

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION**

**Rate Recovery, Reporting, and
Accounting Treatment of Industry
Association Dues and Certain Civic,
Political, and Related Expenses**

Docket No. RM22-5-000

COMMENTS OF THE ALLIANCE FOR AFFORDABLE ENERGY

Pursuant to the Notice of Inquiry that the Federal Energy Regulatory Commission (“the Commission” or “FERC”) published in the Federal Register on December 23, 2021, the Alliance for Affordable Energy hereby submits these comments:

I. STATEMENT OF INTEREST

The Alliance for Affordable Energy (“the Alliance”) is a §501(c)(3) non-profit utility consumer advocacy organization based in New Orleans, Louisiana, and is the only utility regulatory consumer advocate in the state. Since 1985, the Alliance has advocated fair, affordable, environmentally-sustainable energy policy for Louisiana. The Alliance advocates on behalf of residential ratepayers in ratemaking proceedings before the Louisiana Public Service Commission and the New Orleans City Council, which regulates Entergy New Orleans, and has intervened in numerous other dockets before these bodies as well as before this Commission. The Alliance’s constituency comprises individual ratepayers across the state of Louisiana – a state already experiencing the catastrophic effects of climate change – who are captive customers of their respective electric utilities. The four largest electric utilities in the state – Entergy Louisiana, CLECO, SWEPCO, and Entergy New Orleans – are all member utilities of the Edison Electric Institute, among other trade associations.

The Alliance opposes the lobbying and public messaging of electric utility trade associations, and supports the establishment of a FERC rulemaking proceeding to require transparent reporting of trade association dues in order to protect the constitutional and consumer rights of utility ratepayers.

II. UTILITY TRADE ASSOCIATIONS ENGAGE IN SPEECH CONTRARY TO THE INTERESTS OF RATEPAYERS IN LOUISIANA

As the Center for Biological Diversity noted in its petition (“the petition”) initiating this docket, trade associations such as the Edison Electric Institute and their agents have engaged in speech and other activities denying the reality of climate change and seeking to weaken environmental protections and the regulation of greenhouse gas emissions to the detriment of Louisiana’s ratepayers. To the extent that this activity leads to higher bills for ratepayers, it is directly contrary to their consumer rights. Moreover, as a coastal state vulnerable to sea level rise, one that has suffered landfalls from five major tropical storms or hurricanes during the 2020 hurricane season alone, and which suffered another devastating blow from Hurricane Ida in 2021, the reality of climate change is evident across south Louisiana. Public messaging and lobbying that denies this reality and seeks to diminish the authority of regulatory agencies to combat it is not only contrary to the interests of Louisiana’s ratepayers, it is literally a threat to their lives.

III. RATEPAYERS SHOULD NOT BE REQUIRED TO FUND SPEECH CONTRARY TO THEIR INTERESTS

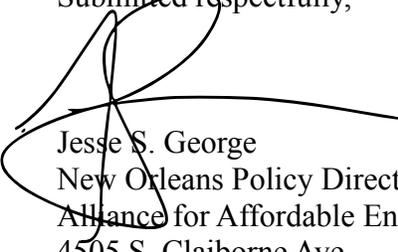
The petition documents numerous instances when public service commissions have allowed the cost of trade association dues to be passed through to ratepayers in ratemaking proceedings. As the petition’s analysis of the Supreme Court’s 2018 decision in *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448 (2018) makes clear, current jurisprudence disfavors

compelled speech, particularly when the person being compelled finds the speech objectionable. As captive customers of monopoly utilities, requiring ratepayers to reimburse utilities for the cost of dues to trade associations that advocate against ratepayers' interests is a clear example of compelled speech. Though the petition does not seek a First Amendment determination by this Commission, the Commission should take this precedent into consideration in its treatment of trade association dues because of the significant risk of harm to the constitutional rights of ratepayers.

IV. CONCLUSION

Louisiana ratepayers are in a battle for their future against the effects of climate change. Forcing ratepayers to fund speech that seeks to hinder meaningful action around the regulation of greenhouse gas emissions is a direct violation of their First Amendment rights under current Supreme Court jurisprudence, and their more fundamental right to life. The Alliance urges the Commission to establish a rulemaking proceeding to require transparent reporting of trade association dues in order to protect the constitutional and consumer rights of utility ratepayers.

Submitted respectfully,



Jesse S. George
New Orleans Policy Director
Alliance for Affordable Energy
4505 S. Claiborne Ave.
New Orleans, LA 70125
(504) 208-9761
jesse@all4energy.org