermore toward a global market for LNG. And we have this enormous resource of natural gas occasioned by the revolution in shale production. And so it's just natural market forces would suggested that that production is going to seek out a market. And given the inherent limitations on the domestic market for consumption of natural gas, which in and of itself is a robust market, but the global market for LNG, I think is just significantly larger in magnitude and so it would not. I don't naturally find myself thinking that there is a limit on the number of LNG facilities or LNG export capacity that would be an issue for us.

Steven Mufson: I wanted to come back to the states for a minute because partly of what's happening, I think, during this administration, is that some states are going their own way a little bit in terms of electricity policy, whether it's asking for homes to put solar in California or setting certain statewide targets. And then of course some of these states are all joining together with California. Do you see some sort of other regional transmission organization basically taking shape for decisionmaking purposes in a lot of areas that overlap with what FERC does?

Chairman Kevin McIntyre: For purposes of electric transmission projects, you mean?

Steven Mufson: Transmission, but also the type of ...

Chairman Kevin McIntyre: Resource mix?

Steven Mufson: Resource mix, exactly.

Chairman Kevin McIntyre: Well, over half of U.S. states and the District of Columbia already have renewable portfolio standards that spell out those jurisdictions' preferences, and indeed mandates, for what the resource mix should look like. I don't see that changing anytime soon. I think they are, as you suggest, getting more ambitious with regard to their goals. And so I believe that trend will continue, as that does increase the tension I referenced earlier with our need at FERC to ensure that the markets operate in a way that's just and reasonable and not unduly discriminatory. But I think the trend is established and will continue.

Steven Mufson: And just to also go back a bit to the first question. I mean, I think one of the things that struck people at the decision that FERC took in January, was the independence, at that time of the Commission, four of whose members are appointed by the President. I was wondering if you could just talk a bit about how you think of that, and whether or not you feel under any pressure to accommodate some of the goals of this administration.

Chairman Kevin McIntyre: I don't feel under any pressure, and certainly no one has taken steps to try to pressure me. I do believe strongly in the independence of the FERC. FERC is an independent agency by statutory design and by proud tradition, and as long as I'm there that will continue.

Steven Mufson: OK, well I think this is been helpful. I appreciate your coming here today. If anyone has any questions right here, we could do that. Otherwise, I'll say thank you very much.

Chairman Kevin McIntyre: Thank you, Mr. Mufson. I enjoyed it very much.