



United States of America Before The Federal Energy Regulatory Commission

Transmission Planning and)
Cost Allocation By Transmission)
Owning and Operating Public) Docket No. RM10-23-000
Utilities)
)

Comment of WIRES on Notice of Proposed Rulemaking

WIRES¹ submits the following comments in strong support of the direction set by the Notice of Proposed Rulemaking (“NOPR”) issued by the Federal Energy Regulatory Commission (“Commission” or “FERC”) in this docket.² At a time when the President, the Congress, and other policymakers are understandably focused on creating jobs and strengthening the Nation’s infrastructure, often through taxing and spending policy, the Commission’s proposed rule is a confirmation that it is regulatory reform and the resulting economic certainty that will play a significant role in bringing forward private sector transmission infrastructure investment, *without* placing additional burdens on the nation’s public sector finances.

¹ WIRES (also known as the Working group for Investment in Reliable and Economic electric Systems) is a national non-profit coalition of investor-, member-, and publicly-owned utilities and transmission providers, technology companies, renewable energy developers, and other entities dedicated to promoting investment in a strong, well-planned, and environmentally beneficial high voltage electric transmission grid. In November 2009, WIRES submitted to the Commission a Petition For Rulemaking requesting establishment of generic principles governing transmission cost allocation (Docket No. RM10-4-000). WIRES’ website is www.wiresgroup.com. Virtually all WIRES members intend to submit individual comments in this proceeding. The comments herein nevertheless represent the views of most of those companies.

² Notice of Proposed Rulemaking, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 131 FERC ¶ 61,253 (June 17, 2010).

The NOPR addresses many troubling uncertainties surrounding the regulation of transmission investments, specifically how new facilities and transmission upgrades are planned in relation to the existing interstate transmission network, different regional resource bases, emerging public policy issues, established reliability and economic concerns, and how the associated costs are recovered and from whom. Those uncertainties constitute barriers to the prudent and cost-effective enhancement of the interstate transmission grid, achievement of a cleaner, more secure domestic energy economy, and the job creation associated with the development operation, and maintenance of new energy delivery facilities. Although the electric power industry is once again investing in the grid and generating numerous proposals to upgrade and expand the interstate electric transmission system, the challenges posed by aging infrastructure, the prospects of growing demand, the need to access renewable resources, and the task of making the grid more secure remain formidable. The NOPR is a moderate, yet important, step toward alleviating those uncertainties.

COMMUNICATIONS.

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I. SUMMARY OF WIRES' COMMENT

WIRES supports the Commission's pursuit of reforms in the areas of transmission planning and cost allocation because -- as an organization that draws on most of the major sectors of the power business including vertically-integrated utilities and transmission owners, independent developers of transmission, and major transmission customers -- we view the NOPR, if implemented thoughtfully and with regard to the common needs of this integrated, interstate network system that comprises the Eastern and Western Interconnection and the differing circumstances among regions, as taking a significant step towards ensuring that all proposed upgrades and expansions of the nation's transmission system are considered efficiently and that plans are executed as seamlessly as possible. Basically, WIRES views FERC's role as benchmarking regional transmission planning processes while respecting the important role of the states and other stakeholders in providing input about the future of the grid.

- The NOPR would require all public utility transmission provider, which includes ISOs and RTOs, to participate in regional transmission planning processes that produce transmission plans complying with Order No. 890. **WIRES supports this initiative, provided that the Final Rule does not unduly delay or undo the productive planning efforts now before the Commission or otherwise well-underway.**
- The NOPR seeks to ensure that regional transmission plans consider all potential transmission and non-transmission solutions. **WIRES supports this concept. Although the need for conventional "wires" solutions is great and unlikely to diminish, intelligent planning that strengthens the grid should recognize the positive impacts from efficiency and demand response, smart**

technologies, non-linear transmission solutions, and advanced materials.

- The NOPR requires that open access transmission tariffs provide planning procedures and mechanisms for evaluating transmission projects that are driven by public policy, including renewable portfolio standards established by state or federal law. **WIRES finds that consideration of policy-driven project development will be of growing importance as we explore and access clean energy resources. WIRES strongly supports this initiative.**
- The NOPR places special emphasis on improving inter-regional coordination among transmission providers and planners with respect to the planning of new inter-regional facilities and the allocation of costs for those facilities. **WIRES endorses this proposal and urges the Commission to develop and require specific procedures and timelines for accomplishing this collaborative effort. It does not believe that a rule that restricts allocation of costs to the "region" in which a project is located is consistent with the public interest, unless the scope of regional and inter-regional plans is sufficient to recognize all potential beneficiaries of new facilities.**
- The NOPR requires that planners and transmission providers adopt methods of allocating the costs of new transmission projects included in regional plans, consistent with a new set of regional and inter-regional cost allocation principles.³ **WIRES supports this proposal and the Commission's proposed principles, which can be**

³ The Commission's proposal to develop generic principles is consistent with the recommended approach of WIRES' Blue Ribbon Panel, *A National Perspective on Allocating the Costs of New Transmission Investment: Practice and Principles* (2007), (http://www.wiresgroup.com/images/Blue_Ribbon_Panel_-_Final_Report.pdf) ("Blue Ribbon Panel report").

improved to render more specific guidance to those negotiating regional allocation methodologies.

