UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection	)))	**Docket No. RM21-17-000**

COMMENTS OF WIRES

Pursuant to the Advance Notice of Proposed Rulemaking ("ANOPR") issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") on July 15, 2021 in the above-caption proceeding,[1] WIRES, on behalf of its members, hereby submits the following comments.

I. INTRODUCTION

WIRES is a non-profit trade association of investor-, publicly-, and cooperatively-owned transmission providers and developers, transmission customers, regional grid managers, and equipment and service companies. WIRES promotes investment in electric transmission and consumer, environmental, and resilience benefits through development of electric transmission infrastructure.[2] Since its inception, WIRES has focused on supporting investment in needed and beneficial transmission infrastructure – investments that Congress and the Commission have recognized are critical to establishing a resilient, reliable, cost-effective, modern, and clean bulk power system.[3]

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[1] *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,204 (2021) ("ANOPR").

[2] For more information about WIRES, please visit www.wiresgroup.com.

[3] This filing is supported by the full supporting members of WIRES but does not necessarily reflect the views of the RTO/ISO associate members of WIRES.

Electric transmission investment in the United States remains critical to realizing the benefits of efficient and reliable electric service while enabling the ongoing transition to new generating sources, often located remotely from load, to power an increasingly electrified economy. There are several factors the Commission must consider with any potential changes to existing regional transmission planning, cost allocation, and generator interconnection processes including the need to help ensure the ability of the transmission system to reliably serve firm transmission use, the evolution in the nation's resource mix, an increase in the number of new resources seeking transmission service, shifts in load patterns, the impact of increasing extreme weather events on the bulk power system, climate change impacts and the need for resilience, the increasing electrification of the economy, and the challenges associated with implementing changes to transmission planning, cost allocation, and interconnection processes. WIRES has produced numerous studies showing the tremendous benefits transmission investment provides and that the need for new transmission has never been greater.[4] For these reasons, WIRES appreciates the opportunity to submit these comments on the Commission's reexamination of regional transmission planning, cost allocation, and generator interconnection processes to fully account for the future energy needs of customers, and of the nation.

[4] *See e.g.*, The Brattle Group, *Employment and Economic Benefits of Transmission Infrastructure Investment in the U.S. and Canada* (May 2011); The Brattle Group, *The Benefits of Electric Transmission: Identifying and Analyzing the Value of Investments*, (July 2013) (Brattle Benefits Report); The Brattle Group, *Well-Planned Electric Transmission Saves Customer Costs: Improved Transmission Planning is Key to the Transition to a Carbon-Constrained Future* (June 2016) ("Brattle Planning Study"); London Economics International, Inc., *How Does Electric Transmission Benefit You?* (Jan. 2018); The Brattle Group, *Recognizing the Role of Transmission in Electric System Resilience* (May 2018); The Brattle Group, *The Coming Electrification of the North American Economy* (Mar. 2019); ScottMadden, Inc., *Informing the Transmission Discussion: A Look at Renewables Integration and Resilience in Selected Regions of the United States* (Jan. 2020) ("ScottMadden Report"); London Economics International, Inc., *Repowering America: Transmission Investment for Economic Stimulus and Climate Change* (May 2021).

II. BACKGROUND

The ANOPR marks the latest in a series of Commission proceedings to address transmission planning processes, cost allocation mechanisms, and generator interconnection processes. In 2007, the Commission issued Order No. 890[5] to re-examine the decade of experience it had gained in implementing Order No. 888's[6] open access to transmission facilities owned, operated, or controlled by public utilities and requirements relating to transmission planning. In particular, the Commission required each transmission provider to satisfy nine transmission planning principles in its transmission planning process: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects.[7]

Just four years later, the Commission issued Order No. 1000,[8] which revisited the transmission planning requirements established in Order No. 890. The Order No. 1000 reforms covered five categories: (1) regional transmission planning; (2) transmission needs driven by Public Policy Requirements; (3) nonincumbent transmission developer reforms; (4) regional and

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[5] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[6] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[7] Order No. 890 at PP 418-601.

