

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

Building for the Future Through)	
Electric Regional Transmission)	
Planning and Cost Allocation and)	Docket No. RM21-17-000
Generator Interconnection)	

REPLY COMMENTS OF THE ORGANIZATION OF PJM STATES, INC.

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, the Organization of PJM States, Inc. (“OPSI”),¹ respectfully submits these reply comments.²

I. TRANSMISSION PLANNING

In the NOPR, the Commission proposes to require Regional Transmission Organizations (RTOs)³ to “conduct long-term regional transmission planning on a sufficiently forward-looking basis to meet transmission needs driven by changes in the resource mix and demand.”⁴ The Commission clarifies that going forward, RTOs will comply with Order No. 1000’s public policy

¹ OPSI files these comments because a majority of its members generally support them. Members voting in support of these comments are: the Delaware Public Service Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, North Carolina Utilities Commission, Pennsylvania Public Utility Commission, Tennessee Public Utility Commission, and Public Service Commission of West Virginia.

The Indiana Utility Regulatory Commission, Public Utilities Commission of Ohio, and Virginia State Corporation Commission abstained in the vote on these comments.

² *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 179 FERC ¶ 61,028 (2022) (“NOPR”).

³ For simplicity OPSI may use the term RTO instead of public utility transmission provider as the NOPR does. In the Cost Allocation section, OPSI uses the most precise term to convey its position. OPSI recognizes that FERC proposes to apply the reforms in the NOPR to public utility transmission providers in RTO regions and non-RTO regions and that the Commission proposes to apply them not just to RTOs. NOPR at n.5 (FERC writes, “A public utility transmission provider means a public utility that owns, controls, or operates transmission facilities. The term public utility transmission provider should be read to include a public utility transmission owner when the transmission owner is separate from the transmission provider, as is the case in regional transmission organizations (RTO) and independent system operators (ISO). The term “public utility” means “any person who owns or operates facilities subject to the jurisdiction of the Commission.” citation omitted).

⁴ *Id.* at p. i.

planning requirements by complying with the NOPR’s proposed requirements.⁵ OPSI agrees that it is appropriate to consider economics and other factors driving resource mix changes, including public policy.

In its initial comments, PJM describes how its Master Plan White Paper largely considers the categories of factors FERC proposes to require in the NOPR,⁶ and PJM also describes how the Independent State Agencies Committee (“ISAC”) allows for retail regulator and stakeholder public policy input into transmission planning processes.⁷ OPSI offers clarification on how the PJM State Agreement Approach (“SAA”) and ISAC processes operate.

PJM claims, “Absent a state’s or states’ election to use the [SAA] process, there is no planning driver, other than the reliability or market efficiency planning drivers, by which PJM can incorporate future generation.”⁸ While the NOPR proposes to require RTOs “to conduct” long term planning, PJM’s existing reliability and market efficiency planning processes primarily identify needs and solicit solutions to address the near-term PJM-identified needs. In compliance, the Commission should ensure that PJM’s process of identifying needs and soliciting solutions meets the requirement that RTOs actively conduct long-term transmission planning to support an evolving resource mix and demand.

As indicated in OPSI’s initial comments,⁹ nothing in this section or in these comments should suggest to the commission that the SAA should be modified. States should not be restricted

⁵ *Id.* at P 73 and P 60 citing Order No. 1000, 136 FERC ¶ 61,051 at PP 203, 222; Order No. 1000-A, 139 FERC ¶ 61,132 at P 20.

⁶ Initial Comments of PJM Interconnection, Docket RM21-17-000 at § III.a.1.b.1 (Aug. 17, 2022) (“PJM Initial Comments”).

⁷ *Id.* at § III.a.1.b.3.

⁸ *Id.* at p. 114.

⁹ Comments of the Organization of PJM States, Inc. Docket No. RM21-17 at p. 12 (Aug. 17, 2022) (“OPSI calls on the Commission to not preclude or limit the availability of the PJM SAA in any final rule.”) (“OPSI Initial Comments”).

in their use of the SAA to any extent to plan for participating states' long-term public policy goals.

