UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Carbon Pricing in Organized Wholesale Electricity Markets	))	Docket No. AD20-14-000

JOINT COMMENTS OF THE AMERICAN FOREST & PAPER ASSOCIATION AND THE INDUSTRIAL ENERGY CONSUMERS OF AMERICA

November 16, 2020

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The American Forest & Paper Association ("AF&PA") and the Industrial Energy Consumers of America ("IECA") (collectively, "Industrial Customer Organizations") welcome the opportunity to submit these Comments in response to the Federal Energy Regulatory Commission's ("Commission" or "FERC") October 15, 2020, Notice of Proposed Policy Statement on carbon pricing in organized wholesale electricity markets.[1] As explained in these Comments, the Industrial Customer Organizations support cost-effective policy solutions to reduce greenhouse gas ("GHG") emissions consistent with the statutory authorities of the agencies – state and federal - implementing those solutions. Accordingly, in implementing any such policies, the Commission should continue to exercise its authority under the Federal Power Act ("FPA") to support the supply of electricity at the least possible cost. In addition, FERC must refrain from "encouraging" regional transmission organizations and independent system operators ("RTOs/ISOs") to initiate Section 205 filings with FERC to incorporate state-determined carbon prices into RTO/ISO markets, as that would exceed the Commission's "essentially passive and reactive" role in an FPA Section 205 proceedings. The Commission should not establish parameters for Section 205 filings or potentially pre-determine the outcome of such filings.

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[1] *Notice of Proposed Policy Statement*, 173 FERC ¶ 61,062 (2020) ("Proposed Policy Statement").

I. DESCRIPTION OF THE INDUSTRIAL CUSTOMER ORGANIZATIONS

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue, and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative – *Better Practices, Better Planet 2020.* The forest products industry accounts for approximately 4% of the total U.S. manufacturing GDP, manufactures over $200 billion in products annually, and employs approximately 900,000 men and women. The industry meets a payroll of approximately $50 billion annually and is among the top 10 manufacturing sector employers in 45 states. AF&PA member companies meet two-thirds of their overall energy demand through renewable biomass energy, nonetheless they purchase a significant amount of electricity in Commission-regulated markets. AF&PA members have voluntarily reduced their GHG emissions by 23.2 percent since 2005, exceeding their *Better Practices* goal of a 20 percent reduction.

IECA is a nonpartisan association of leading manufacturing companies with $1.1 trillion in annual sales, over 4,400 facilities nationwide, and more than 1.8 million employees. IECA is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in IECA members' ability to compete in domestic and world markets. IECA members represent a diverse set of industries including chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, independent oil refining, and cement. IECA member companies are committed leaders in pursuit of sustainability and cost-effective reduction of GHGs.

II. INTRODUCTION AND BACKGROUND

The Industrial Customer Organizations recognize the ongoing challenges of our changing climate and the need to take action to address these challenges. Member companies have market incentives to voluntarily reduce energy consumption and their GHG emissions and will continue the long-term trend of GHG reductions as they invest in energy efficiency or procure or self-produce renewable energy. AF&PA and many IECA members are recognized as Energy Intensive/Trade Exposed ("EITI") industries or members of such industries and compete in international markets; any increase in energy costs can adversely affect their competitiveness in those markets.

The FPA establishes a collaborative scheme between states and the federal government to regulate electricity generation. States have exclusive jurisdiction over "facilities used for the generation of electricity," including production and retail sales.[2] Similarly, it is up to the states to determine if and how to regulate those facilities' carbon emissions. The Commission, on the other hand, has authority to regulate electricity sales at wholesale, ensuring "rates and charges made, demanded, or received . . . for or in connection with" such sales are "just and reasonable."[3] It is not the Commission's responsibility, and it is outside the scope of the Commission's jurisdictional authority, to initiate or encourage emissions reduction programs that seek to achieve certain environmental outcomes that may drive up costs to consumers. For wholesale electricity markets, the Commission's role vis-à-vis emissions reduction programs is limited to the interface between the implementation costs of such programs and the offers submitted and the clearing prices set in such wholesale electricity markets.

[2] 16 U.S.C. Section 824(b)(1).

[3] *Id.* § 824d(a).

