Congress of the United States
Washington, DC 20515

July 8, 2015

The Honorable Norman Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Chairman Bay:

Since the late 1970s there has been a general consensus that wholesale electric competition benefits electric customers by providing more reliable and affordable electricity. Over the last 25 years in particular, and with greater momentum since the Energy Policy Acts of 1992 and 2005, the Federal Energy Regulatory Commission (Commission) has been the leading federal agency responsible for the development of what are known as organized wholesale electricity markets, which are administered by Commission-approved Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs).[1] The oversight responsibilities of our respective committees require us to follow the evolution of these markets closely.

Although organized wholesale electricity markets have spurred investment, innovation, and more vigorous competition, we share a growing concern that in recent years all is not well. Valuable baseload power plants in these markets, including reliable nuclear and coal-fueled plants, are facing premature retirement following a series of adjustments to market rules. Although these changes to Commission-approved market rules may have been well intended, there are legitimate and pressing questions about whether these rules are jeopardizing the economic viability of current units and risking future investment and reliability in organized markets.

We encourage the Commission to take action to ensure consumers continue to fully enjoy the benefits of organized wholesale electricity markets and that baseload units are not unduly

[1] *See* http://www.ferc.gov/industries/electric/indus-act/rto.asp. There are currently 7 RTO/ISO regions nationwide that administer wholesale electricity markets, serving two thirds of electricity consumers in the United States.

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burdened by market rules or other policies.[2] Worthy of particular attention are out of market contracts, demand response programs, renewable energy mandates and subsidies, net metering rules, and environmental requirements. Consideration of changes to market rules should reflect the fact that capacity markets and energy markets are inextricably linked.

We have each drafted legislation intended to address these issues. Although our respective approaches differ and may change as legislation moves forward, they are grounded in the principles of transparent economic dispatch, reliable operation of the existing system, and efficient investments in generation and transmission. Likewise, we believe the Commission is working to ensure organized wholesale electricity markets continue to improve electric reliability, as well as economic and environmental performance.

Since introduction of our legislative proposals, the record has persuaded us not only that our concerns are well founded but that the situation is more urgent than we realized. There are growing indications that owners and operators of major baseload power plants are facing imminent decisions regarding their continued economic viability. The timeline for critical decisions about the future of the plants at risk may not accommodate the legislative process. As such, this issue calls for near term action which can best be undertaken by the Commission pursuant to existing authorities. As we see it, broad scale premature retirements of otherwise performing baseload units because of market rules – rather than market forces – would represent a failure of regulation.

Specifically, we believe the Commission should promptly issue an order directing each RTO/ISO to make a filing as soon as practicable with the Commission demonstrating that its market rules meet all of the following criteria:

1. Yield clearing prices in both energy and capacity markets that, in context, reflect the true marginal cost of supply, promote necessary investment, and produce meaningful price signals that clearly indicate where new supply and investment are needed;

2. Reduce uncertainty and/or instability resulting from changes to market rules, processes, or protocols; and

3. Promote transparency and communication by the market operator to market participants.

To the extent the market rules of an RTO/ISO fail to meet any of these criteria, the Commission should direct that RTO/ISO to propose changes to its market rules to remedy any such deficiencies.

Although we remain prepared to legislate if necessary, we believe the Commission can and should build on the work it has already done in this area to bring about market reforms that protect consumers and the affordable, reliable electricity that organized wholesale electricity

[2] We recognize that the Commission has taken some steps to address this issue. The Commission's proceeding on *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators* and recent orders reforming organized markets for capacity in the PJM Interconnection and ISO New England are notable examples.

markets were intended to deliver. Further, we believe that such action to ensure each market is operating in keeping with these criteria would be fully consistent with Commission precedents.

Thank you for your consideration. We look forward to hearing from you in response to these concerns.

Sincerely,

Fred Upton
Chairman
United States House of Representatives
Committee on Energy and Commerce

Lisa Murkowski
Chairman
United States Senate
Committee on Energy and Natural Resources

Ed Whitfield
Chairman
United States House of Representatives
Subcommittee on Energy and Power

Cc:

The Honorable Philip Moeller
Commissioner, Federal Energy Regulatory Commission

The Honorable Cheryl LaFleur
Commissioner, Federal Energy Regulatory Commission

The Honorable Tony Clark
Commissioner, Federal Energy Regulatory Commission

The Honorable Colette Honorable
Commissioner, Federal Energy Regulatory Commission