UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Transparency Provisions of Section 220 of the Federal Power Act	Docket No. RM10-12-000

COMMENTS OF THE TRANSMISSION ACCESS POLICY STUDY GROUP

The Transmission Access Policy Study Group ("TAPS") appreciates the opportunity to comment on the questions raised in the Commission's January 21, 2010, Notice of Inquiry ("NOI")[1] regarding implementation of the electricity market transparency provisions of Section 220 of the Federal Power Act ("FPA"), 16 U.S.C. § 824t. TAPS has long promoted steps to increase the transparency of electricity markets, and it supported the enactment of FPA Section 220 as such a measure. For example, TAPS has argued—unsuccessfully—for the Commission to eliminate the time lag for disclosure of bids and offers in ISO/RTO markets,[2] and TAPS reiterates that eliminating that delay would be one of the most straightforward steps the Commission could take to fulfill Section 220's mandate to "facilitate price transparency" by "provid[ing] for the dissemination, on a timely basis, of information about the availability

[1] Electricity Market Transparency Provisions of Section 220 of the Federal Power Act, 75 Fed. Reg. 4805 (Jan. 29, 2010), IV F.E.R.C. Stat. & Regs. ¶ 35,565.

[2] *See, e.g.*, Comments of the Transmission Access Policy Study Group, *Wholesale Competition in Regions with Organized Electric Markets*, Docket Nos. RM07-19-000 *et al.*, at 53-58 (Apr. 21, 2008) (arguing that the Commission should shorten the lag time for posting of masked bid and offer data on ISO/RTO websites); Request for Rehearing or Clarification of the Transmission Access Policy Study Group, *Wholesale Competition in Regions with Organized Electric Markets*, Docket Nos. RM07-19-000 *et al.*, at 56-61 (Nov. 17, 2008) ("TAPS 719 Rehearing").

and prices of wholesale electric energy and transmission service." 16 U.S.C. § 824t(a)(1), (2).

TAPS comments below on a subset of the questions raised in the Commission's NOI, with a particular focus on how the Commission should implement Section 220 with respect to otherwise non-jurisdictional entities.[3] Specifically:

- TAPS supports implementation of Section 220 to facilitate price transparency and the dissemination of information about the availability and price of wholesale electric energy and transmission service. If necessary to meet those ends, it may be appropriate to require Section 201(f) entities with a non-*de minimis* wholesale market presence to report bilateral wholesale sales *other than* cost-based sales by joint action agencies ("JAAs") or generation and transmission ("G&T") cooperatives to their members.

- To implement Section 220's exemption of "entities who have a de minimis market presence," 16 U.S.C. § 824t(d), the Commission should exclude from reporting requirements adopted under that section any entities that sell fewer than 4 million MWh of electricity per year at wholesale. The Commission also should recognize that the way in which JAAs or G&T cooperatives participate in organized wholesale markets to serve their members may result in partial double-counting of their transactions. Thus, the Commission should allow JAAs and G&T cooperatives to obtain waivers of Section 220 reporting requirements on a case-by-case basis where they demonstrate that any excess wholesale sales above 4 million MWh results from such double counting.

- Where JAAs and G&T cooperatives are subject to Section 220 reporting requirements, the applicable transaction-reporting requirements should focus on those entities' market sales and should exclude their cost-based sales to members. Though technically at wholesale, such sales are analogous to a vertically-integrated utility's internal supply of its retail sales unit and subsequent retail sale, neither of which is reported through public utilities' EQRs. Nor is the reporting of JAAs' and G&T cooperatives' sales to their members necessary (or even useful) in facilitating market price transparency or disseminating information about the availability or price of electricity in wholesale markets.

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[3] For ease of reference, we sometimes refer to otherwise non-jurisdictional entities as "Section 201(f)" entities. *See* 16 U.S.C. § 824(f) (excluding from Commission jurisdiction, except where a FPA provision specifically references them, "the United States, a State or any political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing….").

