

On Behalf of:

National Association of State Utility Consumer Advocates
National Association of Regulatory Utility Commissioners
National Association of State Energy Officials
National Consumer Law Center, on behalf of its low-income clients
Natural Resources Defense Council
Sustainable FERC Project-NRDC
Public Citizen, Inc.
Consumers Union
National Consumers League
Union of Concerned Scientists
Federation of State PIRGs
Maryland PIRG
Arizona PIRG
Illinois PIRG
The Greenlining Institute
Alliance for Affordable Energy
Low-Income Energy Affordability Network
Sierra Club
TURN—The Utility Reform Network

August 29, 2016

The Honorable Lisa Murkowski
Chairman
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Fred Upton
Chairman
U.S House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Rob Bishop
Chairman
U.S House Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Maria Cantwell
Ranking Member
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Frank Pallone, Jr.
Ranking Member
U.S House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Raul Grijalva
Ranking Member
U.S House Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chair Murkowski, Chairman Upton, Chairman Bishop, Ranking Member Cantwell, Ranking Member Pallone, and Ranking Member Grijalva:

As organizations representing consumers, state regulators and state energy officials across the nation, we are writing to express our support for the establishment of an Office of Public Participation and Consumer Advocacy (OPPCA) at the Federal Energy Regulatory Commission (FERC or Commission), as proposed in the Public Engagement at FERC Act (S. 3012 and H.R. 5348) sponsored by Senator Shaheen and Congresswoman Schakowsky. Creating the OPPCA will provide a critical resource to the small energy customers whose lives and business are impacted by decisions made at FERC. The OPPCA will provide information, guidance and advocacy for small customers that wish to provide meaningful input to FERC as it makes important decisions in carrying out its public interest responsibilities.

We want to make clear that the creation of the OPPCA at FERC should not be viewed as a criticism of FERC or of past FERC actions. FERC plays an incredibly important role in developing the country's energy infrastructure, ensuring reliability and protecting consumers through oversight of wholesale markets and consumer rates. Rather, the OPPCA is simply a recognition that over time FERC's role has expanded and the impacts of FERC's decisions are felt widely across the population. Yet residential and small commercial customers find the FERC process complex and expensive, leaving them largely excluded and frustrated.

An independent office like the OPPCA to represent customers is not a new idea. Over 40 states have recognized the value of funding an independent and dedicated advocate for customers as part of the utility regulatory process. And in no instance has it been the case that having a funded, independent advocate for customers minimized the regulatory agency's authority. In fact, the opposite is normally the case. Having an independent advocate for customers enhances the overall record on which the agency must base its decision, gives customers a trusted go-to source of information, provides customers the due process protections that every other participant in the regulatory process enjoys and provides some assurance to customers that they are not shut out of the process. This serves to enhance the transparency and credibility of the regulatory process, which enhances the credibility of the regulatory agency. It is FERC's role to balance the interests of utilities and consumers in order to promote and protect the overall public interest. Enhancing the public's ability to participate in the FERC process can only be viewed as positive for all involved.

There is also a matter of simple fairness. The OPPCA will be funded as part of FERC, whose fees are charged to the regulated community. The fees assessed by FERC to the regulated entities are in turn passed on to utility customers through utility rates. Customers also pay the costs the utilities incur for lawyers and experts to advocate the utilities' interests before FERC. And to the extent a utility seeks appeal of a FERC order to protect its due process rights, customers will ultimately pay those costs too. Customers pay for the utility to be represented at FERC. And customers pay the cost needed for FERC to hold proceedings and make decisions. It is only fair that customers be allowed to have someone in the process that is funded and charged to represent the interests of the customers who are ultimately paying all of the bills.

Finally, this is not a new idea for FERC. The Public Utilities Regulatory Policies Act of 1978 (PURPA) contained the following language; “There shall be an office in the Commission to be known as the Office of Public Participation.” (16 USC 825q-1). The Public Engagement at FERC Act finally puts form to this requirement in a way that will have meaningful benefits to consumers while also enhancing the public’s understanding and appreciation of FERC’s challenges and responsibilities.

The Public Engagement at FERC Act will:

- Establish an office that would directly participate in FERC proceedings on rates, services, and infrastructure siting to represent the interests of residential and small commercial customers.
- Employ directed outreach methods, such as consultation services and technical assistance, to ensure the interests of the public are adequately represented at FERC.
- Create a Public and Consumer Advocacy Advisory Committee for the office composed of representatives from the national and state-based nongovernmental consumer advocacy community.
- Prepare reports and issue guidance for potential improvements to industry and FERC practices to better incorporate the public voice.
- Provide intervenor funding to individuals or small commercial energy consumer groups to encourage their participation in FERC.

We appreciate your leadership and support in helping provide residential and small commercial customers meaningful access and representation before FERC by adopting the language creating the OPPCA contained in the Public Engagement at FERC Act (S. 3012 and H.R. 5348) sponsored by Senator Shaheen and Congresswoman Schakowsky.

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