[8] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

interregional cost allocation; and (5) interregional transmission coordination. Order No. 1000 required each transmission provider to participate in a regional transmission planning process that produces a regional transmission plan and satisfies Order No. 890's transmission planning principles.[9] The regional transmission planning process requires that transmission providers evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the region's reliability, economic, and Public Policy Requirements[10] needs in a more efficient or cost-effective manner than solutions identified in local transmission planning processes.[11]

Order No. 1000 also implemented several changes designed to provide nonincumbent transmission developers an opportunity to participate in the regional transmission development process, such as mandating transparent and not unduly discriminatory processes for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.[12] In addition, Order No. 1000 required each transmission provider to implement methods for allocating the costs of new regional transmission facilities selected in the regional transmission plan, and to ensure that such allocation methods satisfy a set of six regional cost allocation principles.[13] Order No. 1000 further required that transmission providers establish processes and procedures for interregional transmission coordination.[14]

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[9] Order No. 1000 at PP 146, 148, 151.

[10] Public Policy Requirements are requirements established by local, state, or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level). Order No. 1000 at P 2.

[11] *Id.* at PP 11, 148.

[12] *Id.* at P 328; Order No. 1000-A at P 452.

[13] Order No. 1000 at PP 558, 603.

[14] *Id.* at P 396.

Prior to these transmission planning reforms, the Commission issued Order No. 2003 in an effort to bring an element of standardization to the generator interconnection process.[15] Order No. 2003 recognized the need for a single set of interconnection procedures for jurisdictional transmission providers and a single, uniformly applicable interconnection agreement for large generators.[16] The Commission noted that interconnection is a "critical component of open access transmission service" and that as a result it should be "subject to the requirement that utilities offer comparable service under the OATT."[17] Rather than evaluate interconnection issues on a case-by-case basis, the Commission crafted a standard set of generator interconnection procedures in the form of *pro forma* Large Generator Interconnection Procedures ("LGIP") and a *pro forma* Large Generator Interconnection Agreement ("LGIA"), and required that all transmission providers' OATTs incorporate the *pro forma* LGIP and *pro forma* LGIA. This standardized framework was designed to "minimize opportunities for undue discrimination and expedite the development of new generation, while protecting reliability and ensuring that rates are just and reasonable."[18]

Against this background, on July 15, 2021, the Commission issued the ANOPR pursuant to FPA section 206 in light of evolving conditions to consider whether there should be changes to the regional transmission planning, cost allocation, and generator interconnection processes to address any potential shortcomings in those processes which may have become evident since the

[15] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007) (*NARUC v. FERC*).

[16] Order No. 2003 at P 11. Note that Order No. 2003's standardized procedures and interconnection agreement pertain to generators larger than 20 MW ("large generators").

[17] *Id.* at P 9 (citing *Tenn. Power Co.*, 90 FERC ¶ 61,238 (2000)).

[18] *Id.* at P 11.

Commission issued Order No. 890, Order No. 1000, and Order No. 2003. The ANOPR looks to build upon these previous orders with an eye toward considering reforms to the existing processes that might better assess future needs.

III. COMMENTS ON THE ANOPR

The Commission's ANOPR raises important issues of transmission planning, cost allocation, and generator interconnection at a critical time as the grid is undergoing a transformation to meet state and national clean energy mandates and goals, the needs of an increasingly electrified economy, and reliability and resilience challenges of increasing frequency and ferocity posed by climate change and extreme weather driven events. This transformation is occurring rapidly, but the pace and exact nature of these changes are uncertain and highly dependent on a number of variables, including federal, state, and local policies. While the desire to review and improve transmission planning, cost allocation, and generator interconnection processes to better prepare for the future is important and laudable, it is critical to avoid trying to fix what is not broken or, notwithstanding the best of intentions, inadvertently create unintended consequences or counterproductive measures.

A. Regional Transmission Planning Processes

1. Scenario-Based Planning and Probabilistic Modeling

Under current transmission planning processes, transmission providers conduct reliability studies to help ensure the ability of the transmission system to serve firm transmission use.[19] As the ANOPR explains, these studies may extend 10-15 years into the future depending on transmission planning region transmission planning processes and North American Electric Reliability Corporation ("NERC") reliability standards.[20] The ANOPR seeks comment

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[19] ANOPR at P 14.

[20] *Id*.

regarding whether regional transmission processes should be revised to plan for the transmission needs of anticipated future generation to meet a changing resource mix, including generation that is not yet in the interconnection queue.[21] In particular, the Commission seeks comment on whether reforms are needed regarding how the regional transmission planning and cost allocation processes model future scenarios to ensure that those scenarios incorporate sufficiently long-term and comprehensive forecasts of future transmission needs.[22]

The electricity industry is undergoing a significant transition toward a greater use of clean energy resources, away from high-emitting resources, and toward more market-based solutions to meet the needs of load. Moreover, the rapid pace of the changes in the overall economy and in the electric industry in particular increase the potential for uncertainty, especially when longer planning horizons are added to the mix. While the pace and exact nature of these changes are uncertain and highly dependent on fluctuating federal, state, and local policies, the trend toward greater renewable resource development in the U.S. is likely to continue due to technological advancements and increasing cost reductions.

