UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Promoting Transmission Investment Through Pricing Reform
Docket No. RM11-26-000

Joint Reply Comments of Consumer Organizations

StopPATH WV, Inc., the Coalition for Reliable Power, Sugarloaf Conservancy, Inc. and Citizens Against Kemptown Electric Substation, Inc. (collectively “Consumer Organizations”) respectfully submit the following additional comments regarding the subject inquiry and in response to the Reply Comments of The Edison Electric Institute (“EEI”) submitted on May 18, 2012.

I. General Comments

As the Commission recognized in their Notice of Inquiry, “the electric industry has continued to evolve,”1 and the methods by which we generate, transmit and distribute electricity have evolved significantly since Order Nos. 679 and 679-A were issued. This heralds an analogous need to change the way transmission development is encouraged so that the resulting infrastructure is augmented to best benefit consumers at a reasonable cost.

Just seven years ago, PJM Interconnection (“PJM”) was championing their Project Mountaineer2 initiative to build billions of dollars of new transmission infrastructure in order to increase the transfer of coal-fired generation from western PJM to higher-priced markets on the east coast. Today, the rationale for Project Mountaineer is an embarrassing anachronism, a white elephant, unneeded and unwanted. The four transmission projects that had their origin in Project Mountaineer3 were awarded incentives that continue to cost ratepayers millions of dollars every year, although only one has been constructed.

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Because transmission is such a long-term asset, we must be extremely mindful of how new projects relate to each other to achieve comprehensive energy policy goals. If we continue to approach transmission as a hodgepodge, knee-jerk reaction to serve short-term goals and provide sustainable revenue streams to investor-owned utilities, we risk setting ourselves up for a possible future where a huge investment in transmission becomes the financial responsibility of a shrinking pool of ratepayers. Technological advances and affordability are making it possible for an increasing number of consumers to produce their own power and feed it into the local distribution grid by making their own smart, fuel-free, power producing investments. Energy efficiency and demand management gains continue to shatter future demand projections, further decreasing the need for billions of dollars of investment in new transmission infrastructure.

The Commission has awarded incentives to both Atlantic Wind Connection, an offshore Atlantic wind backbone, and numerous unrelated cross-country transmission projects designed to transport Midwest land-based wind to east coast load centers. This raises the question, will both of these renewable energy sources ultimately be needed to meet renewable energy goals cost effectively in east coast states, or will one become redundant? Electric consumers are being asked to finance this race between offshore and onshore wind by providing incentives and shouldering all burden and risk for both endeavors. This is neither smart energy policy nor is it fiscally prudent.

Awarding incentives for nearly all large transmission projects, even those that may conflict with other projects, has become so routine that incentives are not attracting the coherent, purposeful, focused transmission investment that was intended by Congress in 2005. Investor-owned utilities have rushed to propose massive new transmission builds for any identified need, including some that have been questionable, so that they may take advantage of incentives which will produce a lucrative revenue stream far into the future, whether the project is ever built or not. Selected slides from a 2010 Morgan Stanley presentation⁴ on investment in transmission demonstrate the lucrative returns to be found in transmission projects awarded incentives. Slide 17 illustrates how a Transco business model can create an actual ROE of 23%:

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“As part of ITC’s allowed regulatory construct, the company has a deemed capital structure of 60/40 equity/debt
– Allowed ROE of 12.38% – 13.88%
This has allowed the company to put on debt at the Holdco level, which effectively increases returns to equity holders
– Equity can achieve 23% ROE versus 10% – 12% for a traditional utility
– Based on current capital structure and 2010 P/E multiples, $1.00 of equity investment creates ~$4.40(4) of equity value
– Compares to $1.20(5) of value created for each $1.00 of investment by a regulated utility (based on 10% ROE and 12.0x forward multiple)”

Slide 21 illustrates a doubling of transmission’s contribution to the total earnings of Northeast Utilities between 2005 and 2010.

“Transmission earnings contribution as a percent of total earnings grew from 25% in 2005 to over 50% for the last twelve months ended March 31, 2010.”

Simply put, FERC incentives policy has gone beyond reason in attracting investment in new transmission, and must now be revised to comport with a reasoned energy strategy achieved at least cost to consumers.

II. A New Threshold for Satisfying Section 219 of the Federal Power Act Is Needed

Much has been made, in this proceeding and others, over the intent of Congress in crafting and adopting Section 219 of the Federal Power Act. We note that despite attempts by many who have commented in this docket to determine Congressional intent, members of Congress who have weighed in on this matter\(^5\) are unanimous in opining that transmission incentives may be unduly increasing electric costs to consumers without providing corresponding benefit. Perhaps it would be instructive to return to the plain language contained in the statute at this time, instead of continuing to build on what may be a fatally flawed interpretation.

