

**UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF MANAGEMENT AND BUDGET**

Request for Information: Deregulation : **Docket No. OMB-2025-0003**

COMMENTS OF WIRES

WIRES appreciates the opportunity to submit these comments in response to the Office of Management and Budget’s (“OMB”) April 11, 2025, request for information (“RFI”) published in the Federal Register.¹ The RFI invites interested parties to identify rules to be rescinded or replaced and provide detailed reasons for their rescission or replacement.² Specifically, OMB seeks information on regulations “that are unnecessary, unlawful, unduly burdensome, or unsound.”³ This includes regulations that are “inconsistent with statutory text or the Constitution, where costs exceed benefits, where the regulation is outdated or unnecessary, or where regulation is burdening American businesses in unforeseen ways.”⁴

WIRES submits this response on behalf of its members.⁵ WIRES is a non-profit trade association of investor-, publicly-, and cooperatively-owned transmission providers and developers, transmission customers, regional grid managers, and equipment and service companies. WIRES promotes investment in electric transmission and consumer and environmental benefits through development of electric transmission infrastructure.⁶

WIRES has compiled the following list of Federal Energy Regulatory Commission (“Commission” or “FERC”) rules and regulations for evaluation by OMB and FERC in identifying rules and regulations for rescission or replacement, including in each case a brief background of the rule or regulation and the reason(s) for the proposed rescission or replacement. WIRES looks forward to collaborating with OMB and the Commission on this initiative.

I. COMMUNICATIONS

Any communication regarding these comments should be addressed to:

¹ *Request for Information: Deregulation*, 90 FR 15481 (Apr. 11, 2025) (“RFI: Deregulation”).

² RFI: Deregulation at 15481.

³ *Id.* 15482.

⁴ *Id.*

⁵ This filing is supported by the full supporting members of WIRES but does not necessarily reflect the views of every full supporting member or the view of Regional Transmission Organization/Independent System Operator (“RTO/ISO”) members of WIRES.

⁶ For more information about WIRES, please visit www.wiresgroup.com.

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II. LIST OF RULES OR REGULATIONS TO BE RESCINDED OR REPLACED

A. Rules Impacting Transmission Planning

1. **Reg Name: FERC Order No. 1000 (sections containing the regulatory prohibition on federal Rights of First Refusal (“ROFR”))**

Reg Description: As relevant here, Order No. 1000,⁷ required transmission providers to remove ROFR from FERC jurisdictional tariffs for certain new transmission facilities included in a regional transmission plan for purposes of cost allocation. Order No. 1000 effectively required the establishment of new quasi-competitive processes to assign development of transmission projects identified through the newly required regional planning processes.

Reason for Inclusion in List: Order No. 1000’s requirement to eliminate ROFR provisions from FERC-jurisdictional tariffs shifted transmission development from local control to prescriptive federal requirements, thereby adding considerable new hurdles and burdens to an already-challenging process of constructing transmission infrastructure. In addition, this FERC policy has incurred significant costs related to both its implementation and outcomes, which ultimately are borne by customers. In addition to the additional time, cost, and complexity involved in the development and selection of transmission projects under Order No. 1000’s competitive process, experience has shown that these regulatory requirements have yielded no tangible benefits to customers in terms of cost savings or increased innovation. In fact, there is substantial evidence showing that competitive solicitation requirements have delayed infrastructure development and created incentives that are at odds with comprehensive and collaborative⁸ approaches to transmission planning that have been the hallmark of successful historical transmission development activities in the United States.

