UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Inquiry Regarding the Commission's Electric Transmission Incentives Policy	))	Docket PL19-3-000

COMMENTS OF DUQUESNE LIGHT COMPANY

I. INTRODUCTION

Duquesne Light Company ("Duquesne Light") respectfully submits the following comments in response to the Notice of Inquiry ("NOI")[1] issued by the Federal Energy Regulatory Commission ("FERC" or "Commission") on March 21, 2019. In the Notice of Inquiry, the Commission "seeks comment on the scope and implementation of its electric transmission incentives regulations and policy pursuant to section 1241 of the Energy Policy Act of 2005 (epact 2005)[2], codified as section 219 of the Federal Power Act ("FPA")[3], which directed the Commission to use transmission incentives to help ensure reliability and reduce the cost of delivered power by reducing transmission congestion.

Duquesne Light is a FERC-jurisdictional Transmission and Distribution only utility that serves approximately 590,000 customers and operates in parts of Allegheny and Beaver Counties, located in Western Pennsylvania and including the city of Pittsburgh. Duquesne Light operates over 670 miles of high-voltage transmission lines and over 7,200 miles of distribution lines. Duquesne Light has transferred operational control of its electric transmission facilities to the PJM Interconnection, L.L.C. ("PJM"), a Regional Transmission Operator ("RTO"). As a

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[1] *Inquiry Regarding the Commission's Electric Transmission Incentive Policy*, 166 FERC ¶ 61,208 (2019) ("NOI").
[2] Energy Policy Act of 2005, Pub. L. No. 109-58, sec. 1261 et seq., 119 Stat. 594 (2005).
[3] 16 U.S.C. 824s.

member of PJM, Duquesne Light is a Participating Transmission Owner ("PTO") that operates in the PJM market.

II. COMMENTS

The energy industry is undergoing tremendous change, including growth in distributed energy resources, increasing demand for electric vehicles, the emergence of Smart Cities and changing customer demands that include a desire for cleaner energy resources and an increasingly digital lifestyle. The industry must be able to attract capital in order to make investments to address these changes. Attracting the capital will require not only continued incentives currently provided by the Commission, as mandated by Congress, but new and creative incentives to address the current and emerging risks the industry is facing.

1. The Commission Has A Mandate Under Section 219 Of The FPA To Provide Incentive-Based Rate Treatments.

The Commission's statutory mandate under section 219 of the FPA is to create incentive treatments that promote capital investment, provide an ROE sufficient to attract investment, and increases the capacity and efficiency of existing transmission facilities. In the Energy Policy Act of 2005, Congress amended the FPA to require that the Commission establish incentive-based rate treatments to promote capital investment in electric transmission infrastructure for public utilities and to provide incentives to each utility that joins a Transmission Organization, which is defined as an RTO, Independent System Operator ("ISO"), independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities. The statute states that the Commission "shall" provide incentives to each utility that joins a Commission approved RTO or ISO. [4]

[4] 16 U.S.C. § 824s(c).

2. The Commission Should Maintain Current Incentives.

The Commission's current incentives, as outlined in Order No. 679, remain appropriate, are effective, and should be retained. These include the incentive for participation in an RTO/ISO, which has demonstrated significant net benefits to customers, as well as Recovery of Costs of Abandoned Facilities, Construction Work in Progress ("CWIP") and Pre-Commercial Expenses, Hypothetical Capital Structure, Accelerated Depreciation, Deferred Cost Recovery, project specific incentives and Single-Issue Ratemaking. Public utilities can also seek incentives for being a Transco or using new technologies.

a. The Current RTO Adder Must Be Retained to Continue to Mitigate Risk and Provide Ongoing Benefits to Consumers from RTO Membership

Order 679-A recognized the importance of providing an adequate incentive for joining and remaining in an RTO: "[Commission] shall . . . provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization." The Order continues "the stated purpose of section 219 is to provide incentive based rate treatments that benefit consumers by ensuring reliability and reducing the cost of delivered power. We [Commission] consider an inducement for utilities to join, <u>and remain in,</u> Transmission Organizations to be entirely consistent with those purposes. The consumer benefits, including reliability and cost benefits, provided by Transmission Organizations are well documented, and the best way to ensure those benefits are spread to as many consumers as possible is to provide an incentive that is widely available to member utilities of Transmission Organizations and is effective <u>for the entire duration of a utility's membership in the Transmission Organization</u>."[5]

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[5] *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007) (emphasis added).

