

State of California

Public Utilities Commission
San Francisco

M E M O R A N D U M

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To: The Commission
(Meeting of October 7, 2021)

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Subject: Staff request Commission Approval to Comment on FERC's
Rulemaking to Consider Potential Transmission Reforms:
*Building for the Future Through Electric Regional Transmission
Planning and Cost Allocation and Generator Interconnection*
(FERC Docket No. RM21-17-000)

RECOMMENDATION: Legal Division and Energy Division Staff (collectively, Staff) recommend that the California Public Utilities Commission (CPUC) file comments in response to the Federal Energy Regulatory Commission's (FERC) Advanced Notice of Proposed Rulemaking in Docket No. RM21-17-000 (ANOPR),¹ which proposes potential

¹ Advanced Notice of Proposed Rulemaking to Consider Potential Transmission Reforms: *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection* (July 15, 2021) 176 FERC ¶ 61,024 ("ANOPR").

transmission reforms to improve the electric regional transmission planning, cost allocation, and generator interconnection processes. FERC also seeks comments on how to enhance oversight of transmission spending. Initial Comments are due on October 12, 2021, and Reply Comments are due on November 30, 2021.

I. BACKGROUND:

On July 15, 2021, the Federal Energy Regulatory Commission (FERC) issued an Advance Notice of Proposed Rulemaking (ANOPR) to consider “the potential need for reforms or revisions to existing regulations” to improve electric regional transmission planning, cost allocation, and generator interconnection processes, and to enhance oversight of transmission infrastructure development, *i.e.*, how transmission projects are identified and paid for.² FERC issued the ANOPR in response to “evolving conditions” in the transmission system, most importantly, resource mix changes resulting from transformation of the generation fleet due to growth in new resources, including renewables, that may often be located far from load centers, and thus, create new demands on the transmission system.³ An ANOPR typically precedes a formal proposal for new rules in a NOPR.

FERC explains in the ANOPR that it has been more than a decade since the last of FERC’s major orders governing an open, competitive transmission system and interconnections, *i.e.*, Order Nos. 890, 1000, and 2003. Thus, it is now an appropriate time to review the issues addressed by those orders “and determine whether additional reforms to the regional transmission planning and cost allocation and generator interconnection processes or revisions to existing regulations are needed.”

In the ANOPR, FERC identifies three general areas for potential reform: (1) reforms for longer-term regional transmission planning and cost-allocation processes; (2) reforms that focus on improving the cost allocation for regional transmission facilities and interconnection network upgrades; and (3) FERC oversight of the need for new transmission facilities and project financing, and consumer protection from excessive costs. The ANOPR poses numerous questions and proposals for commenters to consider within these areas, and invites commenters to submit alternative proposals for FERC’s consideration. Specific questions posed in the ANOPR include:

- Whether to reform how regional transmission planning and cost allocation processes model future scenarios to incorporate sufficiently long-term and comprehensive forecasts of future

² ANOPR at PP 1, 5.

³ *Id.* at PP 3-4.

transmission needs that account for the changing generation mix;⁴

- Whether FERC should adopt measures to discourage submission of speculative interconnection requests, *e.g.*, by levying penalties for submitting speculative requests,⁵ and consider procedures for fast-tracking certain interconnection requests.⁶
- Whether FERC should reform the current interregional transmission coordination process by “potentially requiring interregional transmission planning.”⁷
- Whether there should be increased federal and/or state regulatory oversight of local transmission facilities,⁸ and “whether the current transmission planning processes may be resulting increasingly in transmission facilities addressing a narrow set of transmission needs, often located in a single transmission owner’s footprint.”⁹
- Whether “individual transmission provider practices regarding retirement and replacement of transmission facilities sufficiently align” with FERC’s directive “to ensure evaluation of alternative transmission solutions and whether these practices sufficiently consider the more efficient or cost-effective ways to serve future needs.”¹⁰
- Whether Order 1000 has resulted in “a relative increase in investment in local transmission facilities or [a lack of] diversity of projects resulting from competitive bidding processes.”¹¹

⁴ *Id.* at P 46.

⁵ *Id.* at P 153. See also *id.* at P 135 (where FERC proposes a non-refundable fee for submission of an interconnection request, which may discourage speculative interconnection requests).

⁶ *Id.* at PP 155-157.

⁷ *Id.* at P 62.

⁸ *Id.* at P 161.

⁹ *Id.* at 37.

¹⁰ ANOPR at P 171 (emphasis added) (“we seek comment on whether individual transmission provider practices regarding retirement and replacement of transmission facilities sufficiently align with the directive to ensure evaluation of alternative transmission solutions and whether these practices sufficiently consider the more efficient or cost-effective ways to serve future needs.”).

¹¹ ANOPR at P 37.

- Whether to establish independent entities to monitor the planning and cost of transmission facilities in particular regions, referred to as an “Independent Transmission Monitor[s].”¹² The contemplated Independent Transmission Monitors would operate independently of existing RTOs/ISOs and could make referrals to FERC about problematic planning decisions, *e.g.*, where “potentially excessive transmission facility costs” were identified, or where transmission projects were approved for regional cost allocation though “credible less-costly alternatives,” including non-wires alternatives, were available.¹³

Although the ANOPR asks questions on a wide range of topics, the overarching goal of the proceeding, as explained by Chair Glick and Commissioner Clements, is for FERC to adopt a more efficient, “forward-looking, holistic approach that proactively plans for the transmission needs of the changing resource mix,”¹⁴ that more effectively integrates transmission planning processes and generator interconnection processes,¹⁵ and “invigorat[es] [FERC’s] oversight of transmission spending,” thereby “protect[ing] customers from excessive rates and charges.”¹⁶

Comments on the ANOPR are due October 12, 2021, and Reply Comments are due November 30, 2021. Following the development of the record in the ANOPR through comments, potential technical conferences, and participation from the joint federal-state task force,¹⁷ FERC may consider whether to issue a formal Notice of Proposed Rulemaking, which would precede any final rule on these issues.

