

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

BlackRock, Inc.)	Docket No. EC25-12
its affiliated Investment Management)	
Subsidiaries and Applicant Funds)	

STATES’ MOTION TO INTERVENE

Pursuant to 16 U.S.C. § 824b and Rule 214 of the Federal Energy Regulatory Commission (“FERC” or the “Commission”) Rules of Practice and Procedure (“Rules”),¹ the States of Utah, Arkansas, Florida, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wyoming, by and through their Attorneys General (collectively, “Attorneys General” or “States”), hereby timely move to intervene in the above-captioned docket number wherein Applicants² seek a three-year reauthorization of “blanket authorizations” (the “Reauthorization”) to purchase, acquire, or take over \$10 million in voting securities of any “public utility,” “electric utility company,” “transmitting utility,” or “holding company in a holding company system that includes an electric utility company or transmitting utility” as those terms are used in Section 203 of the Federal Power Act (“FPA”) (collectively, “FPA-covered utility”).³

¹ 18 C.F.R. § 385.101 *et seq.*

² “Applicants” refers to BlackRock, Inc., BlackRock Institutional Trust Company, N.A., the other investment management subsidiaries of BlackRock, and certain of BlackRock’s managed investment funds as described in its Application. Unless context otherwise requires, “BlackRock” refers to BlackRock, Inc. acting itself or through one or more of its affiliates.

³ See *BlackRock, Inc.*, 179 FERC ¶ 61,049 (2022) (“2022 BlackRock Order”); 16 U.S.C. § 824b(a)(2); Request for Reauthorization and Extension of Blanket Authorizations Under Section 203 of the Federal Power Act and Request for Expedited Consideration, *BlackRock, Inc.*, Docket No. EC25-12 (Oct. 21, 2024) (“2024 BlackRock Application”).

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POSITION TAKEN BY THE STATES AND BASIS IN FACT AND LAW FOR THAT POSITION

The States' position is also set forth in the concurrently filed protest in this docket, and it is incorporated herein. In brief, the Commission should not grant Applicants' request for reauthorization under Section 203 of the FPA unless the Commission requires all of the following requirements as a condition of the blanket authorization; conducts an evidentiary hearing or other sufficient process to determine that Applicants are in fact in compliance with the following requirements prior to granting any reauthorization; and makes ongoing compliance with these requirements subject to meaningful periodic reporting requirements and the Commission's supplemental order authority under Sections 203(b) and 309 of the FPA.

First, Applicants, including all affiliates and subsidiaries, must limit their collective ownership to 20% or less of the shares of each FPA-covered utility.⁴ Shares held by other members of any horizontal association that seeks to influence an FPA-covered utility's operations and that any Applicant or affiliate of an Applicant is a member of must be included in the 20% collective limit because such organizations including their members fall within the definition of "holding

⁴ See, e.g., *Franklin Res., Inc.*, 126 FERC ¶ 61,250 at P 39–40 (2009), *order on reh'g*, 127 FERC ¶ 61,224.

company.” 16 U.S.C. § 824b(a)(6). The definition of “holding company” is broad and covers an “association” or unincorporated “organized group” consisting of a horizontal association and its investor signatories acquiring shares in utilities. *Id.*; 42 U.S.C. § 16451(4), (8)(A), (12).

One or more Applicants (or an affiliate or subsidiary in the case of BlackRock International) remains a member of the Net Zero Asset Manager’s Initiative (“NZAM”), Climate Action 100+ (“CA100+”), Ceres, Inc., and/or UN PRI.⁵ Whether each of these involves commitments and meets the requirement of a “holding company” requires further analysis but the below facts show a sufficient basis that the Commission must actually inquire before granting another blanket authorization.⁶

NZAM is an association of asset managers that encompasses \$57 trillion in AUM.⁷ Signatories to NZAM “commit[] to support the goal of net zero [GHG] . . . emissions by 2050, in line with global efforts to limit warming to 1.5°C.”⁸ They also commit to:

- “Work in partnership with asset owner clients on decarbonisation goals, *consistent with an ambition to reach net zero emissions by 2050 or sooner across all [AUM]*”;
- “Set an interim target for the proportion of assets to be managed in line with the attainment of net zero emissions by 2050 or sooner”;
- “Review [their] interim target at least every five years, with a view to *ratcheting up*

⁵ NZAM, *Signatories*, <https://www.netzeroassetmanagers.org/signatories/>; Climate Action 100+, *Investor Signatories*, <https://www.climateaction100.org/whos-involved/investors/page/3/>; BlackRock, *Letter to Climate Action 100+ Steering Committee* (Feb. 2, 2024), <https://www.blackrock.com/corporate/literature/publication/2024-our-participation-in-climate-action-100.pdf>; Ceres, *BlackRock CEO letter on sustainable investing is a game changer for the global investor and corporate community*, <https://www.ceres.org/resources/news/blackrock-ceo-letter-on-sustainable-investing-is-a-game-changer-for-the-global-investor-and-corporate-community>; BlackRock, *Principles for Responsible Investment*, <https://www.blackrock.com/corporate/sustainability/pri-report>.

⁶ See, e.g., *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins.*, 463 U.S. 29, 43 (1983).

⁷ NZAM, *The Net Zero Asset Managers Initiative*, <https://www.netzeroassetmanagers.org/>.

⁸ NZAM, *Commitment*, <https://www.netzeroassetmanagers.org/commitment/>.

the proportion of AUM covered until 100% of assets are included”; and

- “Across all [AUM] ... [i]mplement a stewardship and engagement strategy, with a clear escalation and voting policy, that is consistent with [the] ambition for all [AUM] to achieve net zero emissions by 2050 or sooner.”⁹

“The [NZAM] commitment [also] sets out a range of actions that asset managers will take forward which are the key components required to accelerate the transition to net zero and achieve emissions reductions in the real economy: Engaging with clients, setting targets for assets managed in line with net zero pathways, corporate engagement and stewardship, [and] policy advocacy.”¹⁰ It “also ensures that several important actions – such as stewardship and policy advocacy – are comprehensively implemented.”¹¹ All of these commitments make clear that NZAM involves coordination by owners of shares in target companies in order to force such companies to reduce emissions by setting targets that are not a requirement of U.S. law. NZAM is under the umbrella of the Glasgow Financial Alliance for Net Zero (“GFANZ”), which “is a global coalition of leading financial institutions committed to accelerating the decarbonization of the economy.”¹²

CA100+ is another horizontal organization of asset managers and asset owners that at one time had approximately \$68 trillion AUM.¹³ In addition to its signatories, CA100+ identifies 168 “focus companies,” which are “key to driving the global net zero emissions transition.”¹⁴ Several U.S.-based utility companies are among CA100+’s targeted “focus companies,” including:

⁹ *Id.* (emphasis added).

¹⁰ NZAM, *FAQ*, <https://www.netzeroassetmanagers.org/faq/>.

¹¹ *Id.*

¹² GFANZ, <https://www.gfanzero.com/>.

¹³ See CA100+, *Investor Signatories* (Aug. 4, 2023), <https://web.archive.org/web/20230804203106/https://www.climateaction100.org/whos-involved/investors/>.

¹⁴ CA100+, *Companies*, <https://www.climateaction100.org/whos-involved/companies/>.

Dominion Energy, Inc.; Duke Energy Corp.; FirstEnergy Corp.; NextEra Energy, Inc.; NRG Energy, Inc.; The Southern Company; Vistra Corp.; and Xcel Energy Inc.¹⁵

CA100+ “has established a common high-level agenda for [focus] company engagement to achieve clear commitments to cut emissions.”¹⁶ CA100+’s commitment requires signatories (e.g., asset managers) to push the focus companies in which they own shares to “take action to reduce greenhouse gas [GHG] emissions”¹⁷ and align their actions with the Paris Agreement and pathways to net zero GHG emissions.¹⁸

CA100+ has now moved to “Phase 2,” which is a renewed call of its signatories “to action”¹⁹ in using their AUM to pressure companies to “[t]ake action to reduce [GHG] emissions across the value chain ... consistent with the Paris Agreement’s goal of limiting global average temperature increase to well below 2°C above pre-industrial levels, aiming for 1.5°C.”²⁰ CA100+ signatories also must press companies in which they own shares to “implement transition plans to deliver on robust targets” in line with the recommendations of the Task Force for Climate Related Disclosures (TCFD).²¹

Ceres, which helped found and helps coordinate CA100+, stated that CA100+ signatories “remain committed to the global effort ensuring that 170 of the largest [GHG] emitters take the

¹⁵ *Id.*

¹⁶ CA100+, *The Three Asks* (Mar. 30, 2023), <https://web.archive.org/web/20230330063348/https://www.climateaction100.org/approach/the-three-asks/>

¹⁷ *Id.*

¹⁸ See BlackRock, *Climate Action 100+ Sign-On Statement* & *Letter from BlackRock to Climate Action 100+ Steering Committee*, at 1 (Jan. 6, 2020), <https://www.blackrock.com/corporate/literature/publication/our-participation-in-climate-action-100.pdf> (CA100+ sign-on statement, referencing the Paris Agreement and “well below 2 degrees Celsius” goal).

¹⁹ Climate Action 100+, *Climate Action 100+ Announces Its Second Phase* (June 8, 2023), <https://www.climateaction100.org/news/climate-action-100-announces-its-second-phase/>.

²⁰ Climate Action 100+, *Climate Action 100+ Phase 2: Summary of Changes* at p. 7 (June 2023), <https://www.climateaction100.org/wp-content/uploads/2023/06/CA100-Phase-2-Summary-of-Changes.pdf>.

²¹ *Id.*

necessary action on the global climate crisis.”²² Furthermore, “[i]nvestors and companies alike must do their part to cut [GHG] emissions in half this decade to avoid catastrophic levels of global temperature rise.”²³ It is clear from these statements that CA100+ involves coordination in order to force companies—including utility companies—to change operations for the purpose of reducing emissions to hit certain targets that are not a requirement of U.S. law.

The UNPRI commitment includes “Principle 1: We will incorporate ESG issues into investment analysis and decision-making processes” and “Principle 2: We will be active owners and incorporate ESG issues into our ownership policies and practices.”²⁴

All of these memberships raise issues that are directly relevant to BlackRock’s application under Section 203, but BlackRock has not even attempted to explain them in that application.

Second, Applicants must function only as passive investors.²⁵ The passivity commitment must prohibit not just controlling utilities but using ownership to influence control or day-to-day operations of such utilities. The Commission’s 2016 BlackRock Order included the requirements when filing a Schedule 13D that Applicants will not:

Seek board representation or the power to name a board member of such Utility;

Seek to nominate or designate managerial, operational or other personnel of the Utility;

Seek to set or influence the price at which power, fuel or any other product is sold or purchased by the Utility in the marketplace;

Seek to determine or influence whether generation, transmission, distribution or other physical assets of the Utility are made available or withheld from the marketplace;

²² Ceres, *Statement on Climate Action 100+ Investor Departures* (Feb. 22, 2024), <https://www.ceres.org/news-center/press-releases/ceres-statement-climate-action-100-investor-departures>.

²³ *Id.*

²⁴ UNPRI, *What are the Principles for Responsible Investment*, <https://www.unpri.org/about-us/what-are-the-principles-for-responsible-investment>.

²⁵ See, e.g., *BlackRock, Inc.*, 179 FERC ¶ 61,049 at ¶ 13 (2022).