Further supporting the Commission objective of achieving consumer benefits, PJM estimates, in its "Value Proposition" report, the total annual benefits and savings to PJM's customers in the 13 states and the District of Columbia to be between $3.2 and $4 billion. The operations of the RTO produce quantifiable benefits such as ensuring reliability, providing the needed generating capacity and reserves, managing the output of generation resources to meet demand and procuring specialized services that protect grid stability.[6] And PJM estimates the cost savings to customers to continue to increase over the next 5 years.

As part of the value proposition, the regional transmission planning process effectuated by PJM produces considerable efficiencies and cost savings. PJM states that its "large footprint makes the transmission planning process more effective by considering the region as a whole, rather than individual states or separate transmission-owner territories, in determining transmission needs."[7] With that, PJM estimates that the upgrades that result from such regional transmission planning processes will reduce congestion costs by an average of $300 million a year.[8]

The Commission is fully aware of instances during the past several years where individual state governments have proposed initiatives that were designed to promote parochial interests, rather than for the good of the competitive market of PJM. RTOs, such as PJM, provide a unified barrier against initiatives that are designed to promote narrow interests.

The benefits to customers from transmission owning utilities, like Duquesne Light, participating in RTOs are well documented. However, there is also a need to recognize the

[6] *PJM Value Proposition*, PJM INTERCONNECTION, https://www.pjm.com/about-pjm/~/media/about-pjm/20151016-value-proposition.ashx
[7] *Id.*
[8] *Id.*

inherent risks that participation in an RTO creates for Duquesne Light and the need to retain the mechanism to mitigate these risks—the RTO Adder. The retention of the RTO Adder incentive will position Duquesne Light to continue its participation in PJM that has successfully fulfilled the safe and reliable delivery of bulk energy to its 590,000 customers. At this time, there is no need for the Commission to tamper with the RTO model through a reduction or elimination of the RTO incentive and jeopardize the continued success of the PJM market. The 50-basis points RTO incentive has been an integral component for keeping the transmission-owning members of PJM functioning in a unified basis to promote a competitive market for bulk energy.

After the seventeen years existence as an RTO, the Commission should not reduce or eliminate the 50-basis point incentive for PJM membership. There would be a series of adverse consequences for Duquesne Light and other public utilities that are members of the RTO if it were to do so. First, a reduction or elimination of the 50-basis points would provide a disincentive to continue membership in PJM. Without an RTO incentive from the Commission, public utilities would be encouraged to seek alternatives to the RTO model in search of enhanced returns that the 50-basis points now provides. The benefits of RTO participation initially enumerated when the RTO Incentive adder was first implemented have increased exponentially. Likewise, the risks for the transmission owner have increased substantially since the initial implementation of the 50-basis point RTO incentive adder.

Second, the RTO incentive has become part of investor-expected returns that determine the cost of capital for the transmission owning members of PJM. If the Commission were to reduce or eliminate the 50 basis points RTO incentive, then investors would reassess their return expectations and undoubtedly increase the cost of equity for the public utility members of PJM. Therefore, a reduction or elimination of the 50 basis points incentive for RTO membership would not reduce the formula rates on a one-for-one basis, because there would be a concomitant increase in the cost of equity for the public utility members of PJM. Tampering with the RTO incentives would be shortsighted and in the long-term counterproductive.