The Commission is hereby urged by WIRES to take important steps now to establish targeted improvements in regional transmission planning and cost allocation practices and institutions across regions and markets, in order to stem continued uncertainty, interregional disputes, and protracted and expensive procedures that thwart basic changes in the energy economy. In these respects, WIRES contends that the Commission should employ this rulemaking proceeding to structure transmission planning processes, especially where they must address major interregional transmission facilities that integrate whole regions, to ensure that costs are allocated “roughly commensurate” with the range and distribution of benefits provided to customers, irrespective of whether a project physically crosses regional or market boundaries. Because the interstate transmission system is currently planned and governed by organizations with differing geography, operating systems, stakeholder groups, and interests, utilizing differing planning procedures, timelines, and criteria, WIRES urges the Commission to take additional steps to ensure the timeliness and coordination of planning procedures among all regions. For that reason, it supports requiring all proposed facilities to be evaluated under credible, coordinated regional planning processes.⁴

II. BACKGROUND AND CALL TO ACTION

The proposed changes to the rules and policies governing planning and cost allocation are entirely consistent with, and will advance, the Commission’s rulings in Order Nos. 888 and 2000, with special emphasis on the transmission planning principles of Order No. 890. They are a welcome acknowledgement that operational circumstances in the power industry have indeed changed, in part as a result of new technologies, in part because of entrepreneurial trends within the electric utility industry itself, in part due to two decades of consistent Commission support for transmission open access and regionalism in grid planning and management, and

⁴ WIRES indicates that several of its members are signatories to the cost allocation comments and analysis filed by “Joint Commenters” in this proceeding. *See* Footnote 27, below.

increasingly because of the potential demands for the development of, and access to, renewable resources, many of which are located at great distances from customers. These changes make clear that adequate transmission is critical to achieving a liquid bulk power market that affords customers the ability to access low cost and diverse generation resources.

WIRES respectfully requests that, consistent with the NOPR's objectives, the Commission adopt a Final Rule that creates efficient planning and cost allocation protocols that advance the goals of Order No. 890, ensures the continued development of competitive bulk power markets, and establishes the predicate for future changes to national energy policy and the nation's fuel mix. Commission leadership on these issues need not and should not supplant or pre-empt the role of states and regional entities, undermine the significant progress that is being made in developing transmission infrastructure in many regions, contradict the consensus-based cost allocation methodologies that have been recently approved by or are currently pending before the Commission, or impose one-size-fits-all solutions. However, some commenters in this rulemaking may argue that the NOPR will foil the prolonged regional efforts that have begun to produce rational plans for interstate transmission development. WIRES, therefore, certainly urges the Commission to avoid undoing productive collaborations that are producing real results. WIRES simply contends that without additional guidance from the Commission, the current disparities among the regional administrative and regulatory regimes of interstate electricity markets could prove to be expensive and inefficient with respect to the long-term requirements of this network industry.

WIRES has long argued that enhancing the nation's transmission system is a critical national priority, equivalent to other investments in infrastructure that have captivated policymakers seeking to stimulate the economy. WIRES is scarcely alone in its opinion that additional transmission infrastructure is vitally important to both a strong economy and the development of non-fossil energy resources.⁵ Its 2009

⁵ National Renewable Energy Laboratory, U.S. Department of Energy, *20% Wind By 2030* (May 2008) (<http://www.windandenergytraining.com/images/windenergyby2030.pdf>);

Petition for Rulemaking on cost allocation⁶ tried to raise important questions about how major expansions and upgrades of the nation's high voltage transmission system will be paid for over the coming two decades. WIRES' *Petition* was entirely consistent with the Commission's timely and insightful request for comment on the state of transmission planning,⁷ While nearly \$60 Billion has been expended by the industry on the transmission system over the past decade and investments in advanced digital control technologies that enhance the efficiency, reliability, and power transfer capabilities of high voltage transmission are escalating, our domestic need for additional conventional transmission resources may be as high as \$300 billion between now and 2030. Meeting such a goal means marshalling capital and expertise and being as competitive as possible within the global supply chain where up to \$600 billion in transmission infrastructure – including special cables, transformers, towers, control technologies – will be manufactured and installed in the next decade alone.⁸ It is therefore important that the domestic electric industry has turned the corner from a period of huge investment in fossil generation to other system demands such as transmission, alternative energy resources, storage, energy efficiency, and demand response.