Seek to determine or influence ratemaking or rates for the sale of power or the provision of transmission or distribution service by the Utility;

Seek to determine or influence wages to be paid to labor or participate in or influence labor negotiations of the Utility; or

Seek to participate in or influence any other operational decision of the Utility.²⁶

These requirements should be carried forward into any reauthorization and apply to Applicants regardless of whether they file a Schedule 13G or 13D for a FPA-covered utility. These requirements must also apply not just to Applicants acting themselves but also in connection with membership in any organization or association that seeks in any way to influence utility operations. Any reauthorization order must also prohibit Applicants from coordinating their engagement, voting, or investment decisions with any external groups or organizations.

Third, Applicants must hold the shares subject to their fiduciary duties to their investors, including the duty to act in the sole financial interest of the investors.²⁷

Fourth, the Commission should require specific reports by Applicants of every instance when the asset managers voted contrary to the recommendation of utility management on a shareholder proposal or board of director nomination, as well as an explanation of how such votes were consistent with the asset manager's commitments to FERC. Asset managers should also be required to report on all engagements with FPA-Covered Utilities.

²⁶ *BlackRock, Inc. & Its Affiliated Inv. Mgmt. Companies & Applicant Funds*, 155 FERC ¶ 62,051, 2016 WL 1611067, at *2 (2016).

²⁷ See, e.g., *Morris v. Wachovia Sec., Inc.*, 277 F. Supp. 2d 622, 644 (E.D. Va. 2003) (“[T]he IAA creates a fiduciary duty on the part of investment advisers to exercise good faith and fully and fairly disclose all material facts to their clients, and an affirmative obligation “to employ reasonable care to avoid misleading [their] clients.” (quoting *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194 (1963)); see also *Malouf v. SEC*, 933 F.3d 1248, 1265 (10th Cir. 2019) (“The Act prohibits investment advisers from engaging in a fraudulent or deceptive transaction, practice, or course of business. Investment Advisers Act, 15 U.S.C. § 80b–6(2). This prohibition imposes a fiduciary duty of loyalty on investment advisers....”); *Goldstein v. SEC*, 451 F.3d 873, 881 (D.C. Cir. 2006).

STATES' INTERESTS SUPPORTING INTERVENTION

The Attorneys General represent the interests of the States as well as individuals and entities residing therein who consume electricity, are customers of utilities, or are otherwise affected by the Commission's decision on BlackRock's Application. Intervention is proper here because the Attorneys General both "represent[] an interest which may be directly affected by the outcome of the proceeding" and because their participation would be in the public interest.²⁸ The Attorneys General are public officers charged with various statutory duties related to representing their States.²⁹ The Commission's order extending blanket authorizations to BlackRock will directly affect the interests of everyday consumers and other ratepayers in the States whose rates or reliability of electricity supply may be adversely affected, as well as other participants in the States. Multiple investor-owned utilities serve residents of the States that are joining this Motion. If these utilities' services became less reliable, or costs increased, then consumers in the States would necessarily be harmed.

BlackRock itself has admitted that the transition to net zero that it is advocating will result in a "rise in inflation" and "can introduce inflationary pressures."³⁰ While BlackRock believes its approach is "manageable" and overall preferable, its concession regarding inflation nonetheless admits harm to the States and their citizens. The States have suffered an injury that is a proper basis for intervention.

For example, Missouri is served in part by Ameren Missouri, which is a subsidiary of

²⁸ See 18 C.F.R. § 385.214(b)(2).

²⁹ See generally Mo. Ann. Stat. § 27.060; Ind. Code § 4-6-1-6; Utah Code Ann. § 67-5-1.

³⁰ BlackRock, *Managing the net-zero transition 2* (Feb. 2022), <https://www.blackrock.com/corporate/literature/whitepaper/bii-managing-the-net-zero-transition-february-2022.pdf>; BlackRock, *Climate-related risk and the energy transition 1* (Mar. 2023), available at <https://www.blackrock.com/corporate/literature/publication/blk-commentary-climate-risk-and-energy-transition.pdf>.