In WIRES' view, when faced with a future that has a clear trend but significant uncertainties as to the magnitude and timing of the drivers behind these changes, a more proactively-planned transmission infrastructure can provide a much wider range of valuable options to cope with future challenges at lower risks and costs for customers and policymakers.[23] WIRES supports a holistic regional planning process that incorporates expected future generation and evaluates a full range of transmission benefits over the expected life of assets. To that end, WIRES supports robust scenario planning to determine "least regrets" portfolios and

[21] *Id.* at P. 44.

[22] *Id.* at P. 46.

[23] *See generally*, Brattle Planning Study.

individual projects. As part of this process, expected generation should include state integrated resource plans ("IRPs"), utility resource goals, state policies, and federal goals. At the same time, the number and structure of scenarios should be carefully chosen to support decision making and avoid creating a burdensome process. To better accomplish this, WIRES recommends giving regions flexibility to define scenarios in a way that best works for them, while also ensuring planning futures are appropriately representative of expected future conditions.

The ANOPR also seeks comment on the potential benefits and drawbacks of making greater use of probabilistic transmission planning approaches, such as stochastic techniques, to assess the benefits of regional transmission facilities. The ANOPR also seeks comment on whether implementing such methods is required to render rates just and reasonable.[24]

Although WIRES does not believe that probabilistic transmission planning or the use of stochastic techniques is required to render rates just and reasonable, [25] WIRES supports the use of such methods and techniques so long as they are implemented properly. The value of using probabilistic planning methods will depend on the appropriate selection of inputs. Such inputs need to be both transparent and representative of the appropriate types of stresses that are put on the system. The appropriate inputs also need to account for both current stresses in the system and those that are anticipated in the future. Any method of probabilistic transmission planning also needs to realistically assess the potential for extreme conditions and stresses to which the system may be subjected to, such as the extreme weather conditions experienced earlier this year

[24] ANOPR at P 49.

[25] *See, e.g.*, *Calpine Corp. v. Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,271, at P 41 (2009) (citations omitted) ("[T]he courts and th[e] Commission have recognized that there is not a single just and reasonable rate. Instead, we evaluate [proposals under FPA section 205] to determine whether they fall into a zone of reasonableness. So long as the end result is just and reasonable, the [proposal] will satisfy the statutory standard.").

in California, Texas, and Louisiana. Probabilistic transmission planning may be helpful in preparing for and recovering from such crises in the future, but only if such occurrences are reasonably accounted for in the relevant methodology.

2. Renewable Resource Development Zones

The ANOPR seeks comments on whether the Commission should require transmission providers in each transmission planning region to establish, as part of their regional transmission planning and cost allocation processes, a process to identify geographic zones or areas of the transmission system that have the potential for the development of large amounts of renewable generation ("Renewable Resource Development Zones") and plan transmission to facilitate the integration of renewable resources in those zones.[26] WIRES supports, in concept, the identification of Renewable Resource Development Zones as part of the longer-term scenario planning process described above. However, WIRES believes that the Commission should not require the creation of such zones, but rather that RTOs and ISOs and other transmission planning entities have sufficient flexibility to include provisions providing for such zones as part of their planning processes.

Given state and federal environmental and carbon policies, geographic areas with the potential for large-scale renewable or distributed generation development may be appropriate for special consideration for long-term transmission planning in advance of the time that any actual generation developers submit interconnection requests. As the Commission has pointed out, there are ample precedents for such transmission planning and development initiatives: these types of projects serving locations with high renewables potential have been undertaken by Texas in its CREZ initiative, by MISO in its MVP initiative, and by California in its Tehachapi

[26] ANOPR at P 57.

initiative.[27] WIRES believes that the best approach would include transmission planning entities (*e.g.*, ISOs and RTOs), state legislators and utility regulators, transmission owning utilities and load-serving entities collaborating to identify Renewable Resource Development Zones.

Provisions related to Renewable Resource Development Zones should also be flexible enough to accommodate the full range of renewable resources, state policies, distribution of load, and other factors that exist in different regions across the country. Renewable Resource Development Zones may be located in a wide variety of places, both onshore and offshore. The Commission should also allow flexibility in how the planning for identified Renewable Resource Development Zones is accomplished, whether through the regional transmission planning processes, local transmission planning processes, or both, depending on which development approach would be most efficient and most fully address identified needs.