- In carrying out Section 220, subsection (a)(4) requires the Commission to "consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and [to] rely on such publishers and services to the maximum extent possible." 16 U.S.C. § 824t(a)(4). With respect to ISO/RTO markets, the Commission should assess the information already published by ISOs and RTOs and determine whether requiring Section 201(f) entities to report transactions in those markets would add significantly to the transparency of the markets. To the extent that the Commission requires the submission of data on Section 201(f) entities' transactions settled through ISO/RTO markets, the ISO/RTO should report the data. That approach is efficient, as ISOs/RTOs are the sources of their market settlement data, and better serves Section 220's price transparency purposes by minimizing the chance of errors or confusion introduced by multiple reporting entities using different reporting formats or conventions.

I. INTEREST OF TAPS AND COMMUNICATIONS

TAPS is an informal association of transmission-dependent utilities in more than 30 states, promoting open and non-discriminatory transmission access.[4] TAPS members depend not only on non-discriminatory transmission access but, also, on well-functioning wholesale markets in order to meet their load-serving obligations at reasonable cost. TAPS has long promoted increased transparency in wholesale electricity markets, and supported Congress's enactment of FPA Section 220 as part of the Energy Policy Act of 2005 (EPAct 2005). Most TAPS members are Section 201(f) entities, which are non-jurisdictional for most purposes but potentially subject to requirements promulgated by the Commission under FPA Section 220. Accordingly, TAPS has a direct and substantial interest in the outcome of this proceeding.

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[4] TAPS is chaired by Roy Thilly, CEO of WPPI Energy ("WPPI"). Current members of the TAPS Executive Committee include, in addition to WPPI, representatives of: American Municipal Power, Inc.; Blue Ridge Power Agency; Clarksdale Public Utilities; Connecticut Municipal Electric Energy Cooperative; ElectriCities of North Carolina, Inc.; Florida Municipal Power Agency; Illinois Municipal Electric Agency; Indiana Municipal Power Agency; Madison Gas & Electric; Missouri Public Utility Alliance; Missouri River Energy Services; NMPP Energy; Northern California Power Agency; Oklahoma Municipal Power Authority; and Southern Minnesota Municipal Power Agency.

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II. COMMENTS

A. TAPS urges the Commission to implement Section 220 with respect to Section 201(f) entities in a way that focuses on Section 220's purpose and abides by its limitations.

As noted above, TAPS has encouraged the Commission to enhance wholesale market transparency, and it supported Congress's enactment of FPA Section 220 as part of EPAct 2005. TAPS recognizes that implementation of Section 220 may involve the imposition of reporting requirements on entities, including TAPS members, that are not otherwise subject to the Commission's jurisdiction. TAPS is somewhat troubled, however, by an apparent assumption that Section 220 supports the extension to all non-jurisdictional utilities of the EQR filing requirements that public utilities must satisfy in order to fulfill rate-filing obligations under FPA Section 205 from which Section 201(f) entities are exempt.

FPA Section 205(c) requires public utilities to "file with the Commission… and [to] keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission," 16 U.S.C. § 824d(c), and FPA Section 205(d) imposes similar

requirements for changes to jurisdictional rates, *id.* § 824d(d). Public utilities' EQR filing requirements evolved as a mechanism for them to satisfy these requirements, particularly where the public utility had sought and obtained market-based rate authority.[5] As the Commission explained when adopting the EQR requirements:[6]

> Based on the increase in transactions and the current state of information technology, we believe that the new reporting and filing formats are a better way to satisfy FPA section 205(c) both substantively and procedurally (*i.e.*, electronically rather than through paper formats).

Order No. 2001, P 44. And both the Ninth Circuit and the D.C. Circuit have since emphasized the EQR filing requirements' role in satisfying Section 205(c)'s requirements in the era of market-based rates:

> Regular reports based on "transaction-specific data" are precisely what the Ninth Circuit held sufficient to comply with FERC's oversight obligations. *California ex rel. Lockyer v. FERC*, 383 F.3d 1006, 1014 (9th Cir. 2004). By contrast, both we and the Ninth Circuit have held that FERC violates its oversight duty when it imposes no reporting requirements on generators and instead resorts to "largely undocumented reliance on market forces as the principal means of rate regulation." *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1508 (D.C. Cir. 1984) (footnote omitted); *see also Pub. Util. Dist. No. 1 v. FERC*, 471 F.3d 1053, 1082 (9th Cir. 2006) (holding that FERC could not defer to bilateral energy contract without adopting any monitoring mechanism), *aff'd*, …128 S. Ct. 2733 …(2008).

