NEWS RELEASE

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Docket No. PL19-4-000

FERC to Examine Return on Equity Policies

The Federal Energy Regulatory Commission (FERC) today opened an examination of whether, and if so how, to revise its policies on determining the return on equity (ROE) used in setting rates charged by jurisdictional public utilities. The Notice of Inquiry (NOI) also seeks comment on whether to change ROE policies for interstate natural gas and oil pipelines.

Today's step follows the 2017 decision by the U.S. Court of Appeals for the District of Columbia in *Emera Maine v. FERC* (854 F.3d 9) that reversed and vacated Opinion No. 531. In that opinion, FERC set the ROE for New England Transmission Owners at the midpoint of the upper half of the zone of reasonableness produced by a two-step discounted cash flow (DCF) analysis. Although the court did not expressly question the Commission's specific finding, it did conclude that FERC failed to show that setting the ROE at the upper midpoint, rather than the midpoint, was just and reasonable.

Following the court's ruling, the Commission issued two orders proposing an alternative ROE methodology and establishing a paper hearing on whether and how it should apply to ROE complaint proceedings in New England and the Midcontinent Independent System Operator. Those orders proposed to change FERC's approach for determining base ROE by giving equal weight to four financial models instead of primarily relying on the DCF methodology. The issuance of this NOI does not affect the process that the Commission has established for those proceedings.

The NOI recognizes that the importance of ROE policy extends beyond the particular interests of the parties to the pending ROE proceedings, and therefore establishes a broader inquiry. It seeks comment on numerous questions in eight general areas:

- The role of FERC's base ROE in investment decision-making and what objectives should guide the Commission's approach;
- Whether uniform application of FERC's base ROE policy across the electric, natural gas pipeline and oil pipeline industries is appropriate and advisable;
- The DCF model's performance;
- The composition of proxy groups;
- The choice of financial model(s) used;
- The mismatch between market-based ROE determinations and book-value rate base;
- How FERC determines whether an existing ROE is unjust and unreasonable under the first prong of Federal Power Action section 206; and
- The mechanics and implementation of the models.

Initial comments on the NOI are due 90 days after publication in the *Federal Register*; reply comments are due 30 days after that.

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