UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

JOINT MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMMENTS AND
SUPPLEMENTAL COMMENTS ON THE INQUIRY REGARDING THE
COMMISSION’S POLICY FOR DETERMINING RETURN ON EQUITY


1 18 C.F.R. § 385.212.
2 Inquiry Regarding the Commission’s Policy for Determining Return on Equity, 166 FERC ¶ 61,207 (2019).
3 Entergy Services, LLC, on behalf of Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc., and System Energy Resources, Inc.

I. INTRODUCTION AND EXECUTIVE SUMMARY

As an initial matter the Joint Parties generally support the recent Supplemental Comments filed by the Edison Electric Institute (“EEI”) in this proceeding. The Joint Parties also appreciate that through this docket, the Commission has the opportunity to reconsider its approach to determining utility returns on equity (“ROE”) in a general proceeding of broad applicability. Regulatory policies are not meant to be static for all time. It is important that agencies such as the Commission re-examine their existing policies from time to time to ensure that these policies continue to serve the purposes for which they were enacted. In this case, the Joint Parties applaud the Commission for taking a fresh look at ROE policies and considering whether these policies continue to produce just and reasonable rates for all utilities.

In these Supplemental Comments, the Joint Parties assert that in order to provide all public utilities an equal opportunity to sufficiently attract capital to support essential investment, the Commission should—in addition to the modifications proposed in the EEI Supplemental Comments—modify its existing ROE methodology to apply the same measure of central tendency when determining the ROE of all public utilities. Specifically, the Commission should

5 Good cause exists for the Commission to accept these Supplemental Comments. First, the Commission has previously accepted out-of-time comments in generic rulemaking proceedings where the comments were submitted prior to the Commission’s issuance of an order. E.g., Mandatory Reliability Standard for Nuclear Plant Interface Coordination, 125 FERC ¶ 61,065, at P 13 (2008). Second, because the Commission has not acted in this proceeding since the issuance of the NOI to clarify its policy for determining ROE for electric utilities, no party will be prejudiced or harmed by the Joint Parties’ filing of these Supplemental Comments. Third, by filing these Supplemental Comments, the Joint Parties seek to ensure the Commission has a full and complete administrative record upon which to base any future action in this docket.

use the midpoint, rather than the median, as the measure of central tendency for public utilities that file individually to establish a ROE, as it currently does for public utilities that file as a group.

The Joint Parties recognize that there is a long history of decisions and litigation on the central tendency issue. Yet although this is not a new position, the recent changes in facts and circumstances that began when the Commission first issued the Coakley and MISO Briefing Orders (“Briefing Orders”), through the issuance of the subject NOI, and up to and including the Commission’s recent issuance of Opinion No. 569-A, suggest that this is an opportune time for the Commission to readdress this issue. Just as the Commission re-examined its policy in 2008 and changed from using the midpoint to the median for single filer utilities, it is now appropriate for the Commission, twelve years later, to re-examine that policy change and consider whether it should continue to differentiate between electric utilities solely based on whether they file individually or as part of a group.7

And since the Commission adopted its policy for single filer utilities in 2008, there is mounting evidence that this policy is no longer just or reasonable, and may be unduly discriminatory. In this docket and other Commission proceedings, parties have presented evidence demonstrating that:

- all utilities should be treated equally with regard to the determination of their base ROE;
- there is no basis for distinguishing between single and group filing utilities; and
- the appropriate measure of central tendency to use is the midpoint.

7 And it would be inappropriate for the Commission to make a determination about the measure of central tendency that it will use to determine single filer utilities’ base ROEs in a region-wide ROE proceeding in which there is no evidence within the record upon which to base that decision (and no indication that single-filing utilities should intervene and brief the matter), and which that decision, if made, is inapplicable to the parties involved in that decision.
This evidence, which is cited and summarized in the comments below, justifies re-examination of the Commission’s now decade old policy.

