Utilities Oppose Billion-Dollar Customer Refund Order on Rates Deemed "Unjust" by FERC

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Utilities' proposal for higher return on investment would increase profits by hundreds of millions during energy affordability crisis

In late March, the Federal Energy Regulatory Commission (FERC) struck down the return on equity (ROE), or allowed profits, that New England's electric transmission utilities have been earning on their power line investments. FERC found previous rates of return to be "unjust and unreasonable" and required the utilities to refund as much as $1.5 billion in overpayments to New England electricity customers, dating back over ten years. Yesterday, despite this recent reduction, the utilities proposed to FERC that they should receive an even higher new rate of guaranteed return on equity. Rather than adopting the 9.57% rate that FERC had specified, the transmission utilities have now proposed an all-in rate of 11.89%, factoring in incentives. This proposed ROE, if adopted, would result in billions of dollars in additional charges for New England electricity customers over the coming years and decades—significantly increasing the cost of electricity for consumers across the region.

"FERC issued its finding that these returns are unjust and unreasonable after nearly 15 years of litigation any reasonable person would find thorough and fair" said Daniel L. Sosland, President of Acadia Center. "The companies have had their day in court, and the revised level provides a robust incentive while not overburdening New England consumers. Not only have utilities sought to prevent refunds due to customers, but they have proposed an even higher new return on equity that overcompensates them for any underlying risk of their investment. This will only drive up customer costs further during an affordability crisis. Appropriate transmission investments are critical to meeting the region's future goals, but they must be funded in a manner that provides adequate and not excessive profits and is measured against the low risk in the field."

The utilities' aggressive proposal comes on the heels of actions by utility companies Eversource and Avangrid to delay and avoid the payment of their $1.1 billion share of the refund that is due to New England ratepayers. In federal court pleadings seeking a stay, Eversource and Avangrid argue that customers would be harmed by the refunds, either by hypothetical negative credit impacts to the Companies from having to pay, or if the utilities successfully appeal FERC's decision and customers then have to surrender their recently returned refund. By any reasonable measure, a 9.57% return on approved projects should provide adequate compensation to the Companies.

The fight to reduce the 10.57% return on equity began fourteen years ago, and Acadia Center (then Environment Northeast, or ENE) was at the forefront in seeking FERC review. Last month's FERC decision was a long time coming, and Acadia Center and its co-complainants stayed the course until the region's electricity customers

were vindicated. Now, the utilities would not only prolong an exhaustive process, but they are seeking higher returns that would translate to even greater burdens on electricity customers. Acadia Center recommends that the court appoint a special master or monitor to place the funds in an interest-earning escrow that would be paid to customers if Eversource and Avangrid lose on appeal, or would go to the utilities if they prevail.

ISO New England, the regional grid operator, has estimated that it will cost between $16 billion and $26 billion to add the transmission capacity the region will need to have in place by 2050. The return on equity proposed by the utilities yesterday would ensure that the cost of that capacity will be millions of dollars more expensive and more profitable to the Companies.

Looking ahead: analysis forthcoming later this month from Acadia Center and Clean Air Task Force (CATF) will examine new public financing approaches to transmission investment in New England that could substantially reduce the cost of the region's needed transmission investment, to the tune of billions of dollars of savings.