

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Inquiry Regarding the Commission's Policy for
Determining Return on Equity

Docket No. PL-19-4-000

INITIAL COMMENTS OF LSP TRANSMISSION HOLDINGS II, LLC

LSP Transmission Holdings II, LLC ("LS Power") is pleased to provide these comments in response to the Federal Energy Regulatory Commission's March 21, 2019 ("Commission" or "FERC") Notice of Inquiry ("NOI") regarding the Commission's policy on rate of return on equity.

The Commission's determination of a utility's rate of return on equity is at the core of the Commission's mandate to determine just and reasonable rates. The determination requires the Commission to balance protecting ratepayers from unreasonably high rates while ensuring a utility has a rate of return on equity sufficient to attract necessary capital investment. As with many issues, utilities and their investors, ratepayers, and other stakeholders all benefit from the greatest possible regulatory certainty regarding the rate of return on equity.

The Commission's policies have done an effective job of balancing utility and ratepayer interests, but could use improvement related to the level of regulatory certainty that currently exists, primarily due to litigation. For example, utilities in MISO and ISO-NE have had a large degree of uncertainty regarding their rate of return on equity due to multiple pancaked complaints that have resulted in lengthy litigation.¹ In addition, the Commission often has been unable to resolve a section 205 filing to establish rates in the 60-day statutory timeframe, with the issue of the allowable rate of return on equity being set for hearing and settlement.

¹ Litigation over the rate of return on equity for the New England transmission owners in Docket EL11-66 was initiated on September 30, 2011. Litigation over the rate of return on equity for MISO transmission owners in Docket EL14-12 was initiated on November 12, 2013.

In these comments, LS Power recommends several policy approaches that the Commission could implement to provide greater regulatory certainty, while continuing to protect ratepayers and attract necessary capital. First, the Commission should set a baseline rate of return on equity applicable to all electric utilities. Second, the Commission should broaden the application of transmission competition under FERC Order No. 1000, in order to use competitive forces to arrive at concessionary rates of return on equity lower than the baseline rate. Ideally, the rate of return on equity would be set by the market, with competitive forces driving the rate to a minimum value necessary to attract capital. However, there is no current efficient market for transmission. A default rate of return on equity with broad application of competitive pressure is a practical approach to establish a market rate of return on equity. Where comments in this document are responsive to specific questions in the NOI, references to the questions are provided in a footnote.

I. Background

It is clear that the Commission's current policies have been successful in attracting capital to the industry. Many industry reports, including the recent Brattle Report,² identify the growth in utility transmission investment from approximately \$2.3 billion/year in 1999 to approximately \$20 billion/year in recent years. This level of investment is expected to continue. The transmission capital expenditure forecasts³ over the next three to five years for fifteen of the largest U.S. utilities as recently reported to investors is over \$80 billion as summarized in the Table 1.

² Cost Savings Offered by Competition in Electric Transmission: Experience to Date and the Potential for Additional Customer Value, The Brattle Group, April 2019 ("Brattle Report"). Available at https://brattlefiles.blob.core.windows.net/files/15987_brattle_competitive_transmission_report_final_with_data_tables_04-09-2019.pdf

³ Reported transmission only investment, does not include distribution level capital investment forecasts

Table 1 – Transmission Only Capital Investment Plan, Major Investor Owned Utilities

Investor Owned Utility	Forecast Transmission Capital Expenditures
AEP	\$16.6 Billion, 2019-2023
Exelon	\$8.3 Billion, 2019-2022
Sempra Energy	\$7.2 Billion, 2019-2023
Southern	\$5.7 Billion, 2019-2023
Duke Energy	\$5.55 Billion, 2019-2023
PG&E	\$5.1 Billion, 2018-2022
PSEG	\$5 Billion, 2019-2023
FirstEnergy	\$4.7 Billion, 2018-2021
Dominion	\$4.3 Billion, 2019-2023
Xcel	\$4 Billion, 2019-2023
ITC	\$3.7 Billion, 2018-2022
Eversource	\$3.3 Billion, 2019-2023
Southern California Edison	\$3.1 Billion, 2018-2022
Niagara Mohawk dba National Grid	\$2.5 Billion, 2019-2021
Entergy	\$2.5 Billion, 2019-2021

Sources for Table 1:

