Comments of the Edison Electric Institute on
The United States Department of Justice
Invitation for Public Input Targeting Red Tape that Hinders Free Market Competition
ATR- 2025-0001
May 23, 2025

The Edison Electric Institute (EEI) appreciates the opportunity to provide comments in response to the U.S. Department of Justice's (DOJ) March 27, 2025, invitation in Docket No. ATR-2025-0001, titled *Task Force Invites Public Input Targeting Red Tape that Hinders Free Market Competition*. EEI's comments below (1) provide background on EEI and on our members' role in supporting the U.S. energy economy and national security, (2) discuss the regulatory compact that underlies our members' business model and its importance in ensuring that electric service is affordable and reliable for all customers, and (3) explain how current electric company regulation promotes efficient and cost-effective expansion to meet growing demand. EEI looks forward to continuing to engage with DOJ and the Administration on this important issue.

I. Introduction.

Meeting increasing electricity demand and doing so fast enough to enable the United States to win the artificial intelligence (AI) race—which we must do—requires a well-informed, coordinated approach to regulation that draws on lessons of the past and maximizes efficiency.

As the United States leads the world toward a more digital economy, new data centers must be built to meet the new demand, especially from increased usage of AI. The U.S. electric grid enables modern life and economic growth—powering industry, manufacturing, and commerce, along with our homes, computers, mobile devices, and more. With a long history of meeting challenges, a workforce dedicated to building and maintaining the energy grid, and the ability to access and deploy large amounts of low-cost capital, EEI's member companies are uniquely positioned to meet growing demand and address evolving risks.

As discussed in greater detail below, both the power and natural gas distribution industries have experienced periods of unfettered competition that significantly impacted reliability. Coming out of these, states and the federal government concluded that competition, the flagship of the American capitalist economy, is not always the answer. This frequently occurs in industries where capital costs predominate, creating large economies of scale about the size of the market; examples include public utilities such as water services and electricity. States and the federal government responded to the chaos of open competition in the utility sector by creating the "regulatory compact." This regulatory regime provides a single local franchise and, in exchange for that franchise, imposes significant regulation on the electric company and requires electric companies to serve all customers. It is this regulatory framework that has been the bedrock supporting EEI members' consistent investment in the electric system, which has supported load growth for decades and led to hundreds of billions of dollars in investments and low costs for customers, enabling the growth of the American economy for a century.

Disrupting the calibrated balance of benefits and burdens placed on existing utility providers would harm more than just those utilities; it would pose grave risks to the public from a reliability and affordability perspective. While competition is regulated and state-supervised in the electric sector, those regulations and state supervision were put in place for good reasons: they accelerate construction of new projects, lower costs for customers, and support reliability.

II. EEI Members Support American Energy and National Security.

EEI is the association that represents all U.S. investor-owned electric companies. EEI members provide electricity for nearly 250 million Americans and operate in all 50 states and the District of Columbia. EEI members own numerous transmission system facilities in the country. As a whole, the electric power industry supports more than seven million jobs in communities across the United States.

EEI's members make considerable investments in needed and beneficial transmission and generation infrastructure. This year, EEI members will invest $200 billion to make the energy grid smarter, cleaner, more dynamic, more flexible, more resilient, and more secure; to diversify the nation's energy mix; and to integrate new technologies that benefit both customers and the environment.

The electric grid is the cornerstone of modern society, enabling virtually every aspect of daily life. Electric companies' investments in the grid support resilience and the ability to deliver power in the face of both manmade and natural threats while also keeping costs as low as possible for customers. EEI's members accomplish this through operating efficiencies and by bringing to bear more than a century of operational experience. America's electric companies are focused on keeping customer bills as low as possible, while adding new generation to help meet rising demand. These investments create good-paying jobs and a cleaner, resilient, and affordable energy future for the communities they serve.

After two decades of flat to low growth, demand for electricity is growing in regions across the country as more energy is needed to power data centers and the increasing penetration of AI applications, as well as domestic manufacturing facilities and new sectors of the economy that are electrifying. EEI members have been at the forefront in partnering with new data centers to enable timely interconnections to the grid and have announced numerous agreements and partnerships to facilitate data center development. In other cases, electric companies have pursued proactive investments in expanded transmission and generation capacity. These investments demonstrate electric companies' ability to plan and invest in transmission and generation infrastructure that can facilitate economic growth and meet new demand needs while achieving broader benefits for existing customers and communities.

