

June 24, 2021

Mr. Richard Glick
Chair
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Dear Chair Glick:

The COVID-19 pandemic has left many of our constituents struggling to pay their utility bills. We believe most of them would be as shocked as we were to learn that part of their utility payments may be used to fund industry trade association fees. We strongly believe that ratepayers should not be saddled with paying fees to support industry groups that may not align with their values. However, the Uniform System of Accounts (USofA), the accounting practice overseen by the Federal Energy Regulatory Commission (FERC), and used by many utility providers to determine which costs are recoverable from ratepayers, allows for this practice.

Under the USofA, industry association fees are considered presumptively recoverable, meaning that a utility can bill a ratepayer for these costs unless its regulator objects. These costs can be significant: a rate request by Florida Light and Power revealed that between 2015 and 2018 the utility expected to charge customers \$9 million to pay for its Edison Electric Institute (EEI) dues.¹ EEI supports the activities of various groups with long histories of political influencing activities, much (though not all) of it oppositional to efforts to improve air quality and reduce carbon pollution.

The Utility Air Regulatory Group (UARG) is one such group. Prior to its disbandment in 2019, coincident to Congressional inquiries into its relationship with former Environmental Protection Agency Assistant Administrator for the Office of Air and Radiation Bill Wehrum, UARG took an oppositional stance in over 200 matters focused on clean air and public health.² The positions taken by UARG were most likely not shared by many of Florida Light and Power's customers.

To prevent ratepayers from unknowingly funding lobbying and other political activities by trade associations and the dark money groups they fund, FERC should amend the USofA to classify industry association dues as presumptively non-recoverable, as is already the case for a utility's civic and political activities, which are financed by the utility and not recovered from ratepayers.

While we disagree with the ruling of *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448 (2018), the decision would appear to prohibit utilities from recovering any portion of dues paid to trade

¹ Anderson et al., "Paying for Utility Politics: How utility ratepayers are forced to fund the Edison Electric Institute and other political organizations," Energy and Policy Institute, <https://www.energyandpolicy.org/wpcontent/uploads/2017/05/Paying-for-utility-politics-ratepayers-funding-the-Edison-Electric-Institute.pdf>

² Sean Reilly, "Defections on rise from trade group tied to EPA air chief," E&E News, <https://www.eenews.net/stories/1060169943>

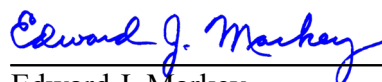
associations. Trade associations by nature engage in political speech, and the *Janus* court held that political speech occupies “the highest rung of the hierarchy of First Amendment values and merit[s] special protection.” If public sector employees cannot be required to pay any portion of union dues as a result of the fact that unions are engaged in political activities they may not support, then ratepayers should not be required to pay any portion of their utility’s trade association dues, as they may not support the political activities of such trade associations.

A petition for a rulemaking to amend the USofA’s treatment of industry association dues is currently before FERC. We urge that you initiate such a rulemaking in order to ensure that ratepayers do not foot the bill for their utility’s political influencing activities.

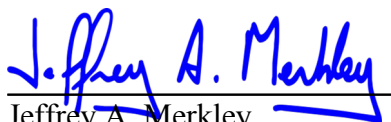
Sincerely,



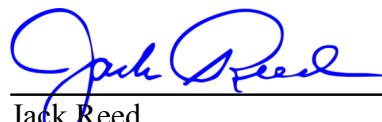
Sheldon Whitehouse
United States Senator



Edward J. Markey
United States Senator



Jeffrey A. Merkley
United States Senator



Jack Reed
United States Senator



Bernard Sanders
United States Senator

Cc: Commissioners Chatterjee, Danly, Clements, and Christie