UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Preventing Undue Discrimination and	)	Docket Nos. RM05-25-000
Preference in Transmission Service	)	RM05-17-000

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Testimony of James Yancey Kerr, II
on Behalf of
The National Association of Regulatory Utility Commissioners

Good morning. My name is James Yancey Kerr, II. I am a Commissioner on the North Carolina Utilities Commission. I am the National Association of Regulatory Utility Commissioners' ("NARUC's") First Vice President as well as a member of the Association's Committee on Electricity. On behalf of NARUC, I would like to thank you for this opportunity to address the Commission.

NARUC is a quasi-governmental, nonprofit organization founded in 1889. Its members include the government agencies engaged in the regulation of utilities and carriers in all fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's mission is to serve the public interest by improving the quality and effectiveness of public utility regulation.

My statement will focus on the need: (1) for active State participation in the regional planning process, (2) to balance specificity and regional flexibility while implementing the Eight Guidelines, and (3) for a "safe harbor" from the Standard of Conduct Rules for planning purposes at the State and regional level.

The Role of Active State Participation

NARUC appreciates the Commission's recognition of the importance of heightened cooperation between federal and State regulators. We support this rulemaking's strong encouragement of active State participation in a coordinated regional planning process. State commission statutory mandates cover permitting and siting of certain transmission facilities, the transmission component of bundled retail service, and the manner in which retail service is provided. As a result, any regional planning process that fails to provide a role for State commissions at an early stage will not work. However, the ability of a State commission to participate in any regional planning process can be limited by its enabling statutes, administrative procedure requirements, and the existence of pending administrative litigation. That is why the Commission should be careful to allow each State to determine its own level of active participation.

Close cooperation between State and federal regulators in the area of transmission planning can do much to alleviate jurisdictional concerns. If properly coordinated, the regional planning process will not replace planning done at the State level. Instead, the broader regional planning process can inform and enhance the State planning process.

We appreciate the Commission's recognition of the North Carolina Transmission Planning Collaborative ("NCTPC"). The NCTPC is an excellent example of how the regional planning obligation can be coordinated with existing State planning processes. Also, State regulators in the Southeastern Association of Regulatory Utility Commissioners ("SEARUC") are investigating ways to implement this proceeding's regional transmission planning provisions. I look forward to discussing these initiatives during the question and answer portion of this panel.

Balancing Specificity and Regional Flexibility in Implementing the Eight Guidelines

A regional planning process that incorporates the Eight Guidelines will facilitate a coordinated, open, and transparent process. The Guidelines should be guiding principles and not applied prescriptively. A "one size fits all" model in terms of what elements meet the Guidelines is unnecessary and undesirable. Instead, the Commission should balance specificity and regional flexibility in allowing the regions to implement the Eight Guidelines.

We appreciate the Commission's recognition of the voluntary regional planning processes occurring around the country. The implementation of any mandatory planning proposal should build upon the success of existing processes that are consistent with the spirit of the Eight Guidelines.

While an independent consultant may help facilitate the planning process, we agree with the Commission that additional facilitation is not necessary in all cases. A coordinated, open, and transparent regional planning process may mitigate the need for an independent consultant. The extent to which an independent entity is helpful to a planning process will depend on the particular region because independence can take many forms. Participants in each regional planning process should decide, based on particular circumstances and needs, whether an independent consultant is necessary.

"Safe Harbor" from the Standard of Conduct Rules for Planning Purposes

The Commission should allow a "safe harbor" from its Standard of Conduct Rules to permit communications between resource and transmission planners for planning purposes at the State and regional level. While the Standard of Conduct rules are needed to ensure the functional separation of transmission system operations and wholesale marketing functions, the

rationale behind the Standard of Conduct Rules is to prohibit *preferential* non-public information sharing between transmission providers and market affiliates, rather than information disclosures *per se*.

Applying the Standard of Conduct Rules to the planning process is unnecessary and undesirable. For example, in States requiring long-term Integrated Resource Planning, there is potential for internal conflict, redundancy, and inefficiency when there are two sets of transmission planners (one on the resource side and another on the transmission side). Instead, a "safe harbor" for planning communications will facilitate the more effective coordination of State, subregional, and regional efforts. Any anti-competitive and discriminatory concerns about providing a "safe harbor" from the Standard of Conduct Rules can be mitigated by a coordinated, open, and transparent regional planning process.

Thank you for the opportunity to appear before you today. I will be happy to answer any questions you may have.