

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

Transmission Planning and Cost Allocation)
by Transmission Owning and Operating)
Public Utilities)

Docket No. RM10-23-000

**COMMENTS OF THE ENERGY FUTURE COALITION, ALLIANCE FOR
CLEAN ENERGY NEW YORK, INC., AMERICAN WIND ENERGY
ASSOCIATION, BRIGHTSOURCE ENERGY, CENTER FOR AMERICAN
PROGRESS, CONSERVATION LAW FOUNDATION, ENVIRONMENT
NORTHEAST, FRESH ENERGY, INTERWEST ENERGY ALLIANCE,
INVENERGY THERMAL DEVELOPMENT, LLC, INVENERGY WIND
DEVELOPMENT, LLC, ITC HOLDINGS CORP., MESA POWER GROUP, MID-
ATLANTIC RENEWABLE ENERGY COALITION, NATURAL RESOURCES
DEFENSE COUNCIL, RENEWABLE NORTHWEST PROJECT, SIERRA CLUB,
SOLAR ENERGY INDUSTRIES ASSOCIATION, THE FERC PROJECT, THE
STELLA GROUP, LTD., THE WILDERNESS SOCIETY, UNION OF
CONCERNED SCIENTISTS, UTILITY WORKERS UNION OF AMERICA, AND
WESTERN GRID GROUP**

Pursuant to the Notice of Proposed Rulemaking (NOPR) issued by the Federal Energy Regulatory Commission (FERC or Commission) in this proceeding on June 17, 2010,¹ the Energy Future Coalition (EFC), joined by Alliance for Clean Energy New York, Inc., American Wind Energy Association, BrightSource Energy, Center for American Progress, Conservation Law Foundation, Environment Northeast, Fresh Energy, Interwest Energy Alliance, Invenergy Thermal Development, LLC, Invenergy Wind Development, LLC, ITC Holdings Corp., Mesa Power Group, Mid-Atlantic Renewable Energy Coalition, Natural Resources Defense Council, Renewable Northwest Project, Sierra Club, Solar Energy Industries Association, The FERC Project, The Stella Group, Ltd., The Wilderness Society, Union of Concerned Scientists, Utility Workers Union of America, and Western Grid Group (collectively, the EFC Group), offer the

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 75 Fed. Reg. 37,884 (June 30, 2010) (NOPR).

following comments on the Commission's proposed rule on transmission planning and cost allocation.

The EFC Group supports progressive transmission regulatory reforms because a robust, modern transmission infrastructure is essential to transform our power generation fleet, both to incorporate clean and renewable energy resources and to enable the effective integration of demand-side options. Developing the infrastructure needed to move the U.S. power system to clean and renewable energy resources is critical to the objectives of strengthening the U.S. economy, enhancing national security, and ameliorating the impacts of climate change.

FERC's NOPR represents a very important step toward meeting these goals. Specifically, the EFC Group supports those elements of the NOPR that require: 1) consideration of public policy requirements (such as renewable portfolio standards), in transmission planning; 2) development of regional transmission plans; 3) structures for planning interregional transmission infrastructure; and 4) development of cost allocation mechanisms that adhere to basic beneficiary-pays principles. The EFC Group also supports the proposal to integrate transmission planning and cost allocation decisions, to ensure that the process really leads to well-considered and well-reasoned expansion of the grid infrastructure to support clean energy goals. As explained in more detail below, the proposals in the NOPR represent a very substantial improvement over the status quo and will assist in developing needed transmission infrastructure in the United States.

I. Background

The EFC was formed in the wake of the events of September 11, 2001 to help bring about important changes in U.S. energy policy. The EFC's primary objectives are to address the economic, national security and environmental challenges related to the current energy system, and to replace outdated energy policies with a compelling new vision of the economic opportunities that will be created by the transition to a new energy economy. The EFC has found broad support for reforms to regulatory policies that will enable the responsible development of transmission assets as a foundation for massive expansion of renewable electricity resources and decarbonization of the generation sector.