Blumenthal v. FERC, 552 F.3d 875, 882-83 (D.C. Cir. 2009).[7]

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[5] Revised Public Utility Filing Requirements, 66 Fed. Reg. 40,929, 40,933 (proposed Aug. 6, 2001), [1999-2003 Proposed Regs.] F.E.R.C. Stat. & Regs. ¶ 32,554, at 34,063 ("[A]ll public utilities, both marketers and non-marketers, that charge market-based rates will meet the FPA section 205(c) requirements through the filing of an Index of Customers," which the Commission later renamed the "Electric Quarterly Report").

[6] Revised Public Utility Filing Requirements for Electric Quarterly Reports, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), [2001-2005 Regs. Prambles] F.E.R.C. Stat. & Regs. ¶ 31,127 (2002).

[7] *See also* Electric Quarterly Reports Filing Requirements Guide, Section 4.1, *available at*

Section 201(f) entities are not subject to Section 205's rate-filing requirements, and so any reporting requirements imposed on them pursuant to Section 220 must be tied to Section 220's purposes and limits. The Commission may not simply extend to Section 201(f) entities EQR filing requirements that have been imposed on public utilities in fulfillment of different statutory commands.

Section 220 directs the Commission to "facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers." 16 U.S.C. § 824t(a)(1). It permits the Commission to prescribe such rules as it deems necessary and appropriate to carry out those purposes, and states that such rules "shall provide for the dissemination, on a timely basis, of information about the availability and prices of wholesale electric energy and transmission service…." *Id.* § 824t(a)(2). As discussed further below, Section 220 requires the Commission to exempt from such reporting requirements "entities who have a de minimis market presence." *Id.* § 824t(d). It also directs the Commission to "consider the degree of price transparency provided by existing price publishers and providers of trade processing services" and to rely on such entities "to the maximum extent possible." *Id.* § 824t(a)(4).

TAPS supports implementing Section 220 to require Section 201(f) entities with a non-*de minimis* wholesale market presence to report data that are (a) important to facilitating market price transparency (including dissemination of information about the availability and prices of wholesale electric energy and transmission service) and (b) not

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http://www.ferc.gov/docs-filing/eqr/news-help/require-guide.pdf ("Electric Quarterly Reports are intended to satisfy the FPA section 205(c) filing requirements. If utilities are found to have violated the requirements of the Commission's regulations, the Commission will not hesitate to impose remedies, as appropriate.").

available from other sources. Thus, it may be appropriate to require Section 201(f) entities with a non-*de minimis* wholesale market presence to report information about bilateral sales other than cost-based sales by JAAs or G&T cooperatives to their members. However, and as explained below, the Commission should exempt from any Section 220 reporting requirements Section 201(f) entities that sell fewer than 4 million MWh of electric energy at wholesale; it should permit case-by-case waiver requests where double-counting of JAA or G&T cooperative sales to members leads those entities to exceed the 4 million MWh cutoff; and such sales to JAA or G&T members should be excluded from Section 220 reporting requirements in any event.

In considering how to implement Section 220, the Commission also should take into account the data already available regarding wholesale market prices.[8] Particularly in ISO/RTO regions,[9] there may be no real need—and it may not meaningfully advance Section 220's purposes—to require Section 201(f) entities to submit the fine-grained, transaction-level data that public utilities must file in order to satisfy their Section 205