In addition to the financial risk transmission-owning utilities bear with RTO membership, there is considerable operational risks. Transmission owners that join an RTO and transfer operational control of their transmission systems to the RTO. This means that the transmission owner forgoes the opportunity to make its own decisions regarding the planning and management functions of parts of its transmission system and instead defers to the direction of the RTO. For example, Duquesne Light may be and has been required to build certain projects it would have addressed differently or not have otherwise chosen to build per PJM's direction. Under Schedule 6 of the PJM Operating Agreement, PJM may designate a PJM Transmission Owner as the Designated Entity and direct them to build certain categories of transmission projects.[9] Additionally, if another transmission developer is selected to build a project to remedy a reliability criteria violation(s), and that developer, for whatever reason fails to complete the project, the incumbent transmission owner could find itself in a position whereby it is now directed by PJM to remedy that reliability concern and with minimal notice now responsible financially and from a construction standpoint for satisfying that regional transmission need, which it had not planned for nor budgeted for.

As stated above, Duquesne Light supports retaining the current 50-basis point RTO incentive adder, with no modification, for joining and remaining in the PJM RTO. However, if any modifications are to be made to this RTO incentive, it should reflect the increased benefits of RTO membership that flow to consumers, as well as the increased risks for transmission owner participants, like Duquesne Light, and adjust the RTO incentive adder upward, accordingly.

[9] PJM Operating Agreement, Schedule 6 §§ 1.5, 1.7.

3. Certain Risk-Reducing Incentives Should Be Granted Automatically For Transmission Projects Selected In A Regional Transmission Plan (Ex. Abandoned Plant And CWIP).

Incentives provide a critical component to motivate public utilities to undertake projects in a changing market for bulk power deliveries. Duquesne Light takes its lead on transmission investments from the PJM Interconnection. Incentives are necessary to accommodate the constantly changing requirements mandated by PJM. PJM frequently changes or cancels projects which results in stranded costs through no imprudent actions by Duquesne Light. The uncertainty surrounding transmission expansion projects mandates risk reducing/mitigating incentives. [10]

a. Abandoned Plant Cost Recovery

Duquesne Light supports retaining the current incentive that pre-authorizes the recovery of 100 percent of prudently incurred costs of a Transmission Project if it is abandoned or cancelled, in whole or in part, for reasons beyond the Company's control. This requested incentive rate treatment is a risk mitigating incentive set forth in Order Nos. 679 and 679-A. The Commission has instituted a process whereby this incentive is conditioned upon the requirement that each transmission owner seeking such incentives submit a filing under Section 205 demonstrating the prudency of the costs incurred and recovery sought due to the abandonment of the project for reasons outside the control of the transmission owner.

However, the current incentive regime only allows for 100 percent recovery of prudently incurred costs due to the cancellation or abandonment of the project after the transmission

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[10] *Duquesne Light Co.*, 118 FERC ¶ 61,087 at P 61 (2007) ("…the RTEP process allows PJM to cancel a project that has been accepted in the RTEP should PJM conclude that the conditions that originally supported the construction of the expansion have changed (i.e., the RTEP is revised); this introduces an element of risk that is not faced by a utility proposing to build transmission outside of an RTO planning context.").

owner submits the 205 filing and the Commission issues an order approving the incentive rate treatment request. This means that all costs incurred up until that point are not recovered at 100 percent, which creates a level of financial risk and unforeseen financial burden.

To remedy this potential occurrence, the Commission rightfully seeks comments on means of addressing this added financial risk and loss when the decision to abandon or cancel a project is beyond the control of the transmission owner.[11] To that end, Duquesne Light supports the Commission granting the abandonment incentive automatically for projects in which a transmission owner is directed to build by an RTO or a government entity. This approach would eliminate the lag or complete inability to recover 100 percent recovery of pre-construction and development costs incurred prior to the Commission issuing an order approving the incentive request through a Section 205 filing.

