

FERC Chairman Neil Chatterjee Carries Out Ambitious Legacy for Two

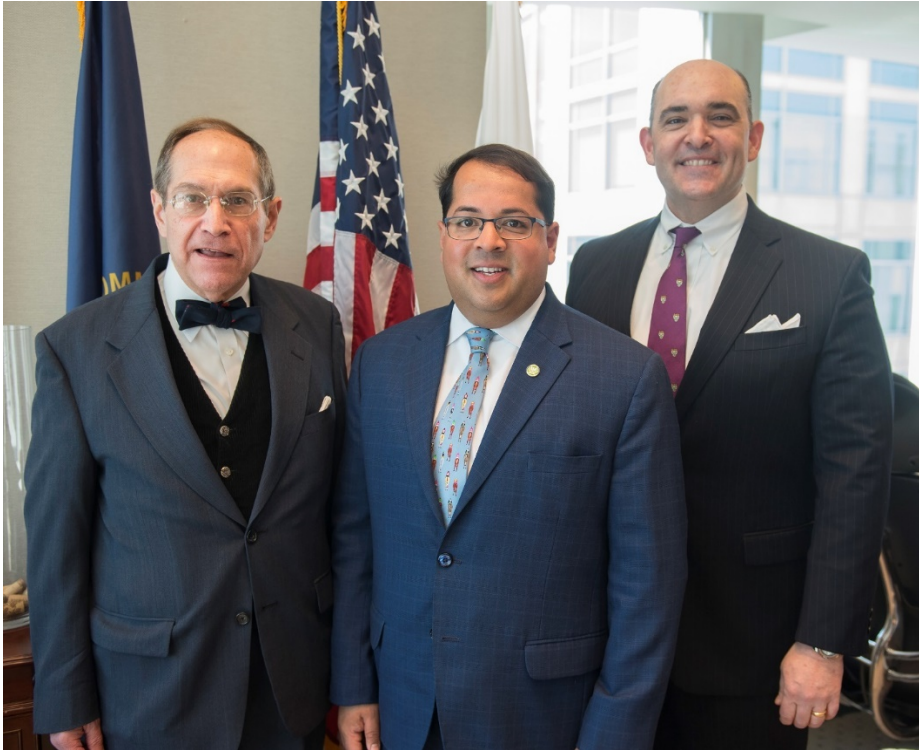
[Former Capitol Hill Politico Applies Strict Legal Tests to FERC Decision-Making](#)



Rarely have your hard-nosed newsmen Gary E. Guy and David Martin Connelly (aka “Arthur Krock and Don Oberdorfer”) been so moved by an interview with a high-level government official. The tragic circumstances with which he succeeded the late lamented Kevin McIntyre — who is much beloved by so many of his colleagues within the Energy Bar Association — is obviously very much on the mind of Neil Chatterjee. He told us of how he is serving not only to fulfill his own agenda but also to carry out the legacy of good public service that Mr. McIntyre exemplified.

Chairman McIntyre, who we interviewed during his Chairmanship, told us how he never sought or expected the position and regarded it as a matter of public trust to be discharged in accordance with the law that he loved so much. As we discovered in talking to the present Chairman, Mr. McIntyre could not have a better steward of this same commitment than Mr. Chatterjee.

Both Chairmen, along with former Commissioner Robert F. Powelson, who we also interviewed just before he stepped down from the Commission, told us of their disappointment with how the press misinterprets FERC’s orders, and that, to quote Mr. Chatterjee, “articles get more hits by focusing on hot button political angles rather than getting into the weeds of things like NERC standards.” All three emphasized that FERC is guided by the evidence, the statutes, and precedent in deciding the cases before it and acts solely on behalf of the public interest, informed by the expertise of the professional staff at the agency. Mr. Chatterjee is adamant that this law-based decision-making legacy of Kevin McIntyre be continued.



How Family Has Shaped our Chairman

On the surface, his successful career in the Washington corridors of power appears to resemble a rather conventional path to nomination and confirmation to a federal agency post. But this surface view of a traditional rise to power would be misleading when it comes to Neil Chatterjee. His roots in politics do not stem from raw ambition or ego. His awakening to politics was born out of love and bonding with his father. As a 10-year-old boy sitting in front of a TV set at home in Kentucky watching a Presidential debate in 1988 between Vice President George H. W. Bush and Massachusetts Governor Michael S. Dukakis, he was astonished that his father started to engage him in conversation concerning the issues being discussed as though young Neil was an adult. This meant much to the lad and caused him to latch onto political coverage. Out of his father's enthusiastic interaction with him on this subject, he became an avid political junkie.