On October 15, 2020, the Commission issued a Proposed Policy Statement to (1) "clarify" the Commission's jurisdiction over RTO/ISO market rules that incorporate a state-determined carbon price, and (2) "encourage" RTO/ISO efforts to explore and consider the benefits (with no mention of the attendant costs) of potential Section 205 filings to establish such rules. But the Commission's jurisdiction over Section 205 filings generally does not mean that the Commission will have jurisdiction over the content of all filings that are nominally filed pursuant to Section 205. It is possible, especially when it comes to proposals that seek to regulate emissions from particular generation sources, that a Section 205 filing could contain proposals for programs that could exceed the Commission's jurisdiction. Filings to establish an RTO/ISO-determined carbon price, for example, as opposed to filings that simply allow the pass-through of certain prudently incurred and unavoidable costs to generators, could fall into that category. Further, the Proposed Policy Statement departs from the Commission's longstanding practice of being an essentially passive and reactive regulator adjudicating Section 205 filings by encouraging RTOs/ISOs to submit Section 205 filings to incorporate carbon prices in wholesale markets, especially by citing to perceived "benefits" without any consideration of the attendant costs to consumers.

III. EXECUTIVE SUMMARY

The Commission should abide by its statutory authority to support the supply of electricity at the least possible cost. Competitive market forces have proven capable of functioning with different state programs to limit emissions. States, the United States Environmental Protection Agency ("U.S. EPA"), and strong levels of private capital investment have driven power sector sulfur, nitrogen, and carbon emissions to historic lows. The electric sector total carbon emissions are only about 27% of the total CO2 emissions in the United States, and organized RTO/ISO

markets represent a fraction of that total.[4] Those levels will continue to fall as more coal-fired power plants announce retirement each year, and as capital deployment for renewable resources increases and the cost of renewable generation technology decreases. In the PJM Interconnection LLC ("PJM") region, for example, the generation interconnection queue is filled with new wind and solar projects, in addition to new natural gas-fired generation projects. Dynamically competitive market forces are working to reduce carbon emissions – FERC does not need to put its thumb on the scales.

FERC should focus on maintaining the supply of electricity at the lowest possible cost. Both at the September 30 Technical Conference and in filings at the Commission, parties have asserted that a consistent carbon price would be an efficient way to implement a social decision to limit carbon. But a social decision made by a state is not a grant of jurisdiction or authority to the Commission. Any federal statutory authority for limiting carbon emissions must first come from Congress; such authority currently do not exist in the FPA. Industrial Customer Organizations do not challenge that "wholesale market rules that incorporate a state-determined carbon price in RTO/ISO markets can fall within the Commission's jurisdiction as a practice affecting wholesale rates," rather we emphasize that the Commission must make that jurisdictional decision on the basis of any actual Section 205 filings that are before it, not in the form of a policy statement.

IV. COMMENTS

1. The Commission's Issuance of the Proposed Policy Statement Rests On Presumptions That Are Not Well-Founded.

The Proposed Policy Statement encourages RTOs/ISOs to "explore and consider the benefits of potential Federal Power Act section 205 filings to establish" RTO/ISO market rules

[4] *See* https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions. Electricity represents 26.9% of CO2 emissions for 2018. Transportation and other fixed sources were slightly over 50% of the total. From 1990 through 2018, CO2 emissions have increased approximately 3.7%.

that include a carbon price that is state-determined.[5] In doing so, the Commission makes numerous predeterminations that the proposed rules will fall within the Commission's jurisdiction.[6] The Commission describes wholesale market rules incorporating a state-determined carbon price in RTO/ISO market as rules that "*can* fall within the Commission's jurisdiction as a practice affecting wholesale rates."[7] Further, the Commission speculates that *if* proposals to incorporate state-determined carbon prices in RTO/ISO markets are properly designed and implemented, the proposals *could* significantly improve the efficiency of the RTO/ISO markets.[8] Industrial Customer Organizations do not challenge the Proposed Policy Statement's claim of possible Commission jurisdiction. However, the Commission's predeterminations about the nature of the rules that have not yet been proposed, how those rules could improve efficiency of RTO/ISO markets, and that incorporating state-determined carbon price into RTO/ISO markets could be the type of "program of cooperative federalism" the Supreme Court discussed with favor, are simply suppositions. Without having an actual Section 205 filing with actual RTO/ISO market rule proposals before the Commission, the Commission's determinations that it should be encouraging such rules or that such rules produce benefits are, at best, premature. The Commission must rule on actual Section 205 filings instead of hypothesizing whether the proposals meet the statutory standard of being just, reasonable, and not unduly discriminatory or preferential. Utilities filing under Section 205, not FERC, have the legal burden of demonstrating that their proposal is "just and reasonable." Because, as the Commission notes in the Proposed Policy Statement, several

[5] Proposed Policy Statement at P 1.