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[8] For example, the U.S. Department of Energy, Energy Information Administration, requires all "electric industry distributors," including "electric utilities, wholesale power marketers (registered with the Federal Energy Regulatory Commission), energy service providers (registered with the States), and electric power producers" to complete and submit Form EIA-861 on an annual basis. Dep't of Energy, Energy Info. Admin., Form EIA-861 Instructions at 1 (2007), *available at* http://www.eia.doe.gov/cneaf/electricity/forms/eia861/eia861instr.pdf. The EIA states that it uses Form 861 data "to provide input for the following EIA reports: *Electric Power Monthly*, *Monthly Energy Review*, *Electric Power Annual*, *Annual Energy Outlook*, and *Annual Energy Review*," as well as "to monitor the current status and trends of the electric power industry and to evaluate the future of the industry." *Id.* The form requires submission of data regarding: peak system demand; energy generated, purchased, or transmitted; sales for resale; sales to ultimate consumers; energy furnished by or consumed by the respondent without charge; and revenues produced by those activities, among many other things. *Id.* at 4-6. The EIA surveys a statistical sampling of Form EIA-861 respondents using Form EIA-826, "Monthly Electric Sales and Revenue with State Distributions Report." A copy of the form is available at http://www.eia.doe.gov/cneaf/electricity/forms/eia861/eia861.pdf.

[9] ISOs and RTOs compile and publish voluminous data sets regarding activities and resulting prices within the markets they operate, while the ISOs/RTOs and their internal and external market monitors produce extensive reports analyzing that data and evaluating wholesale market competitiveness. *See, e.g.*, ISO New England, Markets, http://www.iso-ne.com/markets/index.html (providing links to reports) (last visited Mar.

rate-filing obligations.[10] That is especially true given the comparatively small role played by Section 201(f) entities in many wholesale electricity markets. Finally, to the extent the Commission determines that Section 220 requires reporting of Section 201(f) entities' transactions in ISO/RTO markets, the ISOs/RTOs should submit those data, as discussed in Part D below.

B. The Commission should implement Section 220's de minimis *exemption by excluding entities that sell fewer than 4 million MWh per year at wholesale.*

Section 220 expressly exempts from reporting requirements adopted under that section "entities who have a de minimis market presence." 16 U.S.C. § 824t(d). To implement that provision, the Commission should exclude from reporting requirements adopted under that section any entities that sell fewer than 4 million MWh of electricity per year at wholesale.

In a number of other contexts, Congress and the Commission have excluded from various types of FERC regulation entities that sell or dispose of fewer than 4 million MWh of electricity per year. For example, Congress has excluded from Commission jurisdiction electric cooperatives that receive financing under the Rural Electrification Act of 1936 or that "sell[] less than 4,000,000 megawatt hours of electricity per year." 16 U.S.C. § 824(f). Congress chose an even higher threshold—8 million MWh of total electricity sales per year—as the cutoff point below which it refrained from granting the

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30, 2010).

[10] The Commission rejected requests to permit aggregation of transaction data submitted by public utilities in their EQRs on grounds that such aggregation was inconsistent with the utilities' rate-filing obligations. *See* Electric Quarterly Reports Filing Requirements Guide, *supra* n.7, § 8.1 ("Aggregated data have never been allowed by the Commission for power marketers' Quarterly Transactions Reports"); *id.* § 8.4 ("Aggregated data do not provide sufficient disclosure of rates to the public.… We conclude that section 205(c) does not allow the aggregation of this information."). But that does not answer the question whether

Commission certain refund authority over Section 201(f) entities other than cooperatives with respect to short-term sales in organized wholesale markets. 16 U.S.C. § 824e(e)(3).

The Commission too has recognized that is reasonable to take different approaches with respect to entities that sell fewer than 4 million MWh per year, and it has tailored that standard to fit the context.[11] For example, the Commission uses a 4 million MWh total sales cutoff (in line with that used by the Small Business Act) for purposes of determining whether to grant waivers of OASIS requirements and standards of conduct-related, functional separation requirements on grounds that the transmission provider is a small utility for which compliance would be too burdensome.[12] In contrast, where the question at issue pertained to retail demand response, the Commission established a 4 million MWh cutoff based on the level of annual retail sales, not total sales:

> We believe the same considerations underlying those actions by Congress and the Commission apply here…. RTOs and ISOs may not accept bids from ARCs [aggregators of retail customers] that aggregate the demand response of: (1) the customers of utilities that distributed more than 4 million MWh in the previous fiscal year, where the relevant electric retail regulatory authority prohibits such customers' demand response to be bid into organized markets by an ARC, or (2) the customers of utilities that distributed 4 million MWh or less in the previous fiscal year, unless the relevant electric retail regulatory authority permits such customers' demand response to be bid into organized markets by an ARC.