AEP	Capital forecast includes \$8.3 Billion for AEP Transmission Holdco and \$8.3 Billion of other Transmission https://www.aep.com/Assets/docs/investors/eventspresentationsandwebcasts/STRHUtilityPowerSummit04-03-19.pdf , slide 9
Exelon	\$23 Billion of T&D investment, with \$8.3 billion as being subject to formula rates, inferred to be the transmission only portion, https://www.exeloncorp.com/newsroom/events/Event%20Documents/Exelon-2019-Spring-Investor-Presentation.pdf , slide 18
Sempra	Identifies \$1.4-1.5 Billion in FERC Base for SDG&E and \$5.8 Billion of transmission expansion and maintenance expenditures for Oncor, as well as incremental investments, http://investor.sempra.com/static-files/b56277cd-bd7a-43cb-ad18-73015843895b (Slide 34 (11) and slide (12)).
Southern	https://s2.q4cdn.com/471677839/files/doc_financials/2018/q4/new/SO-2018-Q4-Earnings-Call-Final-for-Screen.pdf , slide 27
Duke	15% of \$37 Billion capital plan identified as Electric Transmission https://www.duke-energy.com/media/pdfs/our-company/investors/march-2019-ir-presentation.pdf?la=en , slide 11
PG&E	Specific value from Docket EL17-45, Request for Rehearing of the California Public Utilities Commission et. al., October 1, 2018, p. 34. PG&E identifies over \$1 billion of electric transmission owner capital expenditures without adequate detail to identify the specific value, http://s1.q4cdn.com/880135780/files/doc_financials/2019/q1/Earnings-Presentation-Q1-2019_Final.pdf , slide 8
PSEG	https://investor.pseg.com/sites/pseg.investorhq.businesswire.com/files/doc_library/file/2019_PSEG_Investor_Conference_5.29.19.pdf , slide 44
FirstEnergy	https://investors.firstenergycorp.com/Cache/1001252418.PDF?O=PDF&T=&Y=&D=&FID=1001252418&iid=4056944 , slide 6
Dominion	https://s2.q4cdn.com/510812146/files/doc_presentations/2019/03/2019-03-25-DE-IR-investor-meeting-general-session-vTCH-website-version.pdf , slide 39
Xcel	http://investors.xcelenergy.com/Cache/1500121278.PDF?O=PDF&T=&Y=&D=&FID=1500121278&iid=4025308 , slides 9, 40
ITC	https://www.fortisinc.com/docs/default-source/investor-presentations/marketing-presentation-3-7-18.pdf?sfvrsn=7d876998_2 , slide 33
Eversource	https://www.eversource.com/content/docs/default-source/investors/aga-financial-forum-2019.pdf?sfvrsn=a811c962_0 , slide 12

SCE Docket EL17-45, Request for Rehearing of the California Public Utilities Commission et. al., October 1, 2018, p. 34.

Niagara For New York only, National Grid identifies \$2.5 billion in capital investment over 3 years.

Mohawk <https://us.ournationalgrid.com/news-article/electric-capital-investment-plan/>

Entergy <https://entergycorporation.gcs-web.com/static-files/c7d865c2-2257-4bb0-b582-4093dd9ea006>, slide 6

Clearly, based on the recent and expected future capital expenditures, the Commission's policies regarding rate of return on equity have been successful in attracting capital to transmission investment. In the comments below, LS Power makes several recommendations to increase regulatory certainty, and continue to attract capital to the sector.

II. Comments

A. Description of LS Power

Through various subsidiaries, LS Power develops, owns, and operates electric transmission and independent power projects throughout the United States. LS Power affiliates have the following transmission projects in operations, under construction or in development:

Table 2 – LS Power Transmission Experience

Company	Facilities	Location, System	Length, Configuration	Status
Cross Texas Transmission, LLC	Panhandle Lines, Limestone-Gibbons Creek (portion)	Texas, ERCOT	300 miles, double-circuit 345 kV	Operating since 2013
Great Basin Transmission South, LLC	ON-Line (jointly owned with NV Energy)	Nevada, NV Energy	235 miles, 500 kV	Operating since December 2013
DesertLink, LLC	Harry Allen to Eldorado	Nevada, CAISO	60 miles, 500 kV	Under Construction
Republic Transmission, LLC	Duff to Coleman	Indiana/Kentucky, MISO	30 miles, 345 kV	Under Construction
Silver Run Electric, LLC	Artificial Island	New Jersey/Delaware, PJM	5 miles, 230 kV	Under Construction
LS Power Grid New York, LLC	Marcy to New Scotland (joint with NYPA)	New York, NYISO	112 miles, 2 x circuit 345 kV	Under Development

B. Rate of Return on Equity Methodology

In the October 16, 2018 Order Directing Briefs⁴ the Commission set forth a new methodology of combining the results of several different approaches to arrive at a rate of return of equity for a utility. To arrive at a utility's rate of return on equity LS Power supports broader application of the multi-pronged approach developed in the *Coakley Briefing Order*, as it is a rational approach supported by evidence that results in a just and reasonable rate.