The modern electric grid supports all other critical infrastructure sectors and EEI's members are singularly equipped to support the rapid expansion of the grid necessary to safeguard national security and enhance U.S. economic competitiveness. Our members have an obligation to serve *all* customers, including residential and commercial customers, as well as critical customers like military installations, hospitals, water treatment facilities, and key manufacturing operations. The industry continually works with local communities, state regulators, and regional marketplaces to ensure safe, reliable, and affordable power to existing and new customers.

The electric grid provides an extraordinary platform to support the delivery of resilient, reliable power to address needs on a large scale. An integrated, system-wide approach that considers the full range of technology, planning, and operational solutions, as well as electric companies' expertise in planning, project development and execution, siting, permitting, and community engagement, will support rapid, responsible infrastructure development. EEI members have a holistic point of view, informed by our position as regulated entities, that considers not just new connections, but broader impacts and opportunities.

III. The Regulatory Compact Helps Ensure Reliability and Affordability.

Meeting increasing electricity demand and doing so swiftly requires a well-informed, coordinated approach to regulation that draws on lessons of the past and maximizes efficiency. This approach to regulation also must preserve reliability and affordability for U.S. customers. As discussed in this section, the "regulatory compact" hits these marks—and EEI members are well-positioned to meet this moment and to work expeditiously to deploy new infrastructure.

This section discusses (1) the contours of the regulatory compact, (2) its roots in competition and the lessons it embodies, and (3) how its flexibility accommodates state-specific needs.

A. The Regulatory Compact and Its Contours.

The power industry is highly regulated at both the federal and state levels. Over the past one hundred years, Congress and state legislatures have carefully developed regulations governing this essential industry. The "regulatory compact" balances the obligation to serve *all* customers while meeting relevant regulatory requirements,[1] with the benefit of exclusive service territories. In return for the obligation to provide service to all customers, EEI's member companies are permitted the opportunity to recoup their costs and earn a reasonable return on their investment.[2]

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[1] More specifically, the Federal Power Act, enacted in 1935, provides that the transmission and sale of power in interstate commerce should be regulated by the federal government. Notably, the Federal Power Act simultaneously reserves key aspects for state regulation. Examples of the extensive state regulation of utility service include oversight of significant capital investment, review and issuance of certificates for siting new infrastructure; review and approval of tariff offerings, including retail rates; oversight of customer inquiries and billing issues; approval of utility integrated resource plans and other resource adequacy determinations; and review and approval of affiliate transactions—to name a few.

[2] This concept has been established and reinforced through laws, regulations, and reinforced by well-established Supreme Court precedent. *See Federal Power Comm'n et al v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); and *Bluefield Water Works and Improvement Co. v. Pub.*

Notably, while they are shielded from downside risk and guaranteed a return, electric companies likewise forego opportunities to earn higher-than-allowed returns, even if the market would support it.

The regulatory compact ensures that the public has access to the essential services needed to power modern life at costs that are free of abuse of market power and that utilities have the financial means to provide them. The exclusive service territories provided under the regulatory compact serve as a carefully calibrated tool to ensure continuous, reliable service and foster the strategic investments that modernizing our energy grid requires. First established in the 1900s, the regulatory compact has evolved over the course of more than a century of utility regulation in America.

As discussed in the following sections, this cornerstone principle was designed in response to periods of unfettered deregulation, which were chaotic and threatened the reliability of electric service. It is the framework that allows EEI's member companies to serve the needs of their customers, provides flexibility to accommodate policy and market changes, facilitates efficient investment in electric infrastructure, and ensures state and federal oversight, all while supporting affordability and efficiencies in transmission and generation buildout. The regulatory compact provides stability that the rest of the economy relies upon.

