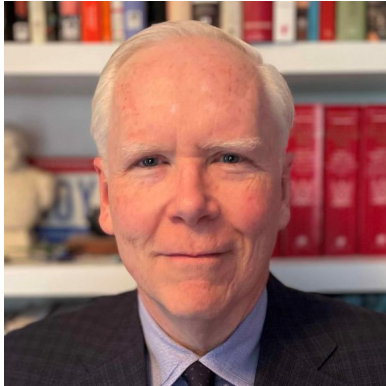


Joseph T. Kelliher



Hon. Joseph T. Kelliher was nominated by President George W. Bush to be a Member of the U.S. Federal Energy Regulatory Commission (FERC), unanimously confirmed by the U.S. Senate in 2003 and unanimously reconfirmed in 2007. FERC is the principal U.S. energy regulatory agency, responsible for regulation of the electricity, natural gas, oil pipeline, and hydropower industries. Kelliher served as FERC Chairman and Commissioner for over 5 years between 2003 and 2009. During his FERC service, he cast nearly 7,000 votes at FERC on a wide range of matters relating to regulation of electricity, natural gas, hydropower, and oil pipelines.

As Chairman, Kelliher implemented the Energy Policy Act of 2005 (EPAAct 2005), the most significant expansion in FERC regulatory power since the 1930s and reformed the agency's approach towards core economic regulation and infrastructure missions. Mr. Kelliher prevented market power exercise through adoption of an anti-manipulation rule, open access transmission service tariff reform and issuance of a market-based rate wholesale power rule. He assured grid reliability by establishing a FERC Office of Electric Reliability, certifying an electric reliability organization, and adopting mandatory reliability standards for the first time. Mr. Kelliher strengthened the power grid through transmission incentives policy, mandatory regional planning, and a siting rule, resulting in a doubling of grid investment. He strengthened the natural gas pipeline network by blanket certificate program reforms, proxy group changes, pricing reforms that produced the largest increase in gas storage capacity in 20 years, certification of 7,400 miles of natural gas pipeline additions, and authorization of a 500% increase in LNG import capacity. Mr. Kelliher encouraged hydropower licensing settlements through a settlement policy statement and promoted hydrokinetic technologies through new pilot license. He founded the modern FERC enforcement program, defining how FERC will discharge the new enforcement mission granted by EPAAct 2005, establishing procedural rules, providing compliance guidance, encouraging self-reporting, and clarifying the role of RTO market monitors. As Chairman, Kelliher directed the FERC Enforcement staff, set enforcement priorities, determined settlement targets, and approved audit plans. Under his direction FERC initiated investigations and began to exercise its new civil penalty authority. Mr. Kelliher restored FERC's standing in the Federal appellate courts, improving FERC's success rate on judicial review from 58% to 82%.

From 2009 to 2020, Mr. Kelliher served as Executive Vice President-Federal Regulatory Affairs for NextEra Energy, Inc. (NextEra), the largest electricity, renewable energy, and natural gas company in North America, operating in every region of the U.S., every RTO market, and some Canadian provinces. In that capacity, he developed and executed FERC regulatory strategy for NextEra, the most complex company in the electricity sector, with multiple business lines, most



of which are FERC-regulated. Mr. Kelliher led the largest and most experienced corporate FERC legal team in the sector that under his direction made 3,491 FERC filings involving corporate transactions, electricity and natural gas regulation, hydropower projects, and oil pipelines. Under his leadership, NextEra initiated change in FERC regulatory policy on interconnection policy, bankruptcy jurisdiction, approval of tax equity transactions, and radial line access. Mr. Kelliher secured FERC approval for three large utility mergers and 82 generation asset transactions with a value over \$43 billion and analyzed multiple potential acquisitions to assess prospect for FERC approval and expected mitigation. He obtained regulatory approval for a new NextEra FERC interstate gas pipeline business, through certification of three new pipelines spanning 946 miles. Chairman/Mr. Kelliher advised on FERC compliance, helped structure the new NextEra corporate compliance organization, and identified best practices on compliance. He achieved favorable settlements on transmission rates, compliance, and other matters.

Mr. Kelliher has experience with contract interpretation and resolution of contract disputes from his service both as a regulator and senior corporate executive. Hundreds of the decisions he rendered as FERC Chairman and Commissioner involved interpretation of complex power and gas contracts and as a senior executive he was engaged in settlement and litigation of multiple contract disputes. The range of FERC-judicial contract matters include merger agreements, asset purchase agreements, wholesale power purchase agreements, transmission service agreements, wholesale transmission over distribution service agreements, energy management agreements, service agreements, interconnection agreements, construction agreements, shared facilities agreements, cost-sharing agreements, congestion revenue rights agreements, metering and billing agreements, oversight and transfer agreements, settlement agreements, various RTO agreements such RMR agreements and operation of specific assets, and gas transportation contracts, and other matters.

