UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Inquiry Regarding the Commission's Electric Transmission Incentives Policy	)	**Docket No. PL19-3-000**

JOINT COMMENTS OF CONSUMER ORGANIZATIONS

Utilities make money building and owning infrastructure of public necessity. Consumers are captive utility tenants, paying the utility's infrastructure mortgage over decades, plus interest. But are consumers paying for more infrastructure than we need? Do utilities need additional financial incentives to be coerced to invest their capital into the world's sweetest savings account, where guaranteed returns average more than 10% over four or five decades? Despite the preposterous nature of this scenario, Congress determined in 2005 that we do, indeed, need to provide transmission incentives as set out in Section 219 of the Federal Power Act.[1] No matter how outdated or inadequate Sec. 219 may seem today, electric consumers are still roped into paying the cost of transmission incentives, and the Commission is still obligated to establish the incentives that consumers pay for. The Commission must do this in accordance with Sec. 219 as written, without extra-statutory interpretation or additions.

The Consumer Organizations[2] submit these joint comments in accordance with the Commission's Inquiry Regarding Its Electric Transmission Incentives Policy issued March 21,

[1] 16 U.S.C. 824s.
[2] Consumer Organizations consist of Block Grain Belt Express-Missouri; Block RICL; Citizens to Stop Transource – York; The Coalition for Rural Property Rights; CHARGE (NJ); Eastern Missouri Landowners Alliance; Missouri Landowners Alliance; Protect Sudbury, Inc.; Residents Against Giant Electric; Say NO to NECEC; Stop B2H Coalition; STOP Transource Power Lines MD, Inc.; Kerry Beheler; Rob Danielson; Jonathan Hisey; Alison Millsaps; Keryn Newman; Matthew Stallbaumer; and David Ulery.
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2019. [3] The Organizations are current and former local and regional grassroots groups of electric consumers from across the nation whose members pay the incentives granted by the Commission, and who have experienced first-hand the deleterious effects of over-zealous transmission and energy projects of questionable need and benefit. The signatories represent grassroots groups from fourteen states, totaling thousands of electric ratepayers, that are either actively engaged in opposition to transmission projects, or have successfully opposed unneeded transmission projects in the past.

Block Grain Belt Express-Missouri is a grassroots citizens group opposed to the Grain Belt Express (GBE) merchant transmission project and its use of eminent domain to acquire rights of way across Missouri for its private, for-profit project. GBE would not offer service or provide any benefit to landowners or communities crossed by the project and instead proposes to sell its capacity at negotiated rates to utilities in other states or regions.

Block RICL is a grassroots citizens group with thousands of supporters across multiple midwestern states formed to oppose Clean Line Energy Partners and its Rock Island Clean Line project's unprecedented abuse of eminent domain across northern Illinois. Block RICL spawned multiple "Block" groups to oppose other Clean Line Energy Partners projects across the Midwest. Block RICL provided logistical and grassroots support for the Illinois Landowners Alliance (ILA) state Supreme Court appeal of the Illinois Commerce Commission's decision to grant a permit to the project. In a carefully-reasoned and well-written opinion in 2017, the Illinois Supreme Court agreed with the Illinois Landowners Alliance, the Farm Bureau, and ComEd that Rock Island does not meet the definition of "public utility" under the state's Public Utilities Act, and therefore does not qualify for a certificate to construct the project as a public

[3] 166 FERC ¶ 61,208, Inquiry Regarding the Commission's Electric Transmission Incentives Policy.

utility project and conduct business as a public utility in Illinois. The Court noted that nothing stops Rock Island from seeking to develop its project as a private facility, but it will not have public utility status, including the right to condemn landowner easements through eminent domain. The Rock Island Clean Line Project has since been abandoned.

Citizens to Stop Transource – York is a grassroots group of property owners organized to stop Transource from erecting power lines across our farms and properties. This organization was formed after PJM Interconnection declared Transource Energy as the designated entity for its 2014-2015 RTEP Market Efficiency project. Transource Independence Energy Connection is a project that failed to recognize another alternative capable of transmitting the electricity needed to solve the market efficiency problem without taking new rights of way. It is also a project that will cost all Pennsylvania ratepayers in their electric bills, with no benefit to Pennsylvania. Due to the diligence of Citizens to Stop Transource membership, only one person on the proposed route signed a right-of-way option. Transource has since filed eminent domain petitions for all the remaining properties on the proposed route in York County, Pennsylvania, even though the project has not been approved by any state.

The Coalition for Rural Property Rights is a large grassroots group of residents, landowners, and farmers in Iowa opposing industrial wind installations. The Coalition's president, Janna Swanson, is also a member of the Preservation of Rural Iowa Alliance, a grassroots group that stopped the 500-mile Rock Island Clean Line merchant transmission project in Iowa. Ms. Swanson is also a National Wind Watch board member. The Coalition works with other groups that oppose industrial wind projects all across the U.S. At least 230 government entities in the U.S. alone have banned or blocked industrial wind at the urging of

their constituents. More are opposing the power lines these projects require.[4]

Consumers Helping Affect Regulation of Gas & Electric (CHARGE) is a grassroots citizens group formed to be the public voice for New Jersey's 3+ million individual and small business energy consumers. CHARGE, along with many environmental groups, successfully campaigned against the Williams Transco NESE gas pipeline project when New Jersey's Department of Environmental Protection denied the application for certain permits for the project to proceed.

Eastern Missouri Landowners Alliance (EMLA) is a grassroots group of landowners formed to oppose the Grain Belt Express merchant transmission project. EMLA has actively participated in permitting and siting proceedings at the Missouri Public Service Commission.

Missouri Landowners Alliance (MLA) is a grassroots organization of 1000+ members committed to property rights. MLA has fought against Grain Belt Express for over six years, and intervened in the Missouri Public Service Commission hearings twice.

Protect Sudbury is a grassroots citizens group with thousands of supporters in and around the Boston Metro West area formed to oppose the construction of a new high voltage transmission line running through the heart of Sudbury and Hudson, Massachusetts, as well as in protected conservation lands. Protect Sudbury has demonstrated that the project is unnecessary due to a reduction in overall energy demand in the region due to the rapid growth of solar and the effectiveness of energy efficiency programs and appliances. Further, Protect Sudbury has

[4] The Coalition urges the Commission to look past the politicians and the people being offered money to host these installations on land where they neither live nor farm, and hear us. Stop to consider the atrocity that this is for the quiet, often disconnected, residents of rural America. We are U.S. citizens, we are taxpayers, and we are ratepayers. Our businesses and homes mean as much to us as yours mean to you. People may believe that where we live there is plenty of room for all these projects, but it is simply not true. Iowa only has 1% of the U.S. population, yet we have already covered well over one million of our acres with industrial wind installations, and only reached 37% in wind energy usage. That one million figure does not include acreage for excess power lines. We ask that the Commission not fuel this fire by allowing these companies more funds to connect even more wind installations.

exposed a broken state approval process in which utilities have been allowed to self-score route evaluations to obtain desired results. Finally, Protect Sudbury has promoted the use of Non-Transmission Line Alternatives (NTA) to solve this and similar problems, despite the denial by utility companies of the technological and economic viability of these options.

