

Discussion of Legal Precedent

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Special PC – CIRS for ELCC Resources

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- No clear precedent under this specific scenario.
- Even if there were clear precedent, FERC is generally not strictly bound by its own precedent, because the primary tools through which it acts are:
 - FPA 205 = individual, case-specific filings and decisions.
 - FPA 206 = requires declaring prior decision/rate unjust and unreasonable and changing it.
- *Change in Commission composition can also reverse precedent (see, e.g., new chairman's voluntary remand in reserve price formation proceeding – EL19-58 (2021)).
- FERC could indicate or require an additional reform component (e.g. a transition) via rejection of an FPA 205, or via invocation of FPA 206.

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