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reasonable aggregation of Section 201(f) entities' transactions would be consistent with Section 220.

[11] *See generally* Order No. 719-A, 74 Fed. Reg. 37,776, 37,783-84 (July 29, 2009), III F.E.R.C. Stat. & Regs. ¶ 31,292, P 51 & nn.79-82, *on reh'g*, Order No. 719-B, 129 F.E.R.C. ¶ 61,252 (2009).

[12] *E.g.*, *Grand Ridge Energy*, 128 F.E.R.C. ¶ 61,134, P 17 (2009); *Peetz Table Wind Energy, LLC*, 123 F.E.R.C. ¶ 61,192, PP 14-15 (2008).

Order No. 719-A, P 51; *see also id.* P 59 ("As indicated above, the Commission believes that using a 4 million MWh cutoff for purposes of distinguishing small utilities is appropriate."); 18 C.F.R. § 35.28(g)(1)(iii).

Here, the Commission's task is to implement Congress's exemption of entities that have a *de minimis* presence in wholesale markets, so the most appropriate approach is to exempt from reporting requirements under FPA Section 220 entities that sell fewer than 4 million MWh per year at wholesale. In this context, where the issue is promoting wholesale market transparency, retail sales to ultimate consumers should not be counted toward the cutoff because such sales do not bear on whether a Section 201(f) entity's wholesale market presence is *de minimis*. The Commission should therefore exclude from any reporting requirements promulgated to implement Section 220 those Section 201(f) entities that sell fewer than 4 million MWh per year at wholesale.

In addition, the Commission should entertain waiver requests, on a case-by-case basis, where the organizational structure of a joint action agency or G&T cooperative operating in an organized market results in a double-counting of its wholesale transactions and that double-counting causes the JAA or cooperative to exceed the 4 million MWh cutoff. Municipal joint action agencies are entities created by non-jurisdictional, municipal utilities to provide services—including, in some cases, power supply services—to the member municipal utilities on a collective basis. JAAs typically are owned and governed by their members. G&T cooperatives are formed by typically non-jurisdictional distribution cooperatives for similar purposes and are likewise owned and governed by their members. As discussed further below, in performing power supply services for their members JAAs and G&T cooperatives may enter into very long-term

contracts to sell power to their members at cost-based rates. Such contracts often form the basis for the issuance of bonds used to finance construction of JAA or G&T cooperative power projects.

In order to meet its obligations to its members within the context of an ISO/RTO market, a JAA or G&T cooperative selling power to its members (under a long-term, requirements contract, for example) may be obligated to offer all of its generation resources into the market at the generator nodes and purchase power at the relevant load nodes for delivery to its members. For JAAs and cooperatives, sales to their members are wholesale sales, even though they are analogous to an investor-owned utility's internal transfer of resources to its retail sales unit (which is not counted as a wholesale sale and is not reported in EQRs). Depending on the extent to which the JAA or cooperative's generating resources clear in the market, this structure has the potential to double the apparent number of wholesale MWh sold in the course of serving a particular quantity of retail load. In order to avoid penalizing JAAs and cooperatives for their organizational structure and imposing reporting requirements in a discriminatory fashion, the Commission should grant waivers to JAAs and cooperatives that are able to demonstrate that any wholesale sales above 4 million MWh are the result of such a double-count.

C. The Commission Should Not Require Reporting of Sales to JAA or Cooperative Members

As noted above, JAA and G&T cooperatives' sales to their members are cost-based sales often under long-term contract arrangements. JAAs and G&T cooperatives may finance and construct new generation resources on the basis of members' long-term (*e.g.*, 35-year) commitments to purchase the output of those resources at cost-based rates. Similarly, in performing power supply services for their members, JAAs and G&T

cooperatives may contract for purchased-power resources and pass the costs through to their members. In effect, JAAs and G&T cooperatives are virtually vertically integrated with their members.