[6] *Id*. at P 12.

[7] *Id*. at P 8.

[8] *Id*. at P 15.

RTOs/ISOs have stakeholder processes currently underway to consider such rules, those Section 205 filings will likely be made soon enough.

2. The Proposed Policy Statement Fails to Require that Section 205 Filings Ensure Least-Cost Consumer Outcomes.

In the first paragraph of the Proposed Policy Statement, the Commission encourages RTOs/ISOs to "explore and consider the benefits of potential FPA section 205 filings to establish" RTO/ISO market rules that include a carbon price that is state-determined.[9] Critically, there is no discussion about the potential costs to consumers of incorporating state-determined carbon prices in wholesale market offers and pricing outcomes. "[P]rotecting customers is one of the Commission's primary responsibilities."[10] Indeed, the very purpose of the FPA is "to protect customers against excessive prices."[11] The Commission has consistently sought, and must continue to consistently seek, to protect consumers against the effects of unjust and unreasonable rates, consistent with its statutory obligation.[12]

With the issuance of the Proposed Policy Statement, the Commission states a conclusion, with no record to support the conclusion, that RTO/ISO Section 205 filings that establish RTO/ISO market rules to incorporate state-determined carbon prices will produce benefits. That conclusion is not analytically supported. In addition, nowhere in the Proposed Policy Statement does the Commission address the potential cost impact that incorporating state-determined carbon prices into RTO/ISO market regimes could have on consumers. The Commission acknowledges that

[9] Proposed Policy Statement at P 1.

[10] *NAACP v. FERC*, 425 U.S. 662, 666-667 (1976); *Public Utilities Comm'n of the State of Ca. v. Sellers of Long-Term Contracts to the Cal. Dep't of Water Resources et al.*, 155 FERC ¶63,004 at P 353 (2016) ("*CPUC*") (quoting *Am. Electric Power Serv. Corp.*, 153 FERC ¶61,167 at P 17 (2015) ("*AEP*")).

[11] *Pa. Water & Power Co. v. FPC*, 343 U.S. 414, 418 (1952); *accord FERC v. Elec. Power Supply Ass'n, U.S.*, 136 S.Ct. 760, 781 (2016); *see also Pub. Sys. v. FERC*, 606 F.2d 973, 979 (D.C. Cir. 1979) ("[T]he Federal Power Act aim[s] to protect consumers from exorbitant prices and unfair business practices.").

[12] *See e.g., CUPC.* at P 355; *AEP* at P 17; *Policy Statement on Hold Harmless Commitments*, 155 FERC ¶61,189 (2016) ("Hold Harmless Policy Statement")

wholesale market rules incorporating state-determined carbon price in RTO/ISO markets can affect wholesale rates,[13] but fails to require that, in incorporating state-determined carbon price into the RTO/ISO market rules, the proposals ensure that consumers are protected against the effects such changes will have on market-clearing prices and, in turn, the costs to consumers. There was not much substantive discussion on the issue of these costs during the Commission's September 2020 Technical Conference. The Commission must consider, consistent with its consumer protection mandate, whether are any third-party claims of benefits may be partially or completely offset by the costs of implementing the policy. The failure of the Proposed Policy Statement to account for adverse consumer impacts is a serious flaw that should be rectified if the Commission proceeds to issue a final policy statement.

3. The Commission Has No Statutory Basis For "Encouraging" Section 205 Filings Addressing the Interplay of State-Determined Carbon Prices and Wholesale Market Rules.