Mr. Kelliher's nearly 40 years' experience in the energy sector, both as an adjudicator of disputes when FERC Chairman and Commissioner and a senior executive at the largest electricity, renewable energy, and natural gas company in North America, makes him exceptionally qualified to assist parties and their counsel in resolving disputes through arbitration and mediation, and serving as an expert witness.

Areas of Expertise:

- OIL, GAS, ENERGY & WATER



Electricity:

- Wholesale power sales and transmission service in interstate commerce by FERC jurisdictional utilities, EWGs, RTOs, and power marketers, power pools, and power exchanges
- FERC review, approval and enforcement of RTO market rules tariffs and agreements RTO governance
- FERC transmission open access regulation
- FERC regulation of mergers and acquisitions and other corporate transactions
- Generator interconnection rules and agreements
- Certification and sales by PURPA qualifying facilities
- FERC reliability regulation, including Electric Reliability Organization, review and approval of proposed standards, and enforcement

Natural Gas:

- Regulation of pipeline, storage, and LNG facility construction
- Natural gas transportation in interstate commerce
- Construction and operation of interstate pipelines and storage facilities and provision of energy services
- FERC jurisdictional gas transportation service

Hydropower:

- Hydropower licensing, relicensing, and license compliance
- Dam safety and environmental monitoring of licensed projects
- Hydropower settlements

Oil Pipelines:

- Contract and tariff rates and practices of oil pipeline companies engaged in interstate transportation

Enforcement and Compliance:

- FERC Enforcement priorities practices and policies
- FERC compliance policies and corporate compliance guidance
- Corporate compliance structures



- Self-reporting and mitigation of potential violations
- Resolution of potential violations through settlement
- FERC audit program

Additional Experience:

- **Senior Policy Advisor-U.S. Department of Energy, Office of the Secretary (2001-2003):** Advised Secretary of Energy on electricity policy and other domestic energy policy matters. Participated in “Cheney Task Force” and development of National Energy Policy, preparing energy policy options, participating in interagency review, and drafting sections of NEP. Participated in discussions with senior Administration officials on Federal response to California electricity crisis, prepared policy options, and briefed President Bush, Vice President Cheney, DOE Secretary, and senior White House officials on crisis.
- **Majority Counsel-House Committee on Commerce (1995-2000):** Lead on electricity, nuclear waste, hydropower, and DOE management. Negotiated and drafted comprehensive electricity legislation reported by Energy and Power Subcommittee, nuclear waste legislation passed by the House by a vote of 307 to 120, overriding a Presidential veto, and hydropower relicensing legislation and other bills enacted into law. Participated in Senate conference negotiations. Explained legislation and answered questions from Committee members during legislative markups. Organized subcommittee hearings on a wide range of subjects.
- **Manager, Federal Affairs-Public Service Electric & Gas Company (1991-1995):** Represented company views on energy legislation and regulation to New Jersey delegation and Congressional committees. Persuaded company to sign accord with DOE and EDF committing to reduce greenhouse gas emissions and engaged in negotiations resulting in agreement.
- **Legislative Programs Director-American Nuclear Energy Council (1987-1990):** Represented U.S. nuclear industry before Congress on various NRC regulatory matters, including Seabrook and Shoreham licensing, emergency planning, NRC licensing reform, and NRC user fees.
- **Legislative Assistant-U.S. Representative Joe Barton (R-Texas) (1985-1987):** Responsible for legislation in Interior and Insular Affairs Committee and Energy and Commerce Committee. As Director of House Republican Energy and Environment Task Force wrote white papers on offshore oil and gas moratoria, oil import fee, and Superfund corporate excise tax.



Publications:

- Regulation of the Energy Sector in the United States, COMPARATIVE LAW PORTUGUESE-AMERICAN PERSPECTIVES VOL. III 245 (2016)
- The Changing Landscape of Federal Energy Law, 61 ADMIN. L. REV. 612 (2009)
- Market Manipulation, Market Power and the Authority of the Federal Energy Regulatory Commission, 26 ENERGY L. J. 1 (2005)
- The Need for Mandatory Electric Reliability Standards and Greater Transmission Investment, 39 UNIV. OF RICHMOND L. REV. 717 (2004)
- Pushing the Envelope: Development of Federal Electric Transmission Access Policy, 42 AMERICAN UNIV. L. REV. 543 (1993)

Education:

- Georgetown University, School of Foreign Service, B.S.F.S.
- The American University, Washington College of Law, J.D., Magna Cum Laude, Member, American University Law Review