Additional detail: Numerous studies have shown that Order No. 1000 solicitation processes for transmission projects have resulted in no cost savings, while adding time, cost, and complexity to

⁷ *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (July 21, 2011), *order on reh’g & clarification*, Order No. 1000-A, 139 FERC ¶ 61,132 (May 17, 2012), *order on reh’g & clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (Oct. 18, 2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁸ See Rob Gramlich, Richard Doying and Zach Zimmerman, GridStrategies, LLC, *Fostering Collaboration Would Help Build Needed Transmission* (Feb. 20, 2024) (available at https://wiresgroup.com/wp-content/uploads/2024/02/GS_WIRES-Collaborative-Planning.pdf).

the transmission development process (*see* cites below in notes 10 and 11).⁹ For example, based on a review of numerous competitive projects, the needed infrastructure entered service on average more than a year beyond in-service date commitments¹⁰ Studies also demonstrate how commitments made during the bidding process by nonincumbent transmission developers have proven illusory and regularly fail to actually constrain the final project costs.¹¹ Reinstating ROFRs and eliminating those provisions from Order No. 1000 would significantly streamline transmission development thereby helping to ensure that the United States will be able to meet expected load growth and maintain its global economic leadership, particularly in the advancement of artificial intelligence technology.

B. Regulations Associated with Market Rules

1. Reg Name: Participation of Distributed Energy Resource (“DER”) Aggregations in Markets Operated by RTOs/ISOs, 18 C.F.R. § 35.28

Reg Description: On September 17, 2020, the Commission issued Order No. 2222¹² modifying its regulations requiring each RTO/ISO to revise its tariff to enable DERs - like batteries, solar panels, and smart thermostats - to participate in wholesale electricity markets. Also, the Order provided that DERs could be aggregated and offered into the markets as collections of resources. FERC reasoned that the result would be increased competition in electricity markets.

⁹ See Comment from former Commissioner Marc Spitzer, titled *I Voted to Eliminate ROFR and That Was Unwise* (April 23, 2025) (available at https://www.realclearenergy.org/articles/2025/04/23/i_voted_to_eliminate_rofr_and_that_was_unwise_1105936.html).

¹⁰ Concentric Energy Advisors, Inc., *Competitive Transmission: Experience To-Date Shows Order No. 1000 Solicitations Fail to Show Benefits* (Aug. 16, 2022) (available at <https://ceadvisors.com/publication/competitive-transmission-experience-to-date-shows-order-no-1000-solicitations-fail-to-show-benefits/>).

¹¹; DATA Coalition, *New Study: Recent Experience with Competitive Transmission Projects and Solicitations* (Feb. 5, 2025) (“2025 DATA Whitepaper”) (available at <https://www.modernizethegrid.com/datawhitepaper2025/>); Concentric Energy Advisors, Inc., *An Updated Examination of FERC Order No. 1000 Projects* (Apr. 17, 2024) (“2024 Concentric Update Report”) (updating and expanding the research and analysis performed by Concentric included in its 2022 Report) (available at <https://ceadvisors.com/publication/an-updated-examination-of-ferc-order-no-1000-projects/>); *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Supplemental Comments of Developers Advocating Transmission Advancements, Docket No. RM21-17-000 at 7 (DATA 2023 Whitepaper: *Revisiting the Evidence on Cost Savings From Transmission Competition*) (Dec. 15, 2023) (“2023 DATA Whitepaper”) (updating project cost data included in the 2019 Brattle Report with the most current data, including actual projects’ final costs to support the conclusion that transmission competition may lead to 12-19 percent higher costs for competed projects); *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Reply Comments of DATA, Docket No. RM21-17-000 at Attachment A: Affidavit of Carl Peterson (Sept. 19, 2022); See Concentric Energy Advisors, Inc., *Building New Transmission: Experience to Date Does Not Support Expanding Solicitations* (June 10, 2019) (“2019 Concentric Report”) (available at <https://ceadvisors.com/publication/building-new-transmission-experience-to-date-does-not-support-expanding-solicitations/>).

¹² *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 2222, 172 FERC ¶ 61,247 (Sept. 17, 2020) (“Order No. 2222”).