Ameren Corporation.³¹ Ameren Transmission Company designs and builds regional transmission projects.³² BlackRock owns over 5% of Ameren’s stock.³³ Moreover, Ameren has been a target of a shareholder proposal in 2023 by As You Sow, which is a CA100+ engagement service provider.³⁴ Ameren’s actions in response to this pressure could affect its facilities, the cost to generate electricity, and Ameren’s competition with other electric utilities on the wholesale market.

PacifiCorp, which serves Utah, is owned by Berkshire Hathaway Energy, which is owned by Berkshire Hathaway, Inc. (Berkshire). In 2021, “Blackrock voted for two shareholder proposals requiring Berkshire Hathaway Inc. to issue disclosures addressing how the company is managing climate risk, noting that the company ‘is not adapting to a world where environmental, social, governance (ESG) considerations are becoming much more material to performance.’”³⁵ “Though neither proposal was approved, Blackrock’s dissatisfaction prompted other institutional investors to express their discontent, increasing pressure on the company to modify its approach.”³⁶ Berkshire Hathaway’s website shows that currently 20% of PacifiCorp’s energy comes from coal or natural gas generation. https://brkenergy.com/esg_sustainability/environmental. In Utah, this includes the Currant Creek, Hunter, and Huntington facilities.³⁷ Consumers in Utah would be

³¹ <https://www.ameren.com/company/about-ameren>.

³² *Id.*

³³ See <https://finance.yahoo.com/quote/AEE/holders/>.

³⁴ See Ceres, Engagement Tracker, <https://engagements.ceres.org/> (filter “By Status” for “Withdrawn: Commitment” and “By Filer” for “As You Sow”). This includes Ameren Corporation; Ceres, Adopt Scope 3 GHG targets (1.5C aligned) (AEE, 2023 Resolution) (“Ameren 2023 Resolution”), https://engagements.ceres.org/ceres_engagementdetailpage?recID=a015c00000Vt8DBAAZ.

³⁵ Jason Halper et al., *Investors and Regulators Turning up the Heat on Climate-Change Disclosures* (Oct. 4, 2021), available at <https://corpgov.law.harvard.edu/2021/10/04/investors-and-regulators-turning-up-the-heat-on-climate-change-disclosures/> (citing Dawn Lim and Geoffrey Rogow, BlackRock at Odds With Warren Buffett’s Berkshire Hathaway Over Disclosures, Wall St. J., May 6, 2021, <https://www.wsj.com/articles/blackrock-at-odds-with-warren-buffetts-berkshire-hathaway-over-disclosures-11620306010>).

³⁶ *Id.*

³⁷ <https://www.pacificorp.com/energy/thermal.html>

harmful if their costs went up because of closure of these facilities or substitution of more expensive energy sources.

Indiana is similarly served by multiple investor-owned utilities, whose ultimate parent companies are publicly traded.³⁸ These include Northern Indiana Public Service Company, (NIPSCO), which is a subsidiary of NiSource; Indiana-Michigan Power (I&M), which is a subsidiary of American Electric Power; Duke Energy, which is a subsidiary of Duke Energy Corporation; Indianapolis Power & Light (IPL), which is a subsidiary of AES Corporation; and Vectren, which is a subsidiary of CenterPoint Energy.³⁹ These companies presently supply consumers with energy generated from coal and natural gas.⁴⁰ Consumers in Indiana would be harmed if their costs went up because of closure of these facilities or substitution to more expensive energy sources.

Alabama is served by the Alabama Power Company, which is a subsidiary of the Southern Company.⁴¹ The Southern Company is a publicly traded company and a Climate Action 100+ focus company. <https://www.climateaction100.org/company/the-southern-company/>.

