

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

INQUIRY REGARDING THE COMMISSON'S POLICY)	
FOR)	DOCKET NO. PL19-4-000
DETERMINING RETURN ON EQUITY)	

INITIAL COMMENTS OF HARIKA CONSULTING LLC

Harika Consulting LLC (Harika) respectfully submits these initial comments to the Federal Energy Regulatory Commission (FERC or Commission) in the above-captioned proceeding.

I. INTRODUCTION

Harika appreciates the Commission's instant Notice of Inquiry¹ initiated after the Emera Maine v. Federal Energy Regulatory Commission² decision in the United States Court of Appeals for the District of Columbia Circuit. By this Notice of Inquiry the Commission begins to examine its approach to determining return on equity in ratemaking proceedings for entities whose rates it regulates.

Harika is an energy and environmental consulting firm based in the District of Columbia. In these initial comments, Harika responds to one question regarding proxy groups that the Commission posed in that notice of inquiry. The question is:

D2. Should risk be considered both in the proxy group selection and in the placement within the zone of reasonableness?

Harika's response to this question follows.

¹ *Inquiry Regarding the Commission's Policy for Determining Return on Equity*, 166 FERC ¶61,207 (March 21, 2019).

² 854 F.3d 23 (D.C. Cir. 2017)

II. D2. SHOULD RISK BE CONSIDERED BOTH IN THE PROXY GROUP SELECTION AND IN THE PLACEMENT WITHIN THE ZONE OF REASONABLENESS?

Yes. Risk should be considered both in the proxy group selection and in the placement of the regulated entity's (hereafter referred to as Subject-Entity) particular return on equity within the zone of reasonable returns on equity derived from determining returns on equity for each of the companies in the proxy group.

Typically, in a rate proceeding, the Commission initially seeks to determine the revenue required to cover the Subject-Entity's costs to provide the regulated service to its customers. This is so whether a complainant or Commission initiates the rate proceeding, or the Subject-Entity does so by filing an application with the Commission to change its rates. In establishing the Subject-Entity's revenue requirement (cost of service), determining the return on equity is an essential task.

At the heart of the Commission's efforts to determine the return on equity in ratemaking proceedings is assessing how an investor would compare the return it would receive by investing in the Subject-Entity with returns that investor would receive by investing in other alternatives. It is axiomatic that one way in which an investor would compare possible investments is by the risk of loss that each poses.³ These points are basic. Harika's comment is this.

After the Commission receives and reviews the initial and reply comments which the public will submit in the instant Notice of Inquiry, one path forward the Commission may take is to issue a policy statement elucidating to the public the way in which the Commission will thereafter approach the determination of return on equity in its ratemaking proceedings. Harika respectfully suggests that

³ See, Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591, 605 (1944); see also Bluefield Waterworks & Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679, 692-93 (1923).

it would be helpful if the Commission in any such policy statement or other vehicle available to the Commission as an administrative agency, would catalogue, though not exhaustively, the kinds of risks it may consider in its ratemaking proceedings going forward. For example, the Commission might include in any such non-exhaustive-risk-catalogue competitive risk, management risk, financial risk, weather-related risk, demand-for-service risk, supply-of-service risk, cyber-security risk and so forth.

Harika submits that a potential benefit to such cataloguing would be that it would facilitate pre-filing and post-filing settlement discussions among Subject-Entities and affected actors by informing them of the kinds of risks the Commission would examine in forming proxy groups in a contested rate proceeding in which return on equity was a concern.⁴ Harika posits that in such settlement discussions, among other topics, a Subject-Entity and affected actors, through in-house personnel and outside experts, may well engage the topic of the Subject Entity's appropriate return on equity as a significant component of its revenue requirement. Conceivably, the Subject-Entity and affected actors might develop their own proxy groups, and from them derive a range of reasonable returns on equity. A non-exhaustive catalogue of risks that the Commission itself in a contested proceeding may consider might in effect provide a common agenda a Subject-Entity and affected actors may use to organize and guide settlement discussion about forming proxy groups with the ultimate view towards ascertaining a reasonable return on equity for the Subject-Entity, whether such settlement discussions occur before or after a rate filing at the Commission.

It is beyond cavil that the Commission values the settlement process as one means of managing its considerable docket.⁵ Harika respectfully suggests that by identifying through the above-captioned Notice of Inquiry process a non-exhaustive catalogue of risks which the Commission may consider in

⁴ These comments assume that there is insufficient public financial information about the Subject-Entity such that resort to proxy companies with sufficient public financial information is required.

⁵ See, FERC Fiscal Year 2018 Annual Report at p. 6.

forming proxy groups for Subject-Entities in contested rate proceedings, the Commission may well facilitate the settlement process.⁶

III. CONCLUSION

Harika thanks the Commission for the instant Notice of Inquiry and for the opportunity to submit initial comments.

Respectfully submitted,

/s/

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⁶ Harika reiterates that rate discussions among a Subject-Entity and its customers also may occur before anything is filed and docketed at the Commission. Such discussions are also valuable since they may result subsequently in pre-arranged or pre-agreed rate filings—in effect settlements.

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