The Commission has jurisdiction to determine the justness and reasonableness of "all rules and regulations affecting or pertaining to" rates or charges "made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy" pursuant to Section 205 of the FPA.[14] Further, in discussing its call to encourage RTOs and ISOs to propose market rules including state-determined carbon prices, the Commission explains the various principles to be used in determining whether the Commission is acting within its jurisdiction by regulating practices affecting wholesale rates, which provide the Commission with a fairly strong basis for engaging in a review of any Section 205 filings that are made by RTOs/ISOs.[15]

[13] Proposed Policy Statement at P 8.

[14] 16 U.S.C. § 824d (2020).

[15] Proposed Policy Statement at PP 8-13.

But by *encouraging* RTOs/ISOs to develop rules to incorporate state-determined carbon prices into wholesale markets, the Commission takes one step too far and exceeds its "essentially passive and reactive" role in Section 205 proceeding.[16] While the Commission has jurisdiction over Section 205 filings that are brought to it, based on the merits of the pleadings and record in each of those Section 205 proceedings, any action by the Commission to propel changes to existing market rules or other "rates" requires the Commission to act under Section 206 of the FPA. Moreover, whether a proposal that is embodied in a Section 205 filing even falls under the Commission's jurisdiction will depend on the record in that Section 205 proceeding. For example, an RTO/ISO Section 205 filing to adopt a "shadow price" for carbon by uniformly increasing day-ahead market locational marginal prices to achieve certain environmental objectives would exceed the Commission's jurisdiction over wholesale electricity markets and drift headlong into jurisdiction that resides with the states or the U.S. EPA or other federal agencies. While FERC's authority extends to "rules or practices affecting wholesale rates," this "affecting jurisdiction" is limited to "rules or practices that directly affect the [wholesale] rate" so that FERC's jurisdiction does not "assum[e] near-infinite breadth."[17]

Further, the Commission's encouragement of RTO/ISO efforts to explore incorporation of state-determined carbon prices in wholesale markets could put the Commission on a path to establishing RTO/ISO region-wide carbon prices. But any authority to impose a carbon price on generation is reserved exclusively to states under Section 201 of the FPA.[18] The Commission

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[16] *City of Winfield v. FERC*, 744 F.2d 871, 876 (D.C. Cir. 1984); *Advanced Energy Management All. v. FERC*, 860 F.3d 656, 662 (2017) ("When acting on a public utility's rate filing under section 205, the Commission undertakes "an essentially passive and reactive role" and restricts itself to evaluating the confined proposal.").

[17] *Coalition for Competitive Electricity, et al. v. Zibelman, et al*., 906 F.3d 41, 51 (citing FERC v. Elec. Power Supply Ass'n, 136 S. Ct. 760, 774 (2016)).

[18] See 16 U.S.C. 824(a); *Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n*, 461 U.S. 190, 212 (1983); *Entergy Nuclear Vt. Yankee, LLC v. Shumlin*, 733 F.3d 393, 417 (2d Cir. 2013); *Conn. Dep't of Pub. Util. Contro*l, 569 F.3d at 481 (states have authority over existing generators); *S. Cal. Edison. Vo. San Diego Gas & Elec.*

cannot intrude into matters that are reserved exclusively to states. For example, when an application was filed with the Commission to "curtail, limit, or otherwise regulate" operation of generating facilities for environmental reasons, the Commission found that it lacked authority to do so because it would conflict with the FPA's direction that states have exclusive jurisdiction over generation.[19] The Commission found that it had no authority to "regulate the environmental effects" of a plant's operation under the National Environmental Policy Act ("NEPA") "because jurisdiction over the capacity planning, determination of power needs, plant siting, licensing, construction, and the operations of coal-fired plants had been deliberately withheld from our control or responsibility when Congress specifically preserved the States' authority over such matters in Section 201(b) of the FPA."[20]

Rather than "encouraging" RTOs/ISOs to develop rules to incorporate state-determined carbon prices into wholesale markets, the Commission should follow its normal procedures for reviewing a Section 205 filing to determine whether the filing is just, reasonable, not unduly discriminatory or preferential, and supported by substantial evidence. The Commission will need to provide sufficient opportunities for intervening parties to present their arguments, establish a record, and address the complex jurisdictional and ratemaking issues that such filings are likely to present. The Commission's authority to *regulate* practices and rules affecting wholesale rates does not support the Commission's alleged authority to "encourage" parties to develop and submit, through Section 205 filings, RTO/ISO market rules incorporating state-determined carbon prices. The Commission cites no legal basis for its proposed policy to "encourage" parties to develop such

Co., 71 FERC P 61,269 at 62, 076 (1995) (states can "diversify their generation mix to meet environmental goals"); *In re S. Cal. Edison Co*., 70 FERC P 61,215 at 61,676 (1995) (states may "favor particular generation technologies over others").