Besides politics, he has a youthful interest in sports that has been reawakened through his three children. For himself, sports, particularly ice hockey, came to an end in the 8th grade, "when I stopped growing." But his oldest son plays soccer, and he coaches the team. His middle son started with soccer and he was also his coach (but his son "didn't care for that"), switched to baseball, and is now pursuing football. His 7-year-old daughter played soccer and he was coach of her team as well. Then, she overheard him offer to

coach his neighbor's son's ice hockey team, even though it meant picking him up at 6:30 in the morning to get to practice and asked her Daddy to be her team's coach instead. Naturally he eagerly accepted that opportunity.

How Energy Matters Came Unexpectedly to our Chairman

Like many of us in the EBA, our hero went on to become a college graduate (St. Lawrence University) and entered law school (University of Cincinnati). However, he did two years of law school, then went to business school, and returned to finish up at law school. He was in business school when 9/11 happened, and he and a classmate vowed "to do something to give back to



our country." His classmate obtained a job on Capitol Hill with now-Senator Rob Portman of Ohio, at that time a member of the House Ways and Means Committee, while Mr. Chatterjee finished up his last year of law school. But he then followed his friend with a Hill internship himself on Ways and Means, then onto the staff of Ohio Congresswoman and Republican Conference Chairwoman Deborah Pryce. He had intended to pursue health care because his parents had worked on cancer research, but Representative Price already had a Director adequately covering that area. She needed Mr. Chatterjee to work on energy matters because she had major energy companies — American Electric Power and Buckeye Electric Cooperative — in her district. Consequently, he immersed himself in energy matters and found "I had an innate interest in it." His wife's grandfather worked for 41 years with the Kentucky Association of Electric Cooperatives, and they had conversed about the importance of the rural electrification program to rural areas of Kentucky. He has passed up multiple opportunities over the years to "pivot to health care policy" because he developed a "passion for energy policy." He also worked for a time at the National Rural Electric Cooperative Association. Eventually, as a Kentuckian, he managed to gain a position with his home state Senator, Mitch McConnell, the leader of his party in the Senate, and the Majority Leader currently.

"I had an innate interest in energy."

How He Dealt with His Unorthodox Interim Chairmanship

With his expertise in energy, and the backing of his boss, he was a natural pick for a seat at FERC. As he explains it, there were four openings to be filled at FERC at the beginning of the Trump Administration, and he and Mr. Powelson got through more quickly as life-long government employees.

Immediately upon confirmation to a five-year term as a FERC Commissioner, he was temporarily tapped to make a quorum (after FERC had been without one for 7 months) by being Chairman for an indeterminate period pending the confirmation of the designated Chairman-to-be, Kevin McIntyre. It turned out to be a 4-month period. Mr. Chatterjee likened this to “coming in ice cold” without knowing how long it would take for the designated Chairman to assume office.

Determined not to make any “big, visceral decisions because the Chairman was coming,” interim Chairman Chatterjee reached out to Mr. McIntyre, who he calls “my mentor and my friend” during this awkward period because “there were some pretty big issues on my plate” and what he did would have ramifications once the Chairmanship was transferred. To his credit, in a dinner conversation, Mr. McIntyre “cut me off right away, saying, ‘Neil, I’m just a Jones Day partner and you are the Chairman of FERC. These are your decisions to make, and should I be fortunate enough to get through the confirmation process, and come into the Commission, I will follow in due course the situation as it is once I get there.’”

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In this temporary period, the EBA invited Chairman Chatterjee to deliver the luncheon keynote address at its Annual Meeting. The Chairman laid out an ambitious agenda, knowing that he would be there as an independent Commissioner for five years. He explained that he believed that as the first Republican Chairman in nearly a decade, he wanted to “lay out a vision of the direction that I wished to take the Commission. I didn’t consult Kevin McIntyre or Commissioner Powelson. I wanted to express my own independent views. But I also found that the vision I was laying out was one that I felt very comfortable that my colleagues would see as a justifiable course of action.” As it turned out, Chairman McIntyre did put into motion much of what was contained in Mr. Chatterjee’s remarks that day. Of the unexpected passing of Mr. McIntyre, he laments that, “What transpired was beyond comprehension and I wished it hadn’t.” But he knows that the two

were compatible in their thinking and that he is working to “finish the good work that he and I started together.”



