

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Design and Structure

| Docket No. RM01-12-000

**JOINT COMMENTS OF THE AMERICAN PUBLIC POWER ASSOCIATION,
ELECTRICITY CONSUMERS RESOURCE COUNCIL,
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
TRANSMISSION ACCESS POLICY STUDY GROUP, AND
TRANSMISSION DEPENDENT UTILITY SYSTEMS ON
MARKET POWER AND MITIGATION STRAWMAN DISCUSSION PAPER**

Pursuant to the Commission’s February 1, 2002 “Notice of Strawman Discussion Paper,” issued in the above-noted docket, the American Public Power Association (“APPA”), Electricity Consumers Resource Council (“ELCON”), National Rural Electric Cooperative Association (“NRECA”), Transmission Access Policy Study Group (“TAPS”), and Transmission Dependent Utility Systems (“TDU Systems”) (together, “Joint Commenters”)¹ submit their joint comments on the “Strawman Discussion Paper” issued by the Commission in advance of the February 5-7, 2002 Technical Conferences.² The intent of the Joint Commenters in filing these comments is to assist the Commission as it formulates its Notice of Proposed Rulemaking (“NOPR”) on a “Standard Market Design” (“SMD”) for Regional Transmission Organizations (“RTOs”), and in particular to ensure that the Commission adequately deals with generation market power in any such SMD. In summary, Joint Commenters welcome the Commission’s examination of market power mitigation but urge the Commission that formation of an RTO is an

¹ For a description of each of the Joint Commenters, see Section III below.

² Strawman Discussion Paper for Market Power Monitoring and Mitigation Panel, *Technical Conference on Market Structure and Design*, Docket No. RM01-12 (Feb. 7, 2002) (“Market Power Strawman”).

insufficient basis on which to relax the Commission's vigilance and enforcement authority to redress the exercise of market power.

I.

REVIEW OF THE COMMISSION'S RECENT STATEMENTS ON MARKET POWER AND MITIGATION ISSUES

The Joint Commenters have been deeply concerned that the Commission might not adequately address the issue of generation market power and its possible exercise in the formation and implementation of RTOs. They thus view the Commission's issuance of the Market Power Strawman and the opportunity for the public to comment on it as a very positive development.

On November 20, 2001 the Commission announced its new market power screen approach in its "Order on Triennial Market Power Updates and Announcing New Interim Generation Market Power Screen and Mitigation Policy," issued in Docket Nos. ER96-2495-015 *et al.* (*AEP Power Marketing, Inc.*, 97 F.E.R.C. ¶ 61,219 (2001)). In this order, the Commission adopted a new, temporary screen for use in granting market-based rate authority, called the Supply Margin Assessment ("SMA") screen. The Joint Commenters generally support the Commission's planned reexamination of its standards for granting market-based rate authority under Section 205 of the Federal Power Act ("FPA"). However, this order raised for the Joint Commenters the concern that the Commission might prematurely relax controls on the exercise of generation market power in regions with RTOs. In the November 20 Order, the Commission stated:

All sales, including bilateral sales, into an ISO or RTO with Commission-approved market monitoring and mitigation will be exempt from the SMA and, instead, will be governed by the specific thresholds and mitigation provisions approved for the particular markets.

97 F.E.R.C. at 61,970. Thus, the Commission announced its intent to defer any consideration of generation market power and its exercise in regions with RTOs to RTO-related dockets, including the instant one.

Then in December 2001, the Commission Staff released its “Concept Discussion Paper for an Electric Industry Transmission and Market Rule” (dated December 17, 2001) (“Staff RTO Whitepaper”). In that paper, the Staff discussed its vision for a standard RTO market design. The potential need for mitigation measures to address market power was only mentioned in the last two paragraphs. The primary emphasis was on imposing *ex ante* mitigation measures and demand side response mechanisms that would interfere as little as possible with the operations of the various “markets” discussed in earlier sections of the paper. *Id.* at 10-11.

Together, the November 20, 2001 Order and the Staff RTO Whitepaper reflected a bifurcated approach to generation market power, which in the view of Joint Commenters could result in the vital issues associated with generation market power in regions with RTOs not being comprehensively considered. Thus, the Joint Commenters welcomed the more forceful approach to market power employed when the Commission issued its January 30, 2002 “Order Accepting, in Part, and Rejecting, in Part, Tariff Revisions, Subject to Modification” in *Midwest Independent System Operator, Inc.*, 98 F.E.R.C. ¶ 61,075 (2002) (“January 30 MISO Order”). In this order, the Commission directed MISO, *before* implementing its bid-based congestion management plan, to have its Independent Market Monitor perform an analysis of market power in the MISO’s market for redispatch service, and to develop a proposal to mitigate market power in “all instances where it finds the potential to exercise market power likely.” *Id.* at 61,220.