Section 219 is said to have its impetus in the 2003 blackout of the Northeastern United States and Canada. If insufficient investment in new transmission is believed to be

the cause of the 2003 blackout, and Section 219’s incentives have been successful in remedying the problem, then no further blackouts should have occurred. Instead, another major blackout occurred in Southern California on September 8, 2011. In a report on the cause of the most recent blackout, FERC and NERC found:


“Although the August 2003 and September 2011 blackouts were triggered by different initiating events – tree touches in 2003 compared to a switching error in 2011 – both blackouts had common underlying causes.”

This indicates that transmission incentives have not produced a corresponding increase in reliability that would prevent future blackouts, as Congress intended. Perhaps we are not encouraging investment in the right kind of transmission improvements.

Section 219(a) requires the Commission to:

“…establish rules for incentive-based, including performance-based, rate treatments for transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.” (emphasis added)

In promulgating the rules, the Commission interpreted an “either/or” purpose for incentives, instead of the dual purpose contained in Section 219(a), in order to provide incentives for reliability projects that did not also “reduce the cost of delivered power.” We contend that Congressional intent was for the increased cost of transmission incentives to be ameliorated through ultimately reduced power cost, and not to simply increase the cost of power by rewarding mandatory reliability projects. Order No. 1000 further compounds this problem by introducing transmission projects required by public policy objectives into the mix, which may also increase the cost of delivered power without providing financial benefit to consumers. In addition, Section 219(b) requires that the rule “…promote reliable and economically efficient transmission…” (emphasis added).

In practice, Order Nos. 679 and 679-A and the incentives granted to date have

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encouraged investment by awarding incentives predominantly to new transmission projects. Section 219(b) requires that the rule “…provide a return on equity that attracts new investment in transmission…,” and not exclusively to attract investment in new transmission.

Despite Section 219(b)’s clear emphasis on “…enlargement, improvement, maintenance and operation” of transmission facilities, and “…encourag[ing] deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities,” the Commission’s incentives policies are not meeting this goal of improving existing transmission capabilities, but instead focus solely on the building of new transmission infrastructure which may only satisfy other goals not found in Section 219, such as providing reliability through redundancy; increasing transmission capacity as a means of diversifying generation, promoting long-distance energy trading and encouraging competition; providing financial compensation as an enticement for undertaking increased siting, environmental and political risk of questionable necessity; enhancing regulatory certainty; encouraging joint ownership; increasing cash flow to produce immediate returns; creating jobs building new infrastructure; or promoting the development of renewables.

By not first considering and encouraging the upgrade of existing transmission infrastructure and deploying advanced technology to make the most out of existing assets, and instead focusing on new transmission builds, the Commission continues to perpetuate the situations that have been found to be the cause of the recent widespread blackouts, a dilemma Congress was attempting to remedy with Section 219. When incentives focus on new transmission while allowing the existing infrastructure that will be interconnected with it to deteriorate and fail, it produces a situation that is akin to fixing a broken window by placing cardboard over the broken pane and then cutting a hole and installing a brand new window right next to the broken one.

The Commission must also be mindful that when fixing one problem, it does not create another. A robust transmission system cannot accomplish the goal of reliability without an equally robust distribution system to deliver power to consumers. The ASCE
report\textsuperscript{8} cited by EEI in their Reply Comments made the following observation:

“As seen in Table 7, investment for transmission has been growing annually since 2001 at nearly a 7% annual growth rate. For local distribution, however, national-level investment peaked in 2006 and has since declined to \textit{less than the level observed in 1991.}” (emphasis added).

Using investment data from the report, Figure 1 below shows that while investment in transmission has increased dramatically since Order No. 679 was issued in 2006, investment in the distribution system has fallen considerably. Transmission is simply a more attractive, profitable, and risk-free investment for utilities due to available incentives.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Figure1.png}
\caption{Transmission and Distribution Expenditures 2000 - 2010}
\end{figure}

\begin{flushright}
Source: American Society of Civil Engineers, Failure to Act: The Economic Impact of Current Investment Trends in Electricity Infrastructure, Table 7, p. 23, (2011)
\end{flushright}

The graph also indicates that investment in distribution is declining at an increasing rate. While the distribution system is not the subject topic of these comments, we must point out that investment in smart grid technologies and renovation of distribution networks to support new distributed generation is essential to increased reliability and investment in

renewable power. Incentives for new transmission construction appear to be eroding investment in our distribution system.

