



# FERC Commissioner Allison Clements

## Insightful Comments as She Prepares to Leave the Agency

By Gary E. Guy and David Martin Connelly

Even before her swearing in as a Federal Energy Regulatory Commission member in December 2020 upon Senate confirmation of the nomination of President Trump at the recommendation of Senators Schumer and Manchin, many practitioners knew Allison Clements as a private practitioner, a public sector advocate, educator, and leading federal energy expert. The native of Dayton, Ohio, graciously granted the interview request of your pesky EBA interview team of Gary E. Guy and David Martin Connelly (a.k.a. "The Interrogators") for an in-person interview at her offices on May 22<sup>nd</sup> prior to her departure from the agency, as her term ends this June 30<sup>th</sup> and a successor nominee has been named.

### Reaching FERC on a Road Paved with Good Intentions

We asked the Commissioner what motivated her to be involved in so many public interest sector issues prior to becoming a Commissioner and if she was trying to advance those same objectives with the power she now has been given. As to the first question, she explained that "my mother raised me to think of others before myself so ... all four kids in various ways have gone on to incorporate aspects of public service into our lives in different ways." But as to the second question, she disavowed any intent to govern for any sector, stating that "I took an oath to be an independent regulator." She applies the facts to the law. She recalled that Commissioner James Danly and she had a joint dissent on a PURPA case

where the entity was in the wrong even though she is a proponent of PURPA. She also recalled a similar situation with a retroactive ratemaking prohibition preventing the Commission from correcting a pricing mistake by an RTO from its tariff effective date. But in such instances, she has also pointed out that Congress can change the law to reach a more equitable outcome.

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In terms of any grand design to become a FERC Commissioner, she explained that her career path did not seem to be pointed in that direction. “I didn’t think about FERC but thought any state regulatory opportunity would be off the table because [my path] wasn’t a common path. So, I didn’t make a decision based on becoming a FERC Commissioner. But, lo and behold, 20 years later, things were different.”

“I think there was a desire to broaden the expertise” at the agency is her theory as to why she was selected for this position. She had studied grid policy for a long time “and I think that is how I got up to the plate.” She adds that it also took “a lot of luck.” She attributes a podcast that she started in Utah as getting the attention of “some folks on Capitol Hill for just a brief moment.” She was also distinguishable in that “there weren’t that many people who came from a strict policy background on grid work in the same way that I had.”



Telling us to remember that “I am a Trump appointee recommended to the White House by Senator Schumer, and then sat waiting for close to two years. So, I know how some of these nominees are feeling right now in their process.” The nomination eventually moved forward when she was paired with the nomination of Mark Christie as a Republican in late 2020.

The outcome was overwhelming in that she, along with Christie, was voted out of the Senate Energy and Natural Resources Committee on a bi-partisan basis and then with unanimous consent in the Senate. She adds that “past Commissioners are very nice to new Commissioners.” Her advice to new Commissioners is to sit at the table and try to work it out, adding that she has “a lot of respect” for the three nominees, and that she hopes that they are confirmed.

She relocated to D.C. but had lived here for seven years previously, and exclaims, “I love Washington!” She met her husband, Ray, in New York and then they moved to Utah. But they had always intended to come back to the east coast.

Asked if anything surprised her on becoming a Commissioner, she laughingly replied that “I don’t think you can ever really understand what it’s like in these jobs until you are in them.” And explaining the position to others is also difficult. “Most of the general public has no idea what we do” at FERC. “When it comes to the role that FERC plays, when I used to practice before the Commission the thing I really enjoyed was that it felt more like people trying to work together to solve problems. I think as the politics in the country have become more divisive, they have infiltrated the Commission and nobody can avoid them. But it’s our job as Commissioners to try to see through that and try to continue to be the people trying to solve the problems.”

She also indicated that her tenure here varied as the composition of the full Commission changed, observing that “the dynamics of each Commission are different. I have been here under three Chairs, and I think that, depending on the mix of people, you interact in different ways.” Regardless of how the Commissioners interact from time to time, she observes that “our Staffs get along very well. They are really productive.”

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But as to her personal Staff (including those who were instrumental in arranging for this timely interview), she has nothing but consistent praise. “One of the things I’m most proud of is my Staff, my team. It’s a smart, kind, fun group. I watch them all help each other out and work together. And it’s a nice way to spend your day.”

## Achieving Great Goals; Sometimes Through Dissents

As to any goal she might have had in mind on coming to the agency, she replied that she “definitely had the goal of moving the ball forward.” She adds that “America is about progress. We built up this economy – the highway system and the electrical system – and here we are at an inflection point relative to the future and we have to do it again.” As an example, she explained that as an economic regulator, she takes “seriously technology neutrality.” That means that with either old or new technologies, FERC is to be indifferent as to “the color of the molecule or the type of the fuel source or whether the electron is green or brown or otherwise.” While “we built up a system built around central station dispatch thermal power systems. It changed when nuclear came online. It changed again when gas came on in the early 2000s and it’s changing again with 2.6 terawatts, 90 percent of which is solar-batteries and wind coming online. Our job is to keep up affordability and reliability regardless of all those changes.” And she adds, “I am proud of assuring that new resources that are coming online also receive that same kind of neutral perspective.”



