

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Waiver of Tariff Requirements)	
)	Docket Nos. PL20-7-000
)	

REPLY COMMENTS OF THE JOINT ASSOCIATIONS

Pursuant to Rule 213(d)(2) of the Commission’s Rules of Practice and Procedure, 18 CFR § 385.213(d)(2) (2019), Advanced Energy Economy (“AEE”), the American Wind Energy Association (“AWEA”), the Edison Electric Institute (“EEI”), the Electric Power Supply Association (“EPSA”), the Interstate Natural Gas Association of America (“INGAA”), the Natural Gas Supply Association (“NGSA”), the National Rural Electric Cooperative Associations (“NRECA”), and the Solar Energy Industries Association (“SEIA”), (collectively, the “Joint Associations”) respectfully submit these reply comments on the proposed policy statement on waiver of tariff requirements and petitions or complaints for remedial relief¹ issued by the Federal Energy Regulatory Commission (“FERC” or “the Commission”) on May 21, 2020, in the above-captioned proceeding. Representing an array of interests in the energy industry regulated by the Commission pursuant to the Federal Power Act (“FPA”) and the Natural Gas Act (“NGA”), the Joint Associations herein highlight concerns raised in comments that the Proposed Policy Statement significantly restricts the tools available for industry to seek,

¹ *Waiver of Tariff Requirements*, 171 FERC ¶ 61,156 (2020) (the “Proposed Policy Statement”). See also Notice of Extension of Time, Docket No. PL20-7-000 (June 1, 2020) (extending the deadline for initial comments to June 18, 2020, and reply comments to July 2, 2020).

and for the Commission to grant, waivers to remedy past non-compliance with a tariff provision.

Joint Associations urge the Commission not to adopt the Policy Statement as proposed. The Proposed Policy Statement would impose burdensome and costly procedural requirements on participants in the industry to request remedial relief for past deviations and require applicants to meet restrictive standards to obtain such relief, particularly in those instances where non-compliance occurred due to an inadvertent error or oversight or could not be anticipated in existing tariff language. The Proposed policy changes have also not been shown to provide any additional protections to consumers or to better fulfill the core consumer protection purposes of the filed rate doctrine and rule against retroactive ratemaking; to the contrary, these changes would limit the ability of this and future Commissions to protect consumers.

As representatives of regulated entities and other stakeholders operating under various tariffs, regulations, and statutory authorities, the individual signatory Trade Associations submitted separate comments² to the Commission on the Proposed Policy Statement to highlight concerns or circumstances that specifically pertain to their members' businesses and operations or a particular sector of the industry. In those comments, regulated entities and other stakeholders or their trade associations

² See comments and initial comments submitted by Joint Associations signatories in the instant proceeding on June 18, 2020:

- Comments of Advanced Energy Economy;
- Comments of the Clean Energy Associations (AWEA and SEIA);
- Initial Comments of the Electric Edison Institute;
- Comments of the Electric Power Supply Association;
- Comments of the Interstate Natural Gas Association of America;
- Comments of the Natural Gas Supply Association;
- Comments of the National Rural Electric Cooperative Association.

recommended that the proposed policy not be adopted, or suggested certain material revisions to the May 21st proposal, that any revised policy apply prospectively, and that there be sufficient time for compliance before becoming effective.

In light of those individual comments and recommendations, the eight signatories herein join to highlight the shared fundamental concern raised in initial comments that the proposed changes to the agency's waiver policy are unnecessary, would set up an inflexible approach to waivers, and unnecessarily limit the Commission's ability to protect the public interest. As proposed, the policy creates needless burdens on market participants to file petitions for declaratory orders and establishes unwarranted restrictions to relief in circumstances in which the Commission currently holds extensive and adequate flexibility to assess waiver requests on a case-by-case basis, and can therefore ensure that any such necessary relief is granted in a manner fully compatible with the filed rate doctrine and rule against retroactive ratemaking.

WHEREFORE, for the foregoing reasons, Joint Associations request that the Commission take industry comments into account and decline to implement a revised Policy Statement as proposed.

Dated: July 2, 2020

Sincerely,

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