The change proposed by the Joint Parties is necessary because having two utilities of comparable risk with different ROEs—simply because one files individually and another as a member of a group—is contrary to the United States Supreme Court’s capital attraction standard and produces an illogical result that can disadvantage a utility when competing for capital with utilities of similar risk. At a time when access to capital is more critical than ever for utilities to continue to develop and maintain safe and reliable electric transmission networks—and there are ever-increasing demands on the electric grid—the Commission should not continue to utilize a policy that effectively disadvantages a substantial number of electric utilities in this country.

Moreover, the midpoint is the appropriate statistical standard to fully capture all the results from a proxy group that has been pre-screened to include only representative companies. And the Commission’s new approach to dividing the zone of reasonableness into sub-ranges of presumptively just and reasonable ROEs for purposes of its analysis under section 206 of the Federal Power Act (both as proposed in the NOI and revised in Opinion No. 569-A\(^8\)) provides added reason for the Commission to re-examine its current policy on the most appropriate measure of central tendency. The midpoint is a more appropriate and straightforward fit with the Commission’s new approach. For these reasons, the Joint Parties urge the Commission to revert to its prior policy of utilizing the midpoint as the starting point for its ROE analysis for all public utilities.

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II. BACKGROUND

Under well-established precedent, the Commission must authorize a risk-adjusted ROE that is sufficient to attract investment.9 Until 2008, the Commission used the midpoint of the zone of reasonableness to determine the ROE for all electric utilities of average risk in relation to their proxy group.10 This practice was reaffirmed when the Commission reversed a Presiding Administrative Law Judge (“ALJ”) who relied on a gas pipeline decision to rule that the median, rather than the midpoint, should be used to determine the ROE for an electric utility of average risk.11 The Commission emphasized that the ALJ had improperly relied on precedent on the rate of return for gas pipelines and that there was no reason to depart from its long-standing policy of using the midpoint of the zone of reasonableness for an electric utility.12

The Commission again used the midpoint to set the ROE for the members of the Midcontinent Independent System Operator (“MISO”), disagreeing with Commission Trial Staff, who cited to gas pipeline cases for the proposition that the Commission should use the median rather than the midpoint. In doing so, the Commission found that it “has consistently used the midpoint in setting the ROE for electric utilities.”13 After a voluntary remand, the Commission affirmed its use of the midpoint, ruling that the issue was “not what constitutes the best overall

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9 See Canadian Ass’n of Petroleum Producers v. FERC, 254 F.3d 289, 293 (D.C. Cir. 2001).
12 Id.
method for determining ROE generically,” but rather what was appropriate.14 On appeal, the D.C. Circuit concluded that the Commission’s decision to use the midpoint was reasonable.15

For three years following the Court’s decision in the MISO case, the Commission continued to rely upon its general policy of employing the midpoint for setting all electric utilities’ ROEs.16 Then, in 2008, the Commission issued a different ruling in the Golden Spread case.17 Relying on the very gas pipeline cases it had previously found inapplicable, the Commission proposed to use the median as the better measure of central tendency for a utility of average risk in cases involving a single electric utility.18 Following Golden Spread, the Commission began using the median in other single electric utility cases.

In 2012, SCE filed an appeal in the D.C. Circuit concerning the Commission applying the median as the measure of central tendency for determining SCE’s base ROE.19 In its 2013 decision, the D.C. Circuit permitted the Commission to use the median for a single utility filer of average risk. The Court found that the Commission had sufficiently explained its policy change of using the median instead of the midpoint for single utility filers of average risk.20