Reason for Inclusion in List: While issued initially in 2020, owing to its exceptional complexity Order No. 2222 is not expected to be implemented in most regions until 2028 or later; in fact, certain compliance plans are still outstanding. In addition, implementation of the numerous regulatory requirements contained in Order No. 2222 has proven to be extraordinarily burdensome. Even though customers will bear significant implementation costs, it is widely believed that the economics of DER aggregations are such that they are unlikely to emerge in substantial numbers and participation in the programs resulting from Order No. 2222 compliance will be limited. Put another way, while costs are expected to be significant, any benefits to customers are speculative and, to many observers, doubtful. This regulation exemplifies a rule designed to prioritize narrow interests, without fully considering whether the new requirements would benefit the public more than the cost of implementation. Additionally, the rule encroaches on states' jurisdiction by diminishing the authority of the states and their jurisdictional public utilities to ensure safe and reliable distribution system operations. The rule also imposes requirements on public utilities without first establishing a cost recovery mechanism.

Additional detail: In addition to the significant implementation challenges, utilities (and some states) are concerned about the possibility that there will be double counting/double compensation of resources simultaneously participating in both wholesale markets and state incentive programs, such as net metering. More time and resources will be needed to police these issues and tackle concerns about program manipulation and potential fraud. Crucially, there are operational concerns about resources interconnected to the distribution system that have not been properly studied for market participation, which could threaten the reliability of the system despite operational override capabilities.

2. Reg Name: Compensation of Demand Response Resources (“DRRs”) in Organized Wholesale Energy Markets, 18 C.F.R. § 35.28(g)(1)(v)

Reg Description: On March 15, 2011, the Commission issued Order No. 745,¹³ which added section 35.28(g)(1)(v) to the Commission's regulations. This rule was designed to set preferential compensation provisions for DRRs offered into FERC-jurisdictional wholesale electricity markets.

Reason for Inclusion in List: This rule reflects a policy priority under the Obama administration. The rule was issued to ensure that certain resources capable of curtailing consumption of electricity would be compensated similarly to electric generators, a compensation level that was widely viewed by experts as exceeding the economically efficient level of compensation. FERC should take this opportunity to eliminate such market-distorting rules, especially at a time when there are concerns about affordability (which are exacerbated by providing above-market compensation to certain preferred resources) and the need to incent new generation development to ensure reliability (as those resources could be displaced or see their compensation diminished by DRRs that do not bring the same value to the system).

¹³ *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 134 FERC ¶ 61,187 (Mar. 15, 2011), *order on reh'g & clarification*, order No. 745-A, 137 FERC ¶ 61,215 (Dec. 15, 2011).

C. Regulations Specific to Reporting Requirements

1. **Reg Name: Proposed Accounting Entries for Applications under Part 33 of the Commission's Rules and Regulations, 18 C.F.R. § 33.5**

Reg Description: Regulations at 18 CFR section 33.5 require the submission of proposed accounting entries as part of the application for authorization under FPA section 203.¹⁴ This requirement derives from regulations proposed in April 1998¹⁵ and adopted in November 2000 under Order No. 642.¹⁶ Application of the regulations are limited to those entities subject to the Uniform System of Accounts. The requirement remains unchanged since adopted in 2000.

Reason for Inclusion in List: The requirement is redundant with the Commission's authorization of transactions pursuant to FPA section 203. Specifically, in authorizing a proposed transaction, the Commission requires the submission of proposed accounting entries within six months of the date that the proposed transaction is consummated. That accounting submission includes all the accounting entries and amounts related to the transfer along with narrative explanations describing the basis for the entries. Given the unnecessary redundancy of this rule and the fact that this rule is limited to entities subject to the Uniform System of Accounts, this rule should be eliminated.