In its comments, PJM describes its “commitment to meet regularly with state representatives (not limited to state commissions) in order to encourage greater input from the states and *to better integrate individual state needs into the regional plans.*”¹⁰ And the ISAC charter specifically states, “The purpose of the ISAC is to provide PJM with inputs and scenarios for transmission planning studies *except Public Policy Requirements* which are provided individually by the state.”¹¹ However, nothing requires this process¹² to take into account additional factors driving resource mix changes.

While the SAA and ISAC process are important to OPSI and were important elements in PJM's Order No. 1000 compliance filings, further discussion on compliance methods, informed by the input of the states with regard to the focus of this NOPR, may be required. Therefore, OPSI looks forward to the development of PJM's compliance in response to any final rule because RTOs cannot adequately prepare for the resource mix of the future without considering multiple factors including the changing economics of the resource mix and binding public policy requirements.¹³

¹⁰ PJM Initial Comments at p. 71 (emphasis added).

¹¹ OPSI, ISAC Charter at p. 1 (citing PJM, Operating Agreement, Schedule 6 § 1.5.6 “Following the assumptions meeting and prior to performing the evaluation and analyses of transmission needs, the Office of the Interconnection shall determine the range of assumptions to be used in the studies and scenario analyses, based on the advice and recommendations of the Transmission Expansion Advisory Committee and Subregional RTEP Committees and, through the Independent State Agencies, the statement of Public Policy Requirements provided individually by the states and any state member's assessment or prioritization of Public Policy Objectives proposed by other stakeholders.”) (emphasis added).

¹² See PJM Operating Agreement, Schedule 6, §§ 1.5.4 – 1.5.6 (discussing how retail regulators and the ISAC can provide inputs into PJM's sensitivity analyses and scenario development to inform the development of each PJM Regional Transmission Expansion Plan.)

¹³ This section pertains only to the long-term regional planning proposed in the NOPR and does not address cost allocation. For OPSI's position regarding LTRT cost allocation see its Initial Comments at p. 8.

II. COST ALLOCATION

A. Allowing existing *ex ante* cost allocation approaches to automatically become the default Long-Term Regional Transmission (“LTRT”) cost allocation method would limit the NOPR’s proposal to more fully engage retail regulators in a process for defining an appropriate LTRT cost allocation method.

In its Initial Comments, PJM shares its opinion that unless all affected states agree on a cost allocation method, public utility transmission providers should be permitted to use existing *ex ante* cost allocation methods.¹⁴ In response, OPSI notes that there is no proposed requirement for unanimity in the NOPR regarding the development of a regional LTRT cost allocation approach. In the relevant NOPR section¹⁵ the Commission discusses that the way states reach agreement may mirror or be based on existing Regional State Committee voting mechanisms like OPSI’s existing voting process.¹⁶ The proposed requirement for unanimity only applies to the development of a state-negotiated *alternate* cost allocation method.¹⁷ Therefore, in determining an initial LTRT cost allocation approach, the Commission should not extend the proposed requirements of the NOPR and require unanimity.

Instead, the Commission should retain the proposal in the NOPR and allow states to determine how they will come to agreement on a LTRT cost allocation approach.¹⁸ OPSI strongly encourages the Commission to retain the proposed requirement that public utility transmission

¹⁴ PJM Initial Comments at p. 115.

¹⁵ NOPR at §V.E.1.

¹⁶ See OPSI, BY-LAWS, Article IV. Board of Directors (“7. VOTING PROCEDURES. Each Director present (either in person or by authorized telephonic or electronic means) shall be entitled to one vote. Elections shall be by ballot in contested elections and may be by voice or other means in uncontested elections. Changes in the By-laws shall require a vote of at least two-thirds of the total membership of the Board of Directors. All other matters shall be determined by a majority of the total membership of the Board of Directors, unless otherwise provided by Delaware law or these By-laws.”); NOPR n. 512.

¹⁷ See NOPR § V.E.2. and P 319 (“If a state or all states within the transmission planning region in which the selected regional transmission facility will be located unanimously agree on an alternate cost allocation method, the public utility transmission provider may elect to file it with the Commission for consideration under FPA section 205.”).