The Joint Commenters take these recent Commission actions as evidence of its intent to address and mitigate generation market power during the process of RTO formation and implementation. The Joint Commenters therefore offer these comments on the Market Power Strawman to assist the Commission in carrying out this task.

II. COMMENTS

A. *General Remarks*

The Joint Commenters agree with the statement made by the Federal Trade Commission (“FTC”) Staff in Docket No. EL01-118-000 on January 7, 2002 that “before allowing public utilities the ability to sell electric energy and ancillary services at market-based prices, structural conditions should be in place to support effective competition in wholesale electric markets.”³ It is crucial that the Commission deal with the issue of market power exercise in *all* wholesale power markets, *with or without RTOs, centralized or bilateral, spot and forward*, because other federal agencies may not act to redress the harm to consumers that might otherwise result. As the FTC Staff noted in its EL01-118-000 comments, “market power, outside the context of an anticompetitive merger or of potentially unfair acts or practices, is not illegal under the existing antitrust laws.” *Id.* at 3 n.4. Even worse, the exercise of market power is hard to detect through behavioral methods. As the FTC Staff pointed out, “[b]ecause electric power is sold on an hourly basis, market dynamics—and thus the incentive and ability to exploit market power—can

³ Comments of the Staff of the Bureau of Economics and the Office of General Counsel of the Federal Trade Commission, *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorization; Order Establishing Refund Effective Date and Proposing to Revise Market-Based Rate Authorization*, Docket No. EL01-118-000, at 2 (Jan. 7, 2002) (“FTC Comments”).

shift over the course of each day, making it virtually impossible to intervene before conditions have changed.” *Id.* at 4 n.5 (citation omitted). These unique features of the wholesale electric market require that structural solutions, and not simply behavioral devices (such as market monitors), be in place to assure that there is sufficient and effective competition to protect customers from supra-competitive prices. Until the structure of the market permits such competition, the Commission must mitigate the exercise of generation market power through regulatory actions, up to and including (if required) cost-of-service regulation.

This Commission’s Staff has also studied the issue of market power exercise in wholesale electric markets, and knows there are structural problems in many of the regions where RTOs are now going to be instituted for the first time. *See, e.g.*, FERC Staff, *Investigation of Bulk Power Markets—Southeast Region* at 3-34 (Nov. 1, 2000) (“Like the Midwest, the Southeast is dominated by vertically integrated utilities that maintain substantial generation resources to serve their respective native loads.”). Similarly, the July 2000 FTC Staff Report on Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform⁴ notes (at 10) that “one or a few generating firms might have obtained, and now be able to exploit, market dominance in areas of the country where transmission congestion creates restricted geographic markets for electric energy (load pockets).” Finally, the Commission itself has recently determined in Docket Nos. ER96-2495-015, *et al.*, that the hub-and-spoke method that it previously employed to test the ability of applicants for market-based rate authority to exercise market power “no longer adequately protects customers against generation

⁴ This report is available on the internet at <http://www.ftc.gov/be/econrpt.htm>

market power in all circumstances.” *AEP Power Marketing, Inc.*, 97 F.E.R.C. at 61,969.

All of these signs point to potential problems in wholesale generation markets that operate within the footprints of existing and proposed RTOs.

The Joint Commenters are not saying that the Commission should delay RTO formation because of these generation market power problems. To the contrary, they favor the prompt formation of independent and cost-effective RTOs of adequate scope and configuration. They are, however, convinced that the Commission, either on its own or in conjunction with incoming RTO Staff/market monitors, must develop comprehensive, region-by-region economic analyses of prospective RTO markets for energy, capacity, congestion management and ancillary services. Region-by-region (and, where appropriate, subregional) mitigation mechanisms must be developed using the results of these analyses, as the Commission has now directed the MISO to do for its redispatch market. If insufficient competition exists in a region (or, where relevant, in a subregion or local load pocket) to restrain the prices a particular dominant generator can charge for energy, capacity, congestion management or a specific ancillary service, then that generator should not be given market-based rate authority for that service, notwithstanding the formation of an RTO in that region, and appropriate mitigation measures should be attached to any pricing authority that is provided. The Commission should carry out subsequent periodic reviews of each RTO regional market to assess if changed conditions merit the lifting or modification of such mitigation measures.