2. **Reg Name: FERC Form No. 3-Q, Quarterly Financial Report of Electric Companies, Licensees, and Natural Gas Companies, 18 C.F.R. Part 141**

Reg Description: FERC Form No. 3-Q acts as a supplement to the existing FERC Annual Reports, collecting basic financial information and certain related financial information from jurisdictional entities. When implemented, it was believed that the increased frequency of financial reporting would help FERC identify and evaluate emerging trends, business conditions and financial issues affecting regulated entities.¹⁷

Reason for Inclusion in List: The quarterly financial reporting requirement should be removed entirely. The quarterly reports have little impact on usefulness or transparency of utility financial information compared to the FERC Annual Report Form No. 1, which is an often-used reference tool and the basis for formula rate calculations. The benefits of Form 3-Q are unclear, as is its usage by the Commission. The administrative burden to prepare these quarterly reports outweighs any benefits they may provide. Moreover, the requirement is redundant, as there are other reports filed with the Securities and Exchange Commission ("SEC") that FERC can utilize. For example, SEC Form No. 10-Q includes a full set of financial statements along with Management's Discussion and Analysis, and other information; and SEC Form No. 8-K is required to disclose material events typically within four days of the event. These reports must be

¹⁴ 16 U.S.C. § 824b.

¹⁵ *Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Notice of Proposed Rulemaking, 83 FERC ¶ 61,027 (Apr. 16, 1998).

¹⁶ *Revised Filing Requirements Under Part 33 of the Commission's Regulations*, 93 FERC ¶ 61,164 (Nov. 15, 2000).

¹⁷ *Quarterly Financial Reporting and Revisions to the Annual Reports*, Order No. 646, 106 FERC ¶ 61,113 (Feb. 11, 2004), *order on reh'g & final rule*, Order No. 646-A, 107 FERC ¶ 61,231 (June 2, 2004).

filed with the SEC in a timely manner and provide an efficient way to monitor current financial information. Additionally, the Commission has been looking into the continued usefulness of this quarterly requirement.¹⁸ Consistent with the intent of this RFI, FERC should use this procedural mechanism to remove the 3-Q filing requirements.

3. Reg Name: Accounting Rules in General Instruction 9 and Electric Plant Instruction 4(B), 18 C.F.R. § 101

Reg Description: These regulations, codified in 18 C.F.R. § 101, relate to accounting treatment and charges to electric plant and operating expenses of payments to employees (*i.e.*, overheads).

Reason for Inclusion in List: These regulations date back to at least 1960, with some components initially adopted in the 1920s. Despite their age, ambiguity, and lack of guidance, they have never been revisited or definitively clarified by the Commission. Recently, FERC's Office of Enforcement has used these regulations to extract large settlements from electric utilities by threatening disallowance of recovery for prudent investment in facilities that serve and benefit customers. Utilities make good faith efforts to invest in infrastructure and account for such investments according to these outdated and ambiguous rules. Yet, years later, utilities are facing significant financial consequences through enforcement actions, all while FERC refuses to clarify the rules globally. This is akin to other "regulation by enforcement" regimes that have created uncertainty over what is legal. The result is a hostile regulatory environment that is inconsistent with the needs of businesses making large capital investments in energy infrastructure. These regulations should be repealed or, at a minimum, clarified by FERC, not Enforcement Staff, before continuing to use such regulations in enforcement actions.

4. Asset Retirement Obligations, 18 C.F.R. § 35.18

Reg Description: In response to Financial Accounting Standards (FAS) Statement No. 143, titled *Accounting for Asset Retirement Obligations* ("AROs"), issued in June 2001, the Commission issued Order No. 631 to revise its Uniform Systems of Accounts for public utilities and licensees, natural gas companies, and oil pipeline companies by establishing uniform accounting and financial reporting requirements for the recognition and measurement of liabilities associated with the retirement of tangible long-lived assets and the associated capitalization of these amounts as part of the cost of the asset giving rise to the obligation.¹⁹ In conjunction with the accounting requirements, the Commission also established certain ratemaking requirements in

¹⁸ See *Commission Information Collection Activities (FERC Form Nos. 1, 1-F, and 3-Q); Comment Request; Extensions*, Notice of Information Collections and Request for Comments, Docket No. IC25-7-000 at 8 (Feb. 3, 2025) (showing the total average annual burden hours for Form No. 3-Q for electric and gas totaling 184,464 and the total annual cost is \$18,999,792.).

¹⁹ *Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations*, Order No. 631, 103 FERC ¶ 61,021 at P 78 (Apr. 9, 2003) (under Part VII (Information Collection Statement), the Commission noted that the rule was not intended to impose more time consuming requirements, as "[t]he proposed requirements coincide with procedures already established by FAS 143 for companies to recognize a liability at fair value on their financial statements for a retirement obligation when it has occurred. The Commission is merely adjusting these industry standards to coordinate with its Uniform Systems of Accounts.").

18 C.F.R. 35.18, requiring utilities to provide certain supporting documentation of AROs in rate filings, which is the target of our proposed removal.

Reason for Inclusion in List: We do not propose changing FERC’s accounting regulations for AROs. Through the regulations issued with Order 631, the accounting for AROs is extensive and provides useful transparency into the utilities’ AROs. However, section 35.18 is confusing, burdensome, and unnecessary. The utility already bears a burden of proof under FPA section 205(e)²⁰ for rate changes and already must provide extensive cost support pursuant to 18 C.F.R. § 35.13. Thus, section 35.18 is redundant and unnecessary because, with or without section 35.18, a utility still must demonstrate that any recovery of AROs or ARO-related costs are just and reasonable in a utility’s rate case. Thus, any concerns regarding recovery of ARO-related costs can and should be addressed in a utility’s rate case, which is, in fact, what FERC said in Order 631.²¹ The regulation is also confusing and burdensome because subsection 35.18(a) suggests that all cost components related to AROs “may not be reflected in rates,” which does not comport with (i) the Commission’s discussion in Order 631 (stating that utilities would have the opportunity to seek rate recovery in rates cases)²² or (ii) section 35.18(c), which suggests that utilities can seek recovery of “[ARO]-related cost components.”

E. Regulations Related to the Public Utility Holding Company Act (PUHCA)

1. Reg Name: FERC Form No. 61: Narrative Description of Service Company Functions, 18 CFR § 366.23(a)(2)

Reg Description: FERC Form No. 61 is required to be filed annually by service companies in holding company systems (including special purpose companies) that are currently exempt or granted a waiver of the Commission's regulations and, therefore, would not have to file FERC Form No. 60.²³

Reason for Inclusion in List: Non-centralized service companies are generally special purpose entities that provide a specific service within the holding company system to the public utility, which is why they are exempted or granted a waiver and do not have to file FERC Form No. 60. Given the exemption or waiver, it is unclear what, if any, information is utilized by FERC Staff in ensuring compliance with Commission regulations. This filing is an unnecessary regulatory requirement and should be removed in its entirety.

²⁰ 16 U.S.C. § 824d(e).

²¹ Order No. 631 at P 64.

²² *Id.*

²³ *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667-A, 115 FERC ¶ 61,096 at P 49 (Apr. 25, 2006).

F. Regulations Associated with Market-Based Rate Authority

1. Reg Name: Change in Status Reporting Requirement, 18 CFR 35.42

Reg Description: On June 21, 2007, the Commission issued Order No. 697 amending its regulations to revise Subpart H to Part 35 governing market-based rates for public utilities pursuant to the FPA, including modifying the change in status reporting requirement codified in section 35.42(b).²⁴ As a condition of obtaining and retaining market-based rate authority, a seller must report any change in status within 30 days after the change occurs that would reflect a departure from the characteristics FERC relied upon in granting market-based rate authority.²⁵

Reason for Inclusion in List: The information required to be submitted in these reports is also provided through FERC Order No. 860.²⁶ For example, Order No. 860 requires a seller (any person that has authorization or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under FPA section 205) to submit into the relational database information regarding upstream affiliates, generation assets, long-term firm sales and purchases, and vertical assets. Thus, requiring public utilities to file a Notice of Change in Status pursuant to section 35.42 with the same types of information as submitted in the Order No. 860 relational database serves no clear purpose, is inefficient, redundant, unnecessarily burdensome, and should be removed.

