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# Green groups prep to sue Trump's energy panel appointee if he's involved in coal-bailout related work

by John Siciliano | December 18, 2018 06:07 PM

A coalition of leading environmental groups is threatening to sue Trump's recent appointee to the Federal Energy Regulatory Commission if he doesn't recuse himself from work that could be used to advance Trump's coal agenda.

The appointee, Bernard McNamee, joined FERC, the nation's lead energy regulator, earlier this month after a contentious confirmation fight in the Senate, which Democrats framed as a vote on Trump's plan to rescue coal plants.

The Natural Resources Defense Council, Sierra Club, Earth Justice, and the Union of Concerned Scientists on Tuesday filed a formal petition with FERC on Tuesday, asking that McNamee recuse himself from two key FERC dockets addressing grid resiliency.

The FERC dockets represent the process for sorting through facts to determine whether coal and nuclear plants should be provided with market-based rates in order to keep the lights on.

"The [coalition's] filing with FERC is a necessary legal requirement before the groups could file a court challenge if McNamee fails to recuse himself," the groups said in a press release.

The groups argue that Commissioner McNamee's role as a former Department of Energy adviser disqualifies him from participating in the broader regulatory discussion at FERC. McNamee had helped in the development of Energy Secretary Rick Perry's proposed rule to incentivize economically ailing coal plants, which FERC unanimously rejected.

"The law aims to prevent even the appearance of bias, and McNamee's recusal would protect the Commission from the specter of unfairness and impartiality," the coalition said.

Sen. Ron Wyden of Oregon and other Democrats had challenged McNamee last month at a confirmation hearing to recuse himself from issues related to helping coal and nuclear plants.

"This is like putting the fox inside the chicken coop," Wyden said at a confirmation hearing, referring to McNamee's past role working on Perry's proposal that FERC rejected. "Why should you be trusted to do anything different if you become commissioner? You ought to recuse yourself if you are chosen for this position."

McNamee said the issue of grid resilience is constantly coming before FERC, and that he would consult with ethics counsel before making a decision on recusal.

"I am surprised and disappointed you feel you have to consult with counsel on something that is so clear," said Sen. Angus King, I-Maine, in response to McNamee's statement.

Energy and Natural Resources Committee Chairman Lisa Murkowski, R-Alaska, told reporters after the hearing that McNamee is taking the "appropriate course" by vowing to consult with lawyers before making a recusal decision.