

Summary of American Antitrust Institute Comments in Response to:

Federal Energy Regulatory Commission’s Notice of Proposed Rulemaking: Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design (Docket No. RM01-12-000)

The American Antitrust Institute recently filed comments in response to the Federal Energy Regulatory Commission’s Notice of Proposed Rulemaking: Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design (Docket No. RM01-12-000). The AAI’s comments applauds the Commission for recognizing that full deregulation of the U.S. electric power industry is not feasible and that competition will have to be carefully “managed”. However, a strong oversight role for the Commission is not well-articulated under the proposal. Instead, market monitors will bear a disproportionately high burden of responsibility and analysis. The AAI notes that some of this burden should be borne by the Commission, particularly for performing structural market analysis. Moreover, the FERC’s proposal side-steps several important issues in market monitoring and mitigation. The AAI’s comments emphasize the need for the proposal to clearly define and establish criteria for defining markets and market power and not to characterize broader regulatory intervention measures as market power “mitigation”.