¹⁸ *Id.* at P 304 (“[W]e propose to provide public utility transmission providers flexibility in determining what constitutes state agreement.”).

providers seek the agreement of retail regulators regarding the approach to cost allocation for LTRT projects, including the consideration of an *ex post* state agreement process or other state process.¹⁹

Turning to the cost allocation approach itself, PJM writes, “[B]ecause the studies used to identify the short- and long-term needs are the same, PJM does not believe that the cost allocation method for facilities under the [LTRT] Planning process must be different from the cost allocation methods used today for reliability, economic, public policy and multi-driver projects.”²⁰ However, OPSI notes, the factors that may make the current cost allocation methods just and reasonable in the short term might not exist in the long term, and vice versa. Therefore, the Commission should not presume – as PJM requests – that existing cost allocation methods are just and reasonable without a full examination and adequate input from retail regulators as the NOPR describes. Allowing existing cost allocation approaches to automatically become the default LTRT cost allocation method would short-circuit the Commission’s valuable proposal to more fully engage retail regulators in a process for defining an appropriate approach to LTRT cost allocation.²¹

B. The Commission should not make it more difficult for retail regulators to propose an alternate LTRT cost allocation method than proposed in the NOPR.

In its Initial Comments, PJM supports a process by which states can negotiate an alternate

¹⁹ *Id.* at p. i and P 305 - 310 (“Specifically, the proposal would require public utility transmission providers to... (3) seek the agreement of relevant state entities within the transmission planning region regarding the cost allocation method or methods that will apply to transmission facilities selected in the regional transmission plan for purposes of cost allocation through long-term regional transmission planning...”).

²⁰ PJM Initial Comments at p. 115.

²¹ NOPR at P 302 (In determining a default LTRT Cost Allocation Method, the Commission proposes:

“to require that public utility transmission providers in each transmission planning region revise their OATTs to include either

(1) a Long-Term Regional Transmission Cost Allocation Method to allocate the costs of Long-Term Regional Transmission Facilities, or

(2) a State Agreement Process by which one or more relevant state entities may voluntarily agree to a cost allocation method, or

(3) a combination thereof.”).

ex post cost allocation method for a project selected through the LTRT planning process. However, PJM “proposes that states seeking to use a state-negotiated alternate allocation method should be required to explain why the *ex ante* approach is not appropriate for the facility or facilities identified pursuant to the [LTRT] Planning process.”²²

There is no proposed requirement in the NOPR that retail regulators show why an *ex ante* approach is inappropriate before agreeing to and advocating for an alternate LTRT cost allocation method as PJM requests.²³ There is simply a proposal that retail regulators *unanimously agree on* an alternate LTRT cost allocation method.²⁴ The Commission describes how allowing states to agree on an alternate cost allocation approach after seeing what projects are selected may be beneficial since states will have more information on specific projects at that point in the process.²⁵ The Commission should not add an additional burden to this already high bar.

Additionally, PJM writes, “[I]f the transmission provider determines [not to file the alternate method or the Commission does not approve the alternate method, the applicable tariffed *ex ante* cost allocation method will be used to assign cost responsibility for the facility.”²⁶ The Commission should consider providing additional clarity on how public utility transmission providers may “determine not to file the alternate method” unanimously agreed to by all retail regulators in a region.

To address the ability of public utility transmission providers to choose not to file a unanimous proposal from retail regulators and the overall inability for states to voice their cost

²² PJM Initial Comments at p. 117.

²³ *Id.*

²⁴ NOPR at P 319.

²⁵ *Id.* at P 321.

²⁶ PJM Initial Comments at p. 118.

allocation concerns with the Commission, FERC should consider how it can afford retail regulators greater participation status in the FPA § 205 filing process regarding cost allocation. OPSI notes that other Regional State Committees have varying processes, including the ability to request that a public utility transmission provider file a cost allocation method on its behalf. The Commission should consider how varying processes from region to region unreasonably restrict the influence of retail regulators and should provide a process for meaningful retail regulator participation.

III. COMPETITION

PJM comments that out of a combined 182 market efficiency or reliability projects approved by the PJM board, only 3 projects were designated to non-incumbent transmission owners (“TOs”).²⁷ PJM comments that this is despite the fact that 42% of all project proposals are from non-incumbent TOs.²⁸ PJM concludes that even though nonincumbent proposals are rarely found to be the best solution for short-term and market efficiency projects, competition can still provide benefits where developers can provide innovative solutions.²⁹

While competitive processes focused where innovative solutions are possible is a good idea, PJM’s data does not demonstrate that competition fails as a cost containment measure.³⁰ Competitive pressures may work to contain costs even where the nonincumbent TO is not ultimately assigned a project. Through competitive pressures, incumbent proposals might be more

²⁷ See *Id.* at Table 2.