18 Id. at P 62.
19 SCE’s appeal concerned three dockets in which the Commission ordered SCE to use the median, rather than the midpoint, in establishing its ROE. The Commission initially addressed the issue in Docket No. ER08-375 in S. California Edison Co., 131 FERC ¶ 61,020 (2010). The Commission followed that order in two other dockets, No. ER11-1952 and No. ER11-3697. The Commission denied rehearing on this issue in all three dockets in a single rehearing order. See S. California Edison Co., 137 FERC ¶ 61,016 (2011).
20 Southern California Edison Co. v. FERC, 717 F.3d 177, 184 (D.C. Cir. 2013).
Importantly, however, the Court did not hold that use of the midpoint for single filer utilities is *per se* unjust and unreasonable. Instead, the Court recognized the Commission’s discretion in this area and determined that the Commission had adequately defended its decision to change methodologies for single filer utilities. In fact, the *Southern California Edison* Court found its holding affirming the Commission’s use of the median consistent with the Court’s prior opinion affirming the Commission’s use of the midpoint. The Commission’s use of the midpoint thus remained good law—evidenced by the Commission continuing to apply the midpoint for group filers.21

In 2018, the Commission issued two Briefing Orders in dockets relating to the New England transmission owners (“TOs”)22 and the MISO TOs,23 proposing to adopt a revised ROE framework with a quartile approach for determining ROEs and to use the midpoint as the measure of central tendency. Both Briefing Orders were focused solely on determining an RTO-wide ROE for group filers.24

On March 21, 2019, the Commission initiated this NOI to examine “whether, and if so how, it should modify its policies concerning the determination of the return on equity (ROE) to be used in designing jurisdictional rates charged by public utilities.”25 The NOI included a series

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21 *See id. at 186-87 (citing Canadian Ass’n of Petroleum Producers v. FERC, 254 F.3d 289,298 (2001)); see also Midwest ISO, 397 F.3d at 1010 (D.C. 2005).*


24 Both Briefing Orders did briefly state that the Commission’s existing policy applies the median as the measure of central tendency for single filer utilities. *See Coakley Briefing Order at n. 46; MISO Briefing Order at n. 40.*

25 NOI at P 1.
of questions and sought comment.26 Question G4 acknowledged there are concerns regarding application of the median as the measure of central tendency for single filer utilities under the approach outlined in the Briefing Orders.27

Subsequent to the submission of comments in this NOI, the Commission issued an order on November 21, 2019 in the MISO TOs’ case, Opinion No. 569, that adopted a revised ROE approach, including a quartile framework, and used the midpoint as the measure of central tendency.28 Subsequently, on May 21, 2020 in Opinion No. 569-A, the Commission granted rehearing in part, making further revisions to its base ROE methodology.29 Of importance here, the Commission determined that it would set a new ROE by averaging the proxy group results of three models (Discounted Cash Flow (“DCF”), Capital Asset Pricing Model (“CAPM”), and Risk Premium) to create a composite zone of reasonableness, divide that zone into three equal sub-ranges, and then use the midpoint as the starting place in the applicable range.30 While Opinion No. 569-A acknowledged the Commission has as of late applied the median as the measure of central tendency for single filer utilities,31 it did not provide specific analysis

26 Many of the joint parties previously noted in their NOI comments that the Commission should adopt the midpoint for single filer utilities. But, as noted, the joint parties believe this an appropriate time to collectively re-raise the issue, given the Commission’s issuance of Opinion No. 569-A and the uncertainty and complexity of attempting to apply the median within the Commission’s tertile framework.

27 Id. at P 37.


30 Id. at 193-94. See id. at P 263 (finding there “is no section 205 filing before us in this proceeding and we are not making any determinations regarding whether or how the presumptively just and reasonable ranges used in this order would applying the context of a section 205 filing”).

31 Opinion No. 569-A, 171 FERC ¶ 61,154, at n.35 & 46 (citing to Opinion No. 569). See also Opinion No. 569, 169 FERC ¶ 61,129 at P 398.
concerning use of the median under this new tertile framework or expressly affirm the use of the median for single filers going forward.