Section 219(b) also requires that the rule “allow the recovery of all prudently incurred costs necessary to comply with mandatory reliability standards…” and “costs related to transmission infrastructure development…” but it does not require the rule to provide incentives for enhanced returns for all reliability projects.

And, finally Section 219(c) requires that the rule provide incentives to transmitting or electric utilities that join a Transmission Organization. However, the Commission has interpreted this to also include additional incentive rewards for continuing membership in a Transmission Organization, enabling a utility to take advantage of the same incentive over and over again on multiple projects at the same time.

Section 219(a) requires that performance-based incentives be included in the rule, however, no performance standards have been attached to incentives granted to date. Institution of performance standards, along with a reevaluation of current incentives policy to more closely align with the narrow intent of Section 219, would make great strides toward ameliorating the current overwhelming public perception that incentives are nothing but a “gravy train” unnecessarily lining corporate pockets at the expense of financially struggling consumers. We recommend that performance standards be developed with an eye toward cost control and timely completion of projects that relies upon an open and honest partnership with stakeholders to accomplish a common goal, and not upon concessions, inducements, influence, secret backroom deals or dishonest public relations campaigns, which only serve to make transmission projects more risky to developers, and ultimately more costly to consumers.

III. Response to EEI’s Comments

EEI’s Reply Comments repeatedly and incorrectly contend that other commenters have not supported their arguments against continuation of current incentives policy. Conversely, EEI has provided little to no support for many of its own statements that current incentives policy has produced a desired result in a just and reasonable manner and that
current policies should continue. Much of EEI’s cited support is several years out of date and relies on an outdated energy picture that has changed dramatically since these reports and studies were written. As the Commission recognized by issuing the subject Notice of Inquiry, today’s quickly changing energy landscape provides immense support for a well-reasoned overhaul of current incentives policy to keep pace with our changing priorities.

The American Society of Civil Engineers (“ASCE”) Report EEI cites in its Reply Comments as “project[ing] a transmission investment gap of approximately $112 billion by 2040,” is not accurately presented. The report is built upon the presumption of an unrealistic “business as usual” scenario and presents many uncertainties about future investment needs:

“Anticipated future changes regarding the feasibility and implementation of distributed generation and smart grid technologies also add uncertainty about what future infrastructure system will look like. As the cost-effectiveness of small-scale generation equipment increases, there is a potential for more ‘distributed generation,’ with ‘microgrids’ that can reduce the need for future investment in large central generation plants and associated transmission lines serving them. As sophisticated “smart grid” computer systems become more available to digitally monitor and instantaneously shift demand or reroute power (to offset equipment failures or other sudden supply and demand changes), there is also a potential for change in future needs for transmission and distribution investments.”

In addition, the report focuses on the need to “…replace and upgrade our nation’s electric generation, transmission, and distribution systems,” which does not provide support for continuing current incentives policies that have focused almost exclusively on encouraging new transmission projects while discouraging replacements and upgrades to the existing transmission system by labeling them as “routine,” and therefore ineligible for incentives. The ASCE report actually supports a narrowing of incentives policy to more closely align with the goals of Section 219.

EEI contends that “adequate returns” are essential to encourage needed transmission investment, but they fail to sufficiently define “adequate returns.” How much profit and

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10 EEI Reply Comments at 7, fn. 17
11 American Society of Civil Engineers, Failure to Act: The Economic Impact of Current Investment Trends in Electricity Infrastructure, p. 17 and end note 4.
12 Id., p. 42
how little risk are “adequate” for investor-owned utilities and investors seeking to turn a profit each quarter? If left up to industry and investors to define, no amount would ever be “adequate” to stimulate investment if there are more attractive investments available. Today’s economic picture actually supports the narrowing of overly generous incentives policy. Transmission is a more attractive investment than ever, even without incentives. Dividend returns and stock appreciation were higher for utilities than any other industry in 2011. While transmission is a long-term investment, the competition for investment dollars is taking place in today’s economic climate, not 30 or 40 years down the road at the end of the investment return. Once the investment has been made and the project constructed, risk and need for additional investment completely disappear, however, the attractive returns continue for many years. Transmission base ROEs are already at attractive levels and risk-reducing incentives provide regulatory certainty that is not found in competing investments. Utilities have always been an attractive investment, and the competition for investment dollars that existed in 2005 when Congress mandated transmission incentives has all but evaporated. Additional financial rewards for transmission investment may no longer be needed, but are still being routinely handed out.