¹² ANOPR at PP 163-175.

¹³ *Id.* at P 164.

¹⁴ ANOPR, Chairman Glick and Commissioner Clements, concurrence at P 2 (“we believe that the *status quo* approach to planning and allocating the costs of transmission facilities may lead to an inefficient, piecemeal expansion of the transmission grid that would ultimately be far more expensive for customers than a more forward-looking, holistic approach that proactively plans for the transmission needs of the changing resource mix. A myopic transmission development process that leaves customers paying more than necessary to meet their transmission needs is not just and reasonable.”).

¹⁵ *Id.* at P 8.

¹⁶ *Id.* at P 11 (citation omitted).

¹⁷ ANOPR, Chairman Glick and Commissioner Clements, concurrence at P 3 (citation omitted) (emphasis added) (stating that “[w]e anticipate that this effort will be [FERC’s] principal focus in the months to come. In addition to reviewing the record assembled in response to today’s order, *we intend to explore technical conferences and other avenues for augmenting that record—including through the joint federal-state task force—before proceeding to reform our rules and regulations.*”); see *Order Establishing Task Force and Soliciting Nominations*, Docket No. AD21-15-000 (June 17, 2021) at 3, 6 (explaining that “[t]he Task Force will be comprised of all FERC Commissioners as well as representatives from 10 state commissions,” and “will focus on topics related to efficiently and fairly planning and paying for transmission, including transmission to facilitate generator interconnection, that provides benefits from a federal and state perspective.”); *Order Listing Members, Announcing Meeting, and Inviting Agenda*

II. DISCUSSION

Staff agree with FERC that changes in the resource mix driven by public policy requirements require FERC’s reassessment of how best to facilitate the evolution and modernization of the grid. Staff also agree that in considering the potential need for reforms to the regional transmission planning, cost allocation, and generator interconnection processes to accommodate resource mix changes, while maintaining grid reliability, “the priority,” as the ANOPR emphasizes,¹⁸ and the Federal Power Act dictates,¹⁹ must be ensuring that the resulting rates for transmission customers are just and reasonable.

Guided by these overarching goals, Staff propose the CPUC’s comments in response to the ANOPR advocate for changes to pertinent FERC policies, including the following:

- To improve regional transmission planning to better account for the changing resource mix, Staff recommend that FERC standardize modeling inputs used in regional transmission planning processes to assess the need for new transmission infrastructure by incorporating assessment of anticipated generation, use of longer-term forecasting periods, and probabilistic or stochastic modeling.²⁰
- Staff recommend that FERC further explore proposals to reduce the number of speculative interconnection requests and, potentially, fast track certain interconnection requests, particularly for resources that require a long lead time to develop.
- Staff recommend that the FERC should encourage—but not require—improved interregional planning. Any reforms to the interregional

Topics, Docket No. AD21-15-000 (August 30, 2021) at P 4 (identifying members of Task Force, including CPUC Commissioner Clifford Rechtschaffen as one of two Western Conference of Public Service Commissioners)

¹⁸ ANOPR at PP 3, 43. See also *id.* at PP 41, 84, 99, 122.

¹⁹ See ANOPR, Chairman Glick and Commissioner Clements concurrence at P 11 (citing *California ex rel. Lockyer v. FERC*, 383 F.3d 1006, 1017 (9th Cir. 2004); *City of Chicago v. FPC*, 458 F.2d 731, 751 (D.C. Cir. 1971) (“[t]he Commission must vigorously oversee the rules governing how transmission projects are planned and paid for if we are to satisfy our responsibility to protect customers from excessive rates and charges.”); ANOPR, Commissioner Danly concurrence at P 4 (“[n]o proposed policy, however worthy, can evade our statutory duty to ensure that rates are just and reasonable.”); ANOPR, Commissioner Christie concurrence at P 3 (same).

²⁰ See ANOPR at P 46. Probabilistic or stochastic modeling, which estimates the probability of various outcomes while allowing for randomness in one or more inputs over time, produces an ensemble of different outputs, thus allowing examination of a wide variety of system conditions. By contrast, in deterministic models, the output of the model is fully determined by the parameter values and the initial conditions.

coordination process must provide clear, substantial roles for states and state policies, incorporate flexibility by, among other things, considering the unique circumstances in different geographic zones, and recognize that transmission plans will evolve.

- Staff recommend that FERC correct its contradictory position on Order 890's transmission planning requirements by clarifying that such requirements apply to all asset repair and replacement projects, including transmission capital projects that do not expand the capacity of the grid.
- Staff recommend that refinement of Order 1000 to expand the use of open competitive procurement solicitations by, among other things, eliminating the right of first refusal for local transmission facilities, would increase investment in forward-looking transmission infrastructure and lower costs to consumers.²¹
- Staff recommend that FERC require that independent transmission monitors (ITM) be established to oversee transmission spending and ensure that the future buildout of the grid is accomplished in the most cost-effective manner.

III. CONCLUSION

Staff seek the Commission's approval to file comments in response to the ANOPR consistent with the positions outlined above and authority to respond to other stakeholders' initial comments.

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²¹ See ANOPR at P 37 (where FERC states "[w]e seek 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.").