

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

**Improvements to Generator Interconnection            )**  
**Procedures and Agreements                                )**           **Docket No. RM22-14-000**

**REPLY COMMENTS OF WIRES**

Pursuant to the Notice of Proposed Rulemaking (“NOPR”) issued by the Federal Energy Regulatory Commission (“Commission” or “FERC”) on June 16, 2022, in the above-captioned proceeding,<sup>1</sup> WIRES, on behalf of its members, hereby submits the following reply comments.<sup>2</sup>

On October 13, 2022, WIRES filed initial comments supporting those aspects of the proposed rule that are likely to facilitate expediting the interconnection of ready generation while also accommodating the future generation resource mix.<sup>3</sup> At the same time, WIRES urged the Commission to reconsider those portions of its proposed reforms that are at odds with the goal of expediting the interconnection of ready customers to the transmission system in a reliable, efficient, transparent, and timely manner. Based on the initial comments submitted in response to the NOPR, WIRES submits these limited reply comments.

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<sup>1</sup> *Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 (2022) (“NOPR”). The Commission subsequently extended the deadline for reply comments until December 14, 2022.

<sup>2</sup> 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.

<sup>3</sup> Comments of WIRES, October 13, 2022 (“WIRES Comments”).

## I. REPLY COMMENTS

### A. The Reasonable Efforts Standard is Just and Reasonable, Broadly Supported, and Should be Retained.

In its initial comments, WIRES opposed the Commission’s proposal to eliminate the reasonable efforts standard and instead require a strict penalties scheme for missed study deadlines because it will impose an unjust and unreasonable burden on transmission providers and will result in adverse consequences that will be counterproductive to expediting interconnection queue processing.<sup>4</sup> WIRES observed that the existing reasonable efforts standard is just and reasonable because it recognizes the fact that the interconnection study process is subject to decisions and actions taken by entities beyond the control of the transmission provider.<sup>5</sup> Moreover, WIRES pointed out that elimination of the reasonable efforts standard in favor of a strict penalties regime would necessarily result in transmission providers needing to take a less flexible and more rigid approach to management of the interconnection queue, which would ultimately inhibit efforts to streamline and expedite the interconnection process.<sup>6</sup>

In their initial comments, the Indicated PJM Transmission Owners question whether the Commission has satisfied its dual burden under section 206 of the Federal Power Act (“FPA”) of demonstrating that the existing reasonable efforts standard is unjust and unreasonable, and that the proposal to replace that standard with a strict penalties approach is just and reasonable.<sup>7</sup> As the Indicated PJM Transmission Owners point out, the Commission “should not base a nationwide rulemaking under FPA section 206 on the assumption that transmission providers (i)

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<sup>4</sup> WIRES Comments at pp. 7-8.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> *Id.* at p. 8.

<sup>7</sup> Comments of the Indicated PJM Transmission Owners, October 13, 2022, at pp. 36-40.

lack sufficient motivation to complete studies in a timely fashion, nor (ii) on the implied assumption that transmission providers may have a commercial motivation to delay interconnection studies in bad faith.”<sup>8</sup> The Indicated PJM Transmission Owners correctly observe that there is no evidence in the record in this proceeding to support either assertion.<sup>9</sup>

Moreover, several parties in their initial comments raised concerns similar to those made by WIRES about the proposal to eliminate the reasonable efforts standard. For instance, the Organization of MISO States, Inc. (“OMS”) observes that the proposed enforcement of study deadlines “will be expensive, disruptive to ongoing studies, and likely to result in contentious disputes” while also acknowledging that “most interconnection delays are outside the transmission provider’s control.”<sup>10</sup> In addition, OMS raises the concern that the combination of removal of the reasonable efforts standard and introduction of penalties “could lead to artificially faster study completion enabled by lower levels of study quality.”<sup>11</sup> Omaha Public Power District (“OPPD”) echoed OMS’s concern, stating that the proposal “is likely to have unintended consequences that are unacceptable for interconnection customers” and is “likely to force transmission providers to focus on timeliness of studies and not necessarily the quality of the study and its results.”<sup>12</sup> While WIRES members would strive to maintain study quality in any circumstance, as noted above, timeline compression could lead transmission owners to limit beneficial but time-consuming flexibility and coordination that are currently afforded to interconnection customers.

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<sup>8</sup> *Id.* at p. 38.

<sup>9</sup> *Id.* at pp. 38-39.

<sup>10</sup> Initial Comments of OMS, Oct. 13, 2022, at p. 15.

<sup>11</sup> *Id.*

<sup>12</sup> Comments of OPPD, Oct. 13, 2022, at p. 12.

The National Rural Electric Cooperative Association (“NRECA”) contends that “[e]stablishing firm deadlines and penalties on transmission providers is not a remedy for delays in interconnection queues,” and that “[t]ransmission providers should not be responsible for paying penalties that are the result of too much speculative generation in the queue.”<sup>13</sup>

Bonneville Power Authority (“BPA”) “strongly opposes” elimination of the reasonable efforts standard as it fails to account for the increasing resource restraints on transmission providers “in managing the cluster study, cluster re-studies, affected system studies, informational studies, public interconnection information, and any studies or re-studies under the existing process” and “could lead to increased costs for Interconnection Customers and barriers to interconnection.”<sup>14</sup>

In sum, a variety of commenters confirm WIRES’s concern that the Commission’s proposal to eliminate the reasonable efforts standard is likely to slow down, rather than expedite the generator interconnection process. In addition, WIRES agrees with the assertions of others that penalizing transmission providers for missing deadlines due to circumstances that are beyond their control raises questions of fundamental fairness regarding the NOPR’s proposal. Accordingly, the Commission should reconsider its proposal to eliminate the reasonable efforts standard and impose a strict penalties regime.

#### **B. New and Alternative Proposals to the NOPR Require Further Clarification and Consideration through Additional Notice and Comment Procedures.**

The scope of the Commission’s NOPR proposed a set of reforms focused on addressing particular aspects of the interconnection queue process, such as (i) implementing a first-ready,

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<sup>13</sup> Comments of NRECA, Oct. 13, 2022, at pp. 33-34. *See also* Comments of Associated Electric Cooperative, Inc., Oct. 13, 2022 at p. 6 (the NOPR fails to account for the fact “that no two studies are exactly the same, such that the study completion timing can be standardized across the board: the amount of coordination, the number of Affected Systems and the scope of the proposed interconnections are all differentiating factors that make timing standardization an arbitrary exercise.”).

<sup>14</sup> Comments of BPA, Oct. 13, 2022 at pp. 14-15.

first-served cluster study process; (ii) expediting interconnection queue processing; and (iii) incorporating technological advancements into the interconnection process.<sup>15</sup> Nonetheless, certain commenters have asked the Commission to expand the NOPR to consider and include additional measures or requirements.

For instance, one proposal is to require transmission providers to include, in addition to the information already provided pursuant to Order No. 845, additional information to potential interconnection customers on transmission lines, including circuit type, conductor type, pole type, equipment ratings and equipment age.<sup>16</sup> Apart from the procedural problem that this proposal is well outside of the scope of the proposed rule, as a practical matter, providing information of this level of granularity will be unduly burdensome on transmission providers with little benefit. Transmission line design by its nature requires the specialized expertise of the transmission provider and requiring the publication of additional design data will greatly increase the burden placed on transmission providers with no corresponding benefit for interconnection customers. Certain information also represents confidential system information that could be exploited for commercial benefit or a threat to the reliability of the transmission system. Generally publicizing this information (as the proposal appears to contemplate) without confidentiality protections in place for sensitive information would be an excessive disclosure of proprietary system information, especially when “potential interconnection customers” would necessarily not yet be a part of the queue or the interconnection process.<sup>17</sup> Furthermore, providing information at this level of granularity would further complicate the interconnection

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<sup>15</sup> NOPR at P 4.

<sup>16</sup> See NextEra Comments, Oct. 13, 2022, at p. 11.

<sup>17</sup> *Id.*

process by adding another area of potential dispute to an already fraught process, and runs the significant risk of interconnection customers “backseat driving” the interconnection study process. As countless commenters have noted, the safe and reliable operation of the transmission system rests on the transmission provider, and thus it is the transmission provider who must ultimately perform and stand behind its study results.

As another example, in its initial comments, Enel North America (“Enel”) proposes that in the final rule the Commission establish a new “third-party construction option” for Stand Alone Network Upgrades.<sup>18</sup> Such a proposal would potentially constitute a major shift in the fundamental structure of the interconnection process, and in any event, is well outside of the scope of a proposed rule that seeks to increase the processing speed of the interconnection queue. Enel’s proposal also raises profound questions over who would own and operate such upgrades when they are finally constructed, and what that would mean when a third party owns portions of a transmission owner’s transmission system. Transmission providers are also already heavily burdened by the obligations of the interconnection process – layering a pseudo-Order 1000 competitive process atop an already extremely complex process will not produce efficient outcomes.

Because of the many questions raised by and potential impact of these additional or alternative proposals, the details will be important and must be fully outlined. Since the Commission never included these proposals in the NOPR, if the Commission were to revise the proposed rule now to include them, such action would clearly constitute a significant substantive change to the NOPR triggering the need for a supplemental notice of proposed rulemaking in order to provide adequate notice and opportunity for the public to comment on the proposed

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<sup>18</sup> See Enel Initial Comments at pp. 52-56.

changes. If the Commission is inclined to give these new proposals any further consideration, it should provide interested parties with a draft proposal and opportunity for comment prior to issuing a final rule.

## II. CONCLUSION

WIRES respectfully submits these reply comments for consideration by the Commission as it considers further action on the proposed rule.

Respectfully submitted,

*Larry Gasteiger*

Larry Gasteiger  
Executive Director  
WIRES  
529 Fourteenth Street, NW  
Suite 1280  
Washington, DC 20045  
Mobile: (703) 980-5750  
[lgasteiger@exec.wiresgroup.com](mailto:lgasteiger@exec.wiresgroup.com)

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