

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

|                                  |   |                        |
|----------------------------------|---|------------------------|
| Electric Transmission Incentives | ) |                        |
| Policy Under Section 219 of      | ) | Docket No. RM20-10-000 |
| the Federal Power Act            |   |                        |

**ANSWER OF THE ORGANIZATION OF PJM STATES, INC.**

Pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.213, the Organization of PJM States, Inc. (“OPSI”) files this answer<sup>1</sup> in response to the Supplemental Comments filed by WIRES, the Edison Electric Institute, and GridWise Alliance (“Joint Commenters”) on April 3, 2025.<sup>2</sup>

**I. COMMENTS**

OPSI disagrees with Joint Commenters that it is in the public interest to terminate this docket.<sup>3</sup> OPSI encourages the Commission to issue a final rule in this docket in line with OPSI’s Comments filed on July 1, 2020 and June 23, 2021, in this docket, which argued, among other things, that the Commission should improve upon the existing framework rather than starting completely over and that the RTO Participation Adder and Transco Adder be eliminated.<sup>4</sup> OPSI continues to believe there is merit to the Commission comprehensively reevaluating its incentive

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<sup>1</sup> OPSI’s following members support this Answer: 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 Public Service Commission of West Virginia. The Indiana Utility Regulatory Commission and Public Utilities Commission of Ohio abstained in the vote on this filing.

<sup>2</sup> Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, Joint Supplemental Comments of WIRES, the Edison Electric Institute, and GridWise Alliance, Docket No. RM20-10 (April 3, 2025) (“Supplemental Comments”).

<sup>3</sup> *Id.* at 4 (“It is the view of Joint Commenters that the public interest, consistent with national energy policy and statutory intent, would be best served by terminating the dockets that propose to diminish existing transmission incentives.”).

<sup>4</sup> Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, Comments of the Organization of PJM States, Inc., Docket No. RM20-10-000 at 5 (July 1, 2020) (“OPSI’s 2020 Comments”) and Comments of the Organization of PJM States, Docket No. RM20-10-000 (June 23, 2021).

policy in this docket to ensure that its incentives policy is tailored with a strong focus on consumer benefits.<sup>5</sup>

Joint Commenters argue that repealing or diminishing transmission incentives in this docket would undermine Congress's intent in Section 1241 of the Energy Policy Act of 2005 ("EPAAct 2005") to reverse transmission underinvestment, and that this rulemaking threatens to create an imbalance between consumer and investor interests.<sup>6</sup> They further argue that the statute requires incentives to be awarded to any entity "that joins" an RTO without limitation, and that since Order No. 2000, transmission owners have assumed significant risks while the benefits of RTO participation have flowed primarily to customers.<sup>7</sup> They emphasize that the RTO participation incentive appropriately compensates transmission owners for risks and responsibilities associated with RTO Participation.<sup>8</sup>

Joint Commenters also argue that the Abandoned Plant Incentive is effective and balanced, noting that most developers who receive it never seek cost recovery, and caution that restricting it would raise financing costs and harm consumers.<sup>9</sup> Similarly, they argue that the CWIP Incentive is critical to supporting cost-effective transmission development, improves cash flow, strengthens credit metrics, and reduces customer costs, and that restricting early access to CWIP would undermine these benefits and contradict the goals of EPAAct 2005 and Order No. 679.<sup>10</sup>

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

<sup>6</sup> Supplemental Comments at 8 ("If transmission incentives are repealed, or if the Commission's incentive policy is significantly diminished, the results would undermine Congress's goals intended by section 1241 of the Act. At the very least, such changes would create an imbalance between consumer and investor interests and likely result in higher costs.") citing Energy Policy Act of 2005, Pub. L. No. 109-58, sec. 1241, 119 Stat. 594 (2005).

<sup>7</sup> *Id.* at 9 - 10 citing 16 U.S.C. § 824s ("There is no ambiguity to this statutory language, nor is there any express or implied delegation of authority to the Commission to make any manner of interpretation as to how and under what circumstances the Commission is required to provide this incentive... Since Order No. 2000, participation in RTOs has imposed significant risks and responsibilities on Transmission Owners, while the benefits of RTO membership have largely accrued to customers in the RTO footprint.").

<sup>8</sup> *Id.* at 10.

<sup>9</sup> *Id.* at § III.B.