[19] *Monongohela Power Co*., 40 FERC 61,256 at 61,861 (1987).

[20] *Id*.

market rules. At the federal level, the EPA already occupies this space and sets emission performance standards for electric generating units, as the Commission recognizes in comments that it submitted to the EPA in October 2018.[21] Accordingly, the Commission's proposal to encourage RTOs/ISOs to submit Section 205 filings addressing the interplay of state-determined carbon prices and wholesale market rules must either be substantiated or redacted if the Commission proceeds to issue a final policy statement.

4. The Commission Should Not Pre-Determine What Factors Will Be Relevant to Determining Whether Future Section 205 Filings Will be Just, Reasonable, and Not Unduly Discriminatory Or Preferential.

In its Proposed Policy Statement, the Commission identified five questions and issues that it suggests are likely to arise with any Section 205 proposal to incorporate state-determined carbon prices in ISO/RTO markets.[22] The Commission noted that it believed its five considerations would be "germane to the Commission's evaluation of a section 205 filing to determine whether an RTO/ISO's market rules that incorporate a state-determined carbon price in RTO/ISO markets are just, reasonable and not unduly discriminatory or preferential."[23] The problem with the Commission identifying the factors it will consider in a potential Section 205 filing is that it gives the appearance the Commission will limit its primary consideration to those factors or, more subtly, weigh those factors more heavily when it has an actual Section 205 filing before it. While the Commission requests comments on what other factors may be germane to its consideration of a Section 205 filing, it implies that any factors not identified by the Commission in a final policy statement, either by itself or through comments, will not be relevant in a future Section 205 filing.

[21] *See* https://www.regulations.gov/document?D=EPA-HQ-OAR-2017-0355-24053

[22] Proposed Policy Statement at P 16.

[23] *Id*.

In practice, the Commission should consider whatever factors are raised by the parties in a Section 205 proceeding regarding whether the filing is just, reasonable, not unduly discriminatory or preferential, and supported by substantial evidence. By identifying now the factors that it will consider in a future proceeding, without an actual Section 205 filing before it, the Commission may be pre-judging the issues. Any final policy statement adopted by the Commission should refrain from identifying the factors that will or will not be considered in a future Section 205 proceeding. The Commission's consideration of a Section 205 filing must "entail an appropriate 'balancing of the investor and consumers interests.'"[24] To this end, when the Commission considers whether a proposal is just, reasonable, and not unduly discriminatory or preferential, the Commission must consider the harm to consumers that such a proposal could cause.

a) The Proposed Policy Statement Goes Too Far By Presupposing That Carbon Prices Will Be Included in LMP or That They Will Be Allowed "Into the RTO/ISO Market".

In its list of five considerations, two of the Commission's identified considerations relate to how carbon pricing will be reflected in "LMP [locational marginal price]" and "into the RTO/ISO market."[25] The Proposed Policy Statement goes too far in this regard. If carbon-related costs imposed on generators are to be reflected at all in RTO/ISO market-clearing prices, such costs need to be reflected first in energy and capacity market *offers*. Such costs will not be reflected in LMP or make it "into the RTO/ISO market" unless such offers actually clear the market. In other words, the Commission must reject any proposal for a Commission-determined carbon price that is automatically embedded in LMP or other RTO/ISO market-clearing prices. If a carbon price or carbon-related cost is ultimately to be reflected in ISO/RTO market-clearing prices, it

[24] *Morgan Stanley Capital Grp. V. Pub. Util. Dist. No. 1 of Snohomish Cnty*., 554 U.S. 527, 532 (2008) (quoting H*ope Nat. Gas Co*., 320 U.S. at 603).
[25] Proposed Policy Statement at P 16.

must be a state-determined price that is only reflected in energy and capacity market offers for generators located in states that have a carbon price and only where generators have prudently incurred that cost. The Industrial Customer Organizations are not arguing in these Comments that states should not be permitted to approve different carbon prices based upon their individual policy objectives. But automatically including or reflecting states' public policy determinations about carbon prices in the LMP or "into the RTO/ISO market" would unlawfully impose the costs associated with state policy goals on consumers without subjecting those offers to the rigors of competition and market-clearing mechanisms.

b) The Commission Needs to Take Into Account the Complexities in Any RTO/ISO Consideration Of "Leakage".