G. Other Matters

WIRES recommends terminating/closing the following outstanding regulatory proceedings, none of which has resulted in a final rule to date. As proposed, the regulations would not be aligned with the administration's goals of creating a more streamlined regulatory environment that fosters critically needed energy infrastructure development. Moreover, these proposed rulemakings, some of which have been outstanding for over six years, have caused significant uncertainty and risk within the industry and are costly in their own right without any significant benefit to customers.

²⁴ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities*, Order No. 697, 119 FERC ¶ 61,295 at P 1039 (June 21, 2007), *order on reh'g & clarification*, Order No. 697-A, 123 FERC ¶ 61,055 (Apr. 21, 2008), *order on reh'g & clarification*, Order No. 697-B, 125 FERC ¶ 61,326 (Dec. 19, 2008), *order on reh'g & clarification*, Order No. 697-C, 127 FERC ¶ 61,284 (June 18, 2009), *order on reh'g & clarification*, Order No. 697-D, 130 FERC ¶ 61,206 (Mar. 18, 2010).

²⁵ Order No. 697-C at P 18.

²⁶ *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, Order No. 860, 168 FERC ¶ 61,039 (July 18, 2019) ("Order No. 860"), *order on reh'g & clarification*, Order No. 860-A, 170 FERC ¶ 61,129 (Feb. 20, 2020); *see also* 174 FERC ¶ 61,221 (Mar. 18, 2020) (delaying the compliance date for the requirements of Order No. 860 until July 1, 2021);.

1. Reg. Name: Electric Transmission Incentives Policy NOPR and Supplemental NOPR (Docket No. RM20-10-000), 18 C.F.R. § 35.35

Reg. Description: Six years ago, the Commission issued a Notice of Inquiry (“NOI”)²⁷ seeking comments on the scope and implementation of its electric transmission incentives policy required under EAct 2005²⁸ and established by rule²⁹ in Order No. 679.³⁰ The NOI informed the NOPR³¹ issued five years ago proposing modifications to its current electric transmission incentive policy. One year later, in 2021, FERC issued a Supplemental NOPR proposing to eliminate the existing RTO incentive for utilities that have participated in an RTO for three or more years,³² a proposal that happened to be a complete reversal from the rule change proposed from the immediately preceding year. The NOPR provides no rational justification for revising the current incentives. Also, the revisions to the RTO incentive proposed in the Supplemental NOPR are contrary to EAct 2005. The docket should be closed, and the rulemaking proceedings should be terminated.

Reason for Inclusion in List: On April 3, 2025, WIRES, the Edison Electric Institute and GridWise Alliance, Inc. filed Joint Supplemental Comments in the docket in support of the current transmission incentives policy, stating they are “well-structured to achieve the Commission’s and Congress’s goals, while remaining aligned with broader national energy policy considerations.”³³ Accordingly, the Commission should retain the current regulations implemented under Order No. 679 in compliance with EAct 2005 and terminate both the NOPR and Supplemental NOPR issued in this rulemaking docket. Allowing this docket to remain open is detrimental to the certainty and objectives of FERC and the administration.

2. Reg. Name: Duty of Candor NOPR (Docket No. RM22-20-000), Proposing to Add a New Section to 18 C.F.R. Part 1.

Reg. Description: Without offering any adequate explanation of the specific problem the Commission sought to remedy, the Commission issued a NOPR in Docket No. RM22-20-000 proposing to add a new regulatory section to 18 C.F.R. Part 1 requiring a “broadly applicable”

²⁷ *Inquiry Regarding the Commission’s Electric Transmission Incentives Policy*, Notice of Inquiry, 166 FERC ¶ 61,208 (Mar. 21, 2019) (“NOI”).