B. The Regulatory Compact and Its Roots in Competition.

Understanding the regulatory compact's genesis is critical to avoid revisiting the chaotic

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Serv. Comm'n of W. Va., 262 U.S. 679, 690 (1923). Moreover, regular rate reviews ensure that return on investment is reasonable and that expenditures are prudent.

provision of utility services that preceded its development. As that preceding era demonstrates, disrupting the regulatory compact simply on the theory that competition is always better could delay critical infrastructure projects, including grid expansion investments already underway; significantly increase costs; and have disastrous effects on reliability for existing customers. It could also jeopardize the availability of reliable electric service to areas that may be more costly to serve, such as in our rural communities. More recent forays into deregulation have borne this out, as discussed in the context of rights of first refusal in Section IV below. Ultimately, without an organized approach to developing and operating the electric grid, we risk hampering the infrastructure expansion necessary to meet increasing electricity demand and keep the United States competitive in the global economy.

The underlying logic that supports development of the regulatory compact is well-documented, including in extensive and relevant supporting case law. As the U.S. Supreme Court chronicled in *General Motors Corp. v. Tracy*, early utility markets were subject to unfettered competition, leading to a period of inefficiency, higher costs, higher prices, and industry instability that harmed communities and consumers. 519 U.S. 278, 289 (1997). "Many . . . municipalities honored the tenets of laissez-faire to the point of permitting multiple gas franchisees to serve a single area and relying on competition to protect the public interest." *Id.* "The results were both predictable and disastrous"—public streets were periodically torn up to lay competitors' pipes, wires crisscrossed in a wasteful web, and the costs for these redundant systems were passed onto customers. *See id.* at 289-90. Importantly, the court held that disrupting the calibrated balance of benefits and burdens placed on incumbent utility providers would harm more than just the incumbent utilities; it would pose grave risks to the public as well. Most consumers "live on sufficiently tight budgets to make the stability of rate important, and . . . cannot readily bear the risk of losing a fuel supply in harsh natural or economic weather." *Tracy*, 519 U.S. at 301. Yet an unstable utility market could mean outages and price spikes, leaving "individual[s] . . . frozen out of their houses in the cold months." *Id.* at 306.

Eventually, in both the power and natural gas distribution industries, states concluded that it was "virtually an economic necessity" to "provide a single, local franchise … so long as the creation of exclusive franchises under state law could be balanced by regulation and the imposition of obligations to the consuming public upon the franchised retailers." *Id.* at 290. Most importantly, these state-sanctioned utilities were (and are) required to serve every customer *without discrimination*, and their rates are either set by the government or subject to government supervision. *See id.* at 296-97 (emphasis added). That is the balance that was struck and persists today.

The regulatory compact has enabled the orderly and reliable development and growth of the vast and heavily interconnected system that comprises the U.S. energy grid. That task would have been exponentially more complicated, if not impossible, if the havoc that preceded the regulatory compact were allowed to persist and were multiplied across the many miles of the U.S. grid—which comprises more than 9,200 electric generating units with more than 1 million megawatts of generating capacity connected to more than 600,000 miles of transmission lines and countless more miles of distribution lines.[3] Service territories encourage the orderly development of retail electric service, avoid wasteful duplication of distribution facilities, facilitate more efficient use

[3] *See* U.S. Dep't of Energy, https://www.energy.gov/oe/grid-modernization-and-smart-grid.

of materials and natural resources, and minimize disputes between retail electric suppliers—all of which enhances efficiency and helps avoid higher costs to customers.

As our nation looks to the challenges and opportunities ahead, our ability to succeed will depend on selecting options that draw on lessons from past experiments, maximize time and cost efficiencies, and preserve and enhance reliability. The regulatory compact provides a reliable, secure platform to achieve these goals.

C. The Regulatory Compact, Its Flexibility, and States' Rights.

The regulatory compact is also flexible and can accommodate state-specific needs. States have elected variations, but there are important common threads that speak to the compact's inherent value.

The Federal Power Act reserved certain matters to state regulation—including the siting and construction of new transmission lines and generation facilities and setting retail rates. States have exercised this authority by adopting various models to regulate the power industry within their borders. State statutes that grant incumbent utilities certain rights reflect a state's determination—based on its extensive history and unique characteristics—that closely-regulated, state-sanctioned exclusive franchises in the power industry are a better, more efficient way to ensure the provision of a service that is indispensable to daily life for its citizens.