While the percentage of the average consumer’s bill related to transmission may be small, it has been steadily climbing since incentives were instituted. The percentage is irrelevant when any part of it is unnecessary or wasteful. In these trying economic times, any amount of unnecessary expense is too much.

EEI admits that long-term benefits and cost savings that result from transmission investments are hard to quantify,\(^\text{13}\) providing no support for its contention that the Commission’s incentives policy have not unnecessarily burdened consumers.

EEI expends quite a bit of ink holding forth about the risk of transmission investment. The cost of compensating investors for “risk,” as well as added project costs to relieve or avoid risk, is solely borne by consumers.

New transmission projects on new rights-of-way are inarguably the riskiest of all transmission projects. Section 219’s focus on rebuilding and deploying advanced technology on existing transmission assets to increase their capacity and performance serves to remove nearly all risk of this kind from these projects and is the type of transmission that

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\(^{13}\) EEI Reply Comments, p.4
should be considered first. Building infrastructure on new rights-of-way should be considered only as a last resort.

Much of the risk involved in building new transmission is self-inflicted by an industry that persists in self-defeating and risk-increasing siting and permitting “best practices” that rely on dishonesty and attempting to subvert due process, placing affected landowners at an informational disadvantage. Risk to developer reputation is completely within the control of the developer and deceitful business practices that damage reputation during project approvals should not be rewarded with financial incentives. In addition, industry “concessions” and “mitigation” in exchange for permits that cannot be won honestly through existing legal and permitting processes needlessly increase the financial burdens on consumers and shape their disapproval and distrust of industry, elected officials, and the uneven playing field that currently exists in the transmission line planning and permitting processes. There is a much better way to go about building new transmission, but the traditionally conservative utility industry abhors change without being offered a risk-free reward for their efforts.

EEI points to the Rapid Response Team for Transmission ("RRTT") as supporting a recognized need for new transmission infrastructure, however, they fail to realize that the purpose of the RRTT is to overhaul governmental policy issues that delay federal permits (but rarely deny them) and does not, in itself, show a need for more transmission. The issue is being addressed and transmission incentives will have no effect, positive or negative, on the outcome of this process. If anything, transmission incentives are currently attempting to compensate for risk that is now being ameliorated through policy changes.

EEI provides no support for its contention that financial reward somehow reduces risk or makes a project likelier to be built, and there are other means to reduce risk available and currently in process that do not cause additional cost to consumers.

EEI expounds on the need for new transmission to transport renewables and maintain reliability while meeting new environmental regulation as reason to continue current incentives policy. Neither of these reasons for building new transmission were envisioned or mandated by Congress in enacting Section 219, and much of this transmission may get
built without offering incentives. In fact, new transmission investment approved by PJM\(^{14}\) that was necessitated by EPA regulations consists almost entirely of equipment updates, deployment of new technology and rebuild of existing transmission lines, with very few new transmission lines and certainly none of the large, multi-state, cross-country transmission projects that have traditionally applied for and received incentives. PJM’s approved plan is exactly the type of transmission investment Congress was attempting to encourage when enacting Section 219. At some point, we need to gradually allow the market to take over to drive transmission investment, instead of continuing on a course of blindly stimulating action that may happen without artificial, outside encouragement. EEI provides absolutely no substantiation of its contention that increased transmission investment in recent years would not have happened but for generous incentives, or that investment in transmission will suddenly cease if the Commission’s incentives policies are changed.

The Commission must be mindful that useful, economic transmission that provides documented benefit to consumers be encouraged in the future so that consumers are not saddled with additional costs for failed projects. The Project Mountaineer scheme, for instance, has burdened consumers in the PJM region with millions of dollars of yearly expense for white elephant projects that have yet to produce any benefit for consumers, and most likely will never do so.

EEI contends that parties seeking reform discount existing safeguards against unreasonable rates. While safeguards do exist, they have not protected consumers against excessive and unreasonable rates in all instances. For example, the Commission’s ability to review rates has been reduced to occasional audits or responding to complaints, where the burden is on the complainant to propound substantial evidence of error or imprudence. In addition, comments by the Maryland Office of People’s Counsel revealed that no one entity has enough interest in rates to make it cost effective to review and challenge multiple formula rates every year.\(^{15}\) Therefore, in many instances, there is no one minding the store

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\(^{15}\) Motion to File Comments Out Of Time and Comments of The Maryland Office of People’s Counsel, Docket No. ER12-269-000, December 1, 2011. “With formula rate annual updates being filed every year by each utility, however, CAOs simply do not have the in-house technical expertise, and do not have sufficient
and protecting the interests of consumers, and transmission developers are free to recover whatever expenses they alone deem prudent, without oversight.