How He Pushes an Agenda He Shares with the Fallen Chairman

“No one wants to ascend to a position like this under these circumstances,” he told us. Chairman Chatterjee explained that, “Kevin McIntyre wasn’t just my Chairman, he wasn’t just my colleague, he was my friend. I cared deeply for him and his family, and the one thing keeping me going in this very difficult situation is that he put a lot of very significant

things into motion at a seminal moment in our country’s history, and he did so because he was a genuinely, honest public servant who was just trying to do what was in the public good.” Mr. Chatterjee adds: “I was always going to do this job to the best of my ability, but I now feel that I almost have a higher moral purpose in that I want to deliver on the legacy he put into motion. I think if I am able to do this, not only will I secure his legacy to history and of service to this agency, but it will accrue to my benefit and to the benefit of the American people because he honestly wanted to do the right thing.” The Chairman intends “to deliver on the legacy he put into motion for the benefit of the country.”

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While Mr. Chatterjee was a self-described “long-time partisan aide to Leader McConnell, at the epicenter of the legislative environment,” he credits his ability to transition to “an independent regulator” to Mr. McIntyre, who came from the legal practitioner world, and “ingrained on me” the sense of the independence of FERC that Mr. Chatterjee is pledged to uphold. He would tell Mr. Chatterjee that, just like you don’t want any surprises or politics coming out of the IRS you don’t want any from FERC. The agency must always be one of integrity, where all players know they will get a fair hearing.

He found that he agreed with Chairman McIntyre on such things as “tackling modernization of PURPA and bringing PURPA into the 21st century, and two landmark NOIs on transmission ROEs and incentives.” While these NOIs were issued in March 2019, “these were things that Kevin and I discussed at length and we both felt were important for the policy direction of the agency and the country.” In terms of staffing, “Kevin didn’t bring many people from the outside.” Neither has he. Chairman Chatterjee recruited Robert Bernard Ross from private practice, and a former Senate colleague Lindsee Gentry, but the bulk of his Staff has come from inside FERC. “That speaks to this agency, both the technical nature of what we do as well as the competence and professionalism of the Staff despite the tumult in the leadership, with continuous turn-overs during the last half-decade.”

In fact, his Congressional experience “prepared me well” for this position in several ways. First, the level scrutiny he and his colleagues are under has been a “shock” to some but something he has been used to in working on Senator McConnell’s team. Also, contrary to the popular view that nothing can ever get done due to partisan bickering in Washington, Mr. Chatterjee “played an integral role in bridging the substantial policy chasm” between Mitch McConnell and Barbara Boxer, the Democrat from California, to achieve major legislation on such things as infrastructure, water resources development, and the lifting of a ban on LNG and other exports. He recalls Leader McConnell’s admonition that you can make a point or make a difference. He assisted Senator McConnell in making a difference and he intends to do so at FERC as well.

How He is Building a Strong Team

Having seen how political foes come together for the public good, and how Chairman-designee McIntyre scrupulously deferred to him as interim Chairman while his own confirmation was being processed, and then subsequently showed by example how to lead the agency by upholding due process and following legal precepts above all else, Chairman Chatterjee is guided by the highest standards of professionalism.

He believes this is borne out by the non-partisan voting of the Commissioners, where most votes are unanimous and when there is a dissent, it could be by a Commissioner from the majority party, even by the Chairman himself. Another indication of the independence of the agency and the soundness of its decisions that he points to is the good record it maintains of being upheld on appellate review. He calls it inevitable that much of what FERC does will end up in litigation before the Courts and says we all must be “at the top of our game” to make the most persuasive cases to produce the right results. While he acknowledges that FERC works best when there is a full complement of five

Commissioners, with more eyes to look at matters, he also does not worry about two-to-two splits along party lines if there is a vacancy.