B. Specific Comments on the Market Power Strawman

1. Centralized Markets Are Not Necessarily Competitive Markets.

The Market Power Strawman notes (at 1-2) that:

Only in cases where the Commission deems generation market power to be significant *and* sustained should the Commission need to impose further mitigation in well-developed markets. The Commission should specify the essential features of well-developed markets, *which might include but are not limited to the existence of a central organized bid-based balancing market, market monitoring, price-responsive demand, or a Regional Transmission Organization (RTO) or Independent System Operator (ISO).*

(Emphasis supplied.) The indicia of a “well-developed” generation market, however, are not whether an RTO is or is not present, or whether that RTO runs a centralized, bid-based market. Rather, the indicia of a competitive wholesale electric generation market are the same as that of any other market: many buyers, many sellers, adequate infrastructure, and ample market information on price, terms and quantity. If these basic building blocks are not present, then the presence or absence of an RTO and its market-monitoring unit, or the existence of a centralized, bid-based market, will make little difference. California had a Commission-approved ISO, both internal and external market monitors, and a centralized, bid-based market. None of these structures prevented a fearsome market meltdown.

Hence, the Commission cannot forego regional market economic analyses on the assumption that the mere presence of an RTO, a market monitor, and/or an RTO-run centralized, bid-based market will cause a competitive generation market to spring up. This would amount to no more than “faith-based regulation.” Rather, the Commission must, either in the relevant market-based rate or RTO dockets: (1) conduct a region-by-region examination of generation markets, including (a) the universe of possible competitors, (b) transmission constraints on the boundaries and within the RTO footprint that might cause the market to splinter into subregional markets or load pockets

(requiring their own close examination), (c) peak and off-peak demand and supply, and (d) potential suppliers of different types of service (firm load-following service, ancillary services, etc.); and (2) design and implement mitigation mechanisms sufficient to prevent exercise of the market power identified.

The Joint Commenters believe that the Commission recognizes this point. The Market Power Strawman states (at 1) that “[p]reventive mitigation measures should be established on a regional basis according to the likelihood of structural characteristics and institutions in each region supporting workable competition.” The Strawman goes on to state (at 2) that “[i]n regions lacking the structural characteristics and institutions that support workable competition, preventive mitigation should be more stringent and may include the denial of market-based rate authority and greater scrutiny of mergers.” Without a clear and complete understanding of just what those regional structural characteristics are, however, the Commission cannot fashion the appropriate preventive mitigation measures. *Without a comprehensive regional wholesale generation market analysis, the Commission should not assume that the mere formation of an RTO and accompanying institution of a centralized, bid-based market will result in a competitive regional wholesale power market.*

2. Demand-Side Response Is A Necessary But Not Sufficient Condition To Address Market Power.

The Market Power Strawman relies very heavily on the development of demand-side responses to mitigate generation market power. For example, the Strawman states (at 3): “. . . [D]emand response and technological innovations such as distributed generation can solve market power problems in a way that is more potent and lasting than mitigation rules.” *See also id.* at 4. The Joint Commenters agree that demand-side price

elasticity can act as an important check on generation market power that suppliers might otherwise exercise.

However, the Commission should not rely on demand-side response as a reason to forego regional generation market analyses or to avoid instituting otherwise necessary market mitigation mechanisms. While many users of electricity can respond to price, there is a certain irreducible core of electricity demand that is virtually price-inelastic. Because electricity powers our modern economy, including our appliances, computers, air conditioning and traffic lights, it will always play a vital role. The Commission therefore should not look upon demand-side response as replacing the need for rigorous regional generation market analysis and price mitigation where market power is found.

Moreover, the Commission needs to recognize that demand response, while helpful, may not be realistically available in quantities sufficient to tame market power in extreme markets or submarkets. For example a recent study of market power in Eastern Wisconsin Upper Michigan Subregion (“WUMS”) concluded that the level of demand responsiveness likely to be effective in mitigating the potent market power present in that highly constrained market (where the three largest utilities own or control approximately 90% of the generation) amounted to some 4000 MW, or nearly one-third of the total demand within WUMS. The study concluded that this level of demand responsiveness is “extremely unrealistic,” noting (among other things) that “[b]y comparison the current amount of interruptible load and direct load control in WUMS is around 900 MW.”⁵

⁵ See “Estimating the Opportunities for Market Power in a Deregulated Wisconsin Electric Market,” by James Bushnell, Christopher Knittel and Frank Wolak (October 2000) at 32-33. The report was commissioned by the Customers First! coalition (which includes several TAPS members) and can be found at <http://www.customersfirst.org>.