3. Right of First Refusal[28]

In Order No. 1000, the Commission directed public utility transmission providers to remove from FERC-jurisdictional tariffs rights of first refusal for incumbent transmission providers with respect to facilities selected for regional cost allocation.[29] In the ANOPR, the Commission indicates that it seeks "to better understand how the reforms of the federal right of first refusal in Order No. 1000 have shaped the type and characteristics of transmission facilities developed through regional and local transmission planning processes, such as a relative increase in investment in local transmission facilities or the diversity of projects resulting from competitive bidding processes."[30]

[27] ANOPR at PP 55-56.

[28] This section is supported by the majority of, but not all, WIRES Full Supporting Members. The Full Supporting Members of WIRES otherwise support the other comments and recommendations in this filing.

[29] Order No. 1000 at P 313.

[30] ANOPR at P 37.

With nearly a decade of experience with the competitive transmission processes put in place in response to Order No. 1000, the actual results have fallen far short of expectations.[31] To be clear, WIRES does not advocate any particular model as to who should develop transmission infrastructure; WIRES promotes investment in needed transmission and policies that facilitate getting needed transmission built. As the ANOPR clearly recognizes, electric transmission investment remains critical for ensuring efficient and reliable electric service and enabling the ongoing transition to new, clean generating resources. Moreover, because many federal and state clean energy mandates and goals begin as early as 2030, time is of the essence as far as getting needed transmission infrastructure built to help meet these needs.

The introduction of competition into the transmission planning process has not lived up to expectations. Although in some instances, it has increased the number of innovative and/or cost-effective transmission options for consideration, it has also caused delays and limited opportunities for dialogue between transmission developers, market participants, and RTOs/ISOs, in addition to not delivering regional transmission projects under the timeframes necessary to meet increasingly aggressive climate targets. Even for single projects, existing bidding processes are resource intensive and cause delays in project development. To the extent the Commission's goal is to encourage the approval of a larger volume of regional projects, the practical difficulties and development delays associated with bidding processes will only increase. WIRES believes it is appropriate for the Commission to revisit its Order No. 1000 policies on this issue to see when they are hindering, rather than facilitating, getting needed transmission infrastructure built on a timely basis. WIRES further recommends that the

[31] *See* Hon. Joseph T. Kelliher, "A Modest Proposal on Federal Transmission Policy Reform," EBA Brief, Spring 2021, Vol. 2, Issue 1, at p.3 ("Nearly a decade later, it is apparent that transmission development is not meeting the vision of Order 1000.")

Commission consider reinstating a federal Right of First Refusal ("ROFR") in regions that removed such provisions pursuant to Order No. 1000.

Opportunities for integrating multiple transmission ownership models should appropriately focus on those areas where innovation and partnerships are possible, and perhaps most importantly, do not delay the deployment of needed infrastructure, rather than competition being the default. In particular, opportunities for third parties to develop and integrate merchant transmission projects with regional transmission networks can offer additional value to customers under appropriate circumstances.

Time is an important consideration in transmission planning because delayed project development denies customers the benefits of transmission investments, such as reduced congestion costs and increased reliability, and jeopardizes federal and state clean energy targets. As a result, WIRES encourages the Commission to revisit its Order No. 1000 policies on this issue.

4. Incentives for both Regional and Local Transmission Facilities

The ANOPR seeks comment on whether any available return on equity ("ROE") incentive that may be available for RTO/ISO participation should be limited in applicability only to regional, and not local, transmission facilities, when such regional transmission facilities are selected as the more efficient or cost-effective solution to an identified transmission need.[32] The basis behind this proposal is the notion that regional transmission facilities should be prioritized over local transmission facilities.[33] The Commission's effort to promote regional transmission facilities over local transmission facilities is misplaced, and its proposal to narrow the RTO/ISO participation incentive misconstrues the purpose of that incentive.

[32] ANOPR at P 61.

[33] *Id*.

The ANOPR's proposal sets up a false dichotomy between regional and local transmission facilities. Transmission development should not be an "either/or" choice as between only regional or local transmission facilities. Both types of facilities create value for customers and benefits for regions on an ongoing basis. Moreover, meeting clean energy and other federal and state policy objectives will require substantial buildouts of all types of transmission facilities, including local, regional, and interregional projects. It would be a mistake to assume that clean energy goals and mandates will be met only by renewable generation resources that interconnect to regional transmission facilities. The fact of the matter is, local transmission infrastructure will be an indispensable component to achieving a cleaner energy future. Without it, it is akin to building highways, but not planning an exit or expanding the local roads to accommodate the increased traffic expected from the new travelers. States have differing climate goals, and local planning can help expedite development of infrastructure needed for a state or a group of states' policies. Distributed energy resources will also be an important component in achieving a carbon-free grid, and thus, deploying local transmission infrastructure necessary to support the development, interconnection, and effective participation of such resources is critical.