Alaska Electric Light & Power Company is a subsidiary of Avista Corp., which is a publicly traded company.⁴² Avista Corporation is in BlackRock's Climate Focus Universe, which consists of what BlackRock terms are "carbon-intensive companies."⁴³ BlackRock has stated it will engage with these companies. BlackRock reported that in 2022 it engaged with Avista twice

³⁸ <https://www.in.gov/oed/indianas-energy-landscape/electricity/investor-owned-utilities/>.

³⁹ *Id.*

⁴⁰ See, e.g., <https://www.duke-energy.com/energy-education/how-energy-works/energy-from-coal/>; see also <https://www.duke-energy.com/our-company/about-us/power-plants/>.

⁴¹ <https://www.southerncompany.com/about/our-companies.html>.

⁴² See Avista Corp., *Our Company*, available at <https://www.myavista.com/about-us/our-company>; Alaska Electric Light & Power Co., available at <https://www.aelp.com/>.

⁴³ See Blackrock Investment Stewardship, *Climate Focus Universe* at 3, available at <https://www.blackrock.com/corporate/literature/publication/blk-climate-focus-universe.pdf>.

regarding “Climate Risk Management.”⁴⁴ In addition, BlackRock is Avista’s largest shareholder, owning 18% of shares outstanding.⁴⁵

Arkansas, Louisiana, and Texas are served by subsidiaries of Entergy Corporation.⁴⁶ Arkansas is served by Entergy Arkansas LLC. Louisiana is served by Entergy Louisiana, LLC and Entergy New Orleans, LLC. Texas is Served by Entergy, Texas Inc.

American Electric Power Co., Inc. (“AEP”) serves 5.5 million customers in eleven states—Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia, and West Virginia.⁴⁷ AEP is a Climate Action 100+ target company, and in 2020 set an ambition to achieve Net zero GHG Emissions by 2050.⁴⁸ However, Climate Action 100+ has graded AEP in every category other than 2050 ambition as not meeting its criteria or only partially meeting its criteria.⁴⁹ AEP now reports that its strategy is to achieve “net zero carbon dioxide emissions by 2045, with an interim goal to cut emissions 80% from 2005 levels by 2030.”⁵⁰ Moreover, AEP reports that, as of 2023, 42% of its electricity generation came from coal, and 27% came from natural gas.⁵¹ It reports that it intends to cut its percentage of electricity generation from coal from 41% to 17% by 2032 and increase its percentage of generation from hydro, wind, solar & pumped storage from 21% to 50% during the same time period.⁵² Consumers in the proposed intervenor States will be required to pay for this transition, pay any increased costs from these alternative

⁴⁴ See BlackRock Investment Stewardship, Investment Stewardship Global Engagement Summary Report: Q1-Q4 2022 at 6, available at <https://www.blackrock.com/corporate/literature/press-release/investment-stewardship-global-quarterly-engagement-summary.pdf>.

⁴⁵ <https://finance.yahoo.com/quote/AVA/holders/>; see also Simply Wall St, *Avista Corporation (NYSE:AVA) is a favorite amongst institutional investors who own 88%* (Apr. 13, 2023), available at <https://finance.yahoo.com/news/avista-corporation-nyse-ava-favorite-150847603.html>.

⁴⁶ <https://www.entergy.com/residential/>

⁴⁷ <https://www.aep.com/about/facts>.

⁴⁸ <https://www.climateaction100.org/company/american-electric-power-company-inc/>.

⁴⁹ *Id.*

⁵⁰ <https://www.aep.com/about/ourstory/cleanenergy>.

⁵¹ <https://www.aep.com/about/businesses/generation>.

⁵² *Id.*

sources of energy, and suffer the consequences of any loss of reliability in their power supply.

Iowa, Nebraska, and South Dakota are served by MidAmerican Energy Co., which is a subsidiary of Berkshire Hathaway Energy.⁵³ Alliant Energy Corporation (LNT) also provides power in Iowa.⁵⁴ Blackrock owns over 9% of Alliant's shares.⁵⁵

Mississippi is served by investor-owned utilities, whose ultimate parent companies are publicly traded. These include Mississippi Power Company, a subsidiary of Southern Company which conducts its business through electric operating companies in three states, natural gas distribution companies in four states, a competitive generation company serving wholesale customers across America, and a leading distributed energy infrastructure company,⁵⁶ and Entergy Mississippi, LLC, a subsidiary of Entergy Corporation which is an integrated energy company engaged in electric power production, transmission and retail distribution operations in four states.⁵⁷ These companies presently supply consumers in Mississippi and elsewhere in the Southeastern United States with energy generated from fossil fuel sources, including coal and natural gas.⁵⁸ Consumers in Mississippi would be harmed if their costs went up because of closure of these facilities or substitution to more expensive energy sources.

Montana is served by NorthWestern Energy, which is a publicly traded, investor-owned utility.⁵⁹ For example, NorthWestern Energy has an ownership interest in Colstrip Units 3 and 4.⁶⁰

NorthWestern states that stricter carbon limitations by governmental bodies “has the potential to

⁵³ <https://www.brkenenergy.com/our-businesses/midamerican-energy-company>.

⁵⁴ <https://www.alliantenergy.com/aboutus/whoweare/whoweare>.

⁵⁵ <https://finance.yahoo.com/quote/LNT/holders/>.

⁵⁶ <https://www.southerncompany.com/sustainability/southern-company-overview.html>

⁵⁷ <https://www.entergy.com/about-us/>.

⁵⁸ <https://www.southerncompany.com/about/our-business.html>; <https://www.entergy.com/operations-information/>.

⁵⁹ <https://www.northwesternenergy.com/about-us>.

⁶⁰ <https://www.ktvh.com/news/northwestern-energy-says-majority-control-of-colstrip-plant-an-important-step>.

limit or curtail our operations, including the burning of fossil fuels at our coal fired power plants.”⁶¹ Investors imposing this separate from government regulation would logically have the same effect.

South Carolina is served by Duke Energy Carolinas and Duke Energy Progress.⁶² Consumers in South Carolina would be harmed if their costs went up because of substitution to more expensive energy sources.

In addition, the States that the Attorneys General represent are themselves consumers of energy, and decisions by utility companies can affect the reliable and affordable supply of energy that the States themselves consume, which creates a pecuniary interest in this matter. These direct and substantial interests will not be adequately protected without the intervention of the States through their Attorneys General. On top of this, participation by the States through their Attorneys General is in the public interest. Because the Attorneys General are elected officials who regularly take actions involving consumer protection and competition, they bring an important consumer protection and pro-competitive perspective. For these reasons, intervention is in the public interest, and the Commission should grant the Attorneys General on behalf of the States leave to intervene in this proceeding with full rights as a party.

The States interests are not otherwise represented by a party in this docket; those interests include those of its citizens, businesses, utilities, statutes, and regulatory regimes concerning utilities that are affected by the decisions of this Commission in each state. Absent the States’ intervention, no party will fully brief these issues for the Commission’s consideration.

THE STATES’ MOTION IS TIMELY

The States’ motion is timely because it is filed on or before 5pm ET on November 12,

⁶¹ See pages 13, 21, <https://www.sec.gov/ix?doc=/Archives/edgar/data/73088/000007308822000019/nwe-20211231.htm>.

⁶² <https://www.duke-energy.com/home> (click on “Select Location”).

2024.⁶³

Conclusion

For the foregoing reasons, the States listed in this motion respectfully request that the Commission grant the motion to intervene to participate in this proceeding with full rights as parties thereto.

⁶³ 89 Fed. Reg. 86332, <https://www.federalregister.gov/d/2024-25158/page-86332>.

Dated November 12, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated November 12, 2024.

/s/ Stanford Purser