Finally, demand response markets also take time to develop, so they cannot be relied upon in the short term to mitigate market power. PJM, New York ISO and ISO New England all had lower than desired responses to last summer's demand response programs. A robust market for demand response could take several years to develop.

Thus, while demand response is an important tool, the Commission should also utilize the other structural remedies that reduce the incentive and ability to exercise market power, such as increasing the size of the market by eliminating transmission bottlenecks.⁶

3. Even Short-Term Exercises of Market-Power Can Substantially Harm End-use Customers.

The Market Power Strawman refers in a number of places to “significant and sustained” exercises of market power, noting that the Commission should not be concerned with market power exercise that is not significant and sustained. *See, e.g.*, Market Power Strawman at 1, 3. The Strawman opines that “sustained” market power “[p]robably . . . should be measured in months rather than hours or years.” *Id.* The Joint Commenters strongly disagree.

As the FTC Staff noted in its comments in Docket No. EL01-118-000, “[b]ecause electric power is sold on an hourly basis, market dynamics—and thus the incentive and ability to exploit market power—can shift over the course of each day, making it virtually impossible to intervene before conditions have changed.” FTC Comments at 4 n.5. This does not mean, however, that the Commission should simply ignore abuses of market power that do not last for months. During times of peak demand or unique market

⁶ *See* FTC Comments, *supra* n.3 at 3-4, 11-12.

circumstances, suppliers can take advantage of transitory market power to extract unjust and unreasonable rates from wholesale customers. Such harm should be investigated and steps taken to prevent the recurrence of such events. Otherwise, the same series of events may simply unfold once again when circumstances permit. Joint Commenters agree that the Commission should “adopt a standard that balances the tradeoff between the magnitude and length of time of the price increase.” *Id.* at 3. Transitory but unjust and unreasonable price increases of great magnitude can inflict as much or more damage as sustained price increases of lesser magnitude, and both should be taken equally seriously.

Thus, market power need not be both significant *and* sustained to warrant mitigation under the Federal Power Act. Rather, as Sonny Popowsky, Pennsylvania Consumer Advocate, stressed at the February 7, 2002 Technical Conference in Docket No. RM01-12, the Commission must mitigate market power if it is significant *or* sustained.⁷

The failure to address and mitigate transitory but recurring market power will not only transfer monopoly profits from consumers to producers. It will also distort the consumption and investment of consumers and load-serving entities. The underlying rationale for cost-of-service regulation was to create a stable investment and consumption environment for investors and consumers. In the face of inelastic demand, unchecked price increases will cause inefficient investment decisions in distributed resources or

⁷ See Transcript of February 7, 2002 Technical Conference (Panel 5), *In the Matter of Regional Transmission Organizations and Electricity Market Design and Structure*, Docket No. RM01-12-000, at 525 (comments of Sonny Popowsky); *id.* at 570 (comments of John Hilke, United States Federal Trade Commission). We note, as well, that the Commission’s own *Economic Assessment of RTO Policy* (ICF Consulting, February 26, 2002) makes clear (at 80) that the benefits it shows may exist from RTOs assume that the Commission resolves the market power problems that might otherwise seriously distort the conclusions.

conservation that society could provide at lower total cost and risk through efficient decisions in bulk power markets.

4. Loads in Load Pockets Should Not Be Subjected to Paying Must Run Generators “Scarcity Rents.”

The Market Power Strawman recognizes that certain markets will require potent mitigation mechanisms to protect against the exercise of market power. Thus, it acknowledges: “Locational market power in generation load pockets with only one generating unit or a small number of units requires on-going behavioral mitigation.” However, it proposes that “[m]ust-run’ rules should provide scarcity-related price signals to the extent that supply and demand responses are possible in load pockets.” *See* Market Power Strawman at 7.