EEI contends that parties give little consideration to actual benefits to consumers flowing from transmission improvements. Benefits have been elusive and hard to quantify, as evidenced by continued debate on PJM’s postage stamp rates. Benefits do not accrue to all consumers equally, and in some instances new transmission actually increases rates for certain customers who receive only tangential benefit, while lowering rates for others who substantially benefit from access to lower-cost and/or more diverse generation resources. Incentive rates of return merely add insult to injury for consumers whose rates increase in order to provide transmission-related benefits to others. For example, EEI’s table\textsuperscript{16} presents an Estimated Annual Cost – for all consumers in a region – and compares it to Estimated Benefits – that accrue only to consumers in a smaller segment of the region. Additionally, EEI contends that reduced congestion in the mid-Atlantic region is solely attributable to the TrAIL Project, when other factors such as decreased demand, energy efficiency, demand management, and other transmission improvements also made significant contributions to the overall lowering of congestion costs in eastern PJM. These are hardly apples-to-apples comparisons.

As well, EEI fails to recognize and make an accurate comparison between the cost of building new generation near load centers with the cost of construction of new transmission to import low-cost generation to load centers. It is not logically a straight-up comparison between the cost of generation at two different locations; the cost of transporting that generation to load centers must be added to the distant generation cost in order to make an apt comparison.

As has been amply demonstrated by the failure of PJM’s Project Mountaineer, a transmission solution determined to be cost-effective at a certain point in time does not necessarily remain so indefinitely. While the transmission planning process should suffice to continually reevaluate projects on a cost effective basis, this has not historically been true

\footnotesize{funds for retaining outside technical expertise, to review these financially complex formula rate update documents in anywhere near the depth that can be accomplished in occasional rate cases. While industrial and commercial load often do have in-house expertise, as for-profit businesses they also are constrained from spending money and reassigned staff to reviews of rates whose impact on any single industrial or commercial customer is deemed insufficient to justify the cost.”}\textsuperscript{16} Reply Comments of Edison Electric Institute, p. 12
in PJM, where projects have been relentlessly pursued even when the economic basis upon which they were originally approved vanishes in a changing energy economics landscape. At what point does a project become “too big to fail,” and how much must consumers pay for projects that will never provide originally anticipated benefits - or even any benefits at all in the case of currently “suspended” projects? True protection of consumers comes not from more transmission, but from more smartly planned and timely evaluated transmission.

EEI’s example of the significant risks requiring above-cost incentives that were undertaken by the developers of the TrAIL Project rings hollow. In its comments on this docket, FirstEnergy, one of TrAIL’s developers, touted the success of its project, “TrAIL was placed in service on May 19, 2011 – nearly two weeks prior to its scheduled June 1, 2011 in-service date.”17 The project’s “remarkable” five year completion schedule was also made much of in a magazine article where risk was not mentioned.18 However, the cost burden of ameliorating the risk undertaken by the project’s developer will be placed solely upon electric consumers, while FirstEnergy and investors will be compensated for that risk. One of the TrAIL Project’s greatest risks was the total cost of concessions paid to the state of West Virginia in exchange for a permit. The cost of these concessions is ultimately the financial responsibility of ratepayers. One of these concessions was the construction of a $52M dollar transmission headquarters in the state:

"The transmission headquarters was part of Allegheny Energy’s settlement with the Public Service Commission of West Virginia, one of a number of concessions the utility provided in return for PSC staff dropping its contention that the need for the Trans-Allegheny Interstate Line had not been demonstrated.”19

In addition to increasing rates for West Virginia electric consumers,20 TrAIL also took a heavy toll on the state’s environment and citizens. A complaint about environmental destruction during TrAIL’s construction is still pending before the West Virginia Public

17 RESPONSE OF THE FIRSTENERGY COMPANIES, Docket No. RM11-26-000, September 12, 2011.
20 While capacity prices in PJM’s forward capacity market decreased by approximately $100 in eastern PJM as a result of TrAIL’s construction, EEI fails to mention that capacity prices correspondingly increased by $100 in western PJM as a result of the project.
Service Commission.\(^{21}\) Documentation regarding TrAIL’s abysmal treatment of affected citizens can be accessed on the West Virginia Public Service Commission’s case docket.\(^{22}\) Due process is not a “delay” that can, or even should, be considered a “risk” that can be circumvented for financial reward.

