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AD23-9

December 29, 2023

The Honorable Willie L. Phillips
Chairman

The Honorable James P. Danly
Commissioner

The Honorable Allison Clements
Commissioner

The Honorable Mark C. Christie
Commissioner

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Dear Chairman Phillips and Commissioners,

At the Federal Energy Regulatory Commission's (the Commission's) annual reliability technical conference in October,[1] discussion centered on retirements due to current market dynamics and proposed regulations on coal and natural gas-fired generation resources. Commissioner Danly argued that retirements are not orderly; in other words, resources are retiring before the capacity, energy, and essential reliability services they provide are replaced. In fact, one witness argued that no entity has the ability or responsibility to prevent a retirement that causes a resource adequacy problem in a timeline that aligns with when the retirement decisions are made. Concern over resource retirements has persisted for years; but little to no action has been taken to slow further premature retirements or to create backstops to prevent resources from retiring.

Commissioner Clements asserted that the Commission has jurisdiction over reform to retirement planning, but it is unclear that the Commission has used this authority to date. Multiple Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) (RTOs/ISOs) also expressed concern that retirements are happening too quickly and that

[1] Federal Energy Regulatory Commission, *2023 Annual Reliability Technical* Conference, https://www.ferc.gov/news-events/events/2023-annual-reliability-technical-conference-11092023.

resources promoting reliability cannot be retained by any one single entity. The same RTOs/ISOs also feared needing to use emergency measures in section 202(c) of Federal Power Act to retain resources while expensive, stop-gap solutions to upgrade transmission are implemented.

Regulatory, policy, and environmental pressures on fossil-based generation resources that provide 60 percent of the nation's electricity further threaten the reliability and flexibility of the grid.[2] Because of these pressures, coupled with projections of electric demand growth, we are concerned about the reliability of the bulk-power system and the actions the Commission is taking or considering taking to ensure that it fulfills its mission to "[a]ssist consumers in obtaining reliable, safe, secure, and economically efficient energy services at a reasonable cost through appropriate regulatory and market means, and collaborative efforts."

The current wholesale markets in RTOs/ISOs favor resources that offer the lowest marginal cost for capacity and energy. While this may satisfy the economically efficient portion in theory, the current designs of the markets may not be fulfilling the reliable, safe, and secure energy services portions of the Commission's mission statement. Reserve margins are at near minimum levels and low prices are failing to retain and bring on new reliable infrastructure. Additionally, lack of measures to protect against market power and price suppression create an environment that favors resources with out-of-market financial and policy support.

Given the variability of new resources like wind and solar, current markets may be unable to meet the energy and flexibility needs of the system. Markets have failed to change to provide sufficient revenues for necessary – reliable – resources and this concern is magnified by widespread projections of demand increases and generator retirements. These concerns are also expressed in the North American Electric Reliability Corporation's (NERC) 2023 Long-Term Reliability Assessment, which states that "a growing number of areas in North America face resource capacity or energy risks over this assessment period."[3] In this same study, NERC continues to call for additional resources with the necessary reliability attributes and the careful evaluation of generator retirements.[4]

Therefore, we ask that you respond to the following questions by January 16, 2024, in order to ensure that the Commission is fulfilling its mission, providing regulatory certainty, maintaining reliability, and providing electric generators with the ability to earn necessary revenues.

a. Are changes to the costs that electric generation resources can or should offer in capacity markets needed to ensure revenue sufficiency, especially for the resources that provide greater shares of energy and essential reliability services?

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[2] Energy Information Administration, *What is U.S. Electricity Generation by Energy Source?*, https://www.eia.gov/tools/faqs/faq.php?id=427#:~:text=About%2060%25%20of%20this%20electricity,was%20from%20renewable%20energy%20sources.

[3] North American Electric Reliability Corporation, *2023 Long-Term Reliability Assessment*, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2023.pdf.

[4] *Id.*

b. Is the Commission considering recommending changes to planning parameters, such as changes to reserve margins and the "one day in ten" standard,[5] to ensure both resource adequacy and energy adequacy?

c. Should intermittent resources be required to firm or true up their capacity to compensate for their lower capacity ratings and intermittency?

d. Are current retirements orderly?

    a. Should retirement process timelines more closely align with timelines for entry in the capacity market? Would this better ensure that retirements do not create resource adequacy shortfalls and that new resources can provide sufficient replacement capacity and essential reliability services?

e. Procuring capacity without consideration of a resource's energy availability and the essential reliability services it can provide may contribute to current issues on the grid. Should planning processes and capacity markets be required to consider the ability of electric generators to provide essential reliability services and/or operating reserves?

f. Should the Commission explore additional markets, such as forward-looking markets like capacity markets, that procure essential reliability services on a forward basis?

g. What actions is the Commission considering taking under its jurisdiction over retirement planning expressed by Commissioner Clements?

h. Are generators who are planning to retire required to enter a reliability must run agreement extended by an RTO/ISO? If not, who has, or should have, authority to retain resources planning to retire if it is determined that the resource is needed for resource adequacy?

i. Do current retirement study processes properly consider energy adequacy, essential reliability services, and/or fuel security?

j. Is the Commission exploring modifications to retirement planning and studies with RTOs/ISOs, NERC, states, and others to develop actionable and meaningful solutions to prevent further retirement of reliable generation?

k. Are new reliability standards or changes to existing reliability standards needed to address retirements, retirement studies, and resources that replace retiring generators?

[5] National Association of Regulatory Utility Commissioners, *Resource Adequacy Primer for State Regulators*, https://pubs.naruc.org/pub/752088A2-1866-DAAC-99FB-6EB5FEA73042.

If you have any questions about this letter, please contact the Majority staff of the Energy and Commerce Committee at (202) 225-3641.

Sincerely,

Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce

Jeff Duncan
Chair
Subcommittee on Energy, Climate, and Grid Security

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