

November 3, 2009

The Honorable Harry Reid, Majority Leader  
The Honorable Mitch McConnell, Minority Leader  
United States Senate  
Washington, DC 20510

Dear Majority Leader Reid and Minority Leader McConnell:

We are writing to express our serious concerns with certain language in the electric transmission cost allocation provisions contained in §121 of S. 1462, the American Clean Energy Leadership Act of 2009, as reported by the Senate Energy and Natural Resources Committee. As currently drafted, we believe that the bill's proposed addition of § 216(i)(1)(B) of the Federal Power Act, will prevent development of much needed high voltage transmission facilities to meet a multitude of customer needs, as it will prohibit the Federal Energy Regulatory Commission (FERC) from adopting a cost allocation methodology that is fair and workable. Further, the current language may well upset existing FERC-approved cost allocation policies and jeopardize billions of dollars of planned transmission investment in certain regions. As Congress is contemplating making more demands on the grid to meet new energy and environmental objectives, new transmission investment will be needed and this language runs counter to that objective.

Although the bill would direct FERC to conduct an open rulemaking process to determine the appropriate methodologies for allocating the costs of new National Priority transmission facilities, an amendment adopted during Committee consideration of S. 1462 would unduly limit the flexibility of FERC to craft a workable policy. This Amendment would prevent FERC from allocating transmission costs to any region or sub region unless the Commission can demonstrate that the costs are "reasonably proportionate" to the "measureable economic and reliability benefits." This language threatens to hamstring FERC by limiting its current flexibility under the "just and reasonable" standard in the allocation of transmission costs. This will impede the timely construction of needed new transmission projects to meet reliability standards, connect new generators, access renewable resources and otherwise benefit consumers.

The undersigned stakeholders strongly believe that the costs of transmission upgrades should be shared by all those who benefit. We note that the bill, absent the Amendment language, did not give FERC unfettered discretion -- it would have required the Commission to allocate costs only to a "region or sub region," called for direct assignment of costs if appropriate, required deference to cost allocation agreements among affected states, and required that costs and benefits not be "disproportionate." Our concern is that the requirement for FERC to "measure" benefits (as used in the amendment) will, at best, result in time-consuming, protracted cost-benefit analyses that will trigger endless litigation and prevent consistent, predictable cost allocation – a requirement for entities to make needed transmission investments. At worst, the added

language could result in a requirement that is impossible for the Commission to meet, thereby forcing federal regulators to default to direct assignment of costs, which will have the effect of making it impossible to build needed new high voltage transmission facilities that provide broad regional benefits. It is also unclear how existing cost allocation arrangements that spread costs across a region or sub region will be impacted by such a requirement.

The undersigned companies and organizations come from disparate geographic regions, represent diverse energy and environmental interests and viewpoints, and likely do not share a common position on any other aspect of the pending energy legislation. The serious concerns raised by this language and our common desire for a fair and rational policy for allocating the costs associated with expansion of the transmission grid have united us to work collaboratively to amend S. 1462 to address the concerns raised by the amendment language before the bill is adopted by the full Senate. We thank you for your attention to this important issue.

Sincerely,

American Electric Power

American Municipal Power

American Transmission Company

American Wind Energy Association

Basin Electric Power Cooperative

BrightSource Energy

Center for Energy Efficiency and Renewable Technologies

Clipper Windpower Development Company, Inc.

Clean Power Campaign

Competitive Power Ventures, Inc.

Dominion

enXco

Energy Future Coalition

Exelon Corporation

Fresh Energy

GE Energy Infrastructure

Horizon Wind Energy

Iberdrola Renewables

Indiana Municipal Power Agency

Illinois Municipal Energy Agency

Interwest Energy Alliance

Invenergy, LLC

ITC Holdings Corp.

Kansas Municipal Utilities

Kansas Rural Center

Lincoln Electric System

Lincoln Renewable Energy, LLC

LS Power

Madison Gas & Electric

MESA Power Group, LLC

MidAmerican Energy Holdings Company

Missouri Public Utility Alliance

Mortenson Construction

National Commission on Energy Policy

National Grid

New Hampshire Electric Cooperative

NextEra Energy Resources

North Western Energy  
Ohio Environmental Council  
Pattern Energy Group  
PNM Resources  
Project for Sustainable FERC Energy Policy  
Renewable Energy Long Island (RELI)  
Renewable Northwest Project  
RES Americas  
Shell Wind  
Sierra Club  
Solar Energy Industries Association  
Southern Minnesota Municipal Power Agency  
Tompkins Renewable Energy Education Alliance  
TPI Composites, Inc.  
Transmission Access Policy Study Group (TAPS)  
Union of Concerned Scientists  
US Mainstream Renewable Power Inc.  
Vestas American Wind Technology, Inc.  
Wesco Distributors  
Western Grid Group  
Wind Capital Group  
Wind on the Wires  
WIRES Coalition  
WPPI Energy

Xcel Energy

cc: The Honorable Jeff Bingaman, Chairman Energy and Natural Resources  
Committee  
The Honorable Lisa Murkowski, Ranking Member Energy and Natural Resources  
Committee