III. COMMENTS

A. The Commission’s Policy of Applying the Median to Individual Filers and Midpoint to Group Filers Is Contrary to Supreme Court Precedent That Utilities with Comparable Risk Should Receive Comparable Returns

As the Supreme Court held in the oft cited cases of Hope and Bluefield, a public utility’s ROE must be set commensurate with the returns of other utilities facing corresponding risks to ensure that the utility can attract sufficient investment.32 Despite this, since Golden Spread, the Commission has used different measures of central tendency in its ROE analysis, depending on whether a utility files individually or as a group. Specifically, the Commission currently uses the median as the measure of central tendency for utilities filing individually, and the midpoint for utilities filing as a group. This can lead to significant differences in authorized ROEs for utilities of comparable risk, simply because of the form of the utility’s filing.33 Such an outcome is directly contrary to the Supreme Court’s Hope and Bluefield standard that two utilities with comparable risks should have the same ROE. The Commission’s policy would instead have the

32 NOI at P 4 (quoting Fed. Power Comm’n v. Hope Natural Gas Co., 320 U.S. 591, 605 (1944) (Hope); see also Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm’n, 262 U.S. 679, 692-693 (1923) (Bluefield); Duquesne Light Co. v. Barasch, 488 U.S. 299, 314 (1989)). See, e.g., Permian Basin Ara Rate Cases, 390 U.S. 747, 790-91 (1968) (holding that the return to the equity owner must be commensurate with returns on investments in other enterprises holding corresponding risks) (quoting Hope at 603); see also Canadian Ass’n of Petroleum Producers v. FERC, 254 F.3d 289, 293 (D.C. Cir. 2001) (“In order to attract capital, a utility must offer a risk-adjusted expected rate of return sufficient to attract investors”).

33 The difference between the midpoint and median can be substantial. For example, in Docket No. ER08-375, the difference was 145 basis points. Southern California Edison Co., 131 FERC ¶ 61,020 at PP 58, 94 (2010) (“Paper Hearing Order”).
pervasive result where two utilities of comparable risk end up with significantly different ROEs simply because one utility files in a group and the other files individually.

As discussed more below in section B.2., the Commission acknowledged in this NOI that there may be an issue with using the median as the measure of central tendency under its proposal to create ranges of presumptively just and reasonable ROEs, acknowledging the potential risk that using the median for single filers may not work well within the Commission’s proposed ROE quartile framework. The concern is well-founded—and is the same under the tertile structure that the Commission set forth in Opinion No. 569-A where the Commission seeks to maintain three equal ranges. There is still a material risk of an unreasonable outcome where two utilities of comparable risks have differing ROEs due solely to their filing status and the corresponding use of different measures of central tendency. In order to ensure just and reasonable ROEs for all utilities consistent with Supreme Court precedent, this Commission should unify its methodology for calculating authorized ROEs among all utilities by adopting the consistent use of the midpoint as the measure of central tendency in all electric utility ROE analyses.

Moreover, from a financial and economic perspective, the distinction between individual and group utility filers has no basis. The cost of capital is an opportunity cost based on the

34 Opinion No. 569-A did not explain how the Commission would implement its tertile approach for a single filer.

35 Moreover, this is not simply an issue of one method producing higher results. There may be times where the median results in a higher ROE compared to the midpoint, or vice versa. Using inconsistent measures of central tendency for individual and group filers unduly discriminates against whichever utilities receive a lower ROE than their counterparts with comparable risk, an “illogical” result that is contrary to the mandate that utilities of comparable risk should have the same return. See NOI, Docket No. PL19-4-000, Initial Comments of American Electric Power Company, Inc. (filed Jun. 26, 2019), Attachment A, William Avera and John Thompson, Measures of Central Tendency for Cost of Equity Estimates at 18.
returns that investors could realize by putting their money in other alternatives.\textsuperscript{36} There is no reason to suggest or believe that investors care or distinguish between utilities whose ROE is established in an individual filing and those whose ROE is determined as part of a group. Instead, investors assess risk and growth opportunities.\textsuperscript{37} All utilities must compete for the same capital with utilities across the nation, regardless of the mechanical policies used by the Commission to establish the central tendency within the proxy group range for the utility at issue.\textsuperscript{38} Ultimately, when investors compare two utilities with similar risk profiles, they will naturally choose to invest in the utility with the higher ROE, thus unreasonably disadvantaging one of the utilities—either the utility that has the median applied as the measure of central tendency \textit{or} the utility that has the midpoint applied—depending upon the results from those statistical measures.\textsuperscript{39}