The Commission recognizes that major new operational challenges face the electrical system, coming not so much from increasing demand for power (at least immediately) but from the operations of competitive bulk power markets, the potential for cyber attack, and the anticipated shifts in public policy toward

National Renewable Energy Laboratory ("NREL"), *Eastern Wind Integration and Transmission Study*, (2010) (http://www.nrel.gov/wind/systemsintegration/pdfs/2010/ewits_final_report.pdf); NREL, *Western Wind and Solar Integration Study* (2010)

(http://www.nrel.gov/wind/systemsintegration/pdfs/2010/wwsis_final_report.pdf);

P. Fox-Penner, *Smart Power: Climate Change, the Smart Grid, and the Future of Electric Utilities*, Island Press (2010); The Brattle Group, *Job and Economic Benefits of Transmission and Wind Generation Investments in the SPP Region*, prepared for Southwest Power Pool (2010),

(<http://www.brattle.com/documents/UploadLibrary/Upload859.pdf>)

⁶ WIRES, "Petition for Rulemaking On Electric Transmission Cost Allocation Principles," filed November 9, 2009 (Docket No. RM10-4-000).

⁷ Notice of Request for Comment, *Transmission Planning Processes Under Order No. 890*, October 8, 2010 (Docket No. AD09-8-000).

⁸ Pike Research, "Electric Transmission Infrastructure," [www.pikeresearch.com]; Brattle Group, *Transforming America's Power Industry: The Investment Challenge 2010-2030*, prepared for the Edison Foundation (2008),

(<http://www.brattle.com/documents/UploadLibrary/Upload725.pdf>)

alternative, often location-constrained, energy resources. WIRES believes that these are the drivers of a transition from transmission sector comprised largely of transmission providers that planned and built transmission for their native loads, usually within their own service territories, to an integrated high voltage delivery system that bridges multiple competitive power markets across service territories and state (and, indeed, national) boundaries. The NOPR effectively raises for public consideration how the nation must prepare to formulate flexible, regionally-sensitive, and implementable regional plans for this network infrastructure and creative funding approaches that accurately account for the breadth of benefits that new or upgraded transmission capacity provides. Through its established Federal Power Act authority, the Commission can further facilitate the ongoing efforts of stakeholders and transmission planners to strengthen the grid, using rules that provide for rationally structured and coordinated processes in determining which future transmission investments meet the public interest test.

WIRES acknowledges that each region and the nation as a whole must plan carefully to match economically feasible expansion of the grid to realistic and beneficial levels of renewable energy development, the emergence of renewable energy and advanced technology is increasingly perceived as basic to the nation's plans for energy independence, and reductions in the emission of greenhouse gases. These factors have driven new legislative, industry, and regulatory strategies in the energy area.⁹ A large and growing number of states have adopted renewable electricity standards that require their utilities to procure as much as 33 percent of their electric energy from renewable resources in the next decade or two.¹⁰ The NOPR's innovative proposal to require enhanced interregional coordination among transmission planners and to require planning processes to take into account

⁹ For example, *pending* in the 111th Congress are: Clean Renewable Energy and Economic Development Act, S. 539; National Energy Security Act of 2009, S. 774; and American Clean Energy Leadership Act of 2009, S. 1462.

¹⁰ According to the Commission's website, 29 states and the District of Columbia have enacted renewable electricity standards; 7 States and 3 Power Authorities have RES goals. In many cases, utilities subject to those legal obligations will be required to seek low-carbon resources beyond the applicable state boundaries (http://www.ferc.gov/market-oversight/othr-mkts/renew/2010/08-2010-othr-rnw-archive.pdf#xml=http://search.atomz.com/search/pdfhelper.tk?sp_o=4,100000,0).

transmission needs driven by those same public policy directives are, WIRES contends, key building blocks of our electric energy future.

III. WIRES' COMMENTS

A. PLANNING PROPOSALS

The NOPR requires every public utility transmission provider to participate in a regional planning process and to describe that process in detail in an OATT, presumably either its own or that of the RTO or ISO to which it belongs.¹¹ In addition, every transmission provider, through its regional planning process, must coordinate with transmission providers in neighboring planning regions within the interconnection. Such plans must be filed with the FERC.¹²

WIRES' members participate in regional and sub-regional transmission planning processes covering a large portion of the geographic footprint of the United States. Still other members have experienced the planning and development processes for specific projects that cross multiple states and power systems, both within organized and bilateral markets. Many of WIRES members are participants in interconnection-wide strategic transmission planning programs, which are important conceptual exercises in narrowing the options for developing a grid that will serve efficient and increasingly diverse 21st Century electricity markets.¹³ However, because WIRES' members provide service and develop facilities in different kinds and sizes of power markets, it acknowledges that

¹¹ NOPR at PP 92, 102.

¹² *Id.* at PP 114-120.

