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November 13, 2017

Chairman Fred Upton  
Subcommittee on Energy, Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Upton,

This letter provides answers to the Additional Questions for the Record you submitted as a follow-up to my testimony on October 5, 2017 before your committee entitled, “Powering America: Consumer Oriented Perspectives on Improving the Nation’s Electricity Markets.”

You ask: “Has FERC Order 719 increased the responsiveness of RTOs and ISOs to customers and stakeholders? Does FERC need to undertake additional steps to represent consumer interests? What steps?”

My answer: FERC Order 719 does not go far enough to ensure that RTOs are responsive to consumers. The first needed additional step is for FERC to act upon the proposed rulemaking submitted by Public Citizen and 30 other organizations for FERC to create and fund the Office of Public Participation as required by law.<sup>1</sup> Among the duties of the Office are to “coordinate assistance to the public,” and the Office “may, under rules promulgated by it, provide compensation for reasonable attorney’s fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person.” Such assistance to the public is essential for consumers to have a seat at the table in important FERC proceedings.

Additionally, FERC must broaden the scope of Order 719 to require significant governance reforms of the RTOs. As I pointed out in my testimony,<sup>2</sup> FERC relies heavily upon the RTO internal stakeholder process to develop tariff reforms. RTOs like PJM do not currently allow public interest consumer groups like Public Citizen the ability to vote in this stakeholder process. Public Citizen has asked the question of whether RTOs should continue their dual role as both operator of the bulk power market and overseeing an internal administrative process to develop market rules and tariffs. The RTOs, with internal structures and alliances to transmission owners and generators, are simply too conflicted to be entrusted with overseeing a stakeholder process where electricity policy is developed. The goal should be separating the internal administrative process to a separate entity, or simply house that function at FERC. Absent that separation, the following are other governance reforms in order to improve transparency and RTO governance:

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<sup>1</sup> FERC Docket No. RM16-9, [www.citizen.org/sites/default/files/public-citizen-ferc-public-participation-petition.pdf](http://www.citizen.org/sites/default/files/public-citizen-ferc-public-participation-petition.pdf)

<sup>2</sup> Section II, *The RTOs Are Political Entities Designed to Serve Entrenched Economic Interests*, [www.citizen.org/system/files/case\\_documents/testimony-tyson-slocum-energy-and-commerce-committee-october-2017\\_0.pdf](http://www.citizen.org/system/files/case_documents/testimony-tyson-slocum-energy-and-commerce-committee-october-2017_0.pdf)

- Grant public interest organizations full voting rights within an RTO stakeholder process and consideration of membership fee waivers.
- Provide intervenor compensation or other funding to assist with public interest participation in the RTO stakeholder process.
- Require RTO stakeholder meetings to be recorded, transcribed and freely available to the public.
- Representatives from law firms, consulting firms and other agents that are financially compensated to advocate for the interests of a client must publically disclose those clients when the agent participates in any stakeholder meeting.
- Adjust weighted sector voting ratios to more realistically reflect true stakeholder involvement in energy markets. For example, end users actually represent half of the energy system, and should therefore represent half of the weighted sector voting rights.
- Subject RTO operations to the federal Freedom of Information Act.
- Require stakeholders representing vested economic interests to fully disclose the impact of proposed tariff reforms on their company or client as prerequisite to voting on said reform.
- Limit RTO management role in stakeholder meetings; i.e. make stakeholder meetings truly independent from RTO management.
- Allocate RTO financial resources to stakeholders to fund studies, analyses, etc. to counter RTO management-funded studies.
- Designate at least one member of the RTO Board of Directors that is directly accountable to the public interest within the RTO geographic footprint.
- Disallow RTO management from bypassing stakeholders for FERC tariff and other market design proposals.
- Establish revolving door prohibitions on state utility regulators/utility executives from being employed by the RTO for at least two years.
- Conform RTOs compensation with federal GS guidelines in order to limit excessive RTO executive pay.
- Prohibit companies or other entities under RTO jurisdiction from serving as financial sponsors of special events or activities at RTO meetings.

Please let me know if you have any further questions.

Best,

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