B. The Midpoint Is the More Statistically Valid Measure of Central Tendency, and the Commission Should Use It to Determine Base ROE for All Public Utilities

As explained in Section A above, in order to satisfy the requirements of \textit{Hope} and \textit{Bluefield} and not unreasonably and arbitrarily discriminate against some utilities, the Commission should apply the same measure of central tendency in its ROE methodology for \textit{all} utilities.


\textsuperscript{38} SES McKenzie Testimony at 20.

\textsuperscript{39} \textit{Id.} at 20-21.
public utilities in Federal Power Act Section 205 and 206 actions—regardless whether the utility files individually or as part of a group. In so doing and as explained below, the appropriate measure of central tendency the Commission should adopt is the midpoint, as it is the more statistically valid method to assess an entire range of values from a pre-screened, representative proxy group and ensures that the Commission’s approach to dividing the zone of reasonableness into sub-ranges of presumptively just and reasonable ROEs can function as intended.

1. The Midpoint More Fully Captures the Entire Range of Proxy Group Results

To establish a zone of reasonableness, the Commission considers a proxy group of comparable electric utilities using applicable screening criteria to create a “range of reasonable returns.” As Drs. Avera and Thompson have described, this screening generally results in a relatively small group of companies, as the “total population of companies that are suitable candidates for a gas or electric utility proxy group numbers in the tens, not in the thousands or millions, as is often the case where random sampling is applied.”

In this situation—where the proxy group consists of a relatively small number of companies that, by definition, only include reasonable results—the midpoint is the more appropriate measure of central tendency because it more fully captures the entire range of values. As noted, the midpoint is the sum of the highest and lowest proxy group observations divided by

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40 See Coakley, 165 FERC ¶ 61,030, P 49 (describing the Briefing Orders’ screening criteria); see also EEI Supplemental Comments, Docket No. PL19-4-000, Appendix A: Concentric Energy Advisors, Advancing FERC’s Methodology for Determining Allowed ROEs for Electric Transmission Companies p. 2 (suggesting appropriate modifications to the Commission’s Briefing Order screening criteria).

41 Coakley at P 49; see also Canadian Ass’n, 254 F.3d at 294 (finding that the Commission adjusts the range by applying screens to exclude unrepresentative high or low rates of return).

two.\textsuperscript{43} Using the “midpoint is appropriate” in this context, “because the highest and lowest values are perfectly reasonable ROE estimates,”\textsuperscript{44} with the midpoint “concentrat[ing] on the endpoints of the range, which are established by the full range of observations.”\textsuperscript{45} As Drs. Avera and Thompson explain:

[I]f the proxy group for an individual electric utility is screened to be of comparable risk to that utility, then each ROE estimate that passes economic and regulatory tests of logic are potentially just and reasonable for an individual utility in its rate case. In the absence of evidence that the midpoint misrepresents the distribution of ROE estimates, then it is the most logical measure of central tendency.\textsuperscript{46}

While the midpoint considers all data points in a range—since the highest and lowest values are only identified by comparing them to all other points in the data set—the median concentrates on the middle one or two values of the distribution.\textsuperscript{47} Different distribution sets can have the same median—even though they have significantly different endpoints. For example, the median of the series 8, 9, 10, 11, and 12 would be 10, as would also be the midpoint. But 10 would also be the median of the distribution set of 9, 9, 10, 12, and 13 – despite the fact that there has been a clear shift upward in the data set with a resulting midpoint of 11.