The risks to TrAIL’s developers and investors were minimal, and the project was constructed in record time, while the risks were ultimately only costly to the affected landowners, citizens and consumers.

In the case of the Susquehanna-Roseland Project, EEI fails to mention that millions of dollars of “concessions” and “mitigation” to alleviate perceived risks have been added to project costs that will earn an incentive rate of return, which is the financial responsibility of consumers. In addition, Susquehanna-Roseland’s “initial approval” from the National Park Service is alleged to have occurred under suspicious circumstances.\(^{23}\) EEI provides absolutely no evidence that additional financial compensation for risk has altered project outcome, and indeed evidence indicates that it merely served as an impetus for increased project costs and subversion of due process through dishonest business practices.

EEI states, “…there is no evidence presented in this proceeding that expensive solutions have been granted incentives and implemented where lower-cost alternatives were adequate substitutes.”\(^{24}\) StopPATH WV’s original comments on this docket provided substantial evidence that the PATH Project was pursued in the face of a cheaper, faster, less risky alternative, the rebuilding of Dominion’s Mt. Storm-Doubs 500kV transmission line. In fact, while the PATH Project continues to collect a revenue requirement of approximately $25M\(^{25}\) each year in a “suspended” state, the Mt. Storm-Doubs project is currently being constructed without incentives, and was the single biggest reason PATH was placed in

\(^{21}\) West Virginia Public Service Case Information, Case No. 09-1758-E-C. http://www.psc.state.wv.us/webdocket/default.htm and also see http://powerlines.potomacstewards.com/ for photographic case evidence.

\(^{22}\) Id., Case No. 07-0508-E-CN


\(^{24}\) EEI Reply Comments, p. 22

\(^{25}\) $12.5M of PATH’s 2011 Revenue Requirement is return on equity, with approximately $2.3M of that amount the result of PATH’s 200-bonus point adder ROE incentive.
If ROE incentives are to be applied to abandoned plant, as EEI suggests, the consumers would be rewarding failure and paying above cost for a project that is providing absolutely no benefit. It is unclear what purpose EEI intends to serve by rewarding failure. Abandoned projects do not serve the Congressional mandate “…to benefit consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.” Applying lower ROEs to abandoned plant would also serve as an important performance standard for transmission developers. Claiming that states have a role in performing prudence reviews before allowing transmission projects to be recovered in rates is disingenuous, at best, when states have no jurisdiction over interstate transmission rates, as PATH was quite fond of reminding the West Virginia Public Service Commission during the review of its application. When there is no risk that could result from failure, indifference to success proliferates.

III. Conclusion

After reading EEI’s rather dismissive reply comments, it is distressing to learn that EEI’s publicly-filed comments on this docket are just a minor part of the industry’s overall plan to use influence and access to undermine other parties’ efforts to play fair through submission of public comments on this docket. The investor-owned utilities’ fear that their gravy train may be about to run off the rails is palpable in EEI’s Transmission Policy Task Force CEO Priorities & Outreach plan:

“Completed CEO visits with FERC Commissioners
Developing reply comments to be submitted to FERC which will balance the record by addressing the benefits of transmission and the incentives policy
Preparing a template letter for company reps use to solicit Capital Hill letters and comments to FERC on the value of transmission and the importance of incentives.”

While gamely playing along with their public comments on this docket, EEI

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demonstrates its true intentions to have decisions that affect consumers decided behind closed doors among those with access to money and power, while the concerns of the consumers are dismissed. This does not serve a constructive purpose, or serve this Commission’s consumer protection mandate to ensure electric reliability at a just and reasonable rate.

Instead of broadening Commission incentive policies or maintaining current flawed policies, as suggested by EEI, the granting of incentives should be narrowed to focus on the plain intent and goal of Congress when enacting Section 219 of the FPA. That was to upgrade existing transmission infrastructure and deploy advanced technology to improve reliability and prevent future widespread blackouts, improvements that will pay for themselves by also lowering electric costs to consumers.

As demonstrated above, there is significant justification to undertake wide-reaching reforms to existing transmission incentives policy.

Respectfully submitted this 8th day of June, 2012,

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While we realize that ex parte rules do not apply to rulemaking proceedings, the fact remains that consumers do not have the same access to Commissioners that investor owned utility CEOs do.