Dear Secretary Bose,

Thank you for the opportunity to comment on the Federal Energy Regulatory Commission's (FERC) notice of inquiry regarding rate recovery, reporting and accounting treatment of industry association dues and certain civic, political and related expenses. FERC has appropriately decided to investigate a significant issue in the energy industry and for reasons explained herein, Energy Alabama believes FERC must exercise its authority to restrain dark money spending by utilities, especially that which is ultimately paid for, without consent, by the utilities' captive customers.

Energy Alabama's comments focus primarily on question numbers 6, 7, 9, and 21 as posed by FERC. We are concerned that there is nowhere near enough transparency within the current system. Current regulations require that a minimal amount of information on how funds are used be shared with the public. The cost and nature of activities are not only withheld from the general public, but also appear to be withheld from regulators as well.

Along with this abundantly clear lack of transparency, utilities are engaging in a wide variety of unnecessary activities and requiring rate payers to fund the additional cost of these activities. Power companies are regularly partaking in a range of political and advocacy activities - themselves and through their trade groups – that benefit only their shareholders and not their regular consumers. The current lack of transparency and the structuring of the system give industry trade associations and utilities every incentive to maintain secrecy and pass on as much of the cost of these activities as possible to the consumer.

Alabama is no stranger to questionable spending and behavior from its utilities. Alabama Power, a subsidiary of Southern Company, is the electric utility company for most electricity consumers in Alabama. Alabama Power has contracted for years with Matrix LLC, a political consulting firm that has been involved in various scandals throughout the past couple of decades, including the “ghost-candidate” election scandals in Florida; the North Birmingham bribery scandal in 2018, which has been referred to

1 See:
as “Alabama’s Watergate”; and the 2013 “dog and pony show” at the Alabama PSC. Despite well-documented instances of corrupt actions by Matrix LLC employees acting in their official capacity, Alabama Power continues to contract with the firm. Contracts between Alabama Power and Matrix LLC show that Alabama Power engaged in a multi-million dollar effort to monitor environmental groups, exert pressure on regulators, and conduct other questionable political activities. Alabama Power’s customers are likely paying for at least some of these questionable activities, but without action from FERC, the public’s recourse is limited at best.

For these reasons, we recommend that FERC should move these kinds of expenses to a below-the-line account, thereby making them presumptively non-recoverable, in order to bring the appropriate transparency to utility and industry association dues. Under this approach, if a utility maintains it or an industry association is providing a specific recoverable service, it can detail that service and its associated cost, and seek appropriate rate recovery. This approach would best serve the agency’s transparency objectives and protect ratepayers from being forced to fund unnecessary utility advocacy undertaken by utilities and their trade associations. In short, the burden of proof belongs with the utility. Finally, we also assert that forcing ratepayers to fund utility trade associations engaging in political activities violates their First Amendment rights against compelled subsidy of objectionable speech. Accordingly, we also believe that moving trade association dues to a non-recoverable account is an appropriate step to protect ratepayers’ First Amendment rights.

Regards,

Daniel Tait
Executive Director
Energy Alabama

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