As Drs. Avera and Thompson note, an adjustment to the midpoint may be appropriate if the distribution of numbers is skewed by unreasonable outliers.\textsuperscript{48} But that is self-evidently not the case here. The inability to account for the full-range of values when applying the median is

\textsuperscript{43} Id. at 5.
\textsuperscript{44} Id. at 13.
\textsuperscript{45} Id. at 9. \textit{See Canadian Ass’n}, 254 F.3d at 298 (finding that the argument that the median gives more consideration to all the numbers in a sequence “not wholly accurate” and holding that “[t]he midpoint doesn’t completely disregard the middle three numbers; the highest and lowest numbers achieve their status by reference to all five numbers”) (internal quotation omitted).
\textsuperscript{46} Avera/Thompson at 18.
\textsuperscript{47} Id. at 8.
\textsuperscript{48} Id. at 9.
particularly problematic when, by definition, all proxy group members have already been
screened to represent potentially just and reasonable ROEs.\textsuperscript{49} In other words, the primary
argument for using the median—that it is an appropriate measure when data is skewed by
outliers—is inapplicable when the proxy group has already been screened and provides only
representative samples of just and reasonable ROEs. As Drs. Avera and Thompson state:

> The statistical argument for ignoring [the highest and lowest] values is that they
are outliers, and are therefore out of place in a distribution of just and reasonable
ROEs. In other words, there should be no unreasonable outliers in a zone of
reasonable ROEs. But since objective screening has already eliminated outliers in
this case, the statistical argument for median is not applicable.\textsuperscript{50}

By applying the median to the proxy group range, the Commission effectively imposes an
additional screen that biases the results towards the middle of the distribution instead of
accurately reflecting the entire range. And as Drs. Avera and Thompson note, “[w]ith the
number of comparable risk utilities so limited in today’s capital markets, rejecting observations
that have already passed objective criteria for reasonableness would be statistically wasteful.”\textsuperscript{51}

In the group filer context, the Commission itself has repeatedly recognized that the
“midpoint—unlike the other measures of central tendency—fully considers that range, because it
is derived directly from the endpoints of that range.”\textsuperscript{52} As the Commission noted, while the
midpoint may be inappropriate in cases of “egregious distortion,” this is not a concern with an
appropriately chosen proxy group.\textsuperscript{53} The D.C. Circuit has similarly found that, with the

\textsuperscript{49} See, e.g., EEI, Concentric App’x 1, at 2 (“it is not appropriate to remove legitimate high-end results that
otherwise meet tests of economic logic and inform the range of reasonable returns”).

\textsuperscript{50} Avera/Thompson at 13.

\textsuperscript{51} Id. at 6-7.

\textsuperscript{52} Opinion No. 569 at P 410 (citing Midwest ISO, 397 F.3d at 1010); see also Avera/Thompson at 9 (“the
midpoint value concentrates on the endpoints of the range, which are established by the full range of
observations”).

midpoint, “the highest and lowest numbers achieve their status by reference to all the other numbers,”54 and that “only the midpoint *emphasizes* the range.”55 This logic has the same force when considering single filer utilities.

2. **The Midpoint Supports a Sub-Range Approach As Proposed by the Commission**

The midpoint also makes the Commission’s sub-range approach function more effectively and with less complications than the median. In the NOI, the Commission appeared to recognize the limitations of attempting to use the median within its proposed quartile methodology. As the Commission stated in seeking comments:

- In single utility rate cases, the Commission determines the central tendency of the zone of reasonableness based on the median of the proxy group ROEs. Is the approach outlined in the *Coakley* and MISO briefing orders appropriate in single utility rate cases given that the proxy company ROEs tend to cluster near the center of the zone of reasonableness, making the middle quartile relatively narrow?56

- Would it be reasonable to determine the central tendencies of the upper and lower halves of the zone of reasonableness for single utilities based on a midpoint analysis, so as to produce approximately equal ranges of presumptively just and reasonable ROEs for below average, average, and above average risk utilities?57

