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COMMITTEES:
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
INTELLIGENCE
JOINT ECONOMIC

September 30, 2022

The Honorable Richard Glick, Chairman
The Honorable James Danly, Commissioner
The Honorable Allison Clements, Commissioner
The Honorable Mark Christie, Commissioner
The Honorable Willie Phillips, Commissioner

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Chairman Glick and Commissioners Danly, Clements, Christie, and Phillips:

Recently, the Federal Energy Regulatory Commission (FERC) issued a Proposed Rulemaking to reform the way in which we plan and develop our Nation's electric transmission system.¹ The Notice of Proposed Rulemaking (NOPR) is one of the most important FERC rulemakings in more than a decade due to the magnitude of anticipated transmission development. Under one of the Princeton "Net Zero America" study scenarios, the United States may need to spend \$2.1 trillion by 2050 to build-out the transmission grid.² However, FERC's proposed plan to reinstate additional federal rights of first refusals (ROFRs) for regionally planned transmission facilities is fundamentally anti-competitive and could hinder new transmission lines from getting built. We therefore urge FERC to abandon efforts to promulgate the ROFRs.³

FERC is tasked with ensuring "reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost."⁴ FERC Order No. 1000 found that transmission competition was in the public interest yet only three percent of all transmission investment since Order No. 1000 has been competitively awarded.⁵ However, when competitive processes are used to build transmission lines, savings are estimated to be significant, for example, some studies have shown

¹ Federal Energy Regulatory Commission (FERC), "Building for the Future Through Electricity Regional Transmission Planning and Cost Allocation and Generator Interconnection," Notice of Proposed Rulemaking, April 21, 2022.

² NET-ZERO AMERICA: Potential Pathways, Infrastructure, and Impacts, Princeton University, <https://netzeroamerica.princeton.edu/?explorer=year&state=national&table=2020&limit=200>

³ Federal Energy Regulatory Commission (FERC), "Building for the Future Through Electricity Regional Transmission Planning and Cost Allocation and Generator Interconnection," Notice of Proposed Rulemaking, April 21, 2022.

⁴ Federal Energy Regulatory Commission, available at <https://www.ferc.gov/>

⁵ Brattle Group: Cost Savings Offered by Competition in Electric Transmission, https://www.brattle.com/wp-content/uploads/2021/05/16726_cost_savings_offered_by_competition_in_electric_transmission.pdf

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that competition could reduce the cost of transmission projects by up to 40 percent.⁶ Even a 25 percent savings would save consumers an estimated \$525 billion. More specifically, reports indicate that competitive bidding processes could yield savings as follow: MISO (Midwest region): 15-28 percent cost savings; Southwest region (Southwest Power Pool): 50-58 percent savings; Mid-Atlantic (PJM) region: 60-67 percent savings.⁷

FERC's NOPR issued on April 21, 2022, was very concerning in this regard, because instead of unleashing competition, it steps away from it. The NOPR would reinstate additional ROFRs for regionally planned transmission facilities that were eliminated pursuant to Order No. 1000. These additional restrictions would have the practical effect of eliminating competition from the regional transmission planning process. These proposals shield the incumbent electric utility from competition and deprive consumers of the previously recognized, and indeed, indisputable benefits of competition, and, with inflation hitting 40-year highs, will unnecessarily saddle consumers with excessive costs for transmission for decades to come.

We strongly encourage FERC to pursue transmission reforms in a manner that fosters market competition for high-voltage transmission projects to the greatest extent possible. This will help lower the cost of transmission development and will help ensure that electricity prices remain relatively more affordable for consumers. We urge you to abandon the efforts to promulgate such ROFR proposals and to reaffirm the Commission's commitment to transmission competition that will deliver tangible benefits for the Nation and for consumers for decades to come.

Thank you for your attention to this matter.

Sincerely,



MARTIN HEINRICH
United States Senator



MIKE LEE
United States Senator

⁶ *Id.*

⁷ *Id.*

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