Residents Against Giant Electric (RAGE) is a grassroots citizens group that successfully opposed FirstEnergy/Jersey Central Power & Light's Monmouth County Reliability Project, a 10-mile long, 230 kV transmission line through five towns in Monmouth County, New Jersey. Despite the voluminous petition (consisting of more than 600 pages) filed by the utility company, RAGE, along with other intervenors, successfully made the case in the legal proceeding that JCP&L did not prove the need for the project. Of note in the proceeding is the fact that 2,500+ residents attended the first NJ Board of Public Utilities public hearing, and 3,000+ residents attended the second, to speak out against the project.

Say NO to NECEC is a grassroots non-profit focused on environment, education, and advocacy and opposes large-scale industrial development in western Maine, such as Central Maine Power's New England Clean Energy Connect merchant transmission project.

The Stop B2H Coalition is a non-profit organization registered in the State of Oregon. Their mission is to stop the approval and construction of an unneeded 305-mile, 500 kV transmission line through Eastern Oregon and Western Idaho, thereby: protecting environmental, historical and cultural resources; preventing degradation of timber and agricultural lands and the Oregon National Historic Trail; promoting energy conservation and acknowledging the past decade's revolutionary developments in renewable energy, energy storage and distribution. Stop B2H Coalition is a volunteer organization with nearly 500 individual members and eight organizational members.

STOP Transource Power Lines MD, Inc. (Stop Transource) is a non-profit Maryland corporation Citizens' Action Committee, which was formed after PJM Interconnection (PJM) declared Transource Energy as the Designated Entity in the 2014-2015 RTEP Market Efficiency competitive solicitation window to reduce congestion on the AP-South Interface. Co-chairs Aimee O'Neill and Patti Hankins have been actively leading the northwestern Harford County, Maryland, community of Norrisville's opposition to the Transource Independence Energy Connection (IEC) greenfield high voltage transmission project. Stop Transource is currently involved in the Maryland Public Service Commission proceedings for the siting and CPCN permitting for the Transource IEC East and West segments. STOP Transource joins with others who work to provide protection to the people and the land from the overreach of public and private energy transmission companies who assert their authority and collect their profits from a captive consumer base under the guise of a public utility service.

Kerry Beheler is a local citizen from southwestern Wisconsin and Secretary of Western Dane Preservation Campaign, which is currently opposing the MISO-designed 345 kV Cardinal-Hickory Creek expansion transmission line that would be cost-shared across 24 million ratepayers.

Rob Danielson is an energy planner for the Town of Stark, Wisconsin, who has opposed numerous transmission expansion proposals in Wisconsin and is currently concentrating his efforts on stopping the MISO-designed 345 kV Cardinal-Hickory Creek expansion transmission line that would be cost shared across 24 million ratepayers.[5]

[5] Mr. Danielson would like to point out that reduced use from efficiencies and load reduction measures have led to more CO2 emission reductions than far more costly utility expansion investments from 2005-2016. (https://aceee.org/blog/2018/11/eia-reduced-electric-demand-has) Mr. Danielson believes that to preserve financial solvency and compatible land uses in coming decades, reform must stop incentivizing unnecessary generation and waste, and turning CO2 reduction into prolonged corporate profit-taking. When CO2 emission reductions are not delivered, the misspent funds could be recovered from the bad actor(s) and placed into pools where other efforts can deploy them.

Jonathan Hisey was part of group of farmers, ranchers and landowners across northwest, north central and northeast Oklahoma who actively opposed the 765kV transmission line that was part of American Electric Power's WindCatcher Energy project. The line would have crossed his family's 4th generation farm where his parents currently reside. Mr. Hisey took part in public comments at proceedings for WindCatcher at the Oklahoma Corporation Commission, as well as directly contacting Commissioners.

Alison Millsaps and David Ulery are former leaders of grassroots citizens groups Block Plains and Eastern Clean Line: Pope, Johnson, Newton and Conway Counties, Arkansas Citizens Against Plains and Eastern Clean Line, and Golden Bridge, LLC. The groups successfully opposed an unmarketable merchant transmission proposal across the state of Arkansas. The project has been canceled.

Keryn Newman is a former officer of StopPATH WV, Inc., a grassroots citizens group formed to oppose the Potomac-Appalachian Transmission Highline (PATH). Ms. Newman is also actively involved in consumer rate matters before the Commission.

Matthew Stallbaumer has been actively involved in the Kansas Corporation Commission proceedings for the siting and permitting of the Grain Belt Express merchant transmission project, and worked with CleanR Kansas to oppose the project. The project negatively affects his family's fifth-generation farm in Nemaha County, Kansas.

I. Introduction

Instead of merely building on previous statutory misinterpretations, the Commission's over-arching goal this time around must be consistency with the Congressional directive in Sec. 219. Congress directed the development of transmission incentives for public utility transmission projects that "…benefit consumers by ensuring reliability and reducing the cost of

delivered power by reducing transmission congestion."[6] The intent of Congress is clear: Transmission incentives must ensure reliability ***and*** reduce the cost of delivered power by reducing transmission congestion. Congress explicitly used the word "and," instead of the word "or." This should be the threshold for transmission projects awarded incentives. The intent of Congress is to increase reliability while reducing costs to consumers, not merely increasing reliability and costs through award of transmission incentives, or simply awarding incentives for reducing the cost of delivered power without increasing reliability. Transmission incentives cost consumers real money in their monthly electric bills and it is imperative that incentives policy focuses first on the intended benefit to consumers, instead of benefit for utility shareholders.

The Commission took a couple of wrong turns in statutory interpretation in Order Nos. 679 and 679-A, namely establishing an incorrect statutory threshold by substituting the word "or" for the word "and" in Sec. 219(a), to allow incentives for transmission projects that either ensure reliability **or** reduce the cost of delivered power by reducing transmission congestion. The Commission also misinterpreted the statutory words "new investment in transmission"[7] to mean "investment in new transmission" when it determined that the "most compelling" candidates for incentives are "new projects that present special risks or challenges, not routine investments made in the ordinary course of expanding the system to provide safe and reliable transmission service." [8] Clearly, Congress intended incentives be awarded for the "enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy"[9] and to "encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation

[6] 16 U.S.C. 824s (a)
[7] 16 U.S.C. 824s (b)(2)
[8] Order No. 679, 116 FERC ¶ 61,057 at PP 23, 60.
[9] 16 U.S.C. 824s (b)(1).

of the facilities."[10] Increasing the efficiency, and ensuring the reliability, of existing facilities through re-builds and new technology is the aim of Sec. 219.

