

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
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**Subject:** FERC nominees back states' authority to shape energy portfolios

By Darius Dixon

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Kevin McIntyre, President Donald Trump's pick to lead FERC, left no legal wiggle room today about states' ability to establish renewable portfolio standards.

"We do have a federal system of law," he told Sen. [Tammy Duckworth](#) at his confirmation hearing before the Senate Energy and Natural Resources Committee. "FERC has its role and the states have theirs and there's no question that the states have the absolute right to implement these renewable portfolio standards."

Similarly, Rich Glick, a Democratic nominee to the agency, said that the Supreme Court laid out the ways how states could push their own energy agendas without infringing on FERC's jurisdiction in a [decision](#) last year.

Sen. [Catherine Cortez Masto](#) asked: "Do you agree that states have the authority to establish the resource mix that best serves their customers?" Both nominees agreed they did.

But neither nominee weighed in on one of the most contentious issues on FERC's agenda: how the agency will address state programs in New York and Duckworth's home state of Illinois, that created incentives for nuclear power plants within their borders. New York designed its program as an update to its RPS by turning it into a Clean Energy Standard. Both programs are facing lawsuits in federal court.

Earlier this year, Energy Secretary Rick Perry [suggested](#) that there may be a national security interest for the federal government to interfere with state energy decisions.

**WHAT'S NEXT:** The McIntyre and Glick nominations could get voted on in the Senate energy committee as soon as next week.

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