¹³ Joint Coordinated System Plan (www.jcspstudy.org); NREL, "Eastern Wind Integration and Transmission Study" (<http://www.nrel.gov/wind/systemsintegration/ewits.html>); NREL, "Western Wind and Solar Integration Study" (<http://www.nrel.gov/wind/systemsintegration/wwsis.html>); Eastern Interconnection Planning Collaborative (<http://www.eipconline.com/>); NREL, "Integrating Wind Into Transmission Planning: Rocky Mountain Area Transmission Study" (<http://www.nrel.gov/docs/fy04osti/35969.pdf>); State and Provincial Steering Committee (<http://www.westgov.org/sptsc/site/about.htm>); Western Electricity Coordinating Council, (<http://www.wecc.biz/Pages/Default.aspx>); Transmission Expansion Planning Policy Committee (<http://www.wecc.biz/committees/BOD/TEPPC/default.aspx>).

planning necessarily has taken on a variety of characteristics which suit particular geographic portions of the grid. However, we also recognize that transmission is a penultimate “enabling” technology everywhere. The Commission therefore must exercise a level of overarching supervision in the interest of meeting the coming challenges to the grid in a timely manner.

Regional transmission planning has become highly complex -- not only because electrons and bulk power transactions do not respect the jurisdictional and regulatory boundaries that historically define the wholesale power system but because resource bases and public policy priorities remain regionally diverse. That diversity can breed innovation or it can impede strategic agreement about the path forward for transmission. Expanding or upgrading the network entails meeting many conflicting demands, not the least of which is ensuring that the consumers, for whom transmission systems were originally built, continue to enjoy service of undiminished reliability, and are not required to pay for transmission or other services or benefits they do not receive.

WIRES acknowledges that these factors make it all the more remarkable that transmission planning has, of necessity, become more regionally oriented and sophisticated in the last decade. The time and resources that have been, and will continue to be, invested in transmission planning are substantial and established processes appear to be meeting regional system needs. For that reason, WIRES urges the Commission to take a moderate and flexible approach to changes in the way transmission is planned.

If there are clouds on the horizon, they are in one area principally, in WIRES' view. The way interstate transmission is planned varies one jurisdiction or market to another in many parts of the nation, even sub-regionally. Planning processes have varying planning cycles, procedures, criteria, timelines, and regulatory rules and that diversity is compounded by different geography, system characteristics, and stakeholder interests. This has the potential to impede the development work of both new market entrants and established transmission providers alike. This kind of challenge was minimal as long as transmission was being designed and built to serve local or sub-regional customer load, subject to local or state

regulation and well-understood regional policies and priorities. However, with the advent of broader markets, development of remote resources, and the growing need for enhanced regional interconnectivity, continuing to allowing complete regional discretion in planning criteria and horizons perpetuates a framework that is likely to yield different solutions coming out of the various processes and regional disagreement that impedes getting needed transmission built.

The NOPR, however, seeks to address a market that increasingly reflects a very different landscape, especially the emergence of a liquid market for bulk power transactions and the prospect of broader access to location-constrained renewable wind, solar, geothermal, and biomass resources. Nothing illustrates the challenges facing transmission and stakeholders participating in that process better than the problems of designing and implementing interregional facilities to meet these emerging grid demands.

Measured solutions seem readily available to the Commission. While most analyses of specific, regional energy futures that occur within planning regions utilize virtually the same art and software, investors and even regulators cannot be assured that proposals will be studied using the latest tools and best practices, handled in ways that meet industry or regulatory standards, or that evaluation of competing projects will not be unduly influenced by any single market participant. The experience of WIRES' members confirms that many existing planning institutions and processes may qualify as competent, Order 890-compliant, and independent, especially in organized markets. We would highlight two key issues, however. First, regional planners are not able, under existing law, to ensure or even recommend that specific projects that are recognized by planning processes as needed and in the public interest will actually be constructed, all things being equal.¹⁴ While the Commission should not attempt to become a transmission planner, WIRES contends that it can do more in the transmission planning area to

¹⁴ WIRES fully recognizes that this challenge can only be fully overcome by the Congress, through legislation providing FERC with greater authority over the siting and construction of transmission facilities. WIRES developed model legislation in 2008 which is designed to ensure that specific projects found by planners to be necessary to reliability, economic, or public policy objectives would be considered for designation as consistent with the "public convenience and necessity" by regulators and, if authorized, would be built. That proposal is posted at www.wiresgroup.com.

prescribe principles of uniform practice, consistent with the objectives of Order No. 2000 and the principles of Order Nos. 888 and 890. WIRES is not necessarily advocating planning entities that are independent of market participation as that principle was applied in Order No. 888.¹⁵ It contends, however, that the Commission's Final Rule should guard against both the potential for undue discrimination and undue delay in planning processes.¹⁶

WIRES urges the Commission to provide as much guidance on the conduct of the critical planning process as possible. That is not to say that FERC should necessarily require new processes in addition to existing processes that are effective. But the importance of providing a consistent structure for transmission planning is nowhere more evident than where interregional coordination is involved. Consequently, the NOPR would require adjacent regions to work together to avert the waste and delay that is bound to occur when two or more sets of regulatory and operational criteria are applied to a single project whose fate it is to cross state, regional, or electrical boundaries.

The Commission should therefore consider additional rules that promote consistent planning cycles, stakeholder procedures, timelines for action, and criteria for evaluating project proposals. Consistent with this concept, the NOPR would require uniform timelines for the submittal of project proposals and the evaluation of projects.¹⁷ The cause of infrastructure development will be better

¹⁵ *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, FERC Stats. & Regs. ¶ 31,036 (1996).