While Joint Commenters agree that generators within load pockets will require ongoing mitigation, we do not believe they should be entitled to recover unjust and unreasonable “scarcity rents” from their captive loads. Permitting generators within load pockets to extract such scarcity rents may unfairly punish load on the wrong side of a constraint for investment decisions that they did not make, and which reflected the prior regulatory paradigm. Until the effects of those past decisions by vertically integrated public utilities not to invest in the grid are neutralized, a transition mechanism is needed to protect such load from unjust and unreasonable rates.

Traditionally, vertically-integrated public utilities evaluated transmission and generation decisions to achieve the most economic service to their entire load as a whole. The utility may have chosen to under-invest in transmission in a particular area, knowing that this under-investment will cause uneconomic dispatch in certain circumstances, after concluding that this results (at least in the case of the cost of service paradigm) in the

lowest economic cost over-all. Worse yet, the utility may have decided not to beef up the transmission system to protect its generation in the constrained area from competition from other generators. In contrast, load-serving entities, or the retail loads themselves, located on the wrong side of the constraint typically would have had no part in the utility's decision not to construct transmission to relieve a constraint.

It is unfair to suddenly hit load with unjust and unreasonable "scarcity rents" or worse, particularly during the period in which the constraints cannot be relieved by the RTO. Paying "scarcity rents" to those with market power rewards past decisions to protect generation by under-investing in transmission and, if it induces those same utilities to construct new generation in the load pocket, could aggravate rather than relieve the market power problem.⁸ Indeed, scarcity rent payments could provide a disincentive to expeditiously expand transmission to provide structural relief to the market power problem.⁹

A critical element in protecting load within load pockets pending construction of needed upgrades is assignment of financial rights to honor firm transmission reservations (thereby protecting existing, long term resource commitments) to the load downstream of the constraint to the greatest extent possible. In any event, however, the Commission must put in place effective market mitigation measures that restrict the amount that

⁸ The fact that the distribution of ownership and control of generation behind a constraint creates a severe market power problem does not mean there is a scarcity of generation – there could be ample generation relative to load, but that generation may be owned by one or very few entities. Giving these entities scarcity rent pricing on the existing generation units that they have already installed merely gives them a financial windfall, with no corresponding benefits to customers in the form of "price signals."

⁹ Compare Transcript of February 7, 2002 Technical Conference, *supra* n.7, at 568-69 (comments of John Hilke) (emphasizing the importance of relieving transmission bottlenecks and observing that behavioral market power mitigation measures should serve as tripwires triggering structural solutions).

generators exercising market power can charge to just and reasonable cost-based levels that permit recovery of neither monopoly rents nor scarcity rents.

5. The Federal Power Act Does Not Contain an “Undue Harm” to Consumers Standard; Hence, All Harm Must Be Redressed, Even If This Requires Refunds.

The Market Power Strawman suggests that market power mitigation generally should be prospective to avoid the “regulatory risk and disruption to settlements and financial accounting caused by refunds.” *Id.* at 2. According to the Strawman, “[e]ffective monitoring by RTOs and the Commission should ensure that customers are not *unduly* harmed prior to Commission response.” *Id.* (emphasis supplied). Joint Commenters disagree with this statement for two different reasons.

First, there is no “undue harm to customers” standard incorporated in the FPA. Rather, that statute requires public utility sellers to charge only just and reasonable rates, and is supposed to provide a “complete, permanent and effective bond of protection” to end-use customers.¹⁰

Second, the Commission’s power to order refunds of unjust and unreasonable rates that wholesale customers might have to pay is at the heart of the consumer protection scheme set out in the FPA. It is for this very reason that the Commission is now proposing in Docket No. EL01-118-000 to add a generic refund condition to the market-based rate authority of all public utility sellers. While refunds may indeed “disrupt” settlements and financial accounting, the statute calls for them to be ordered if public utility sellers have charged unjust and unreasonable rates through the exercise of market power. Moreover, the threat of disgorgement of unjust and unreasonable rates

¹⁰ *Atlantic Ref. Co. v. Public Serv. Comm’n*, 360 U.S. 378, 388 (1959).

and charges through refunds is one of the most potent weapons the Commission has to guard against the exercise of market power. Saying “up front” that the Commission intends not to use this important consumer protection tool sends the wrong signals to both market participants and end use customers.

III.

DESCRIPTION OF JOINT COMMENTERS

APPA is the national service organization representing the interests of not-for-profit, publicly owned electric utilities throughout the United States. More than 2,000 public power systems provide over 15 percent of all kilowatt-hour (kWh) sales to ultimate customers in the United States. Approximately 1,870 of these systems are cities and municipal governments that currently own and control the day-to-day operation of their electric utility systems. They purchase nearly 70 percent of the power used to serve their ultimate customers. Public power systems own about 8 percent of the nation’s high voltage transmission lines, although many of these lines are configured to deliver energy to our load centers, not to provide transmission service in interstate commerce. On balance, public power systems buy much more energy and transmission than they sell to third parties.

The Electricity Consumers Resource Council (“ELCON”) is the national association of industrial consumers of electricity organized to promote the development of coordinated and rational federal and state policies that will assure an adequate, reliable and efficient electricity supply for all users at competitive prices. ELCON’s member companies produce a wide range of products, including: steel, aluminum, chemicals, petroleum, motor vehicles, industrial gases, machinery, glass, agricultural and food

products, rubber, computer chips, paper and electronics. The member companies of ELCON consume approximately five percent of all electricity in the United States.

NRECA is a not-for-profit national service organization representing 930 not-for-profit, consumer-owned rural electric cooperatives located in 46 states. NRECA's members serve more than 35 million end use electric customers. NRECA's membership includes both transmission-owning and transmission-dependent utilities. While NRECA members do generate their own power and make sales of power to third parties in wholesale markets, electric cooperatives on the whole are net buyers of power.

TAPS is an informal association of transmission-dependent utilities in more than 30 states, promoting open and non-discriminatory transmission access.¹¹ As entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS members are vitally interested in issues of industry structure, and concerned about the ability of larger market participants to exercise market power as a result of Commission grants of market-based rates authority. TAPS and its members have commented upon and been involved in nearly all aspects of electric industry restructuring activities both before this Commission and in the legislative arena.¹²

¹¹ TAPS is chaired by Roy Thilly, CEO of Wisconsin Public Power, Inc. Current members of the TAPS Executive Committee include, in addition to WPPI, representatives of: American Municipal Power-Ohio; Blue Ridge Power Agency; Clarksdale, Mississippi; ElectriCities of North Carolina, Inc.; Florida Municipal Power Agency; Geneva, Illinois; Illinois Municipal Electric Agency; Indiana Municipal Power Agency; Madison Gas & Electric Co.; Missouri River Energy Services; Municipal Energy Agency of Nebraska; Northern California Power Agency; Oklahoma Municipal Power Authority, Southern Minnesota Municipal Power Agency; and Vermont Public Power Supply Authority.

¹² Since 1989, when TAPS developed a formal position favoring fair transmission access through joint planning and use, TAPS has been actively involved in seeking fair and non-discriminatory transmission access for all users. See *Proposal of the Transmission Access Policy Study Group for Adoption and Implementation of a Fair Access Transmission Policy* in *The Transmission Task Force's Report to the Commission*, App. H, 253-267 (FERC, Oct. 1989). In the legislative process that led to the Energy Policy Act of 1992, TAPS continued to advocate strong transmission access provisions. TAPS has submitted comments in most of the FERC's rulemaking proceedings involving transmission access or pricing issues.

The following rural electric generation and transmission (“G&T”) cooperatives are the members of the TDU Systems participating in these comments: Alabama Electric Cooperative, Inc.; Arkansas Electric Cooperative Corporation; Golden Spread Electric Cooperative; Kansas Electric Power Cooperative, Inc.; Old Dominion Electric Cooperative; and Seminole Electric Cooperative, Inc. Through their member distribution cooperatives and other wholesale customers, these generation and transmission (“G&T”) cooperatives serve approximately 2.2 million metered accounts in ten states stretching from Virginia to the prairies of Kansas. While a number of the TDU Systems own substantial transmission facilities, all of them are dependent upon the transmission systems of neighboring investor-owned transmission owners (“TOs”) regulated by this Commission to move their power supplies to their member distribution cooperatives’ loads. The TDU Systems own substantial generation facilities, but they also purchase power from both traditional, vertically integrated utilities and new market entrants to serve their loads, and thus have a keen interest in both generation and transmission market power issues.

IV.

CONCLUSION

Events in our industry in the last few years have shaken the confidence of both wholesale and retail electric customers. Hence, it would be ill-advised for the Commission to impose an RTO SMD on all regions of the country with no accompanying analysis of regional and subregional generation markets, in the hope that sufficient wholesale generation market competition will materialize quickly enough to avoid the charging of unjust and unreasonable prices to electric customers. The Joint Commenters

Transmission Dependent Utility Systems

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