WIRES strongly supports rate incentives, including ROE adders like the RTO/ISO participation incentive, for all types of transmission facilities developed through both regional and local transmission planning processes.[34] In 2005, Congress amended section 219 of the federal power act ("FPA") to require that the Commission establish by rule incentive-based rate treatments for public utilities. Specifically, Congress directed that the Commission *shall* provide

[34] *See* Comments of WIRES, *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, Docket No. RM20-10 (filed July 1, 2020).

incentives to each utility that joins a Transmission Organization.[35] The incentive is directed at promoting RTO/ISO participation in recognition of the benefits for customers that include coordinated transmission planning across multi-utility service territories, centralized dispatch of generation, sharing of reserves, independent transmission system access, and fostering of alternative resource options. Those benefits include new planned transmission investment, improved generator availability, reduced fuel costs through grid efficiencies, the integration of new, cleaner supply technologies and demand response resources into electric markets, and demand-side energy efficiency. The statute does not indicate a preference for preferring one type of transmission over another.

Eliminating or paring back the RTO participation incentive, with respect to some or all transmission facilities, would be at odds with the Commission's expressed goals in the ANOPR. The fact that the benefits of RTO participation are continual and ongoing demonstrates it would be misguided to sunset, phase-out, or otherwise limit the application of the RTO participation adder. There is no reason to eliminate an incentive associated with a decision that produces those ongoing benefits to customers.

Finally, the Commission should also consider additional incentives to achieve its objectives. In addition to incentives for technology adoption, incentives should be considered for enabling renewable energy to reach consumers, for partnerships among incumbent and non-incumbent transmission developers, and for improving grid resilience.

5. Local Transmission System Planning

As the ANOPR recognizes, Order No. 1000 was intended to "provide flexibility for public utility transmission providers to develop procedures appropriate for their local and

[35] 16 U.S.C. § 824s(c).

regional transmission planning processes."[36] Order No. 1000 does not require that the transmission facilities in a transmission provider's local transmission plan be subject to approval at the regional or interregional level, unless that transmission provider seeks to have any of those facilities selected in the regional transmission plan for purposes of cost allocation.[37] Rather, Order No. 1000 permits a transmission provider to meet its reliability needs or service obligations by choosing to build new transmission facilities that are located within its retail distribution service territory or footprint as long as the transmission provider does not receive regional cost allocation for the facilities.[38]

The Commission should retain this existing framework for local planning as established by Order No. 1000.[39] Efficient local transmission planning processes are vital to ensuring that transmission owners can continue to provide reliable service to their customers, particularly retail customers in their distribution service territories. It is often the case that upgrades to local, lower voltage-facilities are needed on a relatively fast timeframe in order to meet changing system conditions. Moreover, local planning processes are also critically important to efforts to accommodate state policies such as promoting the development of distributed generation and increased electrification, as well as providing transmission owners the ability to develop and deploy innovative solutions to local needs, including non-wires alternatives.

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[36] ANOPR at P 16 n.33 (quoting Order No. 1000 at P 220).

[37] ANOPR at P 26 (citing Order No. 1000-A at P 190).

[38] ANOPR at P 27 (citing Order No. 1000-A at PP 366, 379, 425, 428).

[39] In some regions, significant reliability upgrades are planned and allocated through the regional process, but not with a recognition that immediate needs must be built by the incumbent transmission owner. These "immediate need exceptions" preserve reliability and should be maintained.

WIRES recognizes that the Commission has articulated concerns with respect to transmission owners expanding local transmission facilities in lieu of regional facilities that may be more efficient and cost-effective with respect to meeting future generation needs.[40] As discussed above, the Commission should not view the paradigm as one in which the expansion of local facilities comes at the expense of regional facilities; additions to both types of facilities will be needed to meet future needs. To the extent that the Commission believes that current policies and processes are not appropriately incentivizing the development and construction of larger regional facilities, WIRES submits that the appropriate focus should be on improving regional planning processes and enhancing incentives that directly promote the construction of such facilities, not by making local transmission planning more difficult, expensive, or time consuming.