Furthermore, in its 2012 Policy Statement, the Commission inappropriately added a new type of transmission project that has no statutory basis in Sec. 219 to those worthy of incentives; a transmission project for the purpose of "unlock(ing) location-constrained generation resources that previously had limited or no access to the wholesale electricity markets".[11] Sec. 219 contains little reference to generation resources as the basis for awarding transmission incentives except an initial mention of "promot(ing) reliable and economically efficient transmission and generation of electricity".[12] It is important to keep in mind that location-constrained generation resources must be proven reliable and economically efficient before providing incentives to new transmission that unlocks them. An inference can easily be read into the Commission's statement to provide incentives for new transmission to serve renewable generators (utility scale wind and solar) that are located far from coastal load centers. However, these generators are not reliable by their very nature and only produce when weather conditions provide their fuel. The overbuilding of these kinds of resources in order to aggregate their output to create some semblance reliability is also incredibly inefficient and expensive, and when the cost of new interregional transmission projects to export them thousands of miles, plus incentives, is added, their true cost is astronomical when compared to building and connecting local renewables closer to load.

There are hundreds of homes within every large industrial wind installation. These installations cast a long list of negative impacts for 2640 feet (at least that is the distance the

[10] 16 U.S.C. 824s (b)(3).
[11] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 21.
[12] 16 U.S.C. 824s (b)(1).

wind companies admit), yet they require counties give them setbacks from the foundation of homes of only 1000-1600 feet.

Only an average of 10% of the people who live in a proposed wind installation will actively participate in the project, even though all residents are offered money and hold-harmless contracts from the wind energy development company. The list of negative impacts in these hold-harmless contracts are blighted views, flashing FAA warning lights, causing or emitting noise, vibration, air turbulence, wake, shadow strobing (flicker) and electronic signal interference. These contracts, if accepted by residents, also require the resident give an easement over their entire property and waive the right to a jury trial in the event of future problems.

Industrial wind and transmission lines complicate and hurt farming practices. The Rock Island Clean Line was only able to acquire 8% voluntary easements in Iowa after four years of negotiation. It is not generally understood that construction ruins farmland for generations. Crops may grow, but once the ground is compacted they will yield far less.

Many people believe industrial wind will cut emissions, but in industrial wind leader Iowa, emissions from power plants actually rose 3% between 2016-2017. That same year, Iowa's emissions from industrial processes grew almost 32%. In 2020, Iowa's emissions will surely rise again as the Duane Arnold nuclear plant is shuttered fifteen years early and "replaced" with a mix of industrial wind and natural gas or coal.

Iowa's Alliant Energy has raised rates 24.9%, and Iowa's rural electric co-ops still cannot afford to build new industrial wind turbines. Only MidAmerican Energy has seemed to be able to "afford" building industrial wind, but they did require $10 billion in tax credits to do it.

Awarding incentives to transmission for the express purpose of changing the national generation fuel mix was not the intent of Congress in Sec. 219. This is an idea that came well after Sec. 219 and cannot be shoehorned into the existing statute.

And finally, the Commission's issuance of Order No. 1000[13] does not change the nature or language in Sec. 219 and cannot be read to add its requirements for new transmission projects into the existing statute. Section 219 is what it is, absent changes by Congress, and cannot be interpreted anew to fit subsequent Commission policies. It is the Commission's transmission incentives policies that must fit within Sec. 219, not the other way around.

Consumer Organizations keep the clear language and intent of Sec. 219 in mind throughout their responses to the Commission's inquiry questions.

II. Approach to Incentive Policy

A. Incentives Based on Project Risks and Challenges

While awarding incentives based on a project's risks and challenges may be an effective practice, timing will always be an issue. Many risks and challenges claimed by a transmission developer at application are overblown and easily overcome early in the development process, although incentive awards continue throughout the life of the project (or its recovery period, if abandoned). As an example, Transource requested a full plate of incentives for its Independence Energy Connection (IEC) project based on its risks and challenges.[14] One such risk highlighted by Transource was that its Transource Maryland company could not obtain utility status under Maryland law and therefore would not have eminent domain authority to acquire rights-of-way. The Commission granted most of the requested incentives based on this, and other, risks.

[13] Order No. 1000, 136 FERC ¶ 61,051.
[14] *PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,089, January 31, 2017.

However, Transource subsequently turned right around and successfully lobbied the legislature to change the law, eliminating this risk in its entirety before even beginning recovery of its rates. Stated risks and challenges in incentives applications should be documented as truly unique and not easily remedied. Furthermore, routine approvals that all transmission projects face do not make a certain project more deserving of incentives than others. All transmission projects face state and local regulatory siting and permitting processes out of the control of this Commission. While regional transmission organizations may order transmission projects to be built, their authority is minimal. True authority to order the building of transmission belongs with the state and local authorities that site and permit, and evaluation of risks and challenges should come after the state or local decisions. It is these state and local authorities that determine whether a transmission project may be built, therefore a Commission determination that state and local approval processes are incentive-worthy risks and challenges perhaps places the cart before the horse and amplifies unnecessary risk for consumers.

B. Incentives Based on Expected Project Benefits

Basing the award of incentives on a project's expected benefits is an even worse practice. A utility's expectation of benefits almost always exceeds the actual benefits realized by consumers. The same can be said of regional transmission organization benefit analyses. It takes minimal effort and skill to create a mountain of expected benefits based on future scenarios that have little chance of actually occurring. Using Transource's IEC project again as an example, PJM determined an initial inflated benefit scenario that has continually eroded, causing new and inventive means to shore it up to maintain the illusion that the project will provide benefit to consumers. Adding insult to injury, PJM has altered its tariff to ignore energy cost

increases in zones not allocated cost responsibility for the IEC.[15] While IEC is expected to decrease costs in certain PJM zones that will pay for the project, it is also expected to increase costs in other PJM zones that were not assigned cost responsibility for the project. Therefore, when PJM adds up the benefits of the project, its total is inaccurately high. If all zones are included in the benefit analysis, where cost increases elsewhere are deducted from the total benefits, the actual benefit from the project falls well below the project's expected cost.

Another example of cost-benefit gaming is PJM's recent revisions to its economic transmission planning process (market efficiency process) as set forth in Schedule 6, section 1.5.7, of its Amended and Restated Operating Agreement to address the generation assumptions that go into PJM's market efficiency analysis to exclude from these assumptions, with exceptions, generation either with only an executed Facilities Study Agreement (FSA) or with an executed Interconnection Service Agreement (ISA) that is under suspension.[16] This caused a re-evaluation of the benefit/cost ratio for the Transource IEC project during the Pennsylvania Public Utility Commission evidentiary hearings which resulted in an increase from 1.42:1 to 2.17:1, a 53% increase in the benefit/cost ratio, just by assuming that FSA generators (largely in the Dominion Virginia beneficiary zone) would not be built.

Cost/benefit analyses are difficult to unwind and easily biased by inflating benefit while ignoring costs. If the Commission develops a standardized cost/benefit analysis to be used as the basis for awarding incentives, it must include all costs of the project in such an analysis. The cost estimates routinely used are contained in a hypothetical revenue requirement that captures only construction and future maintenance costs.

[15] See FERC Docket No. ER14-1394
[16] *PJM Interconnection, L.L.C.*, 166 FERC ¶ 61,104, February 12, 2019.