With input from a wide range of stakeholders, the EFC developed a vision statement for the National Clean Energy Smart Grid (Vision Statement)² endorsed by 56 organizations representing renewable energy developers (*e.g.*, American Wind Energy Association, the Solar Energy Industries Association, and Mesa Power), environmental interests (*e.g.*, the Sierra Club, the National Audubon Society, the National Wildlife Federation, the Natural Resources Defense Council, the Union of Concerned Scientists, and the Wilderness Society), and organized labor (*e.g.*, AFL-CIO), among others. The Vision Statement urges the government to put in place new national policies to rationalize and expedite the planning and deployment of new electric transmission resources, to bring the nation's vast reserves of clean and renewable energy to population centers, and to set standards and create incentives for Smart Grid technologies to

² See The National Clean Energy Smart Grid: An Economic, Environmental, and National Security Imperative (Vision Statement) available at <http://www.energyfuturecoalition.org/editorsblog/EFC-Announces-Vision-Clean-Energy-Smart-Grid>. The Vision Statement was crafted in response to the legislative debate in Congress, but the basic principles are equally appropriate for FERC's ongoing transmission policy proceeding.

modernize the electric system. All of the endorsing stakeholders agreed that the existing framework for planning, developing and financing transmission infrastructure is too geographically fragmented, near-term focused, and procedurally cumbersome to adequately address national policy goals and maximize broad societal values. The environmental participants stressed that while they strongly endorse the construction of new transmission lines to transport renewable energy, their support was contingent on the presence of emission controls or other measures that would ensure new lines did not facilitate an increase in carbon-intensive generation.

II. Comments

The EFC Group offers the following comments on the Commission's NOPR concerning transmission planning and cost allocation.

Reform is needed. The United States needs to make major investments in the electricity grid if we are to mitigate climate change, revitalize our economy, and strengthen our national security. The grid is largely based on 50-year old technology that is incapable of managing large-scale variable power supplies from abundant, domestic renewable energy sources like wind and solar energy. Therefore, the way we plan, site, and pay for grid investments has to change. We need a coherent national strategy that takes into account state, regional and national priorities, and most importantly, unlocks the potential of renewable energy, demand response and energy efficiency resources available throughout the country.

We applaud FERC's proposal as an important step forward. The EFC Group applauds FERC for recognizing the need to align our transmission development policies with our clean energy objectives in order to ensure that the infrastructure needed to

support transformation of the generation fleet to one that is low-carbon, and in particular the large-scale expansion of renewable electricity resources, is built. While Congress may consider transmission policy reforms, it is imperative that FERC proceed with these reforms now as it appears that congressional action in the near term is unlikely. If FERC discovers, as it moves forward, that additional statutory authority is needed to advance specific policies emerging from this NOPR process, it can address those with Congress in the future. But this is not a time to defer action – FERC should move forward energetically to help expand and upgrade the transmission system to meet the Nation’s needs.

A. FERC’s Proposed Regional and Interregional Transmission Planning Reforms are Critical Improvements

The NOPR proposes to require that each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan.³ It further proposes that each planning region coordinate with its neighboring transmission planning regions within its interconnection to address transmission planning issues and produce bilateral interregional planning agreements to be filed with the Commission.⁴ The NOPR encourages, but does not require, “public transmission providers to explore possible multilateral interregional transmission planning agreements, among several, or even all, regions within an interconnection.”⁵ The NOPR further proposes to require that local and regional transmission planning processes explicitly provide for consideration of public policy requirements established

³ NOPR at PP 50, 53.

⁴ *Id.* at P 114.

⁵ *Id.* at P 115.

by state or federal laws or regulations that may drive transmission needs.⁶ Thus, in addition to reliability benefits and generation cost savings, policy requirements such as renewable portfolio standards and energy efficiency and demand management requirements would be considered in transmission planning.