Because of the relatively unique nature of JAA and G&T cooperatives' sales to their members, TAPS believes that there is a strong argument that such sales should not count toward the 4 million MWh cutoff (or whatever threshold is chosen). In the interest of administrative convenience and simplicity, TAPS has not proposed excluding those sales from the application of the cutoff (although that approach would be appropriate). But regardless of whether such sales are counted toward the cutoff for entities with a *de minimis* market presence, there is no basis for requiring the reporting of such transactions under FPA Section 220. First, a JAA or G&T cooperative's cost-based sales to its members are analogous to an investor-owned utility's internal transfer of owned or purchased resources to its retail sales function for the purpose of serving native load—internal transfers and retail sales that are not reported in EQRs. It would be unduly discriminatory (and ironic) to require JAAs and cooperatives that are outside of the Commission's jurisdiction for most purposes to report such sales when Commission-jurisdictional, investor-owned utilities do not report the analogous transfers.

Second, reporting of a JAA or G&T cooperative's sales to its members would not advance the purposes for which Congress enacted FPA Section 220. Such sales do not provide meaningful information about the availability or price of wholesale electricity or transmission service, as the sales are not "market" transactions available to third parties and do not provide information about the terms on which the JAA or G&T cooperative

could or would sell power to any other entities.[13] Thus, the Commissions should exclude JAAs' and cooperatives' cost-based sales to members from the scope of any reporting requirements adopted under FPA Section 220.

D. Transactions settled through ISO/RTO markets should be reported by the ISOs/RTOs.

In carrying out Section 220, subsection (a)(4) requires the Commission to "consider the degree of price transparency provided by existing price publishers and providers of trade processing services" and to "rely on such publishers and services to the maximum extent possible." 16 U.S.C. § 824t(a)(4). ISOs and RTOs already publish reams of data and analysis regarding wholesale market prices and the functioning of wholesale markets generally, and it is far from clear that requiring Section 201(f) entities to report their transactions settled in ISO/RTO markets would add materially to facilitating price transparency in those markets. What would facilitate additional transparency is shortening the time lag for release of bids and offers submitted by participants in those markets, as TAPS has repeatedly requested, but the Commission has not adopted TAPS's position.[14]

To the extent that the Commission requires the submission of transaction-level detail regarding sales in ISO/RTO markets by Section 201(f) entities with a non-*de minimis* presence, the Commission should rely on the ISOs/RTOs to report that data. Looking to ISOs/RTOs for this purpose would be consistent with Congress's instruction to rely on existing price publishers and trade processing services "to the maximum extent

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[13] Moreover, to the extent that a JAA or G&T cooperative is passing through purchased power at cost, the original seller's reporting of the sale provides the most meaningful information about the availability and price of that wholesale power.

[14] *See* TAPS 719 Rehearing, *supra* n.2, at 56-61; Order No. 719-A, PP 156-59.

possible." 16 U.S.C. § 824t(a)(4). Relying on the ISOs/RTOs should also be the most efficient and low-cost approach (and therefore most consistent with the public interest, *see* 16 U.S.C. § 824t(a)(1)), as the ISOs/RTOs are the entities generating the settlement data in the first instance. Price transparency will not be advanced by forcing all Section 201(f) entities to repackage and regurgitate data that they receive from the ISOs/RTOs when those entities could provide the data to the Commission directly. Finally, relying on the ISOs/RTOs for this purpose should improve the quality of the data collected by the Commission and better fulfill Section 220's purpose. Reducing the number of distinct filing parties should improve the consistency of data submitted to the Commission and minimize the opportunity for errors and confusion to be introduced through inconsistent data entry conventions.

III. CONCLUSIONS

For the foregoing reasons, TAPS asks the Commission to go forward with implementation of Section 220 but to evaluate whether fulfillment of that Section's purposes requires all Section 201(f) entities to submit full-blown, transaction-level data comparable to that which public utilities file in order to fulfill their obligations under FPA §§ 205(c) and 205(d). To the extent such transaction-level detail is required, the Commission should rely on ISOs/RTOs to report the data for sales settled through their markets. In any event, the Commission should not require the reporting of cost-based sales by JAAs and cooperatives to their members. The Commission should exclude from any reporting obligations under FPA Section 220 those entities that sell fewer than 4 million MWh at wholesale per year, and it should entertain case-by-case waiver

requests from JAAs and cooperatives that exceed that threshold because of double-counting.

Respectfully submitted,

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