This is because he views the issues as too vital to the Nation to be caught up in partisan politics. Among the major issues that he sees the Commission to be engaged in are the safeguarding and modernization of the infrastructure, both of the electric grid and natural gas pipeline industry, the need to forestall against cyber-attacks, the promotion of energy independence, as witnessed by the transformation of our country from being an LNG importer to an LNG exporter with reduced carbon emissions globally, and the need to reform PURPA, to build on transmission incentives, and ROE modeling, and review policies concerning the certification of pipelines and associated pricing — all matters that he describes as necessary to address without regard to party affiliation. In fact, he sees these issues as having significance beyond energy *per se*, such as allowing us to act as a counterweight to Russia as a source of supply to other countries and “I want to see that FERC does its part in getting these projects approved.”

He also acknowledges that there are downside risks of our technological achievements, and these new cyber and physical threats keep him awake at night. He calls mandatory reliability standards a floor, and he is dedicated to working with states, federal partners and stakeholders to take extra precautions to protect national security. “At the end of the day, the reliability and security of the grid and infrastructure is the foremost responsibility that my colleagues and I have.” He advises that the agency is working “every hour and every day” to “stay ahead of these evolving threats.”

He points out that when Commissioner Cheryl A. LaFleur leaves office, he will be the senior member of the Commission, even though he has only been there since August 2017. He describes his colleagues, Commissioners Richard Glick and Bernard L. McNamee, and himself, as continually learning and getting stronger with a good Staff. While sometimes differences may fall along politically ideological lines, for the most part he finds that FERC decisions are grounded on “legal durability” and that consensus-building is “critical.”

“I am a conservative and believe in a narrow interpretation of a statute. In a quasi-judicial role, I believe in following congressional intent. Coming from a legislative body has prepared me well for that.” However, he finds fault with the lack of more action from the Congress. “Many of the significant policy decisions that we are having to make here at the Commission is falling to us because of legislative intransigence. We haven’t had a major energy bill since EAct ’05 except for the ’07 bill, other than through the tax code or end of year appropriations bills. I am a firm believer in Article I and I believe that it is incumbent that Congress demonstrate leadership in these areas rather than appointed regulators having to try to get creative with statutes. That is not our role, and I believe firmly in that.”

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He also likes to get out to speak to the public and various sectors of the energy field. He calls the advantages a two-way street, in that “I learn from the engagement” with those he meets, and he is also discovering a whole new “cast of characters” from those energy professionals who he routinely met in Congress. He welcomes the opportunity to hear from them.



Getting beyond the surface listing of positions held, it becomes clear that Neil Chatterjee is a most unconventional public servant. In fact, he made a remarkable comment when we asked him to give career advice to young people: He said that when he worked on the Hill, he observed colleagues leave meaningful positions where they were

making a difference for the good of the country for two basic reasons — more money or a more impressive title. He viewed those career moves as great mistakes that diminished the purposeful lives of these talented individuals. His advice to young people is that, “Energy is an honorable profession that rises above politics. It touches every single American. The decisions have global implications. It is motivating and rewarding.”

No wonder, with this mindset and outlook on life, Mr. Chatterjee so closely embraces the same commitment to honorable public service precepts we saw from Kevin McIntyre. They are from the same cloth. It is truly fitting that one was there to fill in for the other, and that we have two such shining examples of exemplary public service to draw upon in governing how we live our own lives.

Chatting with Chatterjee

In school, I excelled at: Having a great memory, and that’s very helpful in surviving academia.

Favorite thing about DC: The people.

Favorite sport to watch: College basketball.

Favorite sport to play: Ice Hockey.

Best advice ever received: There is no education the second kick of a mule.(From Mitch McConnell.)

Most admired public figure: Thomas Edward Patrick Brady, Jr. (the GOAT).

Favorite movie of all time: *Braveheart*.

Favorite junk food: None.

My dream car: 2018 Ford 150.

People would be surprised to know that I: Can hold my breath for 2 ½ minutes.

My idea of relaxation is: Being with my kids.

Favorite vacation spot: Cancun, Mexico.

Favorite DC Restaurant: Acqua al 2.

Anchor Bar or Duff’s for wings? Duff’s.

Listens to: Taylor Swift and Baby Shark (with kids), Sirius 90’s on 9 (by myself).