Twenty-seven states have elected to grant utilities exclusive franchised service territories where retail customers are served by generation owned by a vertically integrated utility.[4] Another eight states have partially restructured their market, adopting a hybrid model where some competition for generation services is allowed for certain subsets of customers.[5] Even states that required utilities to divest their electric generation assets decades ago, moving toward some degree of competitive procurement of power generation, have retained franchised service territories for distribution and transmission service. This speaks to the delineation of authority under the Federal Power Act. It also underscores the value and benefits of the regulatory compact in providing reliable and affordable service in an industry that has become increasingly complex. Critically, maintaining the regulatory compact affords state regulators and other state policymakers the ability to exercise considerable control over and require accountability from their regulated utilities. This oversight helps states ensure that electric services are maintained in a safe and reliable manner across changing circumstances.

It is also worth noting that, in states where generation is fully subject to competition, the incumbent retail utility often is *required by law to serve as provider of last resort* if the new supplier fails to provide service under the terms of its contract. While these jurisdictions are sometimes referred to as "deregulated," as the Department of Energy has explained, "deregulated" is "a misnomer, as retail electricity providers and other parts of the industry remain highly regulated." U.S. Dep't of Energy, *Transforming The Nation's Electricity System: The Second Installment of the Quadrennial Energy Review (QER)* App. at A-13 (2017). This

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[4] Vertically integrated utilities own generation, as well as the distribution network that carries electricity to retail customers and the transmission grid that transmits power longer distances, including across states and regions.

[5] S&P Global Market Intelligence, RRA State Regulatory Evaluations — Energy 27 (Aug. 7, 2024).

requirement, at minimum, demonstrates the importance of and value placed on having an entity that has a regulatory—not simply contractual—obligation to serve. In the absence of that obligation, U.S. citizens, businesses, and governments would bear the brunt of a new suppliers' failure to perform under the terms of their agreements.

As discussed in the preceding section, we need not imagine the disastrous impact that moving away from the regulatory compact would have on development—it is well-chronicled for us in *Tracy*, among other sources. Instead, it is imperative that we not forget the failed experiment in unfettered competition that led to the regulatory compact.

IV. Current Electric Company Regulation Promotes Efficient and Cost-Effective Expansion to Meet Growing Demand.

Efforts to introduce competitive forces into previously fully regulated activities in the electric sector (i.e., deregulation) have not always resulted in faster or more cost-effective solutions. For example and as discussed below, recent experiences with deregulation have resulted in lengthy bidding and award processes, delaying needed infrastructure upgrades and leading to higher ultimate costs to customers.[6] By contrast, states often choose to enact "right of first refusal" laws (ROFRs), which provide incumbent utilities the right to build and own transmission facilities before the project is opened to competitive bidding. State ROFR laws enable efficient and cost-effective infrastructure expansion and modernization of transmission inside the designated

[6] As implemented by some regional processes, the resources needed to evaluate multiple proposals has been estimated to take between 113 and 1,498 days when there is more than one bidder and one grid operator estimated that it incurred over $1.3 billion to select the winning developer in a competitive solicitation. *See* Concentric Energy Advisors, *Building New Transmission , Experience to Date Does Not Support Expanding Solicitations*, at 31 and 37 (June 2019), https://ceadivors.com/publication/building-new-transmission-experience-to-date-does-not-support-expanding-solicitation/.

service territories within their state. These laws exercise the authority that Congress vested in the states to choose how to provide essential electricity services to their citizens[7]—a decision that recognized that states are best suited to make those policy determinations, to represent and respond to their citizens' particular needs, and to identify the state-specific factors relevant to meeting those needs.

To be sure, ROFRs "regulate" competition, but they do so in service of these goals and also to counterbalance incumbents' statutory obligations to provide service to all without discrimination. In addition, to the extent states have afforded these kinds of rights to existing providers, they have been coupled with corresponding obligations, including relevant state planning authority *requirements imposed by law* that those incumbents to construct new facilities. That is to say, the exclusivity granted to incumbents is balanced by those entities' accountability and obligations to the public. This structure not only encourages multimillion dollar investments in next-generation grid technologies but also ensures that all customers receive affordable and high-quality service. Thus, ROFRs are a reasonable policy choice that can strengthen the grid and protect consumers from grid instability and the resulting unreliable service and higher prices.