B. Cost Allocation

The Commission has consistently, and correctly, recognized that "knowing how the costs of transmission facilities [will] be allocated is critical to the development of new infrastructure because transmission providers and customers cannot be expected to support the construction of new transmission facilities unless they understand who will pay the associated costs.[41] In Order No. 1000, the Commission required transmission providers to adopt regional and interregional cost allocation methodologies that meet a basic set of six principles while allowing cost allocation methodologies to vary by project type.[42] This resulted in different approaches to regional cost allocation that have evolved over time to align beneficiaries and cost assignments.

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[40] *See* ANOPR at P 37.

[41] Order No. 1000 at P 496 (citing Order No. 890 at P557).

[42] *Id*. at PP 558-750.

A core concept underlying the Commission's policy on cost allocation has been that the processes by which costs of transmission infrastructure are allocated to beneficiaries must be done in a way that is at least roughly commensurate with the benefits.[43] In practice, this means that the Commission may not regionally allocate costs unless the benefits are allocated regionally, and likewise, costs cannot be recovered only from local customers if the benefits are regional.[44] WIRES believes that the Commission should continue to adhere to the current approach for allocating the costs of transmission infrastructure, including transmission facilities developed through the regional transmission planning and cost allocation processes, as it provides flexibility to planning entities and meets the Commission's obligation under the FPA to ensure just and reasonable and not unduly discriminatory rates.

Order No. 1000 did not prescribe "a particular definition of 'benefits' or 'beneficiaries,'"[45] and the recognition and understanding of many of the transmission-related benefits by system planners and regulators has been evolving such that there is no standard set of benefits metrics that is used to evaluate transmission investments.[46] The Commission questions whether the current approach fails to account for all the benefits of a transmission facility while considering all the costs of the transmission facility and as a result does not allow for a fair examination of whether the costs are allocated roughly commensurate with the benefits.[47]

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[43] *Id*. at PP 622-629; *Illinois Commerce Commission v. FERC*, 576 F.3d 470, 477 (7th Cir. 2009) (to approve a cost allocation methodology, the Commission must have "an articulable and plausible reason to believe that the benefits are at least roughly commensurate" with how the costs are allocated).

[44] *See Old Dominion Electric Coop. v. FERC*, 898 F.3d 1254, 1261 (D.C. Cir. 2018).

[45] Order No. 1000 at P 624.

[46] Brattle Benefits Report at page i.

[47] ANOPR at P 84

Studies have shown that identifying the overall project benefits prior to making cost allocation decisions enables participants in the planning process to determine which projects will be the most beneficial in the long run:

> How the distribution of the identified benefits is estimated to accrue to regions, areas, and market participants will ultimately drive both regional and interregional cost allocation—but cost allocation should be addressed only *after* the overall benefits of transmission projects have been considered for inclusion in regional plans. Addressing cost allocation too early in the planning process or strictly on a project-by-project basis can create strong incentives for some market participants and policy makers to understate benefits during the planning and project evaluation process in an effort to reduce their cost responsibility for a project. This can result in rejection of very valuable projects.[48]

While still generally commensurate with benefits received, a broader definition of benefits may be appropriate for projects that include unquantifiable benefits as not all benefits are quantifiable and benefits also evolve over time.[49]

How benefits are determined and allocated will continue to vary between regions and the Commission should allow the regions to make these determinations. Cost allocation for regional projects should continue to use Commission approved cost allocation methodologies. In addition to transporting energy over long distances, large regional, inter-regional and multi-regional projects could provide other significant benefits such as increased reliability, resilience, and diversity of resources. The Commission should encourage regions to consider the full range of benefits that transmission investments can provide and not understate demonstrated value of such projects and how these values change over time.

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[48] *Id.*

[49] *Id*.

The Commission should bear in mind that beneficiary pay methods can be controversial and often result in extensive debate and disagreement. The Commission might want to consider limiting its use to a portion of cost allocation. Load ratio which is simple and can be changed annually based on load growth, might be a good metric to consider. Finally, the Commission should consider an allocation based on resilience to a particular region; in other words, the ability to withstand severe weather.

C. Generator Interconnection Queue Reforms

Any changes to the Commission's generator interconnection policies should be done with the goal of expediting the interconnection of ready generation while also accommodating the future generation resource mix. Development of a fast-track generator interconnection process for generating facilities that are committed financially to new regional transmission facilities or that meet a set of defined readiness criteria could help facilitate the interconnection process.[50] In addition, WIRES supports the Commission's proposals to limit speculative requests by interconnection customers by either limiting the number of interconnection requests that a developer can submit in an interconnection queue study year or imposing penalties for submitting speculative requests.[51]

Separate from these measures targeted at streamlining the interconnection queue backlogs, WIRES believes that by adopting improvements to the transmission planning process correctly and efficiently, including allowing for co-optimization, the Commission could dispense with the need for more extensive reforms to the generator interconnection queue procedures. Encouraging public utilities within their respective transmission planning regions to consider

[50] *See* ANOPR at PP 154-157.

