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July 20, 2023

The Honorable Willie L. Phillips, James Danly, Allison Clements, Mark C. Christie
Commissioners
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Docket No. RM22-14-000, Docket No. AD23-3-000, Docket No. RM21-17-000, Docket No. RM22-7-000

Dear Acting Chairman Phillips and Commissioners Danly, Clements, and Christie:

I write today to express my strong interest in the Federal Energy Regulatory Commission (FERC) expeditiously finalizing a strong transmission planning and cost allocation rule, as well a Federal backstop electric transmission siting authority rule. Following those two rules, FERC will have more work to do on rules that make further progress on generator interconnection queue reforms (Docket No. RM22-14-000) and interregional transfer requirements (Docket No. AD23-3-000) to deliver reliable, affordable, and clean power to Americans.

On May 4, 2022, FERC published a Notice of Proposed Rulemaking (NOPR) titled, “Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection” (Docket No. RM21-17-000) in the Federal Register. While I am strongly in favor of FERC addressing transmission planning and cost allocation, I am concerned that the proposed rule is not strong enough to “remedy deficiencies in the Commission's existing regional transmission planning and cost allocation requirements.”

First, any final rule must include cost allocation provisions, and prescribe a set of benefits of transmission that should be considered in planning to enable cost effective transmission lines to be identified and ultimately constructed. In my meetings with independent and government experts on achieving our electric reliability, affordability, and clean energy goals, the lack of a clear cost allocation mechanism, based on an assessment of a defined set of benefits that transmission provides to a region, continues to come up as one of the most significant hurdles to building needed transmission infrastructure.

I applaud FERC for recognizing the need to address this critical issue and including it in this NOPR, but I am concerned that the proposal does not require the use of a specific list of benefits. Specifically, the NOPR says, “we [FERC] decline to propose to prescribe any particular definition of “benefits” or “beneficiaries,” nor require use of any specific benefits.” Defining a set of benefits and requiring the consideration of that defined list from the outset will provide clarity to stakeholders, and accelerate the planning and cost allocation process, and result in efficient transmission planning outcomes. If FERC continues to decline to require the consideration of a defined set of benefits, I am also concerned it will be too easy for transmission providers to skew a cost-benefit analysis in a desired direction.

FERC has at least two viable options for prescribing a defined set of benefits. First, in the NOPR, FERC already details a list of “Long-Term Regional Transmission Benefits” that could easily become the prescribed list in a final rule. Alternatively, FERC could define benefits consistent with the specific “cost allocation principles” in Senator Manchin’s *Building American Energy Security Act of 2023 (S.1399)*. An optional list leaves too much room for inefficient transmission planning outcomes.

Second, FERC sought comment on how to resolve instances when states do not agree on an approach to cost allocation. While I applaud FERC’s proposal to increase state involvement in cost allocation decisions, I also recognize that there is a role for the Commission to provide guidance on how to fairly share the cost of needed transmission when agreement cannot be reached. In order for costs to be fairly and proportionately distributed across all beneficiaries, it will be necessary that either “the public utility transmission providers should be required to establish a Long-Term Regional Transmission Cost Allocation Method,” or “The Commission should instead have the responsibility to establish the Long-Term Regional Transmission Cost Allocation Method” with an Order No. 1000 compliant cost allocation method. Absent such a path to move forward with cost allocation when any state withholds support on a cost allocation method, there will be a significant risk of either projects being stalled due to deadlock, or that states that benefit from a transmission line are incentivized to act as free riders and avoid any costs.

Third, FERC should also require transmission planners to undertake a long-term, forward-looking assessment of the energy mix, including scenarios with high penetration of renewables (including variable renewables like solar and wind), evaluate benefits that transmission projects would deliver during periods of grid stress, and use these assessed benefits as the basis for project selection. Numerous independent and government entities forecast that our grid will undergo a historic transformation in the coming decades in response to the climate crisis. I applaud FERC for including language to reform the regional transmission planning process, and specifically the inclusion of long-term scenarios in this planning. However, the current proposal does not require transmission planners to assess scenarios with high penetrations of variable generation, like solar and wind, nor does the proposal require adoption of a set of minimum benefits. If this is left optional, some regions may elect to implement an incomplete set of long-term scenarios. However, if the goal of this rule is to holistically reform regional transmission planning then the proposal must include a high variable renewable scenario in order to deliver efficient and cost-effective planning throughout the country. FERC should strengthen this in the final rulemaking by requiring long-term scenario planning, and require that one of those scenarios includes consideration of a high penetration of variable energy resources.

Fourth, the Commission must require comprehensive consideration and incorporation of non-wires alternatives and opportunities to reductor existing lines in a final rule. These technologies will ensure that both new and existing transmission facilities are used efficiently and will reduce the need for new transmission and can help to avoid environmental and community impacts that that can delay project permitting. They also offer the potential, when incorporated as part of a new transmission line, to meet needs more efficiently or cost effectively than traditional projects. Many of these technologies can also be implemented more rapidly and at lower cost than simply building more new transmission. The Commission should finalize the NOPR’s proposal to require consideration of dynamic line ratings and advanced power flow control devices. Further, the Commission should include other grid enhancing technologies that serve transmission functions and can avoid the need for new transmission, such as energy storage, and should also require consideration of reductoring with advanced conductors, in a final rule.

Moreover, transmission planners should specifically assess benefits during periods of grid stress, when the electric reliability benefits of transmission assets are the greatest. According to Lawrence

Berkeley National Laboratory's recent study on transmission benefits¹, 50 percent of the value derived from transmission assets is derived from only 5 percent of hours.

It is also important that FERC expeditiously finalize its Federal backstop siting authority proposed rule for electric transmission projects (Docket No. RM22-7-000). The bipartisan *Infrastructure Investment and Jobs Act of 2021* clarified FERC's backstop authority to allow the Commission to issue a permit in instances where states have denied a permit application, or where states have imposed untenable conditions on permit applications. FERC should finalize a rule that preserves state primacy over transmission permit applications while ensuring a project can move forward with a direct application to FERC after one year, and this should include allowing transmission projects to use the Commission's long-standing pre-filing process to decrease the risk of further delays of project approval.

Therefore, I urge the Commission to strengthen and finalize both the "Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection" proposed rule, and the Federal backstop siting authority proposed rule.

I appreciate your attention to this important matter and look forward to your response. Please do not hesitate to reach out to my office with any questions.

Sincerely,



Charles E. Schumer
United States Senator

¹ Laurence Berkley National Lab, February 7, 2023, *The Latest Market Data Show that The Potential Savings of New Electric Transmission was Higher Last Year than at Any Point in the Last Decade*