However, LS Power is concerned that the approach outlined in *Coakley Briefing Order* may not materially increase regulatory certainty. The *Coakley Briefing Order* decision states that one benefit of the multi-pronged approach should be to potentially reduce the level of litigation regarding any single assumption, since each assumption will have a relatively small impact on the overall rate of return on equity. The unintended corollary is that there is an increase in the number of assumptions for parties to litigate, which may actually increase litigation. This is because an unavoidable fact is that rate of return on equity is the primary rate determinant that is not based on the utility's books and records, and it therefore can be expected to be a focus of litigation under any methodology.

LS Power supports two policy recommendations described below intended to reduce litigation and increase regulatory certainty and predictability. First, LS Power supports development of a baseline rate of return on equity. Second, LS Power supports increased application of competition, which has a proven ability to attract capital to the industry while putting downward pressure on the rate of return on equity.

⁴ See *Martha Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (2018) (“*Coakley Briefing Order*”)

1. Baseline Rate of Return on Equity

LS Power supports the concept of a baseline national rate of return on equity.⁵ Such an approach should minimize the need for numerous litigated rate of return on equity proceedings. The annual baseline rate of return on equity could be set in a single Section 206 case initiated by the Commission for all electric utilities. Upon completion of the initial proceeding, all electric utility rates of return on equity would be set at the lower of the existing rate of return on equity or the baseline rate of return on equity, and would further be defined as the default rate of return on equity to be applied for future investments, until the baseline rate of return on equity is reset.

Under such an approach, all utilities, states, ratepayer interests, and other stakeholders would have the opportunity to contribute to the record which would establish the annual baseline rate of return on equity under the *Coakley Briefing Order* methodology. As the baseline rate of return on equity would be applied broadly, it would eliminate the possibility for Section 206 filings to be based solely on an allegation that the rate of return on equity is no longer current.⁶

A similar approach has been established by the California Public Utilities Commission⁷ where the rate of return on equity is set for all investor-owned utilities in a fully litigated case. The rate of return on equity set for all utilities is then applied to all rate cases until the next rate of return on equity case is concluded, on a three year cycle. LS Power is not suggesting that the Commission adopt exactly this process, but that the Commission consider applying a similar approach of setting a rate of return on equity separately from specific rate cases, to be applied in

⁵ NOI Question A4b.

⁶ NOI Question G1.

⁷ See California Public Utilities Commission Decision 08-05-035.

future cases, in order to providing greater regulatory certainty and reduce overall litigation.

LS Power favors the Commission setting a single rate of return on equity to be applied nationally. History has shown a relatively narrow band of rate of return on equity for utility filings over a given period. If the Commission were to conclude that a single rate of return on equity would not be applicable, the Commission could define the basis for departure from the national baseline rate of return on equity, such as the size of the utility, the nature of the utility business (vertically integrated vs. transmission only, or electric and gas vs. electric only) or other factors. LS Power suggests that, under any approach, the Commission should provide clear guidance on the resulting rate of return on equity in order to provide the desired regulatory certainty and predictability.

The goal of this policy approach would be to increase regulatory certainty and reduce litigation. A single national rate of return on equity would also increase regulatory efficiency over time. While the initial proceeding would be expected to be highly contested, including the various elements of the methodology, it would still be more efficient than multiple proceedings that risk inconsistent results. Periodic updates could potentially be reduced to updating the data and proxy group as applicable, and making a determination that the resulting methodology and rate continues to be just and reasonable. This approach should provide for a more efficient use of resources for all parties including utilities, ratepayer interests, state utility commissions, and Commission staff. Entities with aligned interests could realize significant savings through joint representation and shared expert witnesses. This approach should eliminate the need for Section 206 complaints based solely on a utility's rate of return on equity, and would eliminate the need to set a new Section 205 filing for hearing and settlement with respect to the rate of return on equity as long as the rate of return was at or below the baseline rate.

2. Expand Competition

A baseline rate of return on equity provides additional support for a market rate of return on equity to be established through competition. Knowing the rate to beat allows bidders to develop proposals that are clearly concessionary. Expanding competition, and resulting concessionary rates of return on equity both provides increased predictability and also ensures that the Commission meets its mandate for just and reasonable rates. Simply put, competition to build transmission facilities means lower rates, including rate of return on equity, for ratepayers while shifting risk from ratepayers to developers. A simple action FERC can take to attract capital for transmission investment while ensuring ratepayer protections is to acknowledge the benefits of binding cost containment commitments (including binding commitments to forgo otherwise-available incentive rate adders or to utilize a return on equity that is lower than would be otherwise available to the transmission owner) and to expand the application of Order No. 1000⁸ competitive processes.

The application of FERC Order No. 1000 has resulted in very few competitive solicitations for transmission. After analyzing the available data, the Brattle Report concluded that “[t]he current level of competition in electric transmission has been very limited.”⁹ The data showed that “[f]rom 2013 through 2017, an average of \$17 billion/year of transmission investments were made

⁸ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁹ Benefits of Competition Report at 1. Brattle found that there were “thirty-one competitive solicitations for transmission projects in ISO/RTO regions, of which 16 occurred in PJM and 10 in CAISO.”

within the U.S. ISO/RTO regions, including ERCOT.”¹⁰ Comparatively, “competitively-developed projects account for about \$540 million of average annual transmission investment.”¹¹ Based upon the amount of total investment in competitively-developed projects as compared to the amount of overall investment, the transmission projects subject to competition represent 3% of U.S. nationwide transmission investments between 2013 and 2017.¹² However, this limited experience provides strong evidence that competition results in lower costs and rates and increased certainty through binding cost containment commitments and is thus the optimal way to balance ratepayer protections while attracting necessary capital.

a. Competition Attracts Capital

The track record of Order No. 1000 to attract capital from financially and technically qualified companies for transmission development has been very clear. All Order No. 1000 jurisdictional RTOs and ISOs have processed qualifications from dozens of entities seeking to compete for the opportunity to invest in jurisdictional transmission. For example, MISO has 49 Qualified Transmission Developers,¹³ SPP has 45 current Qualified RFP Participants,¹⁴ PJM has

¹⁰ *Id.* at 3-4. *See also* Figure 1.

¹¹ *Id.* at 5. Brattle further notes that “The \$540 million per year average for 2013–2017 does not account for projects approved in 2018 and 2019, including MISO’s \$122 million Hartburg-Sabine Junction 500 kV transmission line (awarded late 2018), \$50 million of projects approved by PJM in its 2018 competitive window, and NYISO’s April 2019 approval of the AC Transmission Public Policy projects (\$1.230 billion). If we include these projects, the 2013–2019 average is \$587 million per year.”

¹² *Id.* at 1. The percentages by region range “from none in ISO-NE to 5.1% of total transmission investments in PJM, 6.8% in CAISO, and 7.0% in NYISO.” *Id.* at 5. The amount for SPP is also 0% as the only competitively solicited project was canceled after the solicitation.

¹³ <https://cdn.misoenergy.org/2019%20MISO%20Qualified%20Transmission%20Developers%20List82330.pdf>

¹⁴ <https://www.spp.org/documents/59159/approved%20qrp%20for%202019.pdf>

30 pre-qualified designated entities,¹⁵ and NYISO has 22 Qualified Developers.¹⁶ Every Order No. 1000 process conducted to date has received multiple bids and seen vigorous competition. The opportunity to compete for the right to invest in transmission has been very successful in attracting capital from existing utilities and new entrants.

b. Competition Provides Competitive Pressure on Return on Equity

Order No. 1000 competitive processes have proven to provide cost savings, including return on equity concessions. The experience to date has shown that Order 1000 participants, including utility affiliates, are willing to make rate concessions related to rate of return on equity including incentives. Examples of these concessions are documented in the Brattle Report. This results in a rate of return on equity that is lower than what would otherwise be applicable. By establishing a national baseline rate of return on equity as discussed above, bidders and RTOs/ISOs will have a clear benchmark to identify and evaluate a concessionary rate of return on equity. The experience within MISO provides a good example.