[51] *Id*. at P 153.

ways to address network upgrades needed for anticipated generation as part of the transmission planning process will help facilitate interconnection. For example, to the extent the queue process in some regions is backlogged due to significant network upgrades slowing generation development, building these network upgrades through the regional or local transmission planning process should alleviate the hesitation from generators facing costly upgrades.

While WIRES does not comment on the type of cost allocation that is most appropriate for generator interconnection upgrades, WIRES urges the Commission to ensure that transmission providers retain the ability to earn a return of and on these investments regardless of cost allocation methodology, consistent with court precedent.

D. Oversight

The ANOPR recognizes the potential for a significant investment in the transmission system in the coming years.[52] The ANOPR further acknowledges that the proposed reforms to regional transmission planning, cost allocation, and generator interconnection should benefit customers by directing planning to more efficient or cost-effective transmission facilities. Nonetheless, because customers will pay the costs of these new transmission facilities (as the case has always been), the Commission further inquired whether any additional reforms were needed to enhance oversight of transmission planning and transmission providers spending on new transmission facilities to ensure that transmission rates remain just and reasonable.[53] As discussed below, the Commission has not demonstrated under FPA section 206 that existing oversight has or will lead to unjust and unreasonable rates or preferential or discriminatory

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[52] *Id*. at P 159.

[53] *Id.* at PP 160-61.

treatment such that the proposed measures are necessary. Moreover, current oversight is substantial and adequate, and additional regulatory processes in this area will only create additional burdens and frustrate the ability to get needed transmission infrastructure planned, developed, and in service in an efficient and timely manner.

1. Independent Transmission Monitor

Based on concerns about an increase in transmission costs resulting from the potential construction of new transmission infrastructure to integrate clean energy resources, the ANOPR seeks comment on whether it would be appropriate for the Commission to require that transmission providers, regardless of whether or not they are in an RTO/ISO region, establish an independent entity to monitor the planning and cost of transmission facilities in the region.[54] WIRES respectfully opposes this proposal. At the outset, the Commission can only impose such a requirement if it meets the dual burden of section 206 of the FPA: the Commission must both show that existing tariffs or rules are unjust and unreasonable and that the rule it requires to be put in place is just and reasonable. The ANOPR does not meet this burden.

In support of the basis for the ANOPR's independent transmission monitor proposal, the Commission's reasoning is conclusory at best. With no analysis or support, the Commission's concern basically boils down to nothing more than the fact that if more transmission facilities get built, consumers will have to pay for the costs of those new facilities:

> [I]n light of potential costs of new transmission infrastructure that may be needed to meet the needs of the changing resource mix, we seek comment on whether additional measures may be necessary to ensure that the planning processes for the development of new

[54] *Id.* at P 163.

> transmission facilities, and the costs of those facilities, do not impose excessive costs on consumers.[55]

However, simply because more transmission infrastructure may be built to meet the needs of a changing resource mix, it does not by any means follow that that additional transmission is more likely to result in unjust and unreasonable rates. In fact, by the Commission's own reckoning, any transmission that results from the potential reforms to regional transmission planning, cost allocation, and generator interconnection in the proposed ANOPR should be <u>more</u> efficient and cost-effective than before and provide greater protection to customers, thereby making the need for an independent transmission monitor even less necessary and more superfluous.[56]

Even if the Commission were able to satisfy its FPA section 206 burden, there already is sufficient oversight and transparency in the transmission planning and cost allocation process and a duplicative layer of review through an independent market monitor is not needed.[57] First, Order No. 1000 required transparent and not unduly discriminatory processes in all regions for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.[58] Each region implemented the requirement and operates under tariffs approved by the Commission. There is no evidence that the existing processes whether in RTO/ISO regions or regions outside of RTOs/ISOs have not implemented their tariffs appropriately or that the process produce unjust and unreasonable outcomes under the Commission approved processes. If there are concerns, an evidentiary showing sufficient to meet the standard under section 206 of the FPA is necessary before any new requirements such

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[55] *Id*. at P 160.

[56] *Id*.

[57] *Id.* at P 165.