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[7] Respect for state ROFRs makes sense given that Congress and federal agencies have recognized the critical role of states in regulating utilities, including the siting and construction of electrical transmission lines in particular. The "regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States." *Ark. Elec. Co-op Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983). States may exercise that police power even if doing so has an "interstate effect." *Elec. Power Supply Ass'n v. Star*, 904 F.3d 518, 525 (7th Cir. 2018). FERC went even further in acknowledging states' authority in this area, specifically recognizing that states may create ROFRs. While FERC eliminated federal ROFRs, it rejected transmission-only companies' request to prohibit states from passing ROFR laws. *MISO Transmission Owners v. FERC,* 819 F.3d 329, 336 (7th Cir. 2016).

As further detailed in this section, state-based ROFRs serve at least three important regulatory purposes: (1) they encourage swift and efficient expansion of the grid; (2) they promote long-term grid stability because existing utilities are often better equipped and incentivized to maintain transmission lines after construction; and (3) they prevent “cherry-picking” of the most valuable projects.

A. Swift and Efficient Expansion of the Grid.

Deregulated processes for transmission projects can be inefficient and produce higher costs for customers. Competitive processes that select developers to build transmission projects are not direct competition as traditionally understood. Traditional competitive processes involve large numbers of firms, free to enter and exit the market at will, competing to sell a well-defined homogeneous product to consumers who know exactly what product they want. However, in the context of transmission projects, a small group of developers compete for the right to be regulated under cost-of-service regulation. This is a version of what is termed “competition for the market” and effectively swaps out one regulated monopoly for another on a project-by-project basis. Customers do not have a choice regarding who supplies their transmission nor are they able to negotiate the price for transmission service because rates are set based on the cost of the facilities. ROFRs eliminate the dead-weight loss and delay associated with complex and expensive bidding processes. *See Bldg. for the Future Through Elec. Reg’l Transmission Plan. and Cost Allocation and Generator Interconnection*, 87 *Fed. Reg.* 26,504, 26,564 (May 4, 2022) (recounting comments identifying this as a potential negative consequence of eliminating ROFRs).

For example, even if a bid process results in what may appear to be a lower price, it may end up costing more once hidden costs are factored in. This is due in part to bidding frameworks that encourage cost cap mechanisms that have superficial appeal but can be riddled with exceptions that sap much of their force. More specifically, bid solicitation processes have shown that "although many of the winning bids have cost caps, many of the cost caps have exclusions that permit the project's final cost to exceed the cost submitted in the initial winning bid. Furthermore, cost cap exclusions for some projects apply to the project cost components with the highest risk of cost increases (e.g., routing changes)."[8] While these additional costs may be allocated to bidders, in the vast majority of cases they are ultimately be recovered from customers.

Notably, competition *already* exists in the procurement process as utilities typically rely on other entities to obtain the necessary materials and build the projects. Further, projects subject to unfettered bidding also can experience lengthy delays—on the order of multiple years in some instances. ROFRs help to avoid such delays by cutting through the red tape and minimizing duplication and inefficiency. For example, bidding processes generally include several lengthy steps before construction begins, including opening the solicitation windows, allowing time for proposal development and submission, reviewing proposals, project selection, and exhausting all challenges to a project selection. These steps can add years to the process when there are multiple bidders. Moreover, that time spent may be wasted—one regional transmission organization has reported that even when using a bidding process, "in almost all instances, the

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[8] Concentric Energy Advisors, *Building New Transmission, Experience to Date Does Not Support Expanding Solicitations*, at iv (June 2019), https://ceadivors.com/publication/building-new-transmission-experience-to-date-does-not-support-expanding-solicitation/.

nonincumbents' proposals were not found to be the more efficient or cost-effective solution."[9] This demonstrates that it is not deregulation that produces the most efficient or cost-effective solutions and it underscores that existing transmission owners play an important role in identifying and developing cost-effective solutions, including those needed to address demand growth.

B. Long-Term Grid Stability.

ROFRs promote the stability of the power grid as well. The electricity grid is a vast, interconnected network where every component depends on the others. A failure in one transmission line, for example, can ripple out to cause cascading problems in other parts of the grid. For that reason, a unified grid owner in a particular area will have every incentive to prevent such an occurrence that could harm its other grid assets as well. On the other hand, the more patchwork the system of ownership, the more that wider instability becomes an externality that is someone else's problem.