¹⁶ WIRES notes that the Commission is not precise about what processes constitute "transmission planning" for purposes of determining cost allocations in accordance with the NOPR and Order No 890. Our comments herein regarding procedural and structural reform of planning do not pertain to certain regional or interconnection-wide planning efforts that are undertaken voluntarily by groups of companies, office-holders, or analysts and which are typically developed as concepts or high-level evaluations of multiple transmission and non-transmission options. These programs are not designed to result in the selection of particular projects or even to inaugurate open seasons or other selection processes. Instead, they are designed to inform planning processes that result in actual project authorizations about the feasibility of overall transmission and resource development concepts. In these comments, WIRES is focused on the formal regional and sub-regional planning processes that seek to identify and implement specific projects as meeting the needs of a region, including the expectations that may develop from whatever conceptual studies are produced by these high-level system analyses. See FN13.

¹⁷ *Id.* at P 91.

served by providing sufficient federal standards to ensure that interstate projects are evaluated on a timely basis under procedures that are predictable and understandable to stakeholders. The uniform deadlines will be especially valuable for interregional coordination. Moreover, the Commission should consider providing guidance on methods of project evaluation, and ways to integrate public policy considerations, demand response, and efficiency projections into regional planning efforts.

Other commenters may contend this is a restatement of “one-size-fits-all.” That is far from WIRES purpose in recommending that planning be made more predictable and productive. We believe that such provisions should provide a framework without dictating end results. Although the NOPR says little about how FERC views its Federal Power Act authority over transmission planning, WIRES believes that the Commission’s plenary authority over high-voltage transmission¹⁸ necessarily entails responsibility for ensuring its efficient development and operation.

Good transmission planning processes will be key to America’s energy future. Poorly structured or parochially administered planning can be the source of economic inefficiency and undue discrimination, both of which the Commission is obligated to prevent under the FPA. While it may not always possess the region-specific and project-specific expertise to be a planner, FERC is responsible for ensuring that planning is structured so as to maximize the chances of project development that serves the public interest and multiple system needs and policy objectives.

B. COST ALLOCATION PROPOSALS

The Commission proposes to require every public utility transmission provider, which includes any RTO, ISO, or regional planning utility, to establish and implement a method(s) for allocating the costs of new transmission facilities

¹⁸ *New York v. FERC*, 535 U.S. 1, 122 S.Ct. 1012, 152 L.Ed.2d 47 (2002).

included in the transmission plan.¹⁹ The proposed rule also would require every public utility transmission provider or transmission planning entity and those in its neighboring planning region(s) to develop a method(s) for allocating costs of new interregional transmission facilities that are proposed to be located in multiple regions and to affect multiple systems.²⁰ Importantly, the NOPR would rely on public utility transmission providers to develop proposed cost allocation methods; but, if no method can be agreed upon, the NOPR reserves the Commission’s right to develop a regional allocation method itself, based on the underlying “record” in the proceeding.²¹

In any event, all cost allocation methods must comply with the stated principles. For the first time, the Commission seeks to provide generic guidance about which cost allocation methodologies for interregional²² and intraregional²³ transmission projects are in the public interest. In short, new transmission costs must be allocated so that:

- Only the “beneficiaries” of those investments pay for them;
- Costs are “roughly commensurate” with benefits;
- A total benefit-to-cost threshold, if used, may not exceed 1.25;
- Those costs may not be involuntarily allocated outside the region where the facilities are located;

¹⁹ NOPR at P 159.

²⁰ *Id.* at P 161.

²¹ *Id.* at P 163.

²² The Commission’s proposed interregional (facilities located in more than one planning region) cost allocation principles would require that: (1) allocations among regions must be “roughly commensurate” with benefits to each region, including reliability and reserve sharing, production cost savings, congestion relief, meeting public policy requirements; (2) if there is no benefit, then there is no cost; (3) benefit/cost ratios may not be so large as to exclude projects with net benefits; (4) costs may be allocated only to regions in which facilities are located; (5) data requirements must be transparent; and (6) allocation methodologies may differ for different types of projects. *Id.* at PP 170-178.

²³ Similarly, intraregional cost allocations would require that: (1) costs of facilities entirely within a region must be allocated to beneficiaries within the region in a manner “roughly commensurate” with “estimated” benefits; (2) costs may not be allocated to those not receiving a benefit “at present or in a likely future scenario;” (3) if a benefit/cost threshold is used, it may not be so high as to exclude projects with net benefits; (4) entities outside the planning region may agree to, but are not compelled to, assume costs of an intraregional project; (5) all data requirements must be transparent; and (6) different cost allocation methods may be used for different “types” of projects. *Id.* at PP164-169.

- Access to methods and supporting data is transparent;
- Distinctions between reliability, economic, and public policy-driven projects may drive different types of allocations for each type of project.

Fundamentally, WIRES recommends that the Commission persist in linking cost allocation principles to regional planning processes in order that projects eligible for cost allocation undergo a vigorous regional planning process. However, caution must be exercised to ensure that the planning process not be unduly influenced by those looking to redirect potential cost allocation liability. The planning process should be an independent one that looks at needs and drivers and is not driven to suboptimal solutions by narrow market participant interests. Moreover, the Commission should be open to spreading costs in a way that reflects an equitable and economic distribution of benefits, as the Commission defines those benefits under accepted economic and operational principles and the impacts of public policies established under state and federal energy law and regulation.

WIRES generally supports the Commission's proposed principles, and suggests some ways in which they can be made more effective in guiding development of allocation methodologies. WIRES completely agrees with the Commission that, as a matter of equity and economic policy, customers that benefit from transmission investments should bear the costs and those that do not should have no cost responsibility. However, the "beneficiaries pay" approach is a double-edged sword that has been employed to justify multiple, and often diametrically opposed, cost allocation methodologies. WIRES, therefore, respectfully requests the Commission to articulate more clearly the definitions, presumptions, and methods associated with "beneficiaries pay" that will lead to just and reasonable results. WIRES notes that this approach is consistent with the technique recommended by the independent Blue Ribbon Panel report on cost allocation that WIRES sponsored

three years ago; namely, that all cost allocation proposals be evaluated pursuant to a specific set of principles and presumptions.²⁴

WIRES reads the NOPR as ensuring both that planners take account of the economic and reliability benefits of proposed projects and as requiring that transmission plans should advance, and not inhibit, important public policy objectives as those goals are established by law. Under the NOPR, “beneficiaries pay” determinations could entail more than modeling projected power flows and ascertaining the market implications of new transmission capacity. While the Commission presumably has in mind the need for transmission infrastructure to facilitate state and potentially federal renewable electricity standards, a potential array of other public policy “benefits” are identified in the NOPR as potentially important, individually and in the aggregate, to the formulation of regional plans, including reserve sharing, production cost savings, and congestion relief and (presumably) rational prices.²⁵ WIRES nevertheless emphasizes that, in this new area, the Commission should approve compliance tariffs that enable each region to establish cost allocation methodologies and planning processes according to the particular public policy initiatives that may evolve into final implementation in their respective regions. A carefully and flexibly designed final Commission rule in this regard will help clarify the difficult questions about who benefits from particular facilities, hopefully mitigating the endless definitional disputes over what constitutes a benefit in specific instances.

WIRES focuses its recommendations on the establishment of allocation principles as a way to undergird and expedite allocation determinations in individual cases. We contend that such principles will foster a supportive record and rationale that will help avert the expense and delay occasioned by protracted

²⁴ Given the intervening developments since the Blue Ribbon Panel report was submitted, its principles have become somewhat dated. However, the overall report remains an informative and innovative discussion of issues surrounding cost allocation and the specificity of certain principles is worthy of emulation, as noted below.

²⁵ NOPR at P 164.

debate and potential judicial remands.²⁶ Reacting to the Commission's proposal to intercede with a methodology where regional parties reach an impasse on allocation, other commenters in this proceeding propose that the Commission have a default cost allocation methodology at the ready for such eventualities.²⁷ Such an approach may look more attractive if the Commission's principles provide only generalized guidance. However, greater reliance on principled, up-front guidance for allocating the costs of transmission according to the size, location, potential benefits, and public purposes of projects can provide a high degree of perspective reassurance to parties engaged in the difficult task of negotiating a methodology that both works for their particular region and will result in a just and reasonable rate. Only the Commission can provide this level of certainty and that degree of flexibility.²⁸ WIRES has never advocated "one size fits all." Cost allocations are ultimately fact-driven and the Commission's judgment and due deliberation by

²⁶ *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009) (remanding for lack of reasoned decision-making, the FERC's approval of a PJM cost allocation approach which, among other things, would have broadly spread the costs of transmission projects 500 kV or greater).

²⁷ See Joint Comments of American Electric Power Corp. *et al.* The "Joint Commenters" support the Commission's utilization of the "beneficiaries pay" allocation method. and recommend that the Commission provide all regions with sufficient latitude to develop cost allocation methodologies that reflect regional operational and regulatory differences or preferences. However, if planning regions fail to reach agreement on a methodology, a default methodology would be employed in order to expedite and support transmission development within the region. Joint Commenters suggest Southwest Power Pool's Highway/Byway methodology as one option. Although such an approach arguably has advantages in providing certainty about the consequences of not coming to agreement on a methodology, by itself it provides little prospective guidance for negotiated solutions. However, Joint Commenters would include a rebuttable presumption that extra high voltage transmission costs should be broadly allocated. Finally, WIRES agrees that the "roughly commensurate" standard for evaluating the relationship of transmission costs to the distribution of benefits from new transmission is appropriate.

²⁸ WIRES urges the Commission not to allow regional planners, whether RTOs, ISOs, or public utility transmission providers, to rely exclusively on increasingly problematic distinctions among different types of projects (i.e., economic, reliability, or public policy) when developing cost allocation methods. NOPR at P 160. Over the life of transmission assets, these tend to be distinctions without a difference. As the Blue Ribbon Panel put it: "The distinction between reliability and economic upgrades arose in the era before open-access transmission. . . . In the era of competitive markets – whether organized or bilateral in nature – the potential for [upgrades to support inter-utility trade, mostly justified on reliability grounds] such 'economic upgrades' has grown with the advent of increased wholesale trading. . . . [T]he problem with distinguishing between 'reliability upgrades' and 'economic upgrades' is that it injects an artificial dividing line between two things that are both fundamentally economic concepts." *Blue Ribbon Panel report*, at 13-17. Also, see *Southwest Power Pool, Inc.*, 131 FERC ¶ 61,252 (2010), where the Commission acknowledges (at P 65) that "no single analytical study can reflect future needed expansions to the electric grid to support regional power flows as system conditions change . . ." In other words, today's reliability or public policy-driven project is tomorrow's economic project and vice versa.

stakeholders in the regional planning processes must occur within a framework that makes outcomes as predictable as possible and, to the extent practicable, more alike region-to-region. That will supply the kind of certainty investors seek.

WIRES believes that the NOPR, which follows the broad “beneficiaries pay” concept and largely rejects exclusive reliance on participant funding as a deterrent to transmission investment in most cases, strikes many of the right chords in this area. WIRES suggests the following improvements for Commission consideration.

WIRES argues that the proposed rules could be firmer and more helpful to regional planners and stakeholders in the Eastern and Western Interconnections in several respects. As proposed, the principles provide only the most general outer bounds of acceptable practice. They do not confront the core challenge faced by stakeholders and planners seeking to develop equitable, durable, and regionally sensitive cost allocation methodologies; namely, what are the characteristics of cost allocation methodologies the Commission is likely to consider as just and reasonable. Granted, the Commission’s growing case law in the area provides guidance and, in specific cases, real certainty. But after-the-fact certainty that applies to only one region or set of facts tends to mask the months (if not years) of effort and expense invested to move forward on a regional agreement with no star by which to steer.

WIRES also points out, for purposes of illustration, a few of the principles developed by the Blue Ribbon Panel that aim to settle certain questions about the equitable distribution of the benefits provided by new transmission and the features of regional planning that facilitate effective decision making on cost allocation. The report, in fact, reinforces the Commission’s position that transmission planning and cost allocation should operate in tandem. Reflecting, if not foreshadowing, the very considerations that underlie Order No. 890, the report emphasizes the importance of employing predictable and transparent planning procedures and utilizing accepted methods of measuring the values and benefits provided by new or upgraded projects, as discussed by WIRES above. For example:

Principle 1. All viable methods of allocating the costs of new network transmission require a study of who benefits from, and who should pay for, enhancements of the grid. A sound planning process is critical to that determination.

Principle 2. As a predicate to allocating the cost of network transmission investments, such investments should be analyzed using a single standard or unit of measure that combines reliability and economic values without distinction.

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Principle 4. Sound transmission planning (to analyze benefits and costs, and the distribution of benefits for the purpose of allocating costs) should incorporate a number of features:

Principle 4A. Transmission planning and analysis should be done on a regional level – focusing on larger regions as a general rule. While the overall planning process must encompass a large region, the planning studies cannot lose sight of the impacts on sub-regions.²⁹

Principle 4B. Transmission planning and analysis should include all of the demand loads (existing and reasonably anticipated) and all of the supply resources (existing and reasonably anticipated) located within the geographic region for which planning is taking place.

Principle 4C. Transmission planning should occur in a process that is open, transparent, and inclusive, and conducted by a credible entity without particular attachment to specific interests or market outcomes in the region.

The Commission’s principles could also establish rebuttable presumptions that the costs of specific projects with certain characteristics, capacity, or voltage will be allocated in a standard way on the basis of the typical system impacts of such projects. This was essentially what was done in PJM for projects above 500kV and that approach becomes more defensible on appeal to the extent the approach has been vetted and adopted in a generic rulemaking. The Blue Ribbon Panel report

²⁹ WIRES notes that many regional planning processes depend, in part, upon a regional “roll-up” of local plans into potentially more efficient regional transmission solutions. This hybrid approach of “bottom-up” and “top-down” planning can preserve a sensitivity to the transmission needs of sub-regions, which the Blue Ribbon Panel identified as an important consideration.

proposed two principles for extra-high voltage projects which, while not pre-determining the substantive outcome in particular cases, made clear what would be required of the supporters and opponents of a project:

Principle 5. Transmission investments involving baskets of projects that satisfy these standards and which emerge as being a net societal benefit (to either the region or sub-regions) through the results of robust transmission planning processes should presumptively be candidates for broad, or socialized, cost recovery across the region benefiting from the project(s).

