JOINT COMMENTS OF ADVANCED ENERGY ECONOMY, ADVANCED ENERGY BUYERS GROUP AND RENEWABLE ENERGY BUYERS ALLIANCE


¹ 18 C.F.R § 385.213 (2021). Capitalized terms not otherwise defined herein have the meaning set forth in the Joint Response of the Clean Energy Coalition to the Supplemental Submission by the SEEM Members (“June 28 Response”).
(REBA” and collectively with AEE and AEBG, the “Clean Energy Customers”) respectfully submit these joint comments regarding the supplemental submission made by members of the Southeast Energy Exchange Market (“SEEM”) in response to the Second Deficiency Letter issued on August 6, 2021 in the above-captioned dockets.2

I. COMMENTS

A. SEEM Continues To Lack The Transparency Necessary To Evaluate Claims Of Customer Benefit.

The members of SEEM assert that they “are eager to commence market improvements to materially benefit customers throughout the southeastern United States by enhancing opportunities for competition in the bilateral market and increasing access to lower cost energy from across the large footprint of the Southeast EEM.”3 Yet, rather than embracing real change that would lead to meaningful “market improvements” and competition, they have put forward a proposal that “merely enhances the existing bilateral market in the Southeast.”4 Whether customers will see any material benefits from the SEEM proposal remains in doubt, and even the benefits they project to result from the SEEM platform are uncertain and small, especially when compared to real reforms to increase competition and access to transmission and markets in the region.5

2 Response to Second Deficiency Letter, Request for Shortened Comment Period and Expedited Action, Docket Nos. ER21-1111-000, ER21-1112-000, ER21-1114-000, ER21-1115-000, ER21-1116-000, ER21-1117-000, ER21-1118-000, ER21-1119-000, ER21-1120-000, ER21-1121-000, ER21-1125-000 ER21-1128-000 (filed Aug. 11, 2021) (“Second Deficiency Response”).

3 Second Deficiency Response at 2.

4 Response to First Deficiency Letter, Docket Nos. ER21-1111-000, ER21-1112-000, ER21-1114-000, ER21-1115-000, ER21-1116-000, ER21-1117-000, ER21-1118-000, ER21-1119-000, ER21-1120-000, ER21-1121-000, ER21-1125-000 ER21-1128-000, at 11 (filed July 7, 2021) (“First Deficiency Response”).

Significant consumer benefits are not going to materialize in the Southeast region without significant change to address underlying systemic problems arising from a lack of transparency and access to competitive market structures. The claims of transparency and benefits to customers in the SEEM proposal must be evaluated against the existing backdrop of a pronounced lack of transparency in the Southeast, particularly with respect to the operation of transmission systems and availability of transmission. For example, if Non-Firm Energy Exchange Transmission Service (“NFEETS”) is not available because transmission providers report no available transmission capacity during an applicable clock hour, any customer benefit from an otherwise potential energy exchange is lost. The members of SEEM themselves acknowledged that “[w]hether there are areas where some sellers are unlikely to find a match will depend on residual available transmission capacity. Transmission may or may not be available, just as is the case today.” There is thus continued uncertainty as to whether and when any benefit will accrue to consumers under SEEM.

Nonetheless, the SEEM members fail even to offer transparency here, asserting that they “do not propose to measure congestion” and only offer to provide data on forgone “Implied Marginal Benefit” to the Commission confidentially “if feasible.” The SEEM members’ commitment to report to the Commission why they ultimately could not provide this information only after the Commission accepts the SEEM proposal is little comfort to consumers that the SEEM proposal will create any real benefits for them in the end. To the extent the Commission

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6 First Deficiency Response at 14-15.
7 First Deficiency Response at 16; see also id. (“the revised Southeast EEM Agreement provides for this information to be provided confidentially to the Commission ‘to the extent such information can reasonably be produced by the Southeast EEM Algorithm.’”)
8 First Deficiency Response at 16 (“The Southeast EEM Members commit to report to the Commission, in the notification filing that will be provided ahead of market launch, whether such information will be provided, and if not, what difficulties were encountered that made the effort to produce the information unreasonable.”).
does accept the SEEM proposal, the Clean Energy Customers request that the Commission require the SEEM members to provide regular public reports detailing the consumer benefits, if any, produced by SEEM as well as the Implied Marginal Benefits that were forgone during each reporting period.\(^9\)

The limited amount of data that the members of SEEM propose to make publicly available severely inhibits transparency and therefore market confidence.\(^10\) FERC has long-recognized that making relevant data publicly available is of great value in enhancing market confidence and transparency,\(^11\) and that legitimate concerns regarding anti-competitive or collusive behavior facilitated by disclosure can be addressed by an appropriate time lag. The Clean Energy Customers recognize that the members of SEEM have indicated that they will provide certain information “publicly, subject to masking and a time lag where appropriate, if directed to do so by the Commission as a condition of acceptance of the Southeast EEM Proposal.”\(^12\) The Clean Energy Customers urge the Commission to direct them to do so.\(^13\)

In addition, the Clean Energy Customers reiterate that SEEM bears all the hallmarks of a loose power pool, and thus the members of SEEM must have an independently-administered

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\(^9\) See, e.g., Entergy Services, Inc., 115 FERC ¶ 61,095 at P 297, order on reh’g, 116 FERC ¶ 61,275, order on compliance, 117 FERC ¶ 61,055 (2006), order on reh’g, 119 FERC ¶ 61,187 (2007) (requiring periodic reports to measure the success of an independent coordinator of transmission “in meeting Entergy's claimed objectives (including the purported benefits) and to ensure that the market participants concerns are being adequately addressed”).

\(^10\) Joint Response of the Clean Energy Coalition to the Supplemental Submission by the SEEM Members, Docket Nos. ER21-1111-000, ER21-1112-000, ER21-1114-000, ER21-1115-000, ER21-1116-000, ER21-1117-000, ER21-1118-000, ER21-1119-000, ER21-1120-000, ER21-1121-000, ER21-1125-000 ER21-1128-000, at 10-14 (filed June 28, 2021).


\(^12\) Motion for Leave to Answer and Answer of the Southeast EEM Members, Docket Nos. ER21-1111-000, ER21-1112-000, ER21-1114-000, ER21-1115-000, ER21-1116-000, ER21-1117-000, ER21-1118-000, ER21-1119-000, ER21-1120-000, ER21-1121-000, ER21-1125-000 ER21-1128-000, at 10 (filed July 14, 2021).

\(^13\) See id. at 10-14 (listing data requested to be provided).
joint Open Access Transmission Tariff ("OATT") on file before SEEM begins operations.\textsuperscript{14} A SEEM-wide OATT would ensure that the platform functions as intended and provides transparency, fair governance, and protections against the exercise of market power. Such an OATT would also address identified concerns with regard to transmission system operations and non-discriminatory access to transmission services, improving customer confidence. The responses to the First Deficiency and Second Deficiency letters do not adequately address these critical concerns, and therefore the Clean Energy Customers renew the request for any approval of the SEEM to be conditioned on the application of a SEEM-wide OATT.

\textbf{B. Further Process Remains Necessary To Secure Real Benefits For Consumers In The Southeast.}

Unlike the SEEM proposal, competitive wholesale energy markets are a way to produce substantial and material benefits for consumers. The Clean Energy Customers strongly support the development of more competitive wholesale market options in the Southeast in order to unlock significant benefits for consumers, promote economic development throughout the Southeast, and put the region on a market-based path to decarbonization. As the Clean Energy Customers have consistently expressed, the Commission can, and should, do more to encourage an inclusive conversation about the future of wholesale markets developments in the Southeast. Now is the time to convene a forum by which stakeholders, including state regulators and policy makers, can begin establishing a collaborative process to consider the costs and benefits of more robust competitive markets in the Southeast. By broadly soliciting input from stakeholders and establishing a technical conference separate and apart from this docket the Commission can allow consideration of all relevant facts and circumstances, including by stakeholders most impacted. The Commission has an important role to play in ensuring that this conversation

\textsuperscript{14} Joint Comments of Clean Energy Coalition at 9-14, Docket No. ER21-1111-000 et al, (Mar. 15, 2021).
moves forward and can use its convening tools to ensure that the views of states and consumers on the future of the region’s wholesale market are heard and considered.

II. CONCLUSION

The Clean Energy Customers request that the Commission require the SEEM members to enhance the transparency of their proposal through, at a minimum, providing regular public reports detailing the consumer benefits, if any, produced by SEEM as well as forgone Implied Marginal Benefits, and make publicly available the information identified in the SEEM members’ July 14 answer. For similar reasons, any approval of the SEEM should be conditioned on the application of a SEEM-wide OATT to ensure transparent operations. Further, the Clean Energy Customers request that the Commission convene a forum in which all affected stakeholders may commence a constructive dialogue regarding the costs and benefits of more robust competitive markets in the Southeast.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C., this 23rd day of August 2021

/s/  Jeffery Scott Dennis
Jeffrey Dennis