The Commission’s questions reflect the recognition that, within the framework of identifying portions of the zone of reasonableness to represent ranges of presumptively just and reasonable ROEs, using the midpoint to take the entire range of values into account is a more appropriate and consistent measurement of central tendency and a better indicator of a just and reasonable ROE, ensuring a sufficiently broad middle quartile and equal-sized ranges. The Joint

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54 Canadian Ass’n, 254 F.3d at 298 (quoting Median Rate Order on Rehearing, 92 FERC ¶61,038 at 61,095 (2000)).
55 Midwest ISO, 397 F.3d at 1010.
56 NOI at P 28, Question G4.
57 *Id.* at G4a.
Parties believe that these concerns apply equally to the tertile approach that the Commission adopted in Opinion No. 569-A. In the Opinion No. 569-A approach, the Commission will average the top and bottom of the DCF, CAPM, and Risk Premium zones of reasonableness to create a composite zone and then divide that zone into equal thirds.\(^{58}\) While there is uncertainty as to how the Commission will apply this tertile approach to single filers, use of the midpoint for all public utilities would make it more straightforward for the Commission to both maintain three equal-sized ranges of presumptively just and reasonable base ROEs and to place the central tendency within the middle of each of those ranges.

There is no reason to add additional steps or other methods to attempt to “force fit” the median into the Commission’s new framework. The midpoint is also wholly consistent with the previously cited proposals of EEI, New England TOs, and PATH to expand the range of presumptive just and reasonable ROEs in the first prong of the Commission’s analysis under section 206 of the Federal Power Act, where the range would be centered over the midpoint. The Commission’s change in base ROE methodology and potential implementation complications it might face if it force-fits median for single filers into that methodology provides ample justification for the Commission to return to using the midpoint for all utilities.\(^{59}\)

\(^{58}\) 171 FERC ¶ 61,154, P 214-216.

\(^{59}\) See, e.g., S. Cal. Edison. 717 F.3d at 186 (in upholding the Commission’s policy change from using the midpoint to the median for individual utility filers, the Court re-affirmed that the Commission, in changing policy, “is under no obligation to ‘demonstrate . . . that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, with the conscious change of course adequately indicates.’” (quoting FCC v. Fox TV Stations, Inc., 556 U.S. 502, 515 (2009)).
IV. CONCLUSION

For the foregoing reasons, the Joint Parties request that the Commission act in this proceeding to adopt the midpoint as the measurement of central tendency for use in determining the base ROE for single utility filers.

Respectfully submitted,

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By: /s/ Cara J. Lewis
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Dated:  June 15, 2020
CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Rule 2010 of the Commission’s Regulations, 18 C.F.R. § 385.2010, I have this day served the foregoing “JOINT MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMMENTS AND SUPPLEMENTAL COMMENTS ON THE INQUIRY REGARDING THE COMMISSION’S POLICY FOR DETERMINING RETURN ON EQUITY OF SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, EXELON CORPORATION, AMERICAN ELECTRIC POWER COMPANY, INC., EVERGY COMPANIES, ENTERGY SERVICES, LLC, FIRSTENERGY SERVICE COMPANY, PORTLAND GENERAL ELECTRIC COMPANY, PACIFIC GAS & ELECTRIC COMPANY, AVISTA CORPORATION, PUGET SOUND ENERGY, PACIFICORP, IDAHO POWER COMPANY, AND PSEG SERVICES CORPORATION (collectively, the “JOINT PARTIES”) upon each person designated on the official service list compiled by the Secretary in Docket No. PL19-4-000.

Service was effected by transmitting the copies via email to all parties who have provided an e-mail address. First class mail will be used if electric service cannot be effectuated.

Dated at Rosemead, California, this 15TH day of June 2020.

/s/Sandra Sedano
Sandra Sedano
Specialist, Legal Support

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
Service List for Docket PL19-4-000
(Inquiry Regarding the Commission’s Policy for Determining the Return On Equity for Natural Gas and Oil Pipelines)

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