Current transmission planning efforts are too geographically limited. The existing transmission planning processes are not adequate to identify and evaluate potential solutions to the needs affecting the systems of multiple transmission providers. Most utility and state-level transmission planning processes, by their nature, do not have the scope to recognize and address regional or inter-regional transmission needs. Siting multi-state transmission facilities is a long and contentious process, often involving numerous state and local regulators and Federal lands agencies, each with the power to stop or delay a project. The current process also misses opportunities to cooperatively analyze and identify corridors for transmission that bypass or mitigate impacts on sensitive areas. The FERC proposal to require development of integrated transmission plans for multi-utility regions would result in an important improvement over the status quo.

An analytically robust and inclusive transmission planning process is needed. A participatory and transparent planning system needs to be implemented at an interregional scale to identify the needs for new interstate electric transmission facilities. An analytically robust process designed to engage all interested parties, including all interested utilities, states, renewables developers, environmental interests, consumer interests and other stakeholders, must be employed to ensure optimal planning to bring the Nation's renewable energy resources to load centers. Employing such a vigorous

⁶ *Id.* at P 64.

planning process will engage interested parties early and avoid later conflicts, minimize environmental impacts, and overcome the jurisdictional, geographic and procedural limitations of current planning approaches. This process should include a rigorous and transparent analysis of a comprehensive set of considerations and alternatives, so as to optimize the economic, technical and environmental performance of the grid. Such a process, by necessity, would require coordination of projects in the interest of “right-sizing” facilities in order to ensure the best possible use of available corridors and minimize environmental impacts resulting from new corridors.

A larger planning scope is better. FERC does not propose to direct utilities in non-RTO regions to use the existing subregional planning groups created under Order No. 890, and allows reconfiguration of the planning regions. FERC should guard against utilities proposing planning regions that are too small, or too gerrymandered, to support coherent and coordinated planning efforts on a larger scale. Moreover, interregional planning (and cost allocation) agreements that can sensibly support the development of multi-regional transmission projects are critical. The EFC Group supports FERC’s proposal to require such interregional agreements, and urges that FERC review these agreements as they are filed to ensure that the arrangements are workable to support new transmission infrastructure investment.

Public policy factors are important considerations in transmission planning. The EFC Group’s interest in transmission policy is motivated by the need to provide grid upgrades to enable substantial investments in renewable energy resources. The transmission planning process should advance broader government policies on renewable energy, energy efficiency and demand management, and climate change. Thus, the EFC

Group wholeheartedly supports the NOPR's proposal to have transmission needs driven by public policy requirements established by state or federal laws or regulations (such as renewable portfolio standards) taken into account in the transmission planning process.⁷

Other reforms should be evaluated against the overall goal of getting appropriate transmission infrastructure built. FERC proposes to eliminate any federal right of first refusal (ROFR) that would give the incumbent transmission owner the right to build any new transmission facility in its service territory that is determined to be needed in the regional planning process.⁸ This proposal has generated substantial response from utilities and independent transmission developers, both for and against elimination of the ROFR. The EFC Group urges FERC to evaluate this question from the perspective of what policy will best support the overarching goal of developing transmission infrastructure to support greater reliance on renewable resources. Thus, for instance, a ROFR policy should not give incumbent utilities the ability to block or stall construction of needed infrastructure within their service territories, or to inflate the costs of such projects. On the other hand, if elimination of the ROFR results in the transmission planning process getting bogged down in unmanageable contention between competing commercial proposals, transmission goals will be frustrated. Thus, FERC should evaluate this question from the perspective of what policy formulation will best support the end goal of getting needed transmission built timely at reasonable cost.

B. The NOPR's Cost Allocation Proposals are Sound

FERC proposes that (1) every RTO, ISO or other planning region must establish a method, or a set of methods, for allocating the costs of new transmission facilities

⁷ *Id.* at P 63.