Principle 6. As a rebuttable presumption in transmission planning exercises on a going forward basis, the larger the size of a proposed new facility, the greater its potential to serve the broadest segment of interstate commerce and therefore the larger the region that should support it.³⁰

If the Commission were to identify its preferred cost allocation methodologies for particular classes of projects that would not foreclose the possibility that other approaches could be shown to be appropriate. The use of a relatively complete set of principles affords the Commission an opportunity to help short-cut the endless debates about limited merits of participant funding in a network environment and about the extent to which the benefits of transmission can be quantified in specific instances as proposed in S. 1462. In that connection, WIRES indicates its support for the Commission's proposal that cost allocations be "roughly commensurate" with the range of benefits provided by either inter-regional or intra-regional transmission projects. This formulation is highly preferable to the unworkable standard (cost allocation based on "*measurable* economic and reliability benefits") in the current provisions of proposed Senate legislation.³¹ WIRES recognizes that some benefits of transmission projects may be quantifiable over a project's near-term (e.g. production costs); however, benefits

³⁰ WIRES does not read this principle as implying that transmission projects should be designed and proposed based on any criteria other than public needs and credible future operational, economic, demographic, or public policy scenarios.

³¹ Section 121 of Title I of S. 1462, reported by the Senate Energy and Natural Resources Committee, 111th Congress.

such as enhanced market competitiveness and liquidity, reliability benefits, renewable access benefits, economic development benefits (construction and taxes), impacts on fuel markets, or synergies with other transmission projects are very hard to quantify. The long useful life of transmission assets complicates the analysis and necessitates use of increasingly sophisticated tools for projecting future demographic, economic, and electrical conditions and operations.

Finally, WIRES strongly supports the NOPR's direct approach to promoting interregional coordination and collaboration in both planning and cost allocation. This rulemaking is a perfect opportunity for the Commission to lay the groundwork for regional planners to work together by insisting that planning cycles, tools and models, evaluative procedures and standards adhere to common, state-of-the-art standards and protocols.

WIRES can ascertain no reasonable basis, for instance, for automatically limiting allocations to regions in which facilities are physically located unless entities outside the region agree to pay as well.³² In fact, such a limitation appears to contradict the Commission's own cost causation principle as transmission developed near regional borders may well be caused by power flows from neighboring regions, cross-border transactions, or other activities that provide benefits beyond the physical footprint. In an integrated network environment, particularly if public policy-driven benefits or the benefits from low-carbon generation are broadly construed, the geographic location of true beneficiaries of a transmission project may be in an adjacent region or beyond. The Commission's proposed requirement that planners take account of public policy objectives potentially creates a new distribution pattern of legislatively-sanctioned benefits. This is a factual matter that requires the stakeholders and planners to make a judgment in specific cases about the range and distribution of benefits from particular facilities as well as related factors such as power flows that affect which customers should be responsible for specific transmission costs. At bottom, the "physically located" principle for allocating the costs of interregional projects

³² NOPR at P 164; *see* Footnote 20, principle 4, above.

appears to be an unwarranted and arbitrary barrier to interregional cost allocation analyses, not to mention an apparent contradiction of the Commission's proposed requirement (which WIRES endorses) that regional public utility transmission providers coordinate with adjacent regional entities on the planning of interregional projects and the allocation of related costs.

The NOPR also takes the position that costs of projects not included in a regional plan should not be recoverable through the region's cost allocation process.³³ WIRES supports that restriction. Although this rule would not preclude projects developed on a merchant basis outside the planning process from being privately financed, it acts as strong encouragement for most transmission providers to participate in a regional planning process and for stakeholders to help rationalize the rate impacts of regional transmission development.

In sum, WIRES does not advocate any single cost allocation approach. Nor does it contend that one size fits all with respect to how to accommodate important differences in regional transmission operations that may affect who benefits from new facilities. It stresses that the Commission should not discard or undermine the promising or productive cost allocation efforts that are reaching fruition. A variety of cost allocation methodologies have been successfully formulated and implemented, including in the Electric Reliability Council of Texas ("ERCOT") beyond FERC's planning oversight. There have already been several regional collaboratives which have developed improved methodologies to replace previously negotiated and less regionally effective approaches. WIRES believes the Commission should draw on the lessons learned, both positive and negative, from implementing those methods in order to formulate the kind of guidance that, in WIRES' view, will advance the goal of enhanced transmission development.

V. CONCLUSION

WIRES finds the Commission's NOPR a welcome addition to the evolution of electric restructuring, a process that is arguably two decades old and counting. We

³³ NOPR at PP 55-70.

believe the desired outcome must ultimately be a liquid bulk power marketplace supported by strong transmission infrastructure. The Commission's NOPR is a step toward making all parts of that integrated market work more uniformly, without compromising regional grid operating differences or state and local input to the planning process. Progress in establishing a competitive and non-discriminatory wholesale market has been sparing over the last decade. The Commission is urged to move ahead in this proceeding to provide greater support for the much-needed and much-anticipated transmission build-out. WIRES contends it can do so by stating clearly what it expects from all regional planning proceedings.

Respectfully Submitted,



/s/

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