<sup>10</sup> *Id.* at III.C.

OPSI has already filed extensive comments in this docket and will not reiterate any of its previously made points at length. In brief, OPSI argued that the Commission should retain its existing risks and challenges framework and add a consumer benefits approach alongside a proposed benefits approach, emphasizing that incentives should be awarded only when projects both face genuine risks and deliver consumer benefits.<sup>11</sup> Specifically, OPSI:

- recommended that economic project incentives require a standardized benefit/cost test coupled with a risks/challenges demonstration,<sup>12</sup>
- suggested improvements to the Commission's ex-ante and ex-post proposal by creating a unified sliding scale and setting a maximum 50-basis-point ROE cap.<sup>13</sup>
- opposed allowing Supplemental Projects to qualify for the proposed reliability incentive, absent meaningful PJM oversight and a robust process to assess project need and benefits.<sup>14</sup>
- opposed raising the overall ROE cap from the current zone of reasonableness approach to 250 basis points, advocating instead for a cap of 50 basis points.<sup>15</sup>
- supported non-ROE incentives, provided the Commission recommits to the risks/challenges framework.<sup>16</sup>
- argued that the Transco-specific ROE incentive and the RTO-participation incentive should be eliminated.<sup>17</sup>
- called on the Commission to limit transmission technology incentives using a sliding-scale ROE adder up to 50 basis points, contingent upon passing a standardized benefit/cost and risks/challenges test.<sup>18</sup>
- advocated greater transparency through required disclosure of anticipated incentives.<sup>19</sup>

OPSI appreciates this opportunity to expand upon its previous comments. Approval of a hypothetical 60%/40% equity to debt capital structure during construction has become a familiar request by developers of transmission projects and one that FERC has granted too often. Although

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<sup>11</sup> OPSI's 2020 Comments at § III.A.

<sup>12</sup> *Id.* at §III.B.1.a.

<sup>13</sup> *Id.* at 15.

<sup>14</sup> *Id.* at 21.

<sup>15</sup> *Id.* at §III.C.

<sup>16</sup> *Id.* at 22.

<sup>17</sup> §III.E, III.F.

<sup>18</sup> §III.G.

<sup>19</sup> §III.H, III.I.

OPSI generally supported the availability of non-ROE incentives subject to a strict risk/challenges benefit requirement,<sup>20</sup> the hypothetical 60% equity ratio has been granted with no probative demonstration that risks to the development of necessary transmission projects even exist, let alone justify such an equity heavy capital structure. OPSI questions whether transmission projects included in a PJM RTEP can demonstrate that a 60% equity component is necessary or reasonable as an actual capital structure after construction. Thus, the 60% equity hypothetical capital structure during construction is clearly an unnecessary and unreasonable incentive for transmission project developers at the expense of ratepayers.

It is unreasonable to allow rates to be set—or Allowance for Funds Used During Construction to accrue if CWIP is denied—based on a hypothetical 60% equity / 40% debt capital structure during the often lengthy construction phase of transmission projects that could ultimately cost hundreds of millions of dollars. The extra cost of a hypothetical 60% equity ratio to ratepayers as opposed to a more reasonable 50% equity, 50% debt capital structure is significant, particularly when considering that the extra equity return is multiplied by grossing up the resulting equity portion of the revenue requirement by the effect of state and federal income taxes. Therefore, FERC should not allow the non-ROE incentive of an equity heavy unbalanced hypothetical capital structure during construction. If any hypothetical capital structure must be considered for a transmission project due to fluctuations during construction because of financing timing, FERC should adopt a balanced hypothetical capital structure of not more than 50% equity and 50% debt.

In short, OPSI disagrees with the Joint Commenters that it would be in the public interest for the Commission to terminate this proceeding. Instead, OPSI encourages the Commission to act

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<sup>20</sup> *Id.* at 23.

in accordance with OPSI's comments, recognizing that a technical conference in this docket may be quite helpful.<sup>21</sup>

## II. CONCLUSION

OPSI appreciates the opportunity to further encourage the Commission to issue a final rule in this docket and discourages the Commission from terminating this proceeding as the Joint Commenters have requested.

Respectfully Submitted,

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Dated: May 9, 2025

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<sup>21</sup> *Id.* at 37.

### **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.

**/s/ Gregory V. Carmean**

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Dated at Newark, Delaware this May 9, 2025.