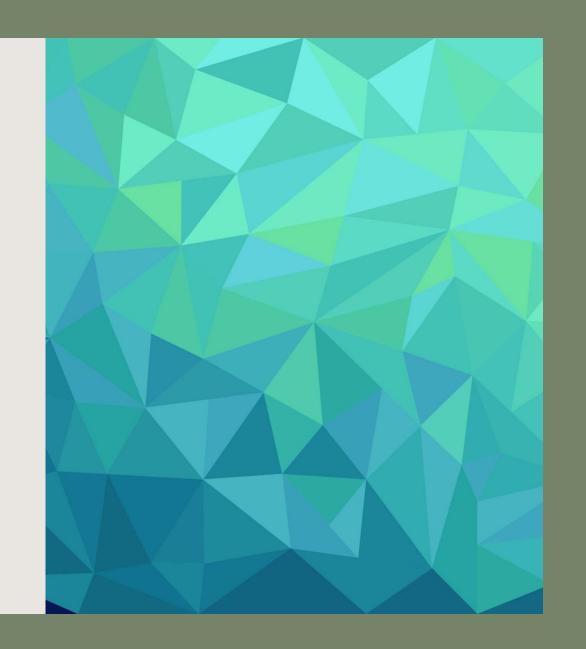
#### FERC Update

NASUCA Annual Meeting

Jason Gray Duncan & Allen LLP jtg@duncanallen.com

November 11, 2025

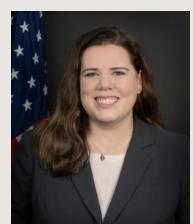


### New FERC



Chairman Swett: June 30, 2030 Commissioner Rosner: June 30, 2027 Commissioner See: June 30, 2028 Commissioner Change: June 30, 2029 Commissioner LaCerte: June 30, 2026









# Looking Back to Last Year: No Updates

- Transmission Incentives
  - April 15, 2021 Supplemental Notice of Proposed Rulemaking in RM20-10
- Cost Management and Transmission Planning
  - April 21, 2022 order in AD22-8 establishing October 6, 2022
  - technical conference
  - May 13, 2024 Order No. 1920 says cost containment issues remain "under examination" and will be considered "in the future"
- Recovery of Association Dues
  - December 16, 2021 Notice of Inquiry in RM22-5

#### What Do We Know?

ERAS and Reliability

- PJM's Reliability Resource Initiative, Docket No. ER25-712
  - See did not participate.
  - Swett and LaCerte not there yet
  - Rosner concurrence noted: (1) state support; (2) one-time proposal; and
    (3) objective, open eligibility requirements
  - Chang dissent noted improper emphasis on: (1) project size over speed; and (2) number of permissible projects instead of capacity

## What Do We Know, cont.

- MISO ERAS Proposal, Docket No. ER25-1674
  - Chang did not participate
  - Swett and LaCerte not there yet
  - See's and Rosner's opposition noted lack of state support

- SPP ERAS Proposal, Docket No. ER25-2296
  - Swett and LaCerte not there yet
  - Rosner, Chang, and See all supported one-off proposal

## Large Loads

- Tri-State, Docket No. ER25-3316
  - October 27, 2025 order rejecting High Impact Load Tariff proposal
  - Swett and LaCerte did not participate
  - "[A]spects of Tri-State's proposal appear to present an impermissible intrusion on retail rate regulation and thus are not subject to the Commission's authority pursuant to section 205 of the FPA." ¶ 45
  - "We note that the plain language of the FPA bars the Commission from regulating retail sales and the Supreme Court has been clear: specification of terms of sale at retail 'is a job for the States alone." ¶ 50 (citing New York v. FERC, 535 U.S. 1, 17 (2002)).

## Large Loads, cont.

- DOE ANOPR, Docket No. RM26-4
- Assumptions and Premises
  - Justice Thomas' Dissent in New York v. FERC, 535 U.S. 1 (2002)
  - Co-Location and Jurisdiction
  - Terms and Conditions? Or Sales?

# Questions?