March 5, 2012

Via Hand Delivery

Hon. John Wellinghoff
Hon. Phillip Moeller
Hon. John Norris
Hon. Cheryl LaFleur
Federal Energy Regulatory Commission
800 First Street, NE
Washington, DC 20426

Re: *Promoting Transmission Investment Through Pricing Reform*, Docket No. RM11-26-000

Dear Chairman Wellinghoff and Commissioners:

The undersigned entities, including state commissions, agencies, and attorneys general, consumer-owned utilities, and national and regional environmental, consumer, and energy policy NGOs, have read with interest the comments filed in response to the Commission's Notice of Inquiry in the above-referenced proceeding, and many of the undersigned entities filed such comments themselves. The diversity of our perspectives notwithstanding, we have reached similar conclusions regarding many of the significant issues raised in the NOI. We write now to highlight broad areas of agreement among our organizations, and to urge the Commission to consider this broad agreement in assessing current transmission incentive policies.

We share a belief in the importance of developing and maintaining a modern, robust electric transmission system. We recognize the benefits of investment in new transmission facilities, and welcome efforts to improve reliability, reduce congestion, and integrate renewable resources. However, we also share deep reservations about the manner in which the Commission has sought to promote new investment. The current incentive structure places unwarranted burdens on consumers, and diverts ratepayer capital away from other important electric infrastructure investments.

We encourage the Commission to modify its policies so as to better protect consumers and advance policy goals. We jointly support the following revisions to current Commission policies on the granting of transmission incentives:

- **The Commission should grant risk-reducing incentives first and award above-cost incentives rarely.**

  Before awarding any transmission incentives, the Commission should determine whether a project has unusually high levels of risk. Where unusual risks are shown to be present, the Commission should first consider incentives that directly address and reduce such risks, such as recovery of construction work in progress ("CWIP") and abandoned plant incentives. The Commission should not approve return on equity ("ROE") incentives as a matter of course, particularly where other factors—such as cost recovery under formula rates—will mitigate the risk associated with a project. Most often, if the CWIP and abandoned plant risk-reducing incentives are granted, they will obviate the need for an incentive ROE. Additional incentives—e.g., ROE adders—should be the exception rather than the rule, and would be appropriate only in extraordinary cases, such as those in which consumers will be tangibly benefitted by the use of an advanced technology whose risks make it unlikely to be deemed economic for the developer absent such incentives.

- **The Commission should not provide incentives to projects that transmission providers are already obligated to build.**

  In some (if not many) cases, utilities invest in transmission projects because they are under a legal obligation to do so (perhaps contained in RTO-related agreements), or because the project must be built to ensure compliance with mandatory reliability standards. The Commission cannot ensure just and reasonable rates when it provides above-cost incentives to projects that transmission providers are already obligated to build, because the projects will be built regardless of incentive treatment. The Commission should treat as presumptively ineligible for above-cost incentives facilities that are designed to achieve compliance with mandatory reliability standards or that the applicant is otherwise required to construct, unless the applicant demonstrates that it is meeting the standard through the use of an advanced technology or practice that will provide tangible net benefits to consumers.

- **The Commission should not incent expensive solutions when lower-cost alternatives are available.**

  It is not just and reasonable to charge customers for expensive transmission solutions (let alone to incentivize these solutions and charge customers even more) when less expensive means are available to satisfy a reliability need. Depending on the circumstances, a non-transmission alternative may prove to be a better option for solving a given concern.

- **The Commission should not base eligibility for above-cost rewards on project scale.**

  The Commission's existing policy of making unusually large transmission projects preferentially eligible for incentives creates a misdirected reward structure, potentially encouraging transmission owners to short-change incremental system upgrades and ongoing management of peak demands in favor of solutions that are sporadic, large, and wires-based. The Commission should not direct incentives to projects simply because they are unusually large, but should instead focus on factors such as project riskiness and whether, by pioneering the application of innovative or advanced technologies, an investment creates identifiable public benefits beyond those of the project at issue.

- **The Commission should not apply ROE adders to cost overruns.**

  Where ROE adders are approved, that approval should be applied to the lower of budgeted or actual costs. Under current policies transmission owners—particularly those with formula rates—are rewarded if they first underestimate project estimates in order to gain needed approvals and then build at the highest cost that will not be deemed imprudent, thereby inflating the rate base to which the above-cost equity return will apply. Applying incentives to budgeted rather than actual amounts will avoid rewarding cost overruns and improve the quality of the cost estimates that are prepared in the course of RTO planning processes and state commission proceedings. In terms of mechanics, we suggest that the cost estimate used during the RTO planning process or an analogous estimate in a non-RTO context be used to apply this limitation.

- **The Commission should not apply ROE adders to abandoned plant amounts.**

  While it may be useful to protect incentive applicants against risks of loss in order to promote the construction of new transmission, applicants should not be economically indifferent to whether their projects actually enter service. Applicants should have incentives to complete their projects, so that the public receives the benefits that above-cost ROE adders are intended to yield. Moreover, promoting high-risk transmission projects that never get built crowds out more modest solutions and should not be a lucrative business model. The Commission therefore should not apply ROE adders to abandoned plant amounts in order to ensure that cancelled projects' investors do not collect more than the cost of their investment.

- **The Commission should identify types of projects that are presumptively ineligible for incentives.**

  Certain types of projects typically lack a risk profile meriting incentive treatment. To ease administrative burdens and provide regulatory certainty, the Commission should compile a list of "baseline" or "low-risk" projects that are generally ineligible for incentives or face a high burden to demonstrate incentive-worthy risks.

- **The Commission should make the price of incentives transparent.**

  The cost-based and above-cost (incentive) components of the rate of return for projects that receive incentives should be kept distinct, so that the Commission and the public can distinguish costs from rewards.

With respect to these core issues, the undersigned organizations are unified in urging the Commission to revise its current policy. We thank the Commission for its consideration and look forward to its action on the Notice of Inquiry.

Respectfully submitted,

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