In MISO's initial Order No. 1000 competitive process for the Duff-Coleman Project, six of eleven respondents included some sort of ROE cap, concession, or commitment. Some of these proposals were submitted by MISO incumbent transmission owners or their affiliates or the affiliates of incumbent transmission owners in other regions competing outside their retail territory. The following chart from MISO Selection Report for the Duff-Coleman Project¹⁷ reflects

¹⁵ <https://www.pjm.com/planning/competitive-planning-process/pre-qualification.aspx>

¹⁶ https://www.nyiso.com/documents/20142/1395552/List_of_Qualified_Developers.pdf/ed9cd90a-7dcd-5fbd-cc6a-58dbcba3b2c5

¹⁷ Benefits of Competition Report at 34, footnote 53, citing Duff-Coleman Selection Report, available at: <https://cdn.misoenergy.org/Duff-Coleman%20EHV%20345kv%20Selection%20Report82339.pdf>

rate concession proposals from all the solicitation respondents:¹⁸

Table 3 – Summary of Concessions from MISO Duff-Coleman Selection Report

Summary of Cost Caps, Concessions, and Commitments											
Uncertainty	101	102	103	104	105	106	107	108	109	110	111
ROE		✓		✓ ⁱ			✓	✓ ⁱⁱ	✓ ⁱⁱⁱ	✓	
Capital Structure		✓		✓						✓	
Implementation Costs	✓ ^{iv}	✓ ^v	✓	✓ ^{iv}		✓	✓	✓	✓ ^{iv}	✓	✓ ^{iv}
Operations and Maintenance Costs				✓							
Inflation Rate			✓	✓		✓		✓		✓	
Rate Concessions						✓					✓

i Limited duration ROE cap

ii Cap on weighted average cost of capital (includes ROE), limited duration

iii No ROE cap, but will forego ROE incentive adders in initial FERC filing

iv AFUDC is not included in the cap

v Only a portion of construction costs are capped

Subsequent to the Duff-Coleman Market Efficiency Project, MISO held a second competitive solicitation for a Market Efficiency Project. MISO reported that with a second solicitation “there was a significant improvement in the quality of proposals between the first and second solicitations, stating that ‘it was clear RFP Respondents that participated in the Duff-Coleman solicitation brought forward meaningful insights and experience they gained in that process.’”¹⁹ As the Brattle Report noted, the additional experience gained by developers regarding utilization of cost containment arrangements between the first and second solicitations can be seen in the results. In the initial solicitation for Duff-Coleman only the LS Power affiliate’s proposal

¹⁸ See Duff-Coleman Selection Report at 26.

¹⁹ Benefits of Competition Report at 34, citing Hartsburg-Sabine Junction 500 kV Competitive Transmission Project, Selection Report, November 27, 2018 at 3.

scored above 80 (on a 100 scale), whereas five proposals did so in MISO's second solicitation for Hartburg-Sabine Junction.²⁰ Indeed, Republic Transmission's selected proposal in MISO's initial competitive procurement formed the baseline for a number of proposals seeking the opportunity to construct the newest Market Efficiency Project. As noted above, Republic's capped return on equity was the lesser of 9.8% (inclusive of incentives) or the MISO-wide ROE.²¹ As the chart below indicates, in the more recent Market Efficiency Project solicitation for the Hartsburg-Sabine facilities, there were eight of the eleven proposals offering an ROE of 9.8% or below and an equity percentage of 45% or below. In addition, eleven of the twelve proposals contained some form of cost cap.²²

Table 4 – Summary of Concessions from MISO Hartburg-Sabine Selection Report

OFFERED COST CAPS / CONTAINMENT	PROPOSAL NUMBER											
	201	202	203	204	205	206	207	208	209	210	211	212
Implementation Cost – nominal (\$M)	114.8	127.5	152.3 ¹	127.9	135.0 ²	119.7	118.8	132.9		122.8	✓ ³	117.1
Forego AFUDC	✓			✓		✓		✓				
Forego CWIP	✓	✓	✓	✓	✓	✓		✓		✓		✓
PUCT Route Change		✓			✓ ⁴				✓			✓
ROE and Incentives (%)	9.8 ⁵	9.8 ⁵	9.8 ^{5 6}	9.8 ⁵	10.7 ⁵	9.8 ⁵	9.75	9.8 ⁵		9.8 ⁵	10	10.35 ⁷
Capital Structure (Equity %)	45	45	45 ⁸	45	60	45	52.5	45		45	55	40 ⁷
Operations and Maintenance	10 yr.			10 yr.	5 yr.	10 yr.		10 yr.		5 yr.	40 yr.	
ATRR	10 yr.			10 yr.		10 yr.		10 yr.	40 yr.			

1. Also capped the AFUDC

2. Cap increases subject to commodity inflation

3. Only a portion of construction costs capped

4. Project cost cap includes additional 1.5 miles and caps the per mile cost of additional miles

5. Schedule guarantee

6. Reliability guarantee

7. 10 year ROE and capital structure cap

8. Cap on cost of debt through 2025

The limited experience from the two solicitations in MISO confirms that competition can provide pressure on the rate of return on equity, and result in rates of return that are concessionary to the Commission's otherwise available rate or return on equity, which could be a baseline rate

²⁰ Benefits of Competition Report at 34.

²¹ The MISO-wide ROE is currently set at 10.32%, not including incentives.

²² Hartsburg-Sabine Junction 500 kV Competitive Transmission Project, Selection Report, November 27, 2018 at 20.

of return of equity determined nationally as suggested above. Establishing a baseline rate of return on equity will help implement this policy by clearly identifying to bidders the benchmark rate of rate of return on equity that would be approved for a proposal, and the reference point for a concessionary proposal. Establishing a baseline rate of return on equity will benefit the RTO/ISO in a competitive process in evaluating what level of rate of return on equity would be considered to provide additional ratepayer benefits. In each case, a baseline rate of return on equity is not necessary, but can help streamline the process.

By increasing the applicability of transmission competition, the Commission could expand the benefits of having competitive pressure and market forces define the rate of return on equity.

c. Competition Provides Increased Certainty

In addition to rate of return on equity concessions, transmission developers are increasingly willing to agree to binding cost containment commitments. Again, the experience in MISO is telling. As identified in Tables 3-4 above, ten of eleven respondents to Duff-Coleman and eleven of twelve proposals for Hartburg-Sabine included some form of cost containment.

Where the RTOs/ISOs have selected project proposals that include cost containment commitments, the Commission has adapted to these binding rate-related commitments by ensuring that the commitments are appropriately incorporated into the formula rates applicable to the applicable projects.²³ In addition to providing for rates that are never greater than, and in many cases are significantly lower than, the rates that would apply otherwise be applicable (which can only benefit ratepayers and can't conceivably be controversial), the incorporation of these commitments into applicable rates provides an enhanced level of certainty for the RTOs/ISOs and

²³ *Republic Transmission, LLC*, 167 FERC ¶ 61,215 (2019); *PJM Interconnection, L.L.C. & Northeast Transmission Development, LLC*, 155 FERC ¶ 61,097, (2016).

stakeholders from a transmission planning perspective and also necessarily reduce the number of rate-related issues that can be the subject of dispute or litigation.

To ensure a broader understanding of the ability of cost containment measure to increase rate certainty, the Commission should acknowledge its practice of incorporating binding commitments to forgo rate incentives or otherwise reduce ROEs into the rates that will apply to the related projects and confirm that an ROE-related concession that necessarily results in a rate of return on equity less than the currently effective Commission authorized rate of return on equity will be accepted by FERC. In addition, FERC should encourage RTOs/ISOs to consider factors such as cost savings due to binding ROE-related rate concessions in the competitive transmission evaluation process. Otherwise, there will be no reason for developers to propose such measures, and the significant ratepayer benefits that result from these types of concessions will not be realized.

III. CONCLUSION

The most economically efficient way to determine a rate of return on equity would be through market forces. Establishing a baseline rate of return on equity, subject to reduction through competitive forces, would have several benefits, including as a way to establish a market rate of return on equity. A baseline rate of return on equity would provide utilities and all stakeholders greater regulatory certainty. Greater application of competition can attract capital and ensure ratepayer protection as competitive pressure has proven the ability to arrive at concessionary rates of return on equity, below the rate that is otherwise available. The data to date backs up the Commission prediction in Order No. 1000 that competition reduces rates and shifts risk from ratepayers to transmission investors. To ensure just and reasonable transmission rates,

the Commission must remove barriers to increased competition.

Respectfully submitted,

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