United States of America
Before the
Federal Energy Regulatory Commission

Regional Transmission Organizations	)	**Docket No. RM99-2-000**

Comments on the Scope of Issues for FERC Staff's Environmental Assessment of the Proposed Rule on RTOs by the Project for Sustainable FERC Energy Policy on behalf of Multiple Parties

(June 14, 1999)

I. Introduction

The Project for Sustainable FERC Energy Policy (**Project**),[1] on behalf of the organizations listed below (**Project Groups)**,[2] submits the following comments in response to the Federal Energy Regulatory Commission's May 14, 1999 "Notice of Intent to Prepare an Environmental Assessment for the Regional Transmission Organizations Rulemaking, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting," (**Notice**) in this docket.

The Project commends the Commission for initiating this Notice of Proposed Rulemaking (**NOPR**) on Regional Transmission Organizations (**RTOs**), and for recognizing the need to perform an accurate and thorough analysis of the potential environmental impacts of the proposed rule. The Project believes that properly constituted and governed RTOs are critical not only to grid efficiency and reliability, but to responsible environmental stewardship. Many potential RTO functions will

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1 The Project is an education and advocacy initiative of a consortium of public interest organizations. Groups represented by the Project include large and small non-profit environmental and consumer organizations, some with national memberships, some regional, and some state. Overall these memberships represent all regions of the country.

2 American Wind Energy Association; Center for Clean Air Policy; Center for Energy Efficiency and Renewable Technologies; Citizen Power, Inc.; Environmental Law & Policy Center of the Midwest; Friends of the Earth; Izaak Walton League of America; Land & Water Fund of the Rockies; Legal Environmental Assistance Foundation; Maryland Department of Natural Resources Power Plant Research Program; Michigan Environmental Council; Natural Resources Defense Council; Pace Energy Project; Pennsylvania Energy Project; Project for an Energy Efficient Florida; Public

have substantial influence on whether the development of competitive markets for electricity in the U.S. will result in degradation of environmental quality (e.g., by facilitating the on-going and increased utilization of high emitting, inefficient generators) or provide opportunities for environmental improvement (e.g., by facilitating market entry of cleaner and more efficient competitors.

Thus, in evaluating the environmental impacts of the RTO NOPR, FERC must consider not only whether implementation of the proposed rules on RTOs could exacerbate the environmental impacts of the electric industry, but also whether alternative rules could facilitate reductions in those environmental impacts. Specifically, the environmental assessment should consider the potential for environmental improvement due to RTO policies and functions that encourage the introduction of new technologies through design and operation of the wholesale markets and through support of state policies in retail markets.

Below, we describe some of the potential environmental impacts of the proposed rule, discuss possible measures to reduce those potential impacts, and identify the key issues that FERC should review in its environmental assessment to ensure that the development of RTOs facilitates fair competition in a manner that helps to decrease the environmental footprint of the electric industry.

II The RTO NOPR and Environmental Assessment

The primary objective of the proposed rulemaking is for all transmission-owning entities in the nation to place their transmission facilities under the control of an appropriate RTO in a timely manner. The Commission states its belief that regional approaches to numerous issues affecting the industry may be the best means to eliminate remaining impediments to properly functioning

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Citizen; and Southern Environmental Law Center.

competitive markets. The proposed rule would rely on voluntary participation by transmission-owning entities, and it proposes minimum characteristics and functions that an RTO must satisfy.

In particular, the NOPR proposes the following minimum characteristics for an RTO: (1) independence from market participants; (2) appropriate scope and regional configuration; (3) possession of operational authority for all transmission facilities under the RTO's control; and (4) exclusive authority to maintain short-term reliability. In addition, the proposed rule sets forth seven minimum functions that an RTO must perform: (1) administer its own tariff and employ an appropriate transmission pricing system; (2) create market mechanisms to manage transmission congestion; (3) develop and implement procedures to address parallel path flow issues; (4) serve as supplier of last resort for all ancillary services; (5) operate a single OASIS site for all transmission facilities under its control; (6) monitor markets to identify design flaws and market power; and (7) plan and coordinate necessary transmission additions and upgrades (Notice at 115).

Under the Commission's Regulations Implementing the National Environmental Policy Act (NEPA), 18 CFR § 380, the purpose of an environmental assessment (EA) is 1) to determine whether to prepare an environmental impact statement (EIS)—facilitating the preparation, if one is necessary —or 2) to aid Commission compliance with NEPA's policies and goals when an EIS is determined to be unnecessary. An EA requires careful review of evidence and analyses regarding the potential impacts of the proposed federal action, and a finding of "no significant impact on the human environment" must be reasonably supported by sufficient evidence and analysis. (See 18 CFR §380.2(d).)

In conjunction with Open Access NOPR proceedings, during 1995-1996 the Commission staff prepared a Draft EIS and a Final EIS on the Open Access Rule, and they included extensive modeling and analyses of possible impacts. Although some of the FERC's analyses and findings

were disputed, the Commission concluded that the rule's environmental consequences were not likely to be significant and were as likely to be beneficial as harmful.[3] In addition, the Commission found that with or without the rule, NO_x emissions from electric generation sources would likely decrease through the year 2000 but increase thereafter.

The Environmental Protection Agency (EPA), based on different analyses, concluded that although the rule was unlikely to have significant adverse environmental impacts in the near term, under alternative assumptions it could lead to increases in air pollution in the future that would have unsatisfactory public health or environmental quality impacts.[4] EPA explicitly noted that it employed alternative assumptions for a number of key model inputs and that assumptions used by both agencies lay within a reasonable range.[5] In response, the Commission stated that reasonable minds may differ over appropriate assumptions for analysis but that it continued to believe that the assumptions made in the Final EIS and Final Rule analyses were the appropriate ones to evaluate the effects of the Final Rule.[6]

In light of the fact that we now have more than three years of experience under the Open Access Rule, it would be important for the Commission to reexamine the assumptions used in the Final EIS in any EA on a proposal designed to further Open Access Rule goals. It would also be important for Staff to determine whether the environmental impacts projected by the Commission and EPA have been realized.

During the course of the Open Access NOPR proceedings, the Commission consistently maintained that the primary responsibility for mitigating any adverse impacts related to the Rule fell

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[3] Order Responding to Referral to Council on Environmental Quality, May 29, 1996, 75 FERC ¶ 61,208, Slip Op., p. 7.

[4] Referral Letter of Carol M. Browner, EPA Administrator, to Kathleen A. McGinty, CEQ Chair, May 13, 1996, p. 1.

[5] May 22, 1996 Letter of Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to Kathleen A. McGinty, CEQ Chair, p. 2.

to EPA, stating among other things that EPA has both the authority and regulatory tools to effectuate appropriate mitigation. However, in its Order responding to EPA's referral of the Open Access Rule to CEQ and request for assistance in mitigating emission increases attributable to the Rule, the Commission agreed that under specified circumstances it would initiate a Notice of Inquiry to further examine mitigation options under the Federal Power Act and, under other noted circumstances, it would initiate a rulemaking to propose possible mitigation that could be undertaken by the Commission.[7]

Since the adoption of the Open Access Rule, EPA has taken several actions to mitigate growing power plant emissions. Some of those actions, however, have been challenged in court, and two recent adverse U.S. Court of Appeals decisions have raised questions about the ability of EPA to effect timely mitigation of emissions increases from electric generation.[8] In light of the developments, the evidence leading to EPA's actions to reduce power plant emissions and other studies regarding the environmental impacts of increased competition should be considered by the FERC Staff in completing its EA of the proposed rule. In addition, Staff should consider whether implementation of the proposed rule without policies designed to mitigate adverse environmental impacts could have a significant adverse effect on public health or environmental quality. Further, the Staff should consider the potential value of RTO functions and policies that can serve both to aid competition and mitigate environmental impacts, as well as market neutral functions and policies that advance the public interest in environmental quality.

FERC has taken important steps to assure that the potential economic benefits to consumers of greater regional coordination are realized; however, it is critical that these economic benefits not

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6 Order Responding… Slip Op., p. 4.

7 Id., p. 9.

8 For example, the order granting motion for partial stay of the NO_x SIP Call case, Michigan v. U.S. EPA, No. 98-1497 (D.C. Cir. May 25, 1999)

come at the expense of the environment. Competition in and of itself is neither good nor bad for the environment. The effect of competition on the environment will be determined by the structure of the market, the ability of all resources to compete in the market, the role and responsibilities of RTOs, and the degree to which market developments recognize the current status and future goals of environmental regulation.

There are at least two ways the RTOs envisioned in the FERC NOPR will directly impact the future environmental footprint of the electric industry. First, the formation of such RTOs can relieve existing impediments to interregional electricity transactions covering a wide geographic area. Second, these RTOs can reduce or eliminate obstacles to adding transmission capacity where necessary to facilitate an even wider market for electricity sales. FERC correctly notes that relieving technical and institutional friction in the transmission system can improve the competitiveness of wholesale electricity markets and provide strong incentives to operate existing generating facilities more efficiently (NOPR at 66, and note 159).

Without appropriate mitigating policies, the combination of two factors -- improving the utilization of existing generation facilities and greatly expanding the ability to sell power into competitive markets covering a wide geographic area -- will result in a competitive market for electricity that further degrades environmental quality. In light of recent evidence that even the initial steps towards competitive wholesale markets have resulted in increased pollutant emissions, further degradation must be viewed as an unacceptable result of federal energy policy. In this respect, the FERC environmental assessment must give particular attention to whether the NOPR ensures efficient competition among <u>all</u> sources and facilitates investment in cleaner, more efficient facilities -- not only under ideal circumstances, but under existing environmental regulation.

In consideration of these factors, the Project believes that the scope of the Environmental

Assessment should include

(1) a review of the environmental impacts of open access policies to date and the effects of this NOPR, assuming the continued increase in utilization of coal plants throughout the U.S.;

(2) an evaluation of policy measures to reduce the potential for increased environmental impacts, including grid access and pricing policies that support efficiency and renewables, transparent regional planning procedures that weigh environmental costs and benefits, and a public interest/environmental role in RTO governance, as well as any policies that may result from FERC's previous commitments; and

(3) consideration of additional specific minimum characteristics and functions for RTOs that could help determine and respond to the environmental impacts of increased wholesale competition.

III. The Environmental Impacts of Increasing Competition

One of the primary goals of RTO development is to increase wholesale competition among electric service providers. As with open access implementation under FERC Order No. 888, without the adoption of environmental mitigation measures, there is a risk that increased competition will result in higher utilization of existing coal units and increased emissions of carbon dioxide (CO_2), nitrogen oxides (NO_x), sulfur dioxide (SO_2), fine particulates and other pollutants.

We believe there is evidence that open access has resulted in higher levels of coal plant utilization (and increased emissions of pollutants) due to increases in wholesale electricity transactions.[9] Prior to the restructuring of wholesale electricity markets, coal generating facilities

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[9] The EA should include analysis of actual data on recent developments with competition in the U.S. electric industry and modeling projections of future developments. With regard to the recent history, we note that power flows between the Midwest (ECAR) and the Northeast (PJM, NYPP, NPCC) appear to have become bi-directional, with off peak flows generally going from west to east and on peak flows from east to west. It may be that in both cases the environmental impact is negative. That is, the off peak effect involves Midwest coal units displacing less dirty generation sources in the northeast while the on peak effect involves oil steam plants in the northeast running more and

were operating well below their potential utilization rates. In January, 1998, the Northeast States for Coordinated Air Use Management (NESCAUM) issued an initial analysis of the extent to which open access may lead to an increase in power production at low-cost, highly polluting coal-fired power plants.[10] The NESCAUM analysis found, in part, that major power companies with generation portfolios dominated by coal-fired facilities substantially increased wholesale electricity sales and coal-fired generation, and that these increases led to major increases in emissions of NO_x and other pollutants.

The results of the NESCAUM analysis are fully consistent with FERC's observation in the RTO NOPR that the increasing competitiveness of wholesale electricity markets has created incentives and pressures to improve operating efficiencies and availabilities at existing power plants (NOPR at 66). Moreover, it is clear that the widespread development of RTOs would provide additional incentives to increase availabilities at existing facilities.

Upon initial review, we believe the remaining potential for expanded generation from high-emitting facilities is significant. According to data from NERC's Generator Availability Data System, the equivalent availability factors for coal units have been averaging at 83 percent. At the same time the capacity factors have been averaging 63 percent. The difference between these two figures represents a large potential for increased operation of these coal units over time as load

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displacing cleaner gas-fired peaking generation in the Midwest. This, and the effect of greater transmission access in other interregional transfers, should be analyzed. Also, analysis of data for recent years should include examination of the capacity factor and availability factor trends for power plants of various types. We suspect that market incentives with increasing competition in the wholesale power markets may be leading to incrementally greater availability and utilization of existing coal units. Further, EA should be based upon very detailed modeling of the power system. Because much of the environmental effect of increasing transmission access will involve fairly subtle tradeoffs between specific power plants, it is necessary to use a model that represents actual individual generators rather than generic generator types. For example, if coal generators in a region are binned together and represented as a singe type (e.g., uncontrolled medium sized coal units) then some real effects may be missed. The model used in the EA analysis should be a detailed multi-area production simulation, capable of representing broad effects of transfer between NERC regions as well as the effects of the RTO NOPR within regions.

10 Air Pollution Impacts of Increased Derregulation in the Electric Power Industry: An Initial Analysis.

grows, other plants retire, and transmission access to other markets improves. In an extreme scenario in which the net capacity factors increase to the full potential (without any improvements in availability), the increase in coal generation from the existing 929 units would amount to 20 percentage points – a 33 percent increase in the amount of coal generation in recent years. Moreover, the potential for increased utilization is generally greater for the smaller coal units, which also tend to be older and more polluting per unit of output.

Table 11

Coal Generator Utilization By Size of Unit

Size Range (MW)	Number of Units	Net Capacity Factor	Equivalent Availability Factor	Potential Increase in Generation
1-99	166	39.18	85.65	118.61
100-199	259	56.59	84.34	49.04
200-299	114	62.46	83.65	33.93
300-399	91	58.55	80.65	37.75
400-599	167	60.80	80.50	32.40
600-799	94	68.78	84.06	22.22
800-999	25	69.51	84.68	21.82
1000 Plus	13	60.64	80.86	33.34
All Sizes	929	62.65	83.34	33.02

Source: Based upon NERC GADS data for 1993 to 1997.

In light of this evidence, the Environmental Assessment should examine the potential for additional increases in emissions that could accompany the creation of RTOs designed to increase

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NESCAUM (January 15, 1998).

wholesale competition among electricity sources – especially RTO policies and functions that favor utilization of existing facilities over investment in cleaner, more efficient options – and RTO policies that could help to mitigate increases. For example, the EA should consider the implementation of RTO policies that could minimize the market distortions and barriers to entry that may arise from environmental regulations, including disparate environmental standards and emission allowance schemes; procedures that require that all costs and benefits, including environmental externalities, be considered in planning for grid expansions or enhancements; procedures that permit the tracking of fuel mix and emissions; and policies that facilitate the use of "as available" (intermittent) renewable resources, distributed generation, and active load management in regional grid operations. All of these policies and procedures are pro-competitive, as well as environmentally beneficial.

IV Market Distortions and Barriers to Entry Related to Environmental Regulations

Through the RTO NOPR, FERC seeks to address institutional impediments to the efficient operation, planning, and expansion of regional transmission grids, in order to reduce or eliminate barriers to competition throughout the U.S. Included among the issues that FERC hopes will be remedied through the development of RTOs is actual and perceived discriminatory conduct by existing transmission owners to favor affiliated merchant operations. FERC recognizes that the actual or perceived exercise of market power by market participants acting in their own self interests will impede competitive power markets.

Obviously, abuse of market power in the electric sector is not limited to companies with both transmission and affiliated merchant operations. Any company with a large generating portfolio across one or more regions has similar financial incentives to impede competition among existing competitors and to create or exploit barriers to market entry.

Environmental regulations can be a significant generation market entry barrier, and the impact of this should be considered by FERC in its environmental assessment. In the U.S., environmental regulation of electricity generation has systematically grandfathered existing generating units. While the regulation of emissions from most existing facilities has been tightened only gradually, the emission rate standards for new entrants are typically much more stringent than those for existing facilities, and meeting the more stringent emission standards at new facilities comes at a significant cost. Reasons given for grandfathering have included the belief that it is more cost-effective to insist on higher standards at new facilities when they are being built, arguments about fairness, and the expectation that old plants would eventually retire and be replaced by newer ones meeting the higher standards. Unfortunately, many older plants are remaining in service far longer than expected, causing an indefinite delay in the anticipated emissions reduction from facility retirement.[11]

In recent years, Congress, EPA and the states have moved to achieve additional emissions reductions through market-based programs. Examples include the acid rain program under Title IV of the Clean Air Act, the NO_x cap and trade program under the Ozone Transport Commission Memorandum of Understanding, and EPA's recently proposed NO_x SIP Call covering 22 states in the eastern half of the country. However, these programs also grandfather the emissions from existing generating facilities by allocating emission rights (or "allowances") free of charge to existing firms. New entrants must purchase their allowances on the open market, usually from the same incumbent firms with which they seek to compete.

As a practical matter, the grandfathering of existing generation facilities has been necessary in order to gain sufficient political support for new or tighter emission control requirements.

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11 Grandfathering and Environmental Comparability: An Economic Analysis of Air Emission Regulations and

However, it is important to note that most existing environmental regulations related to the utility sector were adopted prior to the restructuring of the industry. Requirements under the Clean Air Act included specific emission control and air quality attainment timetables that are only now beginning to unfold. Historically, there was little or no concern about the anti-competitive impacts associated with differential treatment of existing generating units because regulated monopoly utility companies were responsible for both operating existing generation and building new capacity to serve load reliably at regulated prices.

Recent advances in environmental regulation are beginning to recognize the new electric industry structure. State restructuring legislation in Massachusetts and Connecticut have included requirements that implement emission standards on the overall generation portfolios of retail suppliers of electricity in those states. And, increasingly, state and federal emission standards are considered in terms of pounds of pollutant per unit of electrical output rather than per unit of fuel input. However, adaptation to the new industry structure will likely take years to develop, and longer to implement. In the meantime, the environmental grandfathering of existing generation facilities represents a real problem from the standpoint of market power -- one that should be addressed by FERC in its rulemaking on RTOs.

In its environmental assessment, FERC should review the impact existing environmental regulations will have on the development of competitive markets as envisioned in the proposed rulemaking. In addition, FERC should review possible actions it can take (unilaterally and in coordination with environmental agencies) to ensure the maintenance of environmental quality without inadvertently creating or worsening market distortions.

V Tracking for Verification of Fuel Mix and Emissions

Electricity Market Distortion, prepared for the National Association of Regulatory Utility Commissioners, but Synapse

In order to address concerns that retail competition may worsen the environmental impact of the electric generating sector, states have included (and the federal government has proposed) in electric industry restructuring legislation several public policy instruments to support the development of low- or zero-emitting resources. These include: (1) "information disclosure"—comprehensive mandatory disclosure of fuel mix and/or emissions associated with suppliers' electricity products; (2) "renewable portfolio standards" specifying that a particular percentage of retail sales must be provided from renewable generators; and (3) "generation portfolio standards" requiring that the average emission rates of retail suppliers' generation portfolios not exceed specified emission standards. In addition, in the emerging competitive retail markets, electricity suppliers have demonstrated a widespread interest in highlighting the positive environmental attributes of their supply portfolios and in attracting customers through the sale of environmentally preferable electricity products. All of these policies and marketing efforts have a single common implementation requirement: the tracking of data on electricity generation, fuel and emissions from the sources of generation to retail electricity sales.

RTOs would be uniquely positioned to support the data collection for verification of green marketing claims and compliance with information disclosure requirements and portfolio standards. This is true for at least four reasons:

- RTO's would be the only entity in a region with access to all of the data necessary to ensure that marketing claims and policy compliance is verified in a manner that does not allow for double counting of generation from facilities with desirable fuel or emission characteristics. This will be particularly important where the suppliers involved sell electricity into several states within a power control region.

Energy Economics, Inc. (June 11, 1998).

- RTOs will have no financial ties to market participants. RTO tracking of the necessary generation data will therefore significantly reduce the costs and administrative obligations of agencies (e.g., public utility commissions, departments of environmental protection, and offices of the attorney generals) that will be responsible for implementation of state policies.
- RTOs are likely to operate under existing data confidentiality agreements with market participants, thereby reducing legal and administrative procedures necessary to avoid the inappropriate release of competitively sensitive information.
- Implementation of several of these policies will require certain information on interregional electricity transactions. RTOs will be uniquely suited to provide for the smooth transfer of necessary generation data between power control regions.

A precedent for RTO support of state policies can be seen in the New England region, where the contract between ISO-New England and the New England Power Pool commits ISO-New England to the development of a generation information system to support state policies in the six New England states. The effectiveness of state information disclosure policies and portfolio requirements, as well as the success of green marketing to displace more polluting generation, will have a profound impact on how expanded competition will effect the environment. RTO data collection to permit the tracking required to implement these policies will play a key role. We believe that in its environmental assessment, FERC should review and consider the environmental benefits of including the tracking of generation data to support state policies among the minimum functions of RTOs.

VI Grid access and pricing policies that support efficiency and renewables

Competition cannot be considered a success if it only results in reshuffling the use of existing generation resources. Increases in the environmental impacts of the electric industry can only be

avoided through introducing new resources into the generation mix and increasing the efficiency of electricity use. Thus, it is critical that the Environmental Assessment consider the benefits of various steps to ensure that ALL resources (both supply and demand, both new and existing, both fossil fuel and renewables) have a meaningful opportunity to compete.

It is critical to consider the differential impact of RTOs' market design and operations on the ability of certain types of resources to participate in the market. Because investment in renewable energy and efficiency resources must be accelerated if we are to meet national ambient air quality standards and reduce U.S. greenhouse gas emissions, it is particularly important that new grid access rules and transmission pricing schemes not be allowed to create barriers for these technologies. Indeed, FERC policy on RTOs should take every opportunity to encourage these resources. It is vital to our nation's emission reduction goals that sustainable resources, which may not fit neatly into conventional, easy to trade and completely dispatchable "commodity" packages, receive appropriate treatment by system operators. Even if progressive renewable portfolio standards and environmental disclosure requirements are adopted by states or the federal government, transmission access and pricing policies can undercut renewables development by making the apparent cost of renewable energy too expensive to be competitive. If renewables and efficiency are not allowed to compete in a meaningful way, while competitive pressures result in the increased utilization of older and dirtier fossil fueled resources, competition and the creation of RTOs must be considered a harm to the environment. Thus, the Environmental Assessment should consider the extent to which the NOPR would lead to RTOs whose policies foster development of renewables and efficiency.

Examples of access and pricing policies that inhibit the development and use of efficiency and renewable technologies, but that are unnecessary for maintaining reliability or facilitating competition, are easy to find, and the Environmental Assessment should consider their potential for

undermining the mitigation of adverse environmental impacts related to increased regional competition. Among the policies adopted or proposed that would dramatically and unfairly increase the costs of renewables (and effectively subsidize and thereby prolong utilization of the oldest and dirtiest plants on the system) are the following: (1) charging high, non-cost based rates for energy imbalances (not matching actual and scheduled deliveries); (2) not paying for energy deliveries that exceed scheduled amounts and charging high premiums for any energy shortages; (3) charging a penalty of 200% of the monthly transmission fee for exceeding a reservation in any hour during the month; and (4) charging extra fees for hooking generation facilities to distribution lines that feed into the transmission grid.

The Environmental Assessment should also consider whether the NOPR encourages certain access and pricing policies that would allow resources that are environmentally desirable to compete. Policies that would have a positive environmental impact include (1) ensuring effective representation in governance and meaningful input into operations and procedures for all sources, (2) encouraging procedures that enable bidding load alongside supply resources, thereby creating an incentive for energy efficiency, and (3) supporting congestion management systems that offer price signals for siting new facilities and that do not automatically assign transmission rights to incumbent generators.

VII Transparent regional planning procedures that weigh environmental costs and benefits

FERC contemplates in the NOPR that RTOs should have exclusive authority to maintain short-term reliability and must plan and coordinate necessary transmission additions and upgrades. In order to carry out these responsibilities effectively, RTOs must have planning processes that offer comprehensive solutions that take into account all options – including distributed generation and demand-side management, as recommended in the Final Report of the Task Force on Electric

System Reliability,[12] as well as grid enhancements – for meeting short-term reliability and overall transmission system goals. Short-term reliability can be enhanced by reliance on a variety of resources including small-scale resources, load center generation, and demand-side bidding.

Because expansion or enhancement of the grid to meet growing demands for transmission services can have significant environmental as well as economic implications, RTO planning processes must have the following characteristics. First, an RTO's transmission planning process must be transparent and provide useful information to suppliers of both generation and demand resources. A clear transmission planning process will enable new sources, including supply and demand resources that are environmentally desirable, to offer resources as alternatives to transmission grid expansion. Second, sensible modification of the transmission system requires that the RTO planning process give appropriate weight to all costs and benefits, including environmental externalities, of all feasible options for meeting demand in a reliable and least cost manner. Third, the RTO process must include assessments of the environmental impacts of all expansion and enhancement options and include opportunities for public participation in those assessments. The Environmental Assessment should consider whether and how FERC's NOPR encourages such processes and should evaluate the potential for transmission planning and generation interconnection policies to serve as barriers to entry in the generation market.

VIII Public interest/environmental role in RTO governance

RTOs will have an important role in developing numerous policies and procedures with important implications for the environment. In addition to the central role promoting competition in electricity markets, the policies will relate to decisions about transmission line construction and valuing intermittent generation and load management resources, as well as procedures that will aid

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[12] "Maintaining Reliability in a Competitive U.S. Electricity Industry," September 29, 1998, U.S. DOE, p. 36.

or impede the construction of new power plants and encourage or discourage the retirement of existing power plants. While it is critical that there be adequate representation in these decisions by owners of supply resources that are environmentally desirable, it is equally important that public interest and environmental organizations also be able to participate in a meaningful way. It is particularly important, where FERC seeks to implement "light-handed regulation," that environmental and public interest concerns, typically brought into the regulatory arena, be brought directly to bear on the formation and operation of markets.

Wholesale markets provide the foundation for retail supply. Failure to incorporate public interest and environmental considerations in the design and operation of wholesale markets will severely restrict options in retail supply and the pursuit of public interest goals. The FERC has ensured some public interest and environmental representation in the governance of newly created ISOs such as the California ISO, the Pennsylvania-New Jersey-Maryland ISO, the Midwest ISO, and more recently through the ongoing resolution of issues pertaining to governance and authority for the New York and New England ISO structures. It will be important to strengthen this public interest participation and to extend it to RTOs as they form in other parts of the country. It will be critical to ensure that entry fees, threshold criteria, and voting procedures assure public interest representatives a seat at the table. FERC's Environmental Assessment should encompass the potential environmental benefits of participation by public interest and environmental organizations in decision-making regarding the formation and operation of the wholesale markets.

IX Conclusion

As presented above, Project Groups believe that FERC's proposed rule may, unless modified to include policies that will help to assure mitigation, lead to an increase in the environmental impact of the electric industry. Consequently, we commend FERC for undertaking an environmental

assessment and recommend that the scope of the assessment include the following elements: (1) a review of the potential to exacerbate the electric industry's environmental impacts through failure to address market barriers due to existing environmental regulation; (2) consideration of environmental mitigation through policies that encourage the introduction of new technologies; (3) an evaluation of RTO functions that support regulatory policies such as information disclosure and portfolio requirements in retail markets and other environmental regulation; (4) assessment of the benefits of regional least cost/all options transmission planning; and (5) consideration of the potential benefits of participation by public interest and environmental representatives in RTO governance.

Respectfully Submitted on behalf of the following organizations,

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