

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Valley Link Transmission Maryland, LLC;        )  
Valley Link Transmission Virginia, LLC; and    )   Docket No. ER25-1633-000  
Valley Link Transmission West Virginia, LLC    )

**MOTION FOR ACCEPTANCE OF LATE-FILED COMMENTS AND COMMENTS OF  
THE ORGANIZATION OF PJM STATES, INC.**

On March 14, 2025, a joint venture among Dominion Energy, Transource, and First Energy (“Valley Link”) filed an application<sup>1</sup> seeking approval of formula rates for its three constituent companies and approval of Federal Power Act (“FPA”) Section 219 transmission incentive rate treatment for a \$3 billion portfolio of transmission system assets. The Organization of PJM States, Inc. (“OPSI”), files the following Motion to Accept Late-Filed Comments and Comments to urge the Federal Energy Regulatory Commission (“Commission”) to review this application carefully to determine whether electric customers will benefit from these incentives, individually and collectively.<sup>2</sup>

**I. MOTION TO ACCEPT LATE-FILED COMMENTS**

Pursuant to the Combined Notice of Filings issued on March 17, 2025, the Commission set the date for intervention and comments on April 4, 2025. Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, OPSI submits this motion requesting that the Commission accept the following late-filed comments in the above-captioned docket. OPSI avers that these late filed

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<sup>1</sup> Valley Link Transmission Maryland, LLC, Valley Link Transmission Virginia, LLC, and Valley Link Transmission West Virginia, LLC, *Formula Rate Filing and Request for Authorization of Transmission Rate Incentives*, Docket No. ER25-1633-000 (Mar. 14, 2025) (“Application”).

<sup>2</sup> OPSI’s following members support these Comments: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, North Carolina Utilities Commission, Pennsylvania Public Utility Commission, Tennessee Public Utility Commission, Virginia State Corporation Commission, and the Public Service Commission of West Virginia. The Indiana Utility Regulatory Commission and Public Utilities Commission of Ohio abstained in the vote on this filing.

comments are not intended to delay the Commission’s decision making or otherwise prejudice the applicants and parties to this proceeding. OPSI’s comments are simply intended to develop the record more fully by presenting the collective perspective of retail electric regulators in the PJM region. Given the need for OPSI members to conduct their own internal reviews of this application and the challenges in coordinating a vote on this document among multiple state and municipal commission schedules, the following comments were not ready to be filed by the comment deadline. For the reasons stated above, there is good cause for the Commission to accept these brief comments, and OPSI respectfully moves the Commission to accept them into the record of this proceeding.

## II. COMMENTS

In these comments OPSI focuses on the incentive treatment Valley Link requests for the \$3 billion portfolio consisting of two 765 kV transmission lines and four new substations approved as part of PJM’s 2024 Regional Transmission Expansion Plan Window 1.<sup>3</sup>

### A. VALLEY LINK’S APPLICATION

Specifically, Valley Link requests five incentives:

1. **Abandoned Plant Incentive** – 100% recovery of project costs if cancelled for reasons beyond Valley Link’s control.
2. **Construction Work in Progress Incentive (CWIP)** – 100% of construction costs in rate base during development, before projects are in service.
3. **Hypothetical Capital Structure** – 60% equity / 40% debt structure through 2030 or key assets go in service, then switching to actual structure.
4. **Regulatory Asset Treatment** – Record all early-stage costs as a regulatory asset with carrying charges, including pre-filing expenses.
5. **RTO Participation Adder** – 50 basis point ROE adder for joining PJM as a new transmission developer.<sup>4</sup>

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<sup>3</sup> Application at Figure 2.

<sup>4</sup> *Id.* at 9-10.

Valley Link notes that it must show that the project is needed to ensure reliability or reduce the cost of delivered power and that there is a nexus between the incentive sought and the investment made.<sup>5</sup> More importantly, however, OPSI submits that the Commission established these incentive-based rate treatments “for the purpose of benefitting consumers,”<sup>6</sup> and OPSI urges the Commission to not lose sight of this fundamental purpose of granting incentives. OPSI emphasizes here, just as it did in comments filed almost six years ago when the Commission opened its Notice of Inquiry into its transmission incentives policy,<sup>7</sup> that any incentive the Commission grants must first and foremost benefit consumers.<sup>8</sup>

Valley Link argues that, with or without the rebuttable presumption the Commission has created, because the projects were the product of the PJM Regional Transmission Expansion Planning process, they qualify for incentives.<sup>9</sup> OPSI has previously written:

[T]he potential improved reliability or potential reduced transmission congestion that reduces the delivered cost of power are the sources of the “benefits” to which Section 219(a) refers. But, not all projects or actions that improve reliability or reduce transmission congestion will benefit consumers, particularly when taking cost into account. While consumer benefit is a statutory requirement for the granting of incentives under Section 219, the Commission does not currently employ any benefit metrics in its process for evaluating incentive requests and has no mechanism such as a benefit/cost test to ensure that incentives are granted only for projects or actions that benefit consumers.<sup>10</sup>

To that end, OPSI encourages the Commission to examine the benefits these projects may produce more deeply rather than simply checking to see if the projects were the product of a regional reliability or economic planning process.

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<sup>5</sup> *Id.* at 22.

<sup>6</sup> 16 U.S.C. 824s.

<sup>7</sup> Inquiry Regarding the Commission’s Electric Transmission Incentives Policy, 166 FERC ¶ 61,208 (2019).

<sup>8</sup> Inquiry Regarding the Commission’s Electric Transmission Incentives Policy, Comments of the Organization of PJM States, Inc., Docket No. PL19-3 at §II.A (June 26, 2019) (“OPSI NOI Comments”).

<sup>9</sup> Application at § VI.A-B.

<sup>10</sup> OPSI NOI Comments at 3.

Next, in describing the nexus between the requested incentives and the demonstrable risks associated with these projects as well as in its arguments for specific incentives, Valley Link states that incentives make it easier for Valley Link to obtain financing and that this reduced cost of debt is a benefit that is passed on to consumers.<sup>11</sup> OPSI encourages the Commission to examine in detail the return customers get from these incentives by way of reduced borrowing costs, to ensure the benefits exceed the cost of the incentives themselves.

**B. RTO PARTICIPATION ADDER**

With respect to the RTO Participation Adder specifically, Valley Link states that each of its state-level sub-entities is a “new entrant competitive transmission developer” and that the Commission has routinely approved the RTO Participation Adder for use by nonincumbent transmission developers and should do so here.”<sup>12</sup> In response, OPSI notes that Valley Link is a joint venture owned by Dominion Energy, FirstEnergy, and Transource, the latter an entity principally owned by American Electric Power, and that each is an incumbent transmission owner that has been a PJM member for many years. Some of these owners already enjoy “participation” adders and have done so for decades. The Commission should thoroughly examine the extent to which this requested additional adder produces benefits for customers that would not have otherwise existed in the absence of the incentive.

In comments written almost five years ago, OPSI, the Organization of MISO States, Inc., and the SPP Regional State Committee stated, “The Joint Committees believe that the RTO participation adder is unnecessary.”<sup>13</sup> The committees argued that there are many reasons utilities

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<sup>11</sup> Application at 33, 39-40.

<sup>12</sup> *Id.* at 42-43.

<sup>13</sup> Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, Comments of the Organization of MISO States, Inc., The Southwest Power Pool Regional State Committee, Inc., and the Organization of PJM States, Inc., Docket No RM 20-10-000 (July 1, 2020).

join and remain in RTOs and stated that “[t]here is no evidence that the incentive compelled any public utility to join, or remain in, an RTO.”<sup>14</sup>

OPSI continues to oppose the RTO participation adder and notes that Section 219 of the Federal Power Act does not require administrative adders to transmission rates if the resulting rates are not just and reasonable.<sup>15</sup> Section 219 does not require the stacking of incentives in the form of administrative adders to cost of service rates for transmission investment that would occur without such adders.

Even if this adder is arguably justified in part, the *full* adder may not be. FERC should exercise close scrutiny as it determines whether to grant this incentive and if so the appropriate size.<sup>16</sup> Section 205(e) requires that “the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility.”<sup>17</sup> That includes the *level* of the RTO Participation Adder. The ROE adder raises the cost of capital above the market cost, inflicting more costs on consumers than are otherwise reasonable. The ROE adder is essentially a subsidy, and one the Commission has not been limiting as long as the entrant remains in the RTO. To this end, OPSI notes that the Commission’s ROE determinations have evolved in recent years, and that Order No. 679 is under review in Docket RM20-10.

OPSI continues to question the extent to which it is just and reasonable to grant these three entities a specific RTO Participation adder, considering their owners’ extended membership in PJM, regardless of whether the parent companies have created a distinct entity to separately own the specific assets at issue in this docket.

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<sup>14</sup> *Id.*

<sup>15</sup> 16 U.S.C. § 824s.

<sup>16</sup> Promoting Transmission Investment through Pricing Reform, 116 FERC ¶ 61,057 at P 326 (2006).

<sup>17</sup> 16 U.S.C. § 824d.

**C. REMAINING INCENTIVES AND REQUESTED BASE ROE**

Regarding the other four incentives Valley Link has requested, including the abandoned plant incentive, the CWIP incentive, and regulatory asset treatment, OPSI encourages the Commission to only approve these incentives if there is a clear showing that the costs of the incentive (or the likely costs of the abandoned plant incentive) are likely to be less than the benefit to consumers by granting these incentives.

OPSI is also skeptical that incentives like hypothetical capital structure will benefit consumers in this instance, recognizing the ownership of Valley Link. OPSI is concerned that blanket approval of these incentives could increase costs for consumers without clearly reducing risk for Valley Link. OPSI encourages the Commission to closely scrutinize the extent to which the requested hypothetical capital structure requested by the applicants is truly offsetting risk and at what cost.

With respect to the Applicants' requested base return on equity, OPSI urges the Commission to carefully evaluate whether the risks used to justify that return are already being addressed through the requested incentives. It is essential to avoid compensating the same risk twice—once through the base ROE and/or the hypothetical capital structure, and again through the other incentive mechanisms. Ensuring that each component of the rate reflects distinct, non-duplicative risks is critical to maintaining just and reasonable rates.

**III. CONCLUSION**

WHEREFORE, for the reasons set forth above, OPSI urges the Commission to consider these comments and, consistent with these comments, deny the requested RTO Participation Adder and any other incentive where Applicants have not demonstrated the benefits exceed the costs. OPSI recognizes that the Commission has not acted on the Notice of Proposed Rulemaking on

Transmission Incentives issued in March of 2020.<sup>18</sup> OPSI encourages the Commission to closely scrutinize the application in this proceeding and further evaluate its existing ROE incentives policy in RM20-10.

Respectfully Submitted,

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<sup>18</sup> Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, 170 FERC ¶ 61,204 (2020).

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

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Dated at Newark, Delaware this April 30, 2025.