Congress of the United States
Washington, DC 20515

June 3, 2009

The Honorable Jon Wellinghoff
Chairman
Federal Energy Regulatory Commission
888 1st St, NE
Washington, DC 20426

Dear Chairman Wellinghoff:

In the context of the Subcommittee on Energy and Environment's review of our Nation's transmission policies, I request information on the level and focus of transmission investments in response to the Federal Energy Regulatory Commission's (FERC's) transmission incentive policy. As you know, Section 1241 of the Energy Policy Act of 2005 gave FERC the authority to establish incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities. Congress also specified that the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a transmission organization.

The Commission initiated a rulemaking process to implement this provision and, on July 20, 2006, issued a final rule, entitled "Promoting Transmission Investment through Pricing Reform," that provided for incentive rates for certain transmission projects. In this rule, the Commission clarified the incentives available and factors to be considered in determining whether a given transmission project should be eligible for such incentives.

The Commission indicated that it would adopt a case-by-case approach to granting incentives tailored to the particular circumstances of the relevant company. Incentives the Commission stated it would consider granting on a case by case basis include allowing a company to:

- receive an incentive-based return on equity;
- recover 100 percent of construction work in progress (CWIP) in the rate base and expensing rather than capitalizing pre-commercial operations costs associated with new transmission;
- file an overall rate of return based on a hypothetical capital structure and giving such company the flexibility to refinance or employ different capitalizations;
- depreciate new transmission facilities at an accelerated rate that meet the goals of section 219 of the Federal Power Act;

- recover 100 percent of prudently incurred costs associated with abandoned transmission projects; and
- use a deferred cost recovery mechanism.

As Chairman of the Energy and Environment Subcommittee of the House Energy and Commerce Committee, I would like to obtain more information on the incentives that have been granted by the Commission pursuant to this provision, the transmission that is currently being planned and constructed by utilities that received incentive rates, and the nature of the benefits resulting from the incentives rates that the Commission has approved. I therefore request that the Commission provide responses to the following questions about transmission incentives that have been granted and the Commission's current process for granting incentive transmission rates.

1. For how many transmission projects, and for how many total miles of transmission lines, has FERC approved incentive rates? What is the financial value of the incentive rates that each utility has received for these projects?

2. Which projects with approved incentive rates currently are being developed and are these projects on schedule?

3. What are the net benefits of the transmission projects that have been approved for incentive rates? What metrics has FERC developed to measure the effectiveness of its incentive rate policy to ensure that reliable and economically efficient transmission is being built?

4. Has FERC approved incentive rates for transmission technologies that increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities?

5. What are the risks or considerations that merit an incentive-based return on equity? What analysis has FERC undertaken regarding the levels of risk that merit incentive rates and the higher rate of return required to incent investment? For example, what percentage of the projects that meet the criteria for receiving incentives have historically been unable to recover their costs?

6. What percentage of the projects approved for incentive rates are a part of an independent planning process? Which planning processes, if any, have considered alternative technologies in identifying needed transmission upgrades?

7. Have any of the incentives, such as cost recovery associated with construction work in progress or abandoned transmission projects, resulted in customers paying for the costs of transmission that will not be placed in service?

8. Does FERC have a process in place for reviewing the current incentive rate policy to ensure that the program is cost beneficial to those paying higher rates or taking on additional risk?

9. Does the Commission have a process to determine whether the various incentives available continue to be necessary to encourage new investments?

Thank you for your assistance and cooperation in responding to this request. Should you have any questions, please contact Mr. Joel Beauvais of the Subcommittee staff at 202-225-4407.

Sincerely,

Ed Markey

Edward J. Markey
Chair
Subcommittee on Energy and Environment

cc: **Mr. Fred Upton, Ranking Member**