[58] Order No. 1000 at P 328; Order No. 1000-A at P 452.

as a new and separate oversight authority can be imposed, and that evidentiary burden has not been met.

Second, the FPA charges the Commission, not any outside party, with responsibility for ensuring the justness and reasonableness of transmission rates. The ANOPR's proposed creation and authorization of an independent transmission monitor would constitute an illegal subdelegation of the Commission's authority under FPA sections 205 and 206.[59] Even if an independent transmission monitor were not expressly vested with binding decisional authority over rates, terms and conditions of service, such an entity, essentially deputized by the Commission with authority to review transmission provider spending on transmission facilities, conduct necessary analyses, and to make preliminary determinations and recommendations to the Commission regarding transmission facility costs, would be inherently vested with the veneer of the exercise of federal authority given the role's ability to inhibit, interfere, coerce, and influence transmission planning processes and decisions. There is nothing ministerial or "neutral" about the role or function of a transmission monitor calling balls and strikes with regard to significant, long term, transmission investments as envisioned by the ANOPR, and the creation and authorization of such an entity would exceed the Commission's authority.

Finally, even if there were sufficient findings that the current process is unjust and unreasonable in some respect, the appropriate remedy would be to require appropriate changes to the process to address the flaw instead of adding an additional and duplicative oversight entity replicate existing processes. The existing transmission planning processes are already costly and time-consuming. Rather than facilitate the process, the addition of a market monitor will add another layer of review which will add further delays, result in more costs to consumers, and

[59] *See U.S. Telecom Assoc. v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).

increase uncertainty at a time when more transmission needs to be built at a faster pace, without any identifiable benefits.

2. Limitation on Recovery of Costs for Abandoned Projects

The ANOPR also seeks comment on whether the Commission should revisit it policies regarding abandoned plant to protect consumers in light of potential costs of new regional transmission infrastructure and the corresponding risk that some of those projects may be abandoned.[60] The Commission indicates that, "for example, one proposal to protect consumers would be to limit the recovery of costs through abandonment by allowing only the recovery of some portion of actual development or pre-commercial costs, and/or no recovery of a return on equity on such costs prior to the project receiving all necessary regulatory approvals."[61]

Commission policy for recovery of the costs of abandoned plant under section 205 of the FPA allows for recovery of and return on 50 percent of the prudently incurred investment costs incurred in connection with the abandoned plant.[62] In addition, under section 219 of the FPA, the Commission can provide as an incentive recovery of 100 percent of prudently-incurred costs related to transmission facilities if they are abandoned for reasons beyond the control of the transmission owner.[63] Prior to permitting a utility to include these costs in transmission rates, the Commission requires that the utility make a section 205 filing to ensure the prudency of the costs and to prevent double recovery.[64]

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[60] ANOPR at P 178.

[61] *Id.* at P 179.

[62] *New Eng. Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, at 61,081-82, *order on reh'g*, Opinion No. 295-A, 43 FERC ¶ 61,285 (1988).

[63] Order No. 679 at P 163.

[64] *Id.* at P 166.

The existing policy of allowing for the recovery of costs of abandoned plant appropriately reflects the current risk associated with building transmission. The circumstances that can cause a project to be abandoned (many of which are beyond the control of the transmission developer) include denial of permits (by state, federal, or local authorities), inability to obtain rights of way, changes in federal or state policies that occur during the permitting process (*e.g.*, environmental or wildlife regulations), delays in federal or states' siting schedules, and changes in transmission needs, among others. The abandoned plant incentive is critical to addressing the risks and uncertainty associated with transmission project development and as a result, helps facilitate "capital investment in the enlargement, improvement, maintenance and operation of all electric transmission facilities."[65]

Finally, eliminating abandoned plant cost recovery would be at odds with the Commission's goal of facilitating the development of transmission infrastructure in order to address the changing resource mix and meet the nation's future energy needs. To the extent the Commission anticipates the need for planning and building significant additional transmission facilities to accommodate future, remotely-located, clean generation resources, reducing or eliminating abandoned plant cost recovery will not entice transmission owners to build that transmission, particularly if it requires larger, longer-distance, more expensive transmission lines that necessarily pose greater risks. Instead, the Commission should retain the abandoned plant cost recovery incentive and look for additional incentives to promote investment in needed transmission infrastructure.

[65] 16 U.S.C. § 824s(b).

IV. CONCLUSION

WIRES respectfully submits these comments for consideration by the Commission as it considers these important issues and looks forward to the opportunity to provide further comments as these proceedings progress.

Respectfully submitted,

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