



July 8, 2021

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20515

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20515

The Honorable Frank Pallone
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

Re: Independent Study of the Cost of Electricity

Dear Chairmen Manchin and Pallone and Ranking Members Barrasso and Rodgers:

The undersigned organizations respectfully request that you direct the Government Accountability Office (GAO) or other independent oversight organization¹ to undertake a detailed and objective study of the cost of electricity in the United States. Specifically, the policies under the jurisdiction of the Federal Energy Regulatory Commission (FERC)—the federal agency responsible for regulating the nation’s wholesale electricity markets—should be evaluated on the basis of their impact on the cost and reliability of delivered power.²

We represent a number of America’s largest industrial consumers of electricity, as well as residential customers and public policy research organizations. We are concerned that federal regulators have not initiated an independent, empirical study to safeguard a basic

¹ The independence of the analysis is critical. To support an independent process, we recommend that the Independent Market Monitors for each organized market be involved in the analysis.

² As part of the Energy Policy Act of 2005, Congress directed FERC to establish a transmission incentive rule “for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power...” See 16 U.S.C. § 824s(a). FERC has not fully addressed this statutory obligation.

element of modern society – reliable and affordable electricity.³ In order to keep our businesses competitive in both domestic and international markets – and to simply pay our residential electricity bills – we must have reliable, low-cost electricity. To that end, we need regulators who base their policy decisions on objective data and real-world impacts rather than assumptions by advocates.

The study we request should investigate the cost impacts of federal policy regarding market structure, namely the net benefits to retail consumers resulting from the formation of Regional Transmission Organizations (RTOs) and Independent System Operators (collectively “RTOs”).⁴ At minimum, it should examine how existing RTO market structures have impacted the cost of electricity to retail consumers. We also ask that the study explore the reliability impacts of wholesale market structure and, if resources allow, develop a set of best practices regarding RTO expansion.⁵

More than two decades ago, FERC took ambitious steps to open competitive markets at the wholesale level, with the promise that FERC’s promotion of competition would “ensure that electricity consumers pay the lowest price possible for reliable service.”⁶ Many states also expanded competition at the retail level in search of consumer savings. This was a bold and unprecedented experiment in electricity regulation, but the impacts on customer bills appear to have been mixed.⁷ At the wholesale level, the electricity industry now finds itself in a state of limbo⁸—about two-thirds of the country is served by competitive wholesale markets and the rest by traditional, regulated utility monopolies.⁹

³ We note that FERC commissioned a study of the benefits of wholesale competition in the Entergy region, which was published in a 2010 report. See <https://www.ferc.gov/sites/default/files/2020-05/spp-entropy-cba-report.pdf>. However, that work was an estimate of *future* benefits, and FERC has not undertaken a study of actual (historical) RTO costs and benefits to consumers. To our knowledge, no one has studied the impact of RTOs on customer bills.

⁴ When members of this group asked FERC for a meeting on this issue, FERC staff replied that “the Commission is not inclined at this time to commission that type of broader study.”

⁵ Nine former FERC Chairmen and Commissioners wrote to FERC recently to push for RTO expansion. See *FERC should expand organized markets across the US, former chairs and commissioners say*, June 3, 2021, available at <https://www.utilitydive.com/news/ferc-should-expand-organized-markets-across-the-us-former-chairs-and-commi/601187/>.

⁶ Order No. 2000, *Regional Transmission Organizations*, 89 FERC ¶ 61,285 (1999), p. 1.

⁷ See *The U.S. Electricity Industry After 20 Years of Restructuring*, available at https://www.nber.org/system/files/working_papers/w21113/w21113.pdf. “While electricity restructuring has brought significant efficiency improvements in generation, it has generally been viewed as a disappointment because the price-reduction promises made by some advocates were based on politically-unsustainable rent transfers. In reality, the electricity rate changes since restructuring have been driven more by exogenous factors—such as generation technology advances and natural gas price fluctuations—than by the effects of restructuring.”

⁸ Retail competition policy is also in a state of limbo; however, the impacts of retail competition are not the focus of this letter.

⁹ There are a variety of market structures in the U.S electricity industry. For example, many wholesale markets include utilities subject to traditional monopoly regulation at the state level. Many customers are also served by not-for-profit municipal or cooperative utilities. In some parts of the U.S., federal power

With no guidance from federal regulators, states and regions are independently exploring the impacts of RTOs.¹⁰ Today, battles over wholesale competition are taking place across the country, principally between incumbent utilities and a growing chorus of consumers who want more choice, better access to new technologies, or less exposure to the ratepayer risks associated with monopoly utilities.¹¹

Some utilities have responded to consumer efforts to expand wholesale competition by launching campaigns to persuade customers that RTOs are a “Really Terrible Option” and will raise their rates.¹² The RTO debate has become controversial, yet the assertions made by both sides can and should be examined objectively using real-world data. For example, if both sides are right about the economics – that is, if there are substantial production cost savings from RTOs at the wholesale level, yet retail customer bills in RTO regions continue to climb – then Congress, FERC, and the states owe it to consumers to understand the disconnect and address it.¹³

The study we request is long overdue. As GAO reported in 2008, “there is no consensus about whether RTO markets provide benefits to consumers or how they have influenced

marketing administrations perform the wholesale market function. We think the variation among market structures in the U.S. presents a great opportunity to study the pros and cons of different arrangements.