These laws likewise promote stability across time. Relying on existing utilities means relying on utilities that have delivered electric services to customers for decades—in many cases, for more than 100 years. There is no reason to believe that these incumbent utilities will not be expected to do so in perpetuity. When considering the development of costly assets with service lives in excess of half a century, it is sensible to depend on companies that have, and are expected to continue to have, a stable presence.

[9] Initial Comments of PJM Interconnection, LLC, FERC Dkt. No. RM21-17-000, at 4 (Aug. 17, 2022) (emphasis in original).

ROFRs therefore help to simplify the planning and execution of transmission projects by drawing on the expertise and established infrastructure of existing utilities to minimize inefficiencies, prevent conflicts in grid management, and support the timely completion of essential infrastructure projects.

C. Prevention of Cherry-Picking Projects.

Finally, there are important differences between incumbent utilities, subject to the regulatory compact, and other transmission builders, who are not. Perhaps the most relevant is that incumbent utilities generally have special statutory duties to ensure that the grid safely and reliably serves all retail customers in their operating area. By granting incumbent utilities the opportunity to build and maintain new transmission lines connecting to their existing system, ROFRs prevent cherry-picking by new, and potentially unproven, providers who would otherwise target only the most valuable projects.

Unlike incumbents, other transmission builders cannot be compelled by law to construct transmission facilities. Instead, these builders may pick and choose which project they will entertain and can ignore projects they deem insufficiently lucrative or desirable. Incumbent transmission owners do not have that option. *Tracy* explicitly recognized that regulated utilities' ability to meet corresponding legal obligations is intertwined with receiving regulatory benefits and that courts must exercise caution "before making a choice that could strain the capacity of the States to continue to demand" regulatory benefits for utility customers. *Tracy*, 519 U.S. at 307; *see also Panhandle E. Pipe Line Co. v. Mich. Pub. Serv. Comm'n*, 341 U.S. 329 (1951).

As we look toward a period of significant growth, fueled by increasing electrification and demand from growing sectors like data centers and AI, the assurances inherent in the regulatory compact provide the stability and reliability that will be necessary. Relying on the existing regulatory compact and state policies will enable a speedy expansion of the grid to meet these necessary goals. Experience has shown that deregulated processes are not always as quick or efficient as they purport to be, while ROFRs encourage swift and efficient grid expansion and incorporate the valuable obligations embedded in the regulatory compact. Non-incumbent transmission builders simply are not subject to the same requirements and experience has demonstrated that this difference is critical in the provision of this vital service.

V. The Regulatory Compact is also Critical to Building New Generation Quickly Meet Demand.

Demand growth is a significant development for the power sector. A 2023 survey of FERC filings showed that grid planners nearly doubled the five-year demand growth forecasts from 2.6 to 4.7 percent, with 10 planning areas reporting most of the increase. Some experts have indicated that these forecasts may underestimate demand, particularly from data centers and to support AI. For example, a 2024 report by the Electric Power Research Institute projected that data centers will grow to consume up to 9.1 percent of U.S. electricity generation annually by 2030, compared to an estimated 4 percent today.[10] This demand growth follows nearly two decades of minimal net electricity demand and is occurring in a higher-cost environment and at a time when it is difficult to site and permit new energy infrastructure. We anticipate that estimated demand only will increase and EEI members stand ready to serve, acting as a critical enabler of this economic growth.

[10] Electric Power Research Institute, Data Centers Could Consume up to 9% of U.S. Electricity Generation by 2030, PR Newswire (May 29, 2024).

