VISTRA ENERGY

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Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E–218
Washington, DC 20219

Robert E. Feldman, Executive Secretary
Attention: Comments/RIN 3064–AE80
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Via Electronic Submission

Re: Comment to Notice of Proposed Rulemaking –*Standardized Approach for Calculating the Exposure Amount of Derivative Contracts* [Docket No. R–1629 and RIN 7100–AF22; RIN 3064–AE80; Docket ID OCC–2018–0030]

Vistra Energy Corp. ("Vistra") welcomes this opportunity to submit these comments in response to the Notice of Proposed Rulemaking (the "NPR") issued by the Board of Governors of the Federal Reserve System (the "Federal Reserve"), the Office of the Comptroller of the Currency (the "OCC") and the Federal Deposit Insurance Corporation (the "FDIC" and, together, with the Federal Reserve and the OCC, the "Prudential Regulators") addressing proposed changes to the standardized approach for calculating the exposure amount ("SA-CCR") of derivatives contracts conducted by our large bank counterparties.[1]

1 Notice of Proposed Rulemaking, *Standardized Approach for Calculating the Exposure Amount of Derivative Contracts*, 83 Fed. Reg. 64660 (December 11, 2018).

Vistra is an integrated power company consisting of a power generation fleet of approximately 41,000 megawatts and a retail business that serves approximately 2.9 million residential, commercial and industrial customers across five retail states. Vistra's business relies on cost-efficient access to derivatives instruments in order to support its commercial operations and hedge related risks. Vistra therefore submits these comments to the NPR to ensure that the Prudential Regulators are aware of and adequately consider Vistra's and related businesses interests. By creating higher transaction costs for certain of our derivatives counterparties, Vistra is concerned that the NPR would reduce our access to cost-efficient hedging for such transactions, would increase overall market risks and costs, and would lead to greater market instability. We strongly encourage the Prudential Regulators to create an exemption to the SA-CCR calculation for derivatives transactions with commercial end-users in order to avoid the potential knock-on effects and costs that the NPR may have on Vistra.

The NPR's effect on Vistra.

Our power operations and retail business are subject to inherent market price fluctuations. In order to combat volatility and ensure stable pricing and cash flow, we enter into numerous swaps to help mitigate power and gas price risks. For example, we often enter into short-term one-year swaps to help mitigate such risks.

Vistra and other commercial end-users are currently exempt from the clearing and margin requirements imposed on our counterparties. These exemptions serve the important need of ensuring that commercial businesses are able to adequately and efficiently mitigate their commercial risks through entering into derivatives transactions. The NPR would undermine these exemptions by imposing excessive capital restrictions on our counterparties through the proposed SA-CCR calculations.

Under current regulations, our bank counterparties are subject to a 10% potential future exposure weighting with respect to our energy hedges. The NPR would increase this to 56%, representing 460% increase to the exposure at default amount that our banks need to retain capital against; costs which are likely to be passed on to us in the form of higher transaction pricing. To put this into a dollar amount, were we to enter into a one-year at the money gas swap with a notional value of $50M, the current exposure at default amount would equal $5M but would increase to $28M under SA-CCR. Of particular concern—and major driver of this increase—is the inflated supervisory factor assigned to these types of swaps, especially when compared to other commodities derivatives. Imposition of such punitive weightings, we believe, would unduly burden the markets we operate in. Any additional costs passed on to us as a result of increased exposures for our bank counterparts threatens to undermine the viability of our operations and risk mitigation practices.

The NPR would take an overly prescriptive approach. The proposed SA-CCR calculations would have drastic cost and liquidity impacts on commercial end-users and ignores the current market practice of accounting for these risks in the pricing terms of contracts. The NPR does ignore the commercial benefits of lien-based securitization, corporate guarantees, and letters of credit that many businesses like ours employ and provides a strict preference and offset for cash margining. Many commercial businesses, such as ours, see cash-margining as impractical and economically inefficient. Retaining cash against the notional value of their swaps would unnecessarily lock-up cash that could otherwise be used to reinvest in our business and create jobs. Because of these considerations, Vistra primarily engages in lien-based arrangements with our large bank counterparties, a practice which Congress sought to encourage with enactment of the end-user exception and exemption from uncleared margin requirements.

For those reasons, Vistra strongly encourages the Prudential Regulators to create an exemption to SA-CCR in order to ensure that the NPR does not undermine and circumvent legislatively prescribed benefits for businesses like ours.

The NPR's effect on the derivatives market.

Our commercial hedging needs are best addressed by deep, competitively priced markets. Vistra is concerned that implementation of the amended SA-CCR would result in decreased overall market depth. By compounding burdens on the activities of our counterparties, the NPR would serve to further reduce the number of large bank counterparties (and their affiliates) willing to engage in derivatives transactions with commercial businesses like ours.

Vistra is particularly concerned that the proposed adjustments under SA-CCR would have the effect of creating an inefficient marketplace. An increase in the exposure amount placed on our counterparties would inevitably be passed along to Vistra in the form of higher transaction costs. In addition to the likelihood of higher pass-through costs necessary to offset SA-CCR calculations, we are concerned that the NPR also has the potential to create a derivatives marketplace, which would mandate cash-margining and ultimately may force our counterparties out of the market altogether. Either of these conclusions would hurt our ability to properly manage our business risks and would therefore harm Vistra's commercial operations.

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For the foregoing reasons, we strongly encourage the agencies to consider the NPR's indirect impact on derivatives transactions with commercial end-user entities such as Vistra, as well as generally reconsider the appropriateness of imposing SA-CCR calculations on derivatives transactions that would otherwise qualify for the end-user exception. We believe the NPR would directly increase the cost of managing commercial risks and threaten the overall stability of our operations.

Vistra appreciates the opportunity to share our observations on the NPR. If you have any questions or would like any additional information, please do not hesitate to contact Tiffany Silvey at (214) 875-9300 or tiffany.silvey@vistraenergy.com.

Very Truly Yours,

Vistra Energy Corp.

[redacted]

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