¹⁰ For example, see the ongoing proceedings in:

North Carolina: <https://files.nc.gov/ncdeq/climate-change/clean-energy-plan/2020-NERP-Final-Report.pdf>

South Carolina: https://www.scstatehouse.gov/sess123_2019-2020/bills/4940.htm

Colorado: <https://leg.colorado.gov/bills/sb21-072>

Nevada: <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/8201/Overview>

Missouri: <https://psc.mo.gov/Electric/PSCOpensElectricWorkingDocket>, and

Oregon: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/12082>.

¹¹ See, e.g., *More Vogtle Delays; Experts Target Mid-2022 Startup at Earliest*, June 8, 2021, available at <https://www.powermag.com/more-vogtle-delays-experts-target-mid-2022-startup-at-earliest/>. “The [Vogtle] project already is five years beyond its originally forecast startup date of 2016, and analysts estimate its final cost – somewhere between \$25 billion and \$30 billion – will be twice the originally expected price tag.” See also *Ex-SCANA CEO pleads guilty to fraud in SC nuclear fiasco: ‘I’m sorry it’s come to this’*, June 7, 2021, available at https://www.postandcourier.com/news/local_state_news/ex-scana-ceo-pleads-guilty-to-fraud-in-sc-nuclear-fiasco-im-sorry-its-come/article_6687ce9c-751c-11eb-8678-07d1d205c4db.html. And *Exposing the utility playbook: Ratepayers are stuck paying the bill for utility corruption*, May 27, 2021, available at <https://www.utilitydive.com/news/exposing-the-utility-playbook-ratepayers-are-stuck-paying-the-bill-for-uti/600784/>.

¹² See *Duke-supported group launches campaign against North Carolina bill to examine wholesale market reform*, May 24, 2021, available at <https://www.utilitydive.com/news/duke-supported-group-launches-campaign-against-north-carolina-bill-to-poten/600636/>.

¹³ This phenomenon, known as the wholesale-retail disconnect, was identified in the Department of Energy’s 2017 *Staff Report to the Secretary on Electricity Markets and Reliability*, available at https://www.energy.gov/sites/default/files/2017/08/f36/Staff%20Report%20on%20Electricity%20Markets%20and%20Reliability_0.pdf (Section 6.2). See also Lawrence Berkeley National Laboratory, *Unpacking the Disconnect Between Wholesale and Retail Electric Rates* (2019), available at <https://emp.lbl.gov/publications/unpacking-disconnect-between>.

consumer electricity prices.”¹⁴ Despite the facts that (1) there is substantial evidence that RTOs reduce production costs¹⁵ and (2) FERC now tracks “performance metrics”¹⁶ for RTOs, these lines of analysis are incomplete and do not address the central question of the impact of RTOs on customer bills.¹⁷

Further, this is not a subject of historical trivia. Three trends make it more important than ever that policymakers investigate the impacts of wholesale market policies on retail customers now:

- 1) RTO expansion (both voluntary and mandatory) is under consideration at the state, regional, and federal level,
- 2) State and federal policies (as well as private sector demand from individuals and corporations) are driving changes in the resource mix that will require large increases in spending on transmission infrastructure, and
- 3) Increased electrification of the economy places increasing pressure on the electricity system to satisfy new demand while keeping rates affordable.

With these trends in mind, we respectfully request that you direct the GAO or other independent organization to examine the cost and reliability impacts of wholesale markets. Regulators at FERC and the states cannot fulfill their statutory duties without understanding the fundamental relationship between market structure and the cost and reliability of electricity.

This is not a partisan issue – it is a matter of good governance, regulatory oversight, and, ultimately, the economic health of the nation. America’s families and businesses cannot thrive without reliable, low-cost electricity.

Thank you for your consideration.

Most Respectfully,

¹⁴ See GAO, *Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations’ Benefits and Performance* (2008), available at <https://www.gao.gov/assets/gao-08-987.pdf>. A Department of Justice discussion paper, also released in 2008, concluded, “As market institutions develop there is reason to believe that investment decisions will be made efficiently and that consumers will benefit in the form of lower prices in the long run.” See *Electricity Restructuring: What Has Worked, What Has Not, and What is Next* (2008), available at <https://www.justice.gov/atr/electricity-restructuring-what-has-worked-what-has-not-and-what-next>.

¹⁵ See, e.g., *Imperfect Markets versus Imperfect Regulation in U.S. Electricity Generation* (2017), available at https://www.nber.org/system/files/working_papers/w23053/w23053.pdf.

¹⁶ See *RTO/ISO Performance Metrics*, available at <https://www.ferc.gov/industries-data/electric/electric-power-markets/rtoiso-performance-metrics>. The most recent Common Metrics report was issued in 2016 using data available for a period ending in 2014.

¹⁷ As 9 Ex-FERC commissioners tout organized markets, we need facts, not propaganda on the benefits, June 2021, available at <https://www.utilitydive.com/news/as-9-ex-frc-commissioners-tout-organized-markets-we-need-facts-not-propa/601890/>.

Electricity Consumers Resource Council
Energy Choice Coalition
Public Citizen
Association of Businesses Advocating for Tariff Equity
Carolina Utility Customers Association
Conservative Coalition for Climate Solutions
Conservative Energy Network
Heritage Action for America
Industrial Energy Consumers of Pennsylvania
Louisiana Energy Users Group
R Street Institute

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