⁸ *Id.* at P 93.

included in a regional plan; and (2) each transmission planning region develop a method for allocating costs of new interregional transmission facilities between itself and neighboring transmission planning regions in which the facility is located. These methodologies must comply with the following cost allocation principles set out by FERC:

- 1) allocate costs in a manner that is at least roughly commensurate with estimated benefits;
- 2) do not involuntarily impose costs on entities that receive no benefits from new transmission facilities;
- 3) do not set a total benefit-to-cost threshold of over 1.25 for cost allocation;
- 4) do not involuntarily allocate costs for transmission facilities outside of the planning region in which the facilities are located;
- 5) provide stakeholders with transparent access to cost allocation methods and data requirements; and
- 6) allow the use of different cost allocation methods for different types of transmission facilities.⁹

The NOPR provides that if the region cannot agree on an appropriate cost allocation methodology, FERC will develop one using these principles.

Transmission planning and cost allocation must be aligned to support critical infrastructure development. FERC recognizes the need to “more closely align transmission planning and cost allocation processes,”¹⁰ and maintains that the cost allocation policy adopted in the Final Rule should support the development of critical transmission infrastructure. Transmission planning alone, without appropriate cost allocation policies, will not adequately support development of needed cross-utility or cross-regional projects.

Allocating transmission expansion costs to new, clean generators will stifle transmission development and the transformation of our generating fleet. A policy that

⁹ *Id.* at P 164.

¹⁰ NOPR at P 156.

places the obligation for transmission expansion costs on renewable resource developers will stall both renewable project investment and related transmission development, to the disbenefit of the Nation. Instead, as the Commission proposes, transmission expansion costs should be allocated throughout the region to those that receive reliability, economic and public policy benefits from the project.

The NOPR properly proposes to allocate costs to load based on benefits. The proposed cost allocation principles summarized above do a good job of following the direction laid out by the court in *ICC v. FERC*.¹¹ Just as important, they address legitimate concerns that have been raised by some opponents of broad cost allocation policy over the past two years. In particular, the policy of allocating costs commensurate with benefits, and ensuring that utilities that receive no benefit are not charged, are appropriate and reasonable safeguards.

Broad-based cost allocation is appropriate in many cases. The costs of well-planned transmission investments are often small compared to the benefits, and the environmental (as well as reliability and economic) benefits are often broadly shared. Thus, broad allocation of costs for projects that make it through the rigorous planning process screen, as contemplated in the NOPR, is appropriate.

The benefits analysis for cost allocation should include policy-related benefits, in addition to the traditional economic and reliability benefits. Importantly, the NOPR does not limit the benefits to be considered in the allocation of the costs of new transmission facilities to reliability and economic benefits. The policy benefits of promoting renewable energy use and greenhouse gas emission reductions, at least where required by

¹¹ *Illinois Commerce Comm. v. FERC*, 576 F.3d 470 (7th Cir. 2009).

law or regulation, are benefits that must be considered. The EFC Group supports this approach.

Avoid analytical paralysis. Requirements for assessing benefits during the cost allocation process should not become an obstacle to the timely construction of new transmission projects needed to meet reliability standards, connect new generators, access renewable resources and otherwise benefit consumers. The proposed principles require that costs be allocated in a manner that is “roughly commensurate” with “estimated” benefits. This type of approach properly seeks to avoid endless analytical debates and litigation that might be engendered by standards that require measurement precision for relating cost allocation to benefit distribution. The EFC Group believes this is a reasonable approach.

Interregional cost sharing is critical to support interregional projects and avoid transmission balkanization. The proposed rule would direct a transmission planning region to work bilaterally with each neighboring planning region in the same interconnection to develop a methodology for allocating costs of any projects spanning the two regions. Whatever planning regions are ultimately established, it is important that the planning and cost allocation process support fair and appropriate consideration of cross-regional projects. An effective cost allocation mechanism will be critical to supporting such projects.

III. Conclusion

The EFC Group applauds FERC for proposing important policy changes to facilitate development of transmission facilities needed to help bring clean renewable energy to load. The EFC Group respectfully requests that the Commission consider these comments as it finalizes this important rule.

Respectfully submitted,

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