America’s electric companies have been at the forefront in partnering with new data centers to enable timely interconnections to the grid. Electric companies have announced numerous agreements and partnerships to facilitate data center development. In other cases, electric companies have pursued proactive investments in expanded transmission and generation capacity that have subsequently driven data center development in nearby localities. For example:

- Northern Virginia, where EEI member Dominion operates, boasts the largest data center hub in the world. Dominion serves more data centers today than the next five national data-center hubs combined.
- In May 2024, Amazon Web Services (“AWS”) officially broke ground on the single largest capital investment in Mississippi history. The $10 billion planned investment, which was announced in January 2024, will bring two data center complexes to the state and allow Mississippi to lead the region into a new economic era. The data center complexes are projected to add 1,000 new jobs to the Jackson, Mississippi metro area, support adding 650 megawatts of new generation to Entergy Mississippi, LLC’s generation mix, and increase the state’s gross domestic product by $3.3 billion. From the beginning, AWS was clear that this project needed an electric utility partner that could scale quickly to meet their needs, and a state that could match their desire for speed-to-market. Entergy Mississippi worked collaboratively and creatively for years, across many boundaries, to develop legislative, regulatory, community, economic development, and energy supply plans to meet its new customer’s needs and attract AWS to Mississippi.
- In December 2024, Meta announced it will build a $10 billion AI data center in northeast Louisiana, a transformational investment. The data center will be the largest of more than 20 Meta data centers around the world. To power the data center, Entergy Louisiana will

add clean, efficient power plants to its system to meet growing power demands, including from the Meta data center.

- In February, 2025 American Electric Power's Indiana & Michigan Power Company reached a joint settlement with the Indiana Office of Utility Consumer Counselor (OUCC), Amazon Web Services (AWS), Microsoft, Google, the Data Center Coalition that balances the interests of new customers with those of existing customers and will support ongoing grid modernization for the benefit of all customers with enhanced reliability. Previously, AWS announced an $11 billion investment in a data center campus west of New Carlisle, IN and Google announced a $2 billion data center in Fort Wayne. These investments are among the largest economic development projects in the state of Indiana.

These actions demonstrate electric companies' ability to proactively plan and invest in expanded transmission and generation infrastructure that can facilitate data center development while achieving broader benefits for existing customers and communities. Importantly, these instances also demonstrate electric companies' ability to build quickly and enable tremendous economic growth. Using the existing model laid forth by electric companies will ensure that novel, untested approaches are not relied on to support the digital transformation so critical to U.S. security and competitiveness. Ensuring that these arrangements can rely on the existing regulatory compact and enabling state policies is essential to speedily deploying these transmission and generation assets, including onsite generation.

VI. Siting and Permitting Reform Remains Critical to Meeting Demand.

EEI appreciates this Administration's focus on siting and permitting reform. Building new infrastructure remains challenging, as project siting, environmental and land-use permitting, and extensive litigation from multiple parties can slow the process significantly. The result of these delays is that it can take more than 10 years to bring critical new energy infrastructure projects online and increase costs for customers.

Any future legislative or regulatory (or deregulatory) efforts addressing permitting reform should ensure that the processes used to site and permit critical energy infrastructure enhance process efficiency and predictability, so that project development can be cost-effective, timely, and strengthen the reliability and security of our nation's energy grid. Those efforts also should be cognizant of how regional dynamics (e.g., regulatory constructs, state and local policies, and economic growth) influence project planning and development, as different areas of the country are pursuing solutions tailored to their needs. EEI and our member electric companies support permitting improvements that create a more efficient, environmentally sound, and legally durable process for deploying new critical energy infrastructure and technologies.

In essence, the continued existence of the regulatory compact fundamentally represents an informed decision based on a century of experience with the best ways to provide affordable and reliable power to enable modern life. This power is one that grows from states' authority and decisions about how to exercise that authority, and principles of federalism. Deregulation does not always result in more efficiencies – as discussed *supra*. EEI members are well-positioned to help the nation meet its growing electricity demand, including significantly increasing our AI capabilities, and the regulatory compact is essential to doing so.

VII. Conclusion.

EEI appreciates the opportunity to provide these comments on this important issue. As discussed, disrupting the calibrated balance of benefits and burdens placed on existing utility providers would harm more than just those utilities; it would pose grave risks to the public as well as reliability and affordability. While competition is regulated and state-supervised in the electric sector, those regulations and state supervision were put in place for good reasons: they accelerate construction of new transmission projects and promote lower costs for customers. Those reasons are still true today. The model that emerged from the unfortunate experience of unfettered deregulation shows that the regulatory compact provides time and cost efficiencies that will be critical to building out our grid to meet growing demand rapidly.