²⁸ *Id.* at p. 33.

²⁹ *Id.* at p. 48 (“[T]he extensive amount of proposals submitted by nonincumbent transmission developers for short-term reliability projects and for market efficiency needs often are not found to be the more efficient or cost-effective solution. That is not to say that competition could not provide the benefits anticipated by the Commission in Order No. 1000. Rather, the competitive process should be focused on those specific areas where proposers have an ability to provide innovative solutions that can ensure cost savings to ratepayers and enhanced reliability for the system.”).

³⁰ *Id.* at Table 2; See also OPSI Initial Comments at p. 13 (As noted in OPSI’s initial comments, OPSI member states have different public policies with respect to whether it is more cost-effective to build transmission via a regulated monopoly or via competition, and OPSI supports—and urges FERC to support—the right of individual states to choose to provide ROFRs to TOs within their states and the right of states to expose transmission development in their territory to the greatest level of competition possible.).

expensive than they would be if they were not subject to alternative proposals from non-incumbents.

IV. SELECTION CRITERIA

PJM believes that the Commission’s proposal to require transmission providers to specify the criteria by which they will identify and evaluate transmission facilities for potential selection pursuant to the LTRT planning process is unclear, premature and inconsistent with other aspects of the NOPR.³¹

In the NOPR, the Commission proposes to require RTOs include in their OATTs

- transparent and not unduly discriminatory criteria, which seek to maximize benefits to consumers over time without over-building transmission facilities, to identify and evaluate transmission facilities for potential selection in the regional transmission plan for purposes of cost allocation that address transmission needs driven by changes in the resource mix and demand...; and
- a process to coordinate with the relevant state entities in developing such criteria.³²

In this section of the NOPR, the Commission describes the importance of retail regulators and the proposed mandatory role for them in the NOPR.³³ An upfront and transparent process, with substantive state involvement, will ensure that selection criteria are thoroughly discussed by stakeholders and consistent with the rest of the LTRT planning process. In its Initial Comments, PJM urges the Commission to allow RTOs time to gain familiarity with the proposed LTRT

³¹ *Id.* at III.B.3.a..

³² NOPR at P 241.

³³ *Id.* at P 244 (“We believe that providing an opportunity for state involvement in regional transmission planning processes is becoming more important as states take a more active role in shaping the resource mix and demand, which, in turn, means that those state actions are increasingly affecting the long-term transmission needs for which we are proposing to require public utility transmission providers to plan in this NOPR. Given the important role states play and the wide variety of potential approaches to selection criteria, we propose, as part of this requirement, that public utility transmission providers must consult with and seek support from the relevant state entities... within their transmission planning region’s footprint to develop the selection criteria.”).

process before requiring them to propose selection criteria and to provide for a “phased-in approach.”³⁴

In any final rule, the Commission should maintain the NOPR’s proposal to have states actively involved in the development of LTRT selection criteria.

V. LTRT PLANNING HORIZON

In its Initial Comments, PJM asks the Commission to consider a 15-year planning horizon to reduce the uncertainty associated with a mandatory 20-year LTRT planning horizon.³⁵ OPSI, however, encourages the Commission to refrain from requiring a single planning horizon to be applied to all LTRT cycles and instead allow RTOs and states the flexibility to modify the length from cycle to cycle as long as the RTO can show how each planning horizon will allow them to conduct LTRT planning as envisioned in the NOPR.³⁶ To that end, OPSI encourages the Commission to allow RTOs, in coordination with retail regulators, the ability to modify LTRT planning horizons as they gain experience with this process.

OPSI notes, that while NARUC viewed the 20-year planning horizon as reasonable as a planning tool,³⁷ it also called for flexibility for individual regions to “tailor the requirement for a long-term planning horizon to their respective regional planning processes.”³⁸

OPSI encourages the Commission to remain mindful that a generation resource entering the queue today may not be able to make its way through the PