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The Honorable Jeff Duncan
Chairman
Subcommittee on Energy, Climate, and Grid Security
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Duncan,

Thank you for the opportunity to appear before the Subcommittee on Energy, Climate, and Grid Security on Tuesday, June 4, 2024, at the hearing entitled "Powering AI: Examining America's Energy and Technology Future." Please find attached my responses to the Questions for the Record. Do not hesitate to reach out if I may be of further assistance.

Sincerely,

Tony Clark

Attachment

*1. With grid authorities warning that reliability risks to American families are real and growing, I'm concerned about what happens as growing industries compete for the power that is already in short supply. How do regulators, utilities, policy makers assure that residential customers are not stuck with large costs, and more unreliable power?*

Rapid load growth combined with dispatchable generation retirements and long-lead times for replacement power is putting the grid on an unsustainable trajectory. There is no single solution to the challenge, and the answers will vary from region to region. There are, however, some general guidelines that can help ensure these forces do not result in either unreasonable cost burdens or reliability problems. First, given large load growth projections, a "first, do no harm" principle should be considered regarding retention of existing generation resources that are at risk of early retirement but that may still be needed for reliability. Second, a predictable permitting regime is needed for critical new energy infrastructure projects of all types. Third, federal policy should rely on the expertise of state regulatory agencies since retail rates are the exclusive jurisdiction of the states. Because federal regulators oversee wholesale and interstate transmission rates, but not retail rates or resource planning, there is a potential gap if federally driven energy policies are implemented while neglecting total customer rate impacts in relation to other alternatives that could otherwise provide more cost-effective electric resource adequacy for customers. Finally, there are always new and emerging issues that will need to be understood and possibly addressed to ensure equity, reliability and affordability for all customers. One recent such example is the phenomenon of an existing merchant power plant pulling large amounts of energy and generating capacity from the grid that supports all customers, with the purpose of serving a single large colocated customer. To this point, these arrangements have been at existing nuclear units proposing to serve new data center load. While there is more to learn about the cost and reliability impacts of these proposals, it's indicative of the type of activity that should be on the radar screens of regulators and policy makers.

*2. After more than a decade of flat electricity demand, the United States is beginning to experience a significant increase in demand growth, especially as AI continues to develop. Even when demand was flat, federal permitting and related litigation took years, including for clean energy projects. The final NEPA permitting rule issued by CEQ defaults to the status quo that is making permitting worse and introduces more uncertainty for project developers. Judicial review remains the biggest wildcard in project development timelines yet this rule invites more litigation to oppose project permits. What are the two most important judicial review reforms Congress needs to take to introduce more predictably to the process?*

Two ideas for Congress to consider are: 1.) Imposing shot clocks on legal challenges to agency permitting actions and on agency responses to judicial rulings. The purpose is not to preclude appropriate judicial review of agency orders, but to make more efficient and predictable the process itself. This timeliness benefits all parties to regulatory actions. 2.) Reforming underlying

permitting statutes.  Shot clocks and litigation efficiency will only go so far in improving permitting processes if the underlying laws and regulations are unreasonably delaying or blocking otherwise beneficial and needed energy infrastructure investments.