Resolution 19-05

Sponsors: American Municipal Power; Ohio Municipal Electric Association; Illinois Municipal Electric Agency; Delaware Municipal Electric Corporation; Blue Ridge Power Agency; California Municipal Utilities Association; Oklahoma Municipal Power Authority

In Support of Controlling Transmission Cost Increases

The American Public Power Association (APPA) supports prudent investment in our nation's transmission infrastructure. We note, however, that transmission rates paid by consumers have been increasing substantially in some regions, and this trend is expected to continue. The Energy Information Administration's 2019 *Annual Energy Outlook* projects that rising transmission and distribution costs will offset much of the projected decrease in generation costs through 2050. Transmission cost increases can impose a significant burden on public power utilities and the customers they serve.

These rising costs are primarily attributable to a steady increase in transmission investment across the United States. The Edison Electric Institute (EEI) projected that investor-owned utilities and stand-alone transmission companies would invest a record $23.7 billion in transmission assets in 2018. That figure is nearly double the level of investment EEI reported for 2011 ($11.9 billion). An analysis prepared by The Brattle Group and presented at the 2018 APPA Legal & Regulatory Conference confirmed this increase in transmission spending in recent years. The Brattle analysis calculated that investments by transmission owners from 2013 to 2017 exceeded $70 billion in the regional transmission organization (RTO) and independent system operator (ISO) regions alone.

There are a number of legitimate drivers for the increase in transmission investment, including replacement of aging infrastructure, system hardening and resilience, improvements to meet evolving reliability and security requirements, and the integration of renewable resources. It is imperative, however, that the Federal Energy Regulatory Commission (FERC) enforce planning procedures for this transmission investment that ensures facilities are beneficial to customers and cost-effective. Regional and inter-regional transmission planning processes must reflect the requirements of FERC Order Nos. 890 and 1000 in a manner consistent with the purposes and goals of those orders. It is also essential that FERC implement and enforce transmission cost recovery and incentive policies that ensure customers do not pay excessive transmission rates.

The return on equity (ROE) that FERC allows to be reflected in cost-based transmission rates is a significant component of the transmission costs paid by customers. FERC has proposed substantial modifications to its method for calculating the base (pre-incentive) ROE that may be included in cost-based transmission rates. The revised approach, if adopted, could result in higher allowed ROEs and could increase the level of incentive ROE that transmission owners are permitted to collect. FERC's proposed policy could also make it more difficult to challenge an existing ROE as unjust and unreasonable under section 206 of the Federal Power Act (FPA). FERC's policies for setting transmission ROEs must reflect the consumer protection objectives of the FPA and must ensure that authorized ROEs do not exceed the market cost of equity for investments of similar risk.

While section 219 of the FPA required FERC to develop appropriate rules for transmission rate incentives, such rules remain subject to the overarching requirement that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential. Rate incentives may over-compensate for business and financial risk. FERC should adopt and enforce policies that encourage transmission development that benefits consumers or shifts risks to transmission developers, but not reward or encourage overbuilding or poor cost controls.

When considering incentive rates, particularly ROE incentive adders, FERC should adhere to previously-recognized incentive rate principles that ensure consistency with just and reasonable rate requirements. Applicants for rate incentives must justify incentives on a case-by-case basis, and there must be a demonstrated connection between the incentive and the conduct the incentive is supposed to encourage. Requests for project-specific incentive ROEs must demonstrate that an incentive is justified by the risks and challenges of the project that are not already accounted-for in the base ROE or by other incentives. Applicants must demonstrate efforts to minimize project risk, including appropriate consideration of joint ownership arrangements. Incentive returns should not be applied to cost overruns. And, as the United States Courts of Appeals have recently reiterated, incentives should not be used to motivate past conduct or actions that utilities are otherwise legally compelled to undertake.

FERC Order No. 1000 proposed an expanded role for competitive transmission development, but, to date, the number of projects selected through a regional competitive process has been very limited. The Brattle analysis referenced above found, for example, that only a single project was selected through competitive solicitations in RTOs and ISOs in 2017. There would be value in FERC renewing its efforts to evaluate the status of competitive transmission development under Order No. 1000, including an assessment of the potential for increased transmission competition to moderate transmission cost increases in some or all planning regions.

NOW, THEREFORE BE IT RESOLVED: That the American Public Power Association (APPA) urges the Federal Energy Regulatory Commission (FERC), in the face of rising transmission costs, to implement and enforce transmission planning, cost recovery, and incentive policies that ensure customers do not pay excessive transmission rates; and

BE IT FURTHER RESOLVED: That APPA reiterates that FERC should enforce the transmission planning process requirements of FERC Order Nos. 890 and 1000 in a manner consistent with the purposes and goals of those orders; and

BE IT FURTHER RESOLVED: That APPA urges FERC to adhere to recognized requirements for transmission incentives to ensure just and reasonable rates, including: (i) a demonstrated connection between the incentive and the conduct the incentive is supposed to encourage; (ii) a showing that project-specific incentives are justified by project risks and challenges; (iii) demonstrated efforts to minimize project risks, including appropriate consideration of joint ownership arrangements; (iv) incentive returns should not be applied to cost overruns; and (v) incentives should not be granted to motivate past conduct or actions that public utilities are otherwise legally compelled to undertake; and

BE IT FURTHER RESOLVED: That APPA recommends that FERC renew its efforts to evaluate the status of competitive transmission development under Order No. 1000, including an assessment of the potential for increased transmission competition to moderate transmission cost increases in some or all planning regions.