As for her dissenting opinions on a variety of issues, she maintains, “I think if you disagree you should disagree clearly, so people understand.” She points out that the appellate court in SEEM remanded on key points addressed in her dissent. On the other hand, she states, “I always work to find a path forward and I do a lot of compromising... We’ve done a lot of good things through compromise at this Commission.” This includes the area of consumer protection.



On the market side of transmission policy and grid policy, she believes that her dissents will stand the test of time and “provide important perspectives on the need for markets to evolve.” On gas matters, she regards her statements as showing that she has a “different perspective, different interpretation, of the NGA that I think would help make it more successful for developers and more beneficial for the communities receiving the infrastructures.”

## Staying Strong to the End

As to the special Commission meeting held, as the good Commissioner pointed out, on the Monday “after Mother’s Day,” with Commissioner Clements in the majority on a 2-1 vote, FERC issued Order No. 1920 on long-term transmission planning and, unanimously, Order No. 1977 on federal electric transmission back-stop siting authority. Each member of the Commission provided lengthy statements at the open meeting, and Commissioners Clements and Christie pointed out where they disagree with each other as to Order No. 1920. Commissioner Clements expresses herself as “proud to be part of [the orders]” noting that the effort goes back to a 2021 Advanced Notice of Proposed Rulemaking issued under then-Chairman Glick. She observed that “we’ve really taken a hard look, thought through a lot of the issues, and I really think it’s not the end. There’s more to do on grid policy but it’s an important step forward.”

## Looking Ahead for the Industry and for Herself

As to her view of the state on the energy sector, she began with “Trouble ahead; trouble behind.” She sees us “as in the messy, middle of an energy transition. The good news for us is that there’s lots of work to do for EBA energy lawyers for as far out as the eye can see.”

She poses the question, “Will we reach a steady state?” She observes that there “are bumps in the road in all major challenges.” She sees the energy transformation as “exciting” and states that “it is important to continue to ensure that the American economy can continue to progress. Never before has the energy grid meant so much.”

“The markets have to evolve to remain useful. They are a tool; they are not a goal.” She advocates rules for the purpose of having markets meet new conditions. She believes that Congress,

states, legislators and regulators, and courts “are all very tuned into the opportunities and challenges at hand.” She maintains that “the system works” although “we are putting tensions on it.”

Her advice to the energy bar is, “Come in and talk to us.” She underscores that there is no such thing as coming in too often for pre-filing meetings. “Don’t be shy because you came in six months ago. If you’ve got something to say, come in.” She also encourages talking to the Commissioners’ advisors and other senior Staff if a Commissioner is unavailable.

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Her advice to young people is that the energy field has many opportunities, including policy and commercial development. “Every company now, in some sense, is an energy company. It affects all people and it’s just really an exciting opportunity.” But she also “would not sweat it too much if you think about what your next step is going to be.” She offers her own varied career as an example of the different aspects of energy and how each endeavor can lead to unexpected career moves. You should not consider a particular slot to be the “perfect one or the only one. I never thought I would be an expert on oil pipeline rates. But here I am!”

She credits the trade press for conscientious reporting of what is publicly available but noting that internal deliberations are non-public and that necessarily limits the press’s ability to know all the nuances. Interestingly, she spoke of how the trade press can be a vehicle for messaging between the Commissioners. “I remember listening to a panel of Commissioners when I was doing grid policy a long time ago. And I remember them talking about how they used to use the trade press to speak to each other.”



As for her own plans, she provided her immediate focus: “I’m going to take a break and hang out with my 11-year-old and nine-year-old girls. And take it from there.” We look forward to Allison Clements continuing the accessibility and support (and that of her Staff) that the EBA has always received. Wherever her career path takes, no doubt she will continue to be at the forefront of the great adventures that lie ahead for energy professionals.

## Lightning Round with Allison Clements

1. If I could have lunch with any public figure, living or dead, it would be: Michelle Obama.
2. Best advice ever received: Broaden your aperture.
3. Favorite ice cream flavor: Cookies & cream.
4. Paris 2024 Olympics: In which sport would you love to win the gold: Swimming.
5. People may be surprised to know: I am great at karaoke.
6. Superpower I would want to have: Teleportation.
7. Proudest accomplishment: My family.
8. My idea of relaxation is: The beach.
9. Walk-up/personal theme songs: *Walking on Sunshine* by Katrina and The Waves, and *The Man* by Taylor Swift.
10. If I weren't working in energy, I would be: An interior designer.
11. The most influential people in my childhood: My parents.
12. The most beautiful place I have ever seen: Utah.
13. What I will miss most at FERC: My team.