

152 FERC ¶ 61,206  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
and Tony Clark.

Statement of Policy on Electric Transmission Rates of      Docket No. RM13-18-000  
Return on Equity

ORDER DISMISSING PETITION FOR STATEMENT OF POLICY

(Issued September 16, 2015)

1. On June 26, 2013, WIRES<sup>1</sup> filed a petition requesting that the Commission institute a generic proceeding concerning the Commission's policy on return on equity (ROE) for investments in electric transmission infrastructure.<sup>2</sup> In this order, we dismiss WIRES's petition.

**Background**

2. On September 30, 2011, a group of complainants filed a complaint under section 206 of the Federal Power Act,<sup>3</sup> alleging that, due to significant changes in capital market conditions, the New England transmission owners' ROE had become unjust and unreasonable. On May 30, 2012, the Commission established hearing and settlement judge procedures for that complaint proceeding.<sup>4</sup> Following the submission of that

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<sup>1</sup> WIRES (aka, the **W**orking group for **I**nvestment in **R**eliable and **E**conomic electric **S**ystems) states that it is a national non-profit association of investor-, member-, and publicly-owned entities dedicated to promoting investment in a strong, well-planned, and environmentally beneficial high voltage electric transmission grid.

<sup>2</sup> WIRES June 26, 2013 Petition for Statement of Policy at 1 (WIRES Petition).

<sup>3</sup> 16 U.S.C. § 824e (2012).

<sup>4</sup> *Coakley, Mass. Attorney Gen. v. Bangor Hydro-Elec. Co.*, 139 FERC ¶ 61,090 (2012).

complaint, various other entities filed similar complaints challenging certain public utilities' ROEs. By June 2013, the Commission had received 12 ROE complaints.

3. On June 26, 2013, WIRES filed a petition requesting that the Commission issue a statement of policy concerning public utility ROEs. WIRES alleges that, due to unusual developments in the capital markets, the continued need for infrastructure investment, and the uncertainty created by the numerous ROE complaints pending before the Commission, the Commission should institute a generic proceeding to determine whether the Commission's discounted cash flow (DCF) methodology continues to be the most appropriate method of computing public utility ROEs.<sup>5</sup> WIRES contends that a mechanistic application of the DCF methodology can yield unreasonable rates of return depending on the prevailing economic environment and does not sufficiently consider expected economic developments or the foreseeable, long-term benefits of transmission projects. WIRES recommends that the Commission adopt a new policy that standardizes the selection of proxy groups; denies complainants a hearing on rates of return for existing facilities unless it is shown that existing rates are at the extremes of the zone of reasonableness; allows consideration of competing infrastructure investments of other industries; permits use of other rate of return methodologies; and supports the use of more forward-looking data and modeling.<sup>6</sup> WIRES maintains that such a generic proceeding would provide the certainty and rate stability necessary to guide future investments needed to expand and modernize the transmission grid.<sup>7</sup>

### **Responsive Pleadings**

4. Dairyland Power Cooperative, Delaware Division of the Public Advocate, New York Transmission Owners, Duquesne Light Co., and Westar Energy, Inc. filed motions to intervene. Arkansas Public Service Commission, Kansas Corporation Commission, New Jersey Board of Public Utilities, and North Carolina Utilities Commission filed notices of intervention.

5. American Forest & Paper Association, American Public Power Association, American Wind Energy Association, Delaware Municipal Electric Corp., Inc., Delaware Public Service Commission, Edison Electric Institute, Iberdrola, Larry Pearce, Missouri Public Service Commission, Modesto Irrigation District, National Rural Electric Cooperative Association, The People of the State of Illinois, Transmission Agency of

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<sup>5</sup> WIRES Petition at 15-17.

<sup>6</sup> *Id.* at 18-23.

<sup>7</sup> *Id.* at 2-3, 10-13.

Northern California, Transmission Dependent Utility Systems, and WIRES filed comments.

### **Commission Determination**

6. We dismiss WIRES's petition. On June 19, 2014, the Commission issued Opinion No. 531, addressing the complaint against the New England transmission owners' ROE.<sup>8</sup> In Opinion No. 531, the Commission changed the DCF methodology to be used in determining a public utility's ROE by, *inter alia*, adopting the two-step DCF methodology that the Commission uses in natural gas pipeline and oil pipeline cases, and, additionally, based on the record in that case, the Commission placed the New England transmission owners' ROE halfway between the midpoint of the zone of reasonableness and the top of the range.<sup>9</sup> Since issuing Opinion No. 531, the Commission has established hearing and settlement judge procedures in other proceedings that address a public utility's ROE, explaining that those proceedings should be guided by the Commission's decision in Opinion No. 531.<sup>10</sup> Therefore, in light of the Commission's action in Opinion No. 531 addressing the determination of ROE and its acting on the ROE complaints that were pending when WIRES submitted its filing, we dismiss WIRES's petition.

### **The Commission orders:**

WIRES's petition is hereby dismissed, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>8</sup> *Coakley, Mass. Attorney Gen. v. Bangor Hydro-Elec. Co.*, Opinion No. 531, 147 FERC ¶ 61,234 (2014), *order on paper hearing*, Opinion No. 531-A, 149 FERC ¶ 61,032 (2014), *order on reh'g*, Opinion No. 531-B, 150 FERC ¶ 61,165 (2015).

<sup>9</sup> Opinion No. 531, 147 FERC ¶ 61,234 at PP 7-8.

<sup>10</sup> *See, e.g., Golden Spread Elec. Coop., Inc. v. Sw. Pub. Serv. Co.*, 147 FERC ¶ 61,238 (2014).