²⁸ Energy Policy Act of 2005, Pub. L. No. 109-58, sec. 1241, 119 Stat. 594, 315. And 1283 (2005) (“EAct 2005”).

²⁹ 18 C.F.R. § 35.35.

³⁰ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057 (July 20, 2006), *order on reh’g & final rule*, Order No. 679-A, 117 FERC ¶ 61,345 (Dec. 22, 2006).

³¹ *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, NOPR, 170 FERC ¶ 61,204 (March 20, 2020) (“NOPR”).

³² *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, 175 FERC ¶ 61,035 (Apr. 15, 2021) (“Supplemental NOPR”).

³³ *Electric Transmission Incentive Policy Under Section 219 of the Federal Power Act*, Joint Supplemental Comments of WIRES, The Edison Electric Institute and GridWise Alliance, Inc., Docket No. RM20-10-000 (Apr. 3, 2025) (“Joint Supplemental Comments”).

duty of candor.³⁴ Under such proposed regulation, any entity communicating with the Commission or other specific organizations related to a matter subject to FERC jurisdiction would be required to submit accurate and factual information and not submit false or misleading information or omit material information.³⁵

Reason for Inclusion in List: WIRES generally shares the view expressed by then FERC Commissioner Danly, who dissented from this NOPR noting that many companies might be reluctant to file comments opposing the proposed rule.³⁶ Commissioner Danly further argued that extending the duty of candor from market sellers to “any entity” in “any communication,” related to “any matter subject to FERC’s jurisdiction” greatly broadens the scope of duty of candor well beyond current Commission practices.³⁷ If adopted, the NOPR could lead to a number of unintended consequences, including chilling any FERC-jurisdictional communications - from informal communications in the normal course of business to communications during stakeholder proceedings, as well communications with the Commission itself. Considering the significant adverse impacts this proposed rule may have on the industry, this docket should be closed and the rulemaking terminated.

3. Reg. Name: Notice of Inquiry (Docket No. AD24-6-000)³⁸ Asking Whether FERC Should Revise Its Policy on Providing Blanket Authorizations for Investment Companies under FPA section 203(a)(2)

Reg. Description: The Commission’s current FPA section 203(a)(2) blanket authorization policy ensures that any underlying transactions are consistent with the public interest and that investors in such transactions cannot “exercise[e] control over the utilities whose voting securities they acquire.”³⁹ In the Section 203 NOI, the Commission sought comment on whether, and if so, how, it should revise its policy on providing blanket authorizations for investment companies. In particular, FERC sought comment on what constitutes control of a public utility in evaluating holding companies’, including investment companies’, requests for blanket authorization and what factors it should consider when evaluating control over public utilities or holding companies as part of a request for blanket authorization.⁴⁰ Comments and reply comments were submitted in March and April 2024. There has been no activity in the docket for 12 months.

³⁴ *Duty of Candor*, 180 FERC ¶ 61,052 (July 28, 2022) (“Duty of Candor NOPR”).

³⁵ *Id.* at P 1.

³⁶ Duty of Candor NOPR, Commissioner Danly, dissenting at P 18.

³⁷ *Id.* at P. 1, n. 3 (citing to *Prohibition of Energy Mkt. Manipulation*, Order No. 670, 114 FERC ¶ 61,047, at P 49, *reh’g denied*, 114 FERC ¶ 61,300 (2006)).

³⁸ *Federal Power Act Section 203 Blanket Authorizations for Investment Companies*, 185 FERC ¶ 61,192 (Dec. 19, 2023) (“Section 203 NOI”).

³⁹ *NextEra Energy, Inc., et al.*, 174 FERC ¶ 61,213, P 42 (Mar. 18, 2021) (“[c]onditions in the section 203(a)(2) blanket authorization orders are designed to prevent institutional investors from exercising control over the utilities whose voting securities they acquire.”).

⁴⁰ Section 203 NOI at P 1.

Reason for Inclusion in List: This NOI to the Commission’s longstanding policy has the potential to constrain future transactions and stymie investment in the electric industry at a critical moment in energy transformation when new investment is increasingly important for meeting grid development and transition goals, which would be contrary to FERC’s own precedent and stated goals for ensuring a safe, affordable, and reliable electric grid in the United States. This docket should be terminated without further action.

4. Reg. Name: Recovery and Reporting of Industry Association Dues NOI (Docket No. RM22-5)

Reg. Description: On December 16, 2021, the Commission issued an NOI seeking comments on the rate recovery, reporting, and accounting treatment of industry association dues and certain civic, political, and related expenses.⁴¹ FERC also sought comments on the ratemaking implications of potential accounting and reporting changes, and whether additional transparency or guidance is needed regarding defining donations for charitable, social, or community welfare purposes.⁴²

Reason for Inclusion in List: The Commission’s existing rules appropriately and adequately account for utility recovery of trade association dues. The NOI does not provide any data, or even anecdotal evidence, that issues regarding categorization of industry trade association dues are occurring with any level of frequency, if at all, in rate proceedings such that additional regulations or clarification is warranted. Given the existing safeguards currently in place that address the concerns outlined in the NOI, this inquiry, which is based on a petition⁴³ that “fail[s] to point to a credible example of a trade association misallocating “lobbying” costs,⁴⁴ is overly prescriptive and has the potential to make participation in regulatory proceedings, litigation in the courts, engagement with legislatures and other activities by advocacy organization more difficult. Thus, this NOI docket should be closed without further action.

5. Reg. Name: Requirements to Implement Dynamic Line Ratings (“DLRs”), Advance Notice of Proposed Rulemaking (“ANOPR”) (Docket No. RM24-6)

Reg. Description: FERC opened this ANOPR to consider the need to establish requirements for dynamic line ratings (“DLRs”) to improve the accuracy of transmission line ratings. The ANOPR also proposes considering reforms to ensure transparency in the development and implementation of DLRs.⁴⁵

⁴¹ *Rate Recovery, Reporting, and Accounting Treatment of Industry Association Dues and Certain Civic, Political, and Related Expenses*, 177 FERC ¶ 61,180 at P 1 (Dec. 16, 2021) (“December 21 NOI”).

⁴² December 21 NOI at P 2.

⁴³ See *Center for Biological Diversity*, Petition for Rulemaking to Amend the Uniform System of Accounts’ Treatment of Industry Association Dues, Docket No. RM21-15-000 (Mar. 17, 2021) (“Petition”).

⁴⁴ *Rate Recovery, Reporting, and Accounting Treatment of Industry Association Dues and Certain Civic, Political, and Related Expenses*, Statement of Commissioner Danly dissenting, Docket No. RM22-5-000 at P 4 (Feb. 1, 2022).

⁴⁵ *Implementation of Dynamic Line Ratings*, Advance Notice of Proposed Rulemaking, 187 FERC ¶ 61,201 at P 1 (June 27, 2024) (“ANOPR”).

Reason for Inclusion in List: Given the interaction between the outstanding rulemaking on ambient-adjusted ratings (“AARs”),⁴⁶ the Commission’s issuance of this ANOPR was premature. Lessons from implementation of the AAR requirements will be important to inform DLR deployment on a scale contemplated by the ANOPR. The Commission should allow ample time for transmission owners to complete and learn from implementation of the AAR rules before considering implementation of DLR requirements. Furthermore, the rule as proposed represents an overly-prescriptive approach by the federal government in mandating that private utilities deploy specific technologies on their systems, particularly when those technologies are not well-proven and there are considerable reliability and economic implications to their deployment.

⁴⁶ *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (Dec. 16, 2021) (“Order No. 881”), order addressing arguments raised on reh’g & clarification, Order No. 881-A, 179 FERC ¶ 61,125 (May 19, 2022) (“Order No. 881-A”).