Members of the Industrial Customer Organizations are recognized as EITEs or have EITE facilities. Accordingly, addressing leakage from GHG reduction policies is an important issue that should be addressed in any state or federal GHG reduction policy. While leakage is generally discussed in an international context, it also applies domestically as costs imposed by different state GHG reduction policies can influence a manufacturing company's investment decisions in other states as well.

In a U.S. context, leakage is the effect on some states of policy decisions made in other states. For example, consider two neighboring states – one with a carbon price and one without. Generators located in the state without a carbon price will have a competitive price advantage over similarly situated generators in the state with a carbon price. All else being equal, that competitive price advantage will result in greater exports of generation from the state without a carbon price, and less exports of generation from the state with a carbon price. In this example, the difference in imports and exports is the competitive market outcome of pricing an externality such as carbon emissions.

While Industrial Customer Organizations believe leakage could be addressed by RTOs/ISOs, we are mindful that the Commission's responsibility is "to break down regulatory and economic barriers that hinder a free market in wholesale electricity"[26] and that addressing leakage may raise other concerns. For example, addressing economic leakage in the context of wholesale power markets could lead to the re-balkanization of the wholesale power market if such re-balkanization constrains state carbon policy decisions to the states that made those decisions. Leakage issues are complex, and addressing leakage is likely to raise a whole host of unintended consequences for consumers that the Commission needs to consider.

If the Commission receives a RTO/ISO Section 205 filing with a proposal to address leakage, then the Commission would need to take into account all aspects of Section 205 of the FPA, including whether the proposal could result in rates that are unjust, unreasonable, or unduly preferential or discriminatory.[27] In a Section 205 proceeding, the Commission must consider whether a mechanism to mitigate the effects of a carbon price faced by some generators unduly discriminates against similarly situated generators in other states. The FPA prohibits the Commission from accepting a market rule that treats similarly situated entities differently or differently situated entities the same.[28]

If a Section 205 filing to incorporate state-determined carbon prices endeavors to address leakage by differentiating among states or regions, the Commission, at that time, will need to consider the collateral impacts of such leakage proposals that are likely to be raised by parties that protest the Section 205 filing. For example, proposals to address leakage raise concerns about

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[26] *EPSA*, 136 S. Ct. at 768 (quoting *Morgan Stanley Capital Grp.*, 554 U.S. at 536).

[27] See 16 U.S.C. §§ 824d(b), 824e(a)-(b).

[28] *See Black Oak Energy, LLC v. FERC*, 725 F.3d 230, 239 (D.C. Cir. 2013) (finding that "FERC reasonably determined that the virtual marketers are not similarly situated to the rest of PJM's market participants."); see also, *Ala. Elec. Co-op., Inc. v. FERC*, 684 F.2d 20, 27-28 (D.C. Cir. 1982); *Calpine Corp.*, 163 FERC ¶ 61,236 at 68 (2018).

localized market power, calculation of transmission congestion, impacts on the auctioning and trading of financial transmission rights, and impacts on transmission planning, among others. Proposals to address leakage necessarily involve some uneconomic constraint on market dynamics that is intended to achieve isolation of the economic or environmental effects of state-determined carbon prices. Those constraints would form a regulatory impediment to the region-wide pricing of energy, capacity, and ancillary services. If RTOs/ISOs present a leakage-related proposal, the Commission will need to consider it carefully, based on the record before it at that time.

V. CONCLUSION

WHEREFORE, the Industrial Customer Organizations respectfully request that the Commission consider the consumer protection implications and the potential impact on U.S. manufacturers and jobs of its proposed policy statement, as discussed in these Comments.

Respectfully submitted,

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Dated: November 16, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 16th day of November, 2020.

/s/ Robert A. Weishaar, Jr.

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