While the incentive would be automatically granted to transmission-owning utilities with a Commission-approved formula rate that is directed to build by an RTO or a government entity or designated to build as a result of a regional transmission planning selection process, the Commission has full authority and ability to review the costs sought for recovery and opportunity to determine the prudency of those costs through the necessary filing the transmission owner submits pursuant to Section 205 to recover said costs through its transmission rates.

b. Construction Work in Progress

Duquesne Light also supports retaining the risk reducing incentive of 100 percent of construction work in progress ("CWIP") for transmission projects in the Company's rate base under its formula rate during the development and construction phase of the Project. In the event

[11] NOI at Q 77.

that the transmission project is not ultimately placed in service because of a change in circumstances, cancellation or abandonment dictated by the RTO, PJM, the financing for the transmission project will still be required for the capital expenditures spent until that point by Duquesne Light. It would be harmful to the creditworthiness of the Company if it were required to finance a relatively large transmission project and left with no ability to recover costs or earn a return on the required capital needed to fund the construction of such a project.

By avoiding capitalization of the cost of capital through the Allowance for Funds Used During Construction ("AFUDC"), inclusion of CWIP for transmission projects in Duquesne Light's rate base reduces the overall financing costs borne by customers.[12] The Commission has also acknowledged that inclusion of CWIP in rate base will benefit consumers by mitigating the possibility that consumers will experience "rate shock" when projects come into service.[13] The CWIP incentive will also improve cash flow during construction and provide greater regulatory certainty, both of which are instrumental in supporting financial integrity and attracting capital.[14]

To that end, Duquesne Light also supports the Commission automatically granting 100 percent of construction work in progress for transmission projects in the Company's rate base under its formula rate during the development and construction phase of the Project. The Commission will have full authority and ability to review the costs sought for recovery and opportunity to determine the prudency of those costs either through a FERC initiated audit, or when applicable, through the annual review procedures and/or resolution of challenges sections of transmission owners Formula Rate Implementation Protocols within the PJM Open Access

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[12] See, e.g., Pepco Holdings, Inc., 125 FERC ¶ 61,130 at P 61 (2008) (Pepco) (comparing recent annual investment levels to project costs in granting transmission rate incentives including authorization to recover 100 percent of CWIP).
[13] *Oklahoma Gas & Elec. Co.*, 133 FERC ¶ 61,274, at P 48 (2010); *see also Pepco,* 125 FERC ¶ 61,130 at P. 63
[14] Duquesne Light Company, "*Beaver Valley Deactivation Transmission Project, Application for Incentive Rate Treatments and Request for Expedited Action*," ER19-303 (2018)

Transmission Tariff (“OATT”). Authorization to include new CWIP projects could be supported by the PJM approved Regional Transmission Expansion Plan (“RTEP”) that PJM determines is needed to address reliability concerns. Transmission Owners would continue to follow the formula rate implementation protocols regarding the accounting for CWIP, which requires that the Company does not recover AFUDC, as well as ensuring expenditures are not double counted as both CWIP and as additions to plant.

4. Additional Incentives Should Be Considered For New and Emerging Risks

There are other pressing issues that continue to support the granting of incentives by the Commission that should be considered for additional incentives. In the future, Duquesne Light expects increased use of renewable and distributed energy resources and electric vehicles as well as a growing customer desire for choice on their energy use. Each of these will create new challenges for the transmission system as the industry adapts to serve these needs. New and creative incentives should be considered to address these emerging challenges.

In addition, the industry must continue to maintain the safety and reliability of the system from emerging threats. Foremost is critical infrastructure protection (“CIP”). CIP is a necessary response to both physical and cyber security threats that originate both domestically and from foreign sources. With international tensions reaching new levels, additional investment will be required for CIP that mandates incentives. Such challenges are particularly acute for Duquesne Light, which is a relatively small public utility with a limited service territory.

III. CONCLUSION

Duquesne Light thanks the Commission for the opportunity to respond, respectfully submits these comments, and requests that the Commission consider them prior to any final determination in this proceeding.

Respectfully Submitted,

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IV. COMMUNICATIONS

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