An example of unrecognized community impacts is presented by the proposed Transource IEC 230 kV transmission project, which negatively impacts active agricultural land currently in the Maryland and Harford County land preservation programs, the local elementary school, open space recreation fields, and residences. PJM's cost evaluation process does not consider or account for the financial toll and burden on the community when determining cost vs. benefit.

The true cost of a transmission project includes costs to communities as presented in the example, along with the foregone economic development that could come with the addition of new generators to serve local load, and the closing of existing generators serving local load, which hijacks local energy spending out of the community and exports once local energy dollars to other states or regions. Local communities must also assume the responsibility for preparing for and responding to any emergency or maintenance issues related to new transmission and/or substations located in their community, including the very real hazards and risks the new transmission poses to the host community, such as fire risk. In addition, as local properties are devalued by the addition of transmission infrastructure, landowners may petition to have their properties reassessed, which causes the local tax base to shrink.

Costs to individual property owners are huge and not adequately compensated through one-time easement payments. Having a new transmission line or substation constructed on or near property causes property devaluation that the owner may never recover. While transmission developers may produce mountains of studies denying property devaluation, the proof is in the pudding. There is a stigma attached to energy infrastructure that buyers shy away from when comparing similar properties. Energy industry assurances, studies, and biased expert opinions

provide little comfort to families evaluating properties they may call home. It's not a decision based on logic, but on emotion and fear of the unknown.

Rural and farm properties take the brunt of new infrastructure siting, as developers seek the path of least resistance by siting their projects on "undeveloped land." Just because a parcel of land is wide open space does not mean it is "undeveloped." Farmland is fully developed to its best and highest purpose, that of feeding our nation. Oftentimes it may be conserved farmland, where the landowner sells future development rights to conservation programs with the intent of preserving the open space for all time. While the landowner is prevented from developing the land for profit, a transmission developer may see no barrier to developing transmission infrastructure on conserved farmland for its own profit, defeating the conservation of the open space.

Farms are businesses, and farmland is a factory. Farmers make their living off the land and what it produces. Running a new transmission project through the farm factory's production line interferes with production and wastes productive space for all time. The addition of a transmission line profoundly changes agricultural practices on that parcel, interfering with (or preventing) irrigation, pesticide application, aerial seeding, drainage systems, crop heights, and harvesting practices. Soil compaction and removal or mixing of topsoil caused by construction and maintenance of the transmission line can cause decreased yields for years into the future.

The presence of a transmission line on a parcel also limits future use of that parcel for other purposes. Much of a farmer's wealth lies in his land, and many farmers rely on the future value of their land for retirement income, much like others rely on a company-sponsored 401(k) plan. Preventing future land uses by adding transmission lines to a parcel can create a huge, unexpected loss to a farmer's retirement income.

Family farming is generational, with many farms being handed down from generation to generation, which creates a rich history and connection to the land and explains why family farms may not be for sale at any price. The forced addition of transmission lines using eminent domain intrudes into the family history and sense of place, profoundly changing it forevermore.

None of these very personal impacts to productivity and emotional wellbeing are adequately compensated by one-time payments for the current land value of a narrow, linear easement through a property. The entire property and future productivity is affected, often without just compensation. This effect is compounded when the landowner receives absolutely no benefit from the transmission project that "flies over" his land.

How does one put a value on these things? How can the true cost to the landowner be recognized in a cost/benefit analysis? Farmers and rural landowners have made a personal sacrifice in the past in order to do their part to electrify the country, or ensure reliability so that the lights stay on. However, recent transmission proposals for the express purpose of making electricity cheaper, or "cleaner," for consumers in other states or regions are a step too far. Self-reliance is deeply ingrained in rural America. Rural landowners refuse, and should not be forced, to sacrifice their own financial and emotional wellbeing for that of others far away that choose not to provide for their own needs.

C. Incentives Based on Project Characteristics

This can be either the best or worst idea yet for establishing a basis for transmission incentives. Sec. 219 lists the characteristics of transmission projects that shall be awarded incentives: "…for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion." Project characteristics that do not exist in the statute cannot be used as a basis for awarding transmission incentives. Transmission

projects located in regions with persistent needs, interregional transmissions projects, or transmission projects that unlock constrained resources may or may not ensure reliability and reduce the cost of delivered power by reducing transmission congestion. This is the initial question, and serves as the threshold for incentive eligibility. Incentives must be awarded as defined in Sec. 219. Only after a transmission proposal is determined by the Commission to ensure needed reliability and reduce the cost of delivered power by reducing transmission congestion may it be further evaluated for an incentive reward. Using a properly designed risks and challenges and/or cost/benefit approach to further evaluate a smaller pool of transmission proposals that first meet the threshold of Sec. 219 eligibility may follow the directive of Congress.

III. Incentive Objectives

A. Enhancing Reliability

The Commission poses an interesting question interpreting the Congressional directive of ensuring reliability as "enhancing reliability." As the Commission points out, reliability is a function of the North American Electric Reliability Corporation (NERC) reliability standards and various other planning criteria under which public utilities must operate. If a public utility is required by law to meet reliability standards, must it also be financially rewarded for doing so through the award of incentives? As written, that's what Sec. 219 directs, however the statute also requires that an incentive-worthy project needed for reliability must also reduce the cost of delivered power by reducing transmission congestion. The reliability projects that are eligible for incentives are thus clearly defined, making it unnecessary for the Commission to contemplate incentives for transmission projects that enhance reliability beyond that required by NERC and other planning criteria. Either a system is reliable and the lights stay on, or it's not and the lights

go off. Turning reliability into a sliding scale where incremental reliability additions make it even more reliable threatens to ultimately make transmission so reliable that it ceases to exist. The most reliable electric system is one where load is located at, or near, generation. As the distance between source and sink increases, reliability decreases and vulnerability increases. An ultimately reliable electric delivery system does not include transmission at all.

We are also concerned about how "generator-deliverability" has become a factor in reliability. For consumers, reliability is all about whether the lights stay on. Consumers don't care if a generator cannot export its maximum generation at all times because of transmission constraints. We understand that generator-deliverability is a reliability factor designed to protect the capacity market, but that is cold comfort to a landowner who could be forced to endure a new transmission line so that a generator can export electricity across the region for the two or three hours per year that they would otherwise experience a generator-deliverability constraint.

Current rules allow the siting of a new generator based on the assumption of an RTO-approved transmission line, even before the line is approved by the jurisdictional state utility commissions. This introduces uncertainty into the generation siting process and creates generator deliverability issues that may never actually occur.

Sec. 219 uses the words “ensure reliability.” Ensure is to make certain something shall occur or be the case. It has an end. Congress wanted to make sure the transmission system was reliable. NERC standards ensure reliability. Enhance means to increase or further improve the quality, value or extent. Enhancing reliability beyond NERC standards is an open-ended process that never ends. Either a system is reliable or it’s not. Congress did not direct enhancing reliability beyond NERC standards. Congress directed a state of reliability, not continual enhancement to gold plate the state of reliability.

B. Economic Efficiency

Economic efficiency alone is not sufficient basis for an award of transmission incentives under Sec. 219. The project must also ensure reliability. While reducing the cost of delivered power was a goal of Congress, it cannot be interpreted as a right for any consumer to access the cheapest power available anywhere in the United States. Building a "supergrid" that can connect an electron produced anywhere with a customer desiring to use it somewhere else is not only a physical impossibility, it unnecessarily increases the cost of delivered power by requiring trillions of dollars of new infrastructure that captive consumers would pay for. Expanding markets to create just one nationwide market served by many thousands of miles of new overhead wires also reduces reliability by centralizing generation.

One of the benefits that come with the sacrifice of living near generation resources is cheaper power cost. For more than a hundred years, generators have been pushed away from cities whose demand has increased. Nobody in the city wants to live near energy infrastructure; they want the benefits without the sacrifice. Benefits without sacrifice come at a price. Rural America has become the urban powerhouse through sacrifice. Economic efficiency attempts to balance electric prices by reducing them in urban areas, while increasing them in rural areas. While public utilities must serve similarly situated customers equally, that does not extend to require grid expansion to set one national electricity price.

The assumption of ubiquitous transmission enabling geographically flat pricing destroys the incentive for local generation that was the intent of Locational Marginal Pricing. It also destroys incentives for conservation, which ultimately is the least expensive solution to deliverability problems.

C. Persistent Geographic Needs

As set out in Sec. 219, transmission incentives shall be developed "…for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion." This should be the threshold. Sec. 219 does not delve into providing incentives for geographic transmission needs, and Congress specifically addressed that issue in a separate section of the Energy Policy Act, Section 1221.[17] Sec. 1221 directs the Secretary of Energy to perform triennial electric transmission congestion studies, and grants additional authority for siting and permitting. It would be an incredible waste of time and money for the Commission to perform separate studies of persistent geographic needs for transmission in order to provide some basis for awarding incentives to it. If a transmission proposal identified in the Secretary of Energy's Congestion Study meets the Sec. 219 threshold of ensuring reliability and reducing the cost of delivered power, it may be eligible for further evaluation by the Commission for an award of incentives. A persistent geographic need for transmission alone does not meet Sec. 219's statutory threshold.

D. Improving Existing Transmission Facilities

It could be argued that the intention of Sec. 219 is solely to improve existing transmission facilities by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce. You can't enlarge, improve, maintain, or operate an electric transmission facility that does not yet exist. In addition, Sec. 219 also separately addresses deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities. Either way, improving existing transmission facilities fits squarely within Sec. 219.

[17] 16 U.S.C. 824p

One way to improve existing transmission facilities is through simple re-builds or additions to the facilities that increase their capacity, security, resilience, or efficiency, while also reducing the cost of delivered power. Perhaps because the Commission has so far chosen not to grant incentives to these kinds of improvements, transmission developers have concentrated their efforts on building entirely new transmission projects, when repair and refurbishment of existing transmission may solve the issue faster and cheaper. The re-purposing of existing transmission facilities to ensure reliability and decrease the cost of delivered power uses existing rights-of-way, which decreases the cost and time lost to opposition. It also avoids the cost of acquiring new land for greenfield projects. As an example, the Potomac-Appalachian Transmission Highline (PATH) transmission project proposed 300 miles of new right-of-way at the cost of $2B. Fierce opposition delayed the project long enough for the proposal of a competing project consisting of a simple rebuild of an existing transmission line to increase its capacity, at less than 1/3 the cost of PATH. Affected landowners embraced the new proposal as a workable compromise and the project was completed ahead of schedule, while PATH was cancelled.

Stop Transource vehemently opposes the Transource Independence Energy Connection (IEC) East double-circuit 230kV transmission segment as it is proposed to be constructed parallel to and sandwiched between two (2) existing high voltage transmission rights of way with underutilized and recently upgraded equipment owned by competing transmission operators PPL Electric Utilities and Baltimore Gas & Electric. In the case of the IEC, transmission incentives encouraged PJM to approve a more-profitable greenfield transmission project, without due consideration of alternatives that use existing transmission as required under Maryland law.

Although a viable alternative using existing infrastructure for the IEC East segment has been identified, the fate of the community has not yet been decided, as evidentiary hearings

before the Maryland Public Service Commission were just concluded on June 11, 2019, and PJM refuses to suspend or cancel the project.

New greenfield transmission always meets opposition, in one form or another. Opposition has become increasingly forthright and effective. Opposition has a cost, both financially and through delay of the project. Re-builds and the use of existing rights-of-way, on the other hand, do not inspire the same kind of opposition. Improvement of existing facilities should always be thoroughly vetted before new greenfield transmission is proposed. Perhaps this kind of improvement should be encouraged through eligibility for incentives as directed in Sec. 219.

Mandatory upgrades to reconductor hundreds of 60-70 year-old low voltage and distribution facilities across the U.S. over the next 10-15 years will cause their capacities to double as they are re-conductored. The following factors may make future transmission expansion unnecessary: 1) assured system improvements from these low and distribution voltage upgrades; and 2) that non-transmission alternatives/distributed energy resources lower use without capital utility debt and cost recovery. With unstoppable de-centralization on the horizon, 40-year amortized, utility-scale capacity expansion is monetarily regressive/punitive for end users. There are a number of economically prudent solutions to this looming problem. One example may be regional cost sharing for all non-transmission alternatives coordinated with local transmission/distribution modernizations, but under the condition that the improvement must deliver accountable, increasingly avoided demand over time.

E. Performance-Based Incentives

Sec. 219(a) requires the establishment of performance-based rate treatments, however the Commission has yet to define this and put it into practice. Transmission developers being

granted incentives are therefore not encouraged to perform. This is what may inspire the "FERC Candy" comments that are sometimes attached to discussion of transmission incentives. The Commission has devised creative ways to qualify projects for incentive ratemaking awards, which in turn inspires transmission developers to create wordy risks and challenges for their projects, along with inflated promises of what the project may accomplish. Without performance standards, these are nothing more than words on paper that bear little resemblance to reality. Once awarded incentives, the transmission owner is not held to the promises it made at application. One glaring example of this is the PATH transmission project, which enjoyed generous incentives for many years without ever achieving any of the claims it made to the Commission at the time it applied for incentives. The financial benefits enjoyed by PATH over the years were paid by consumers, and are now lost forever on an idea that never even got close to putting a shovel in the ground.

Transmission owners need to be held accountable. If a risk or challenge, cost savings, reliability improvement, or project characteristic is compelling enough to be the basis for a grant of incentive ratemaking, then it is up to the Commission to follow through to ensure it happens. Performance standards could be based on a transmission owner's own claims and promises at application. If the transmission owner fails to perform, or its promises fail to materialize, then incentive treatments should cease and financial incentives clawed back and refunded to the ratepayers who paid for them. This way, transmission developers would set their own performance standards and it would be up to the Commission to first consider whether the standards are worthy of incentives, and then to enforce them to see that they actually happen.

F. Interregional Projects and Projects That Unlock Constrained Resources

First, it must be determined that such projects meet the requirements of Sec. 219, that is that they ensure reliability and reduce the cost of delivered power by reducing transmission congestion. Only after this determination is made should these projects be considered for incentive ratemaking. There is nothing special or compelling about interregional projects, or those that unlock constrained resources, except for their length and possibly their claims to deliver "clean" electricity. The longer a transmission project, the bigger its opposition. The bigger the opposition, the more difficult it is to site and permit. It is important to note that no major interregional or "unlocking" transmission projects have been built, although there have been numerous attempts to do so over the past decade. This is testament to the strength and determination of citizen opposition, which has prevented or delayed all attempts for years. Granting special incentives to these types of projects does nothing but provide a revenue stream for transmission developers proposing them while they waste millions of dollars trying to site and permit them. If there was a way to accomplish it, it would have been done. There has been no lack of trying on the part of transmission developers that could be solved by handing them more cash, or dangling financial rewards like a carrot on a stick.

This may also be due to the poor cooperation between RTO's when it comes to the matter of cost allocation. One of the biggest impediments to interregional transmission has been determining who shall pay for new transmission. Interregional projects for the purpose of importing/exporting generation create winners and losers. The importing region doesn't want to pay the entire cost, and the exporting region doesn't want to pay any of the costs.

Interregional transmission project planning by RTO/ISO's often fails to consider state driven energy policy and strategy. For decades, the traditional business model for utilities is to

generate power far from end users and then transmit that power over long distances. This has been the raison d'être for interstate transmission lines. However, this business model is both dated and passé. Through state initiatives and public policies, more local distributed energy resources through clean, renewable resources are, or will be, coming online. The State of New Jersey is a good example of this. Through an Executive Order, NJ Governor Phil Murphy has set an ambitious goal for 100% clean energy by 2050 and has been moving full speed toward this goal using local resources. Action steps taken thus far already include the development of offshore wind energy and the continued growth of the solar portfolio.

New Jersey is not alone in this move. Transmission projects to send clean energy across state lines and across RTO's have been met with strong opposition and received little interest from the intended recipients. Although interregional transmission for clean energy was offered to east coast states by merchant transmission developer Clean Line Energy Partners for nearly a decade, it failed to receive any customer interest. Clean Line Energy Partners therefore serves as a risk-free example of how interregional transmission projects would be received by their intended beneficiaries. With lack of interest in long-distance energy imports, attempting to force interregional transmission with financial incentives for developers to attempt a consumer-funded version of a Clean Line project is a heavy-handed waste of resources.

G. Ownership by Non-Public Utilities

The Commission poses a question whether there is a barrier to non-public utility transmission ownership. Whether there is or not, Sec. 219 is explicit that incentives may be awarded only to public utilities. However, the Commission carries this idea further by asking whether public utilities that partner with non-public utilities should be granted incentives. On a very basic level, we ask who the Commission intends would pay these incentives? The public

utility may recover incentive rates from its captive customers who benefit from the project. Non-public utilities do not have captive customers from which to collect incentives. If a transmission project is for benefit of public utility customers, then the public utility may build it without the extraneous participation of a non-public utility. If a transmission project is for benefit of a non-public utility, then the non-public utility must pay for it and perhaps pass its costs on to contracted customers in negotiated rates. It is unclear what would be accomplished by charging a public utility's captive customers for a non-public utility's for-profit transmission project. Why would a non-public utility need a public utility partner on its transmission project? Is it so the non-public utility could hide behind the public utility in order to collect its costs from captive ratepayers, or perhaps to make use of a public utility's eminent domain authority for project siting? Non-public utility transmission projects are either private use, or merchant. Is there to be a mixing of public and non-public uses for a single transmission project? This idea is fraught with opportunities for public utility captive customers to be saddled with non-public utility costs from which they receive no benefit. Imagining this in practice, let's use the example of the failed Clean Line Energy Partners projects. These merchant projects, with negotiated rate authority, wanted to connect midwestern wind generation with customers to the south and east. They were going to "fly over" multiple states to connect with expected customers. If this non-public utility partnered with a public utility, it could be a contracted public utility customer on the East Coast. This would not make it a public utility in a flyover state, so what purpose would the partnership serve? If it were to inject public utility customer financing into a merchant project, then public utility customers would be assuming the risk and financing merchant transmission. However, if this non-public utility partnered with a public utility in one of the flyover states in order to smooth siting and permitting, the public utility's costs would flow to its

captive customers who receive no benefit from the project, and we end up at the same place, where public utility captive customers are assuming the cost and risk of a merchant transmission project. In another scenario, perhaps Google wants to build its own non-public utility transmission line to connect an East Coast data center to a Kansas wind farm. What benefit would flow to a public utility that partnered with Google to build the transmission line, except financial gain for the utility?

This concept needs better definition and the provision of example uses. We strongly object to this idea as written, and note that it is not good practice to try to do an end-run around Sec. 219's explicit application to public utilities by suggesting public-private utility partnerships.

IV. Existing Incentives

A. ROE-Adder Incentives

1. Transmission-Only Companies

The Commission is rightly concerned that Transcos affiliated with a market participant do not provide sufficient independence to warrant an ROE adder. The proliferation of market participant Transco spin-offs in the wake of the establishment of this incentive demonstrates nothing more than a means to increase profits. Investor owned utilities are adept at finding ways to take advantage of even the most well intentioned regulation. While the Transcos may claim independence, the fact remains that they are controlled by the parent company and receive funding from the parent company. A parent company with a good credit rating can borrow money at low rates to create the equity it funnels into its Transcos that earn at a much higher rate. In effect, the utility is using someone else's money to make money, akin to planting a money tree in the lobby of their headquarters. A utility may ostensibly borrow money for its other affiliates,

and not its Transcos, but this would have the effect of funneling corporate equity away from certain affiliates to Transco affiliates that can earn a higher return on the same money.

It's interesting that many IOU Transcos seek to operate in new markets or regions where the parent does not currently operate so that it may maintain congestion in order to protect the parent's owned generation in its distribution service areas.

Independence means full independence, not "independence" created on paper in order to increase earnings. Only truly independent Transcos not affiliated with current market participants should be eligible for this incentive.

2. RTO/ISO Participation Adders

Sec. 219(c) requires that the Commission provide incentives to transmitting utilities or electric utilities that join an RTO or ISO, and was crafted at a time when RTO's/ISO's were nascent. The key word is "join." In the past, however, the Commission has applied this incentive to utilities that "join and/or continue to be a member of an ISO, RTO, or other Commission-approved Transmission Organization."[18] If a utility is already a member of an RTO/ISO, there is no value to be added by providing an incentive that translates into quick cash for doing absolutely nothing more than what the utility was already doing. It remains to be seen if utilities will withdraw from RTO/ISO memberships if this incentive is discontinued for utilities that are already a member, but it is highly doubtful. Leaving the RTO/ISO, and then re-joining it to receive the incentive, wastes time and costs the utility money. Restricting this incentive to new, unaffiliated utilities that provide benefit to consumers by joining an RTO/ISO is one approach. Changing the incentive treatment is another. But the incentives for utilities that are already members (and who have actually "joined" the RTO/ISO prior to requesting the

[18] Order No. 679, 116 FERC ¶ 61,057 at P 326.

incentive for a particular project) must be discontinued in order to follow the Congressional directive in Sec. 219.

Restricting the incentive for a fixed period of time could be accomplished by quantifying the benefits consumers receive from the utility's membership and comparing this figure to the cost consumers pay for the incentive. When the costs equal or outweigh the benefits for consumers, then it's time to end the incentive, since the aim of Sec. 219 seems to be ensuring reliability while decreasing costs. In effect, the ensuring of reliability pays for itself without cost increases to consumers. The Commission should be mindful that its incentives policies don't merely add costs for consumers without benefit.

3. Advanced Technologies

In the wake of multiple failures to permit and site new transmission to connect distant renewable generation to coastal load centers, some transmission developers are embracing innovation. Instead of continuing to try to bang the square peg of flyover, overhead transmission projects using eminent domain to acquire new rights-of-way into the round hole of local and state opposition, some developers have proposed revolutionary new transmission ideas that completely avoid opposition by transmitting energy without the use of eminent domain to secure new rights-of-way, and without new landowner burden. Direct Connect Development Company's SOO Green Renewable Rail project proposes new underground HVDC buried in a slender trench on existing railroad rights-of-way.[19] Alternative Transmission Inc. has devised a way to store electricity in a shippable container of an electrically chargeable, dischargeable, and rechargeable medium that can then be transported to load via rail, truck, air, or boat.[20] It requires no new wires and therefore no new rights-of-way. New technology that avoids costly landowner

[19] See http://www.soogreenrr.com.
[20] FERC Docket No. EL19-69.

and community opposition may look more expensive at its inception, but the savings realized by avoiding delay and opposition can be substantial. These are the kinds of innovative, new technology projects that could be encouraged with incentives.

The Commission has struggled in the past with defining "new technology" due to its fleeting nature. Once new technology has been accomplished for the first time, it becomes routine. Perhaps a "first of its kind" threshold should be established, instead of a fixed list of today's "new technology." This allows for innovation and new ideas that can completely revolutionize the way we transmit energy. It also inspires competition between transmission developers to be the first to bring new technology to market.

Overhead transmission wires and towers on linear rights-of-way are "technology" that would be familiar to Thomas Edison, no matter how many bells and whistles are added to increase capacity or cause the transmission line to serve other purposes. It's still a physically antique structure from 100 years ago, no matter how sleek, efficient, or powerful its owners claim it to be. If we're going to move more energy greater distances, we need to find a new way to do it that doesn't cause the same old burden on host landowners. Transmission incentives can serve a useful purpose in building the energy system of the future, perhaps even one that Nikola Tesla would recognize.

B. Non-ROE Transmission Incentives

1. Regulatory Asset/Deferred Recovery of Pre-Commercial Costs and CWIP

Reducing utility risk through deferred recovery of pre-commercial costs and CWIP may encourage pursuit of improbable and risky transmission projects of little value to consumers. In recent years, we have seen the spectacular failure of many large transmission projects that the transmission owner and the RTO/ISO insisted were needed, until they weren't. It's almost as if

having the RTO order a transmission project and securing these regulatory treatments may be enough of an income generator on its own, whether the transmission project actually gets built or not.

Pre-commercial costs receive little scrutiny to ensure that they don't contain unrecoverable costs. The burden of prudence falls onto complainants because the utility's expenditures are presumed prudent unless proven otherwise. We would like to see some mechanism developed whereby the costs are reviewed by the Commission for both recoverability and prudence, whether it is at the time the pre-commercial cost asset for deferred recovery is created, or at a later time through compliance filings before recovery begins.

CWIP in rate base is a good idea in practice because it avoids rate shock, however, it also encourages transmission developers to spend a lot of money engineering their project and purchasing land and easements long before state approvals. The more they spend, the more they earn! The PATH transmission project left ratepayers in debt for approximately $30M in land purchase costs, although the project never received any state or local approvals. Another approximately $60M was spent on engineering and land agents. CWIP in rate base effectively places all risk on consumers, encouraging the transmission developer to make risky expenditures that might not happen at that point in time without the benefit of CWIP in rate base. Are transmission in-service dates so unrealistic and disconnected from the known necessity of state approvals that the transmission developer must spend large portions of the project's capital budget before state approvals? Or could many of these expenditures wait until after state approvals, when their necessity is clear? As consumers, we often wonder if transmission developer spending before state approval is an effort to build its rate base as high as possible before a project is abandoned, or perhaps to increase the price of failure in order to encourage

states to approve unneeded transmission projects in order to avoid waste, because a large portion of the cost is already the responsibility of ratepayers.

Perhaps some guidelines of the types of transmission costs that may be placed in CWIP accounts during the state application phase would serve to reduce the cost burden on consumers who are responsible for paying returns on impossible transmission projects that are bogged down in lengthy state regulatory processes, have been tolled by the transmission developer, or put in abeyance by the RTO/ISO, who ordered the project in the first place and then became plagued with uncertainty.

2. Hypothetical Capital Structure

We believe that the Commission should provide a consistent hypothetical capital structure that caps the upper limit, if it continues this incentive. Considering the hypothetical nature of this incentive, a need for a higher equity number is only hypothetical and may not produce benefit to consumers.

3. Recovery of the Cost of Abandoned Plant

The Commission recognizes that granting an incentive for recovery of abandoned plant can encourage transmission developers to pursue unnecessarily risky transmission projects or take unnecessary risks in transmission development. Perhaps the fault lies not with this incentive, but with RTO/ISO selection procedures and failure to consult with the state authorities that make the ultimate determination of whether or not a transmission project may proceed. Without having the data showing the reasons for project abandonment, we hypothesize that failure to receive state approvals is perhaps the most prevalent reason. The problem lies in the limbo period between RTO/ISO inclusion of a project in its transmission plan, and actual approval of the project by states. While RTOs have authority to plan and order transmission

projects, there is no authority for RTOs to site and permit the projects they order. This mismatch of authority, where RTO inclusion begins the spending, but another entity holds actual permitting authority, is the reason many transmission developers request an incentive guarantee for recovery of abandoned plant. A guarantee for the transmission developer during this limbo period allows unlimited spending with absolutely no risk. But does an incentive for recovery of abandoned plant also encourage RTO/ISOs to order unnecessarily risky transmission projects or take unnecessary risks in the development of their transmission plan? Why do RTOs order transmission projects that produce this kind of risk? Should RTOs be making more of an effort to include states in their planning process in order to avoid the majority of the risk from abandoned projects? Perhaps if recovery of abandoned plant started only after state approval, the riskiest projects would be avoided in favor of projects that are more easily approved by states and provide the kinds of consumer benefit states seek. The RTO/ISO does not design transmission projects on its own initiative; it merely evaluates and selects a project designed by a transmission developer. It is certainly within the realm of possibilities that the RTO/ISO seek input from affected states in its selection process.

A gathering and analysis of data on projects that were abandoned, and the reasons therefore, may perhaps bring this issue into greater focus. But we do agree that the cost to consumers for abandoned plant recovery is growing. While a transmission developer receiving this incentive may recover all its expenses, plus return, consumers are paying for transmission ideas that never even came close to putting a shovel in the ground. This certainly isn't what Congress envisioned when it directed transmission incentives.

Placing a portion of the risk that a project may be abandoned on the transmission developer could lead to better proposals in the first place, but requiring state approvals before granting the incentive would also place pressure on the RTO/ISO to improve its planning.

In addition to the recovery of actual abandoned plant granted by this incentive, consumers also end up paying for a transmission developer's cost of the Commission's review of the reason for abandonment and the prudency of the expenses before ordering recovery. In addition, the consumers end up paying their own costs to participate in the review. While the Commission cannot change the presumption of prudence enjoyed by the utility,[21] perhaps it could attempt to define typical prudently incurred expenses, along with a timeline of when these expenses should be expected to prudently occur in a transmission project's development or construction. In addition to providing guidance to the utility, such a list could provide guidance to consumers who may challenge the prudency of abandoned plant expenses. The "reasonable utility management" used as the standard for prudence is elusive and creates an impossible situation for an examination of prudence.

Another issue deserving of Commission review is the current reward for failure presented by the utility's ability to continue to earn its awarded ROE on abandoned plant during its recovery period. If recovery of abandoned plant came with an automatic reduction in ROE, perhaps to the utility's cost of debt, or another pre-set lower percentage, it would serve to encourage realistic evaluation of project risk and discourage further spending on projects that are likely to be abandoned.

[21] [M]anagers of a utility have broad discretion in conducting their business affairs and in incurring costs necessary to provide services to their customers. In performing our duty to determine the prudence of specific costs, the appropriate test to be used is whether they are costs which a reasonable utility management [] would have made, in good faith, under the same circumstances, and at the relevant point in time. *New England Power Co.*, 31 FERC ¶ 61,047, at 61,084 (1985).

V. Mechanics and Implementation

A. Duration of Incentives

Since Sec. 219 intends that incentives produce benefits for consumers, incentives should end when they cease providing benefit to consumers and begin providing benefit to transmission owners. Recognizing this point is difficult. The Commission could require annual project updates from transmission owners granted incentives, which could be audited by staff and/or made available for public review and comment. If it is determined that the incentives are no longer producing consumer benefit, the Commission should discontinue them.

B. Automatic Grants of Incentives

We strongly caution against automatic grants of transmission incentives. It is not the characteristics of a project that make it eligible for incentives. It is whether the project meets the statutory requirements of Sec. 219, i.e. ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. This requires individual examination. Once that threshold has been met, the Commission could carefully consider other factors in granting incentives. If incentives were automatic, transmission developers would quickly become adept at creating applications of grandeur that bear little resemblance to reality, but pass automatic thresholds.

Automatic award of incentives to projects selected in a regional transmission plan for purposes of cost allocation is also a bad idea. Regional transmission organizations have no authority to site or permit transmission projects. This authority rests with states. Inclusion in a regional plan provides no guarantee that a state will approve a project, and awarding incentives before state approvals encourages transmission developers and regional transmission organizations to attempt questionable projects because there is no penalty for failure, and much

money to be made between inclusion in a regional transmission plan, and state denial of badly conceived projects. With no downside and great upside, why wouldn't public utilities persist in applying for projects regardless of whether the projects are well conceived or not? This situation is exemplified in the Commission's statement that applications for transmission incentives to date have almost exclusively been for transmission projects proposed to be developed within RTOs/ISOs. It is that opportunity to secure guaranteed income provided by incentives between RTO approval and state decision that has driven requests for incentives for questionable projects in RTO/ISO regions. Without it, there is little desire to pursue risky projects of little value.

VI. Metrics for Evaluating the Effectiveness of Incentives

Expanding the collection of information on transmission projects that receive incentives, and making comparisons to projects that do not receive incentives, can provide valuable data for further evaluation of the Commission's transmission incentives policy. We support this proposal. We believe data on consumer benefit realized from incentives should also be included, in order that consumers who pay the incentives, and Congress that directed the incentives, can readily determine whether transmission incentives are producing the expected benefit.

VII. Conclusion

Sec. 219 came from Congressional action in response to the 2003 blackout. In that instance, existing transmission facilities were not properly maintained, and transmission owner FirstEnergy made an operations error. It was the maintenance of existing transmission that Congress was addressing by instituting incentives. However, Sec. 219 has been hijacked by the industry to become a financial windfall that entirely misses original intent. Sec. 219 is about improving our aging electric transmission system to ensure another 2003 blackout does not

happen. It makes little physical and financial sense to build strong, new transmission when it will be connected to an aging and failing system that continues to risk reliability. Replacements and upgrades of existing transmission ensure reliability. If we can also reduce the cost of delivered power by reducing transmission congestion, the upgrades and replacements pay for themselves.

Sec. 219 is intended to benefit consumers. Financial incentives designed to entice public utilities to pursue new, risky transmission projects that don't ensure reliability and reduce the cost of delivered power won't cure what's wrong with our transmission system. Connecting new generation and transmission for export to an already reliable system does not ensure reliability and serves only to increase consumer costs of transmission.

Sec. 219(d) directs that incentive awards are subject to the requirements of sections 824d and 824e of the Federal Power Act, that is all rates, charges, terms, and conditions shall be just and reasonable and not unduly discriminatory or preferential. Granting incentives designed to connect certain kinds of generators, i.e. renewables, gives them preferential treatment. This is not the intent of Sec. 219.

Sec. 219(b)(4)(A&B) also directs the recovery of the prudent costs of certain transmission projects, but does not require incentives. It points to reliability[22] and electric transmission congestion.[23] It does not direct the Commission to devise separate incentives to bolster these existing statutes, nor compete with them. The measuring of transmission congestion and designation of corridors to encourage the building of new connections was granted to the Secretary of Energy. The Commission was not granted this authority.

[22] 16 U.S.C. 824o
[23] 16 U.S.C. 824p

Reforming the Commission's transmission incentives policy calls for a narrowing, not an expansion, of incentives. The most the Commission could accomplish by expanding its buffet of transmission incentives is to increase consumer financial burden by encouraging pursuit of new transmission that is ultimately denied by state utility commissions. A Commission grant of financial rewards for pursuing risky transmission projects is not a substitute for the jurisdiction it lacks to site and permit electric transmission. It's simply a waste of consumer resources.

We urge the Commission to re-think and re-imagine the intent and purpose of Sec. 219 as it revises its transmission incentives policy in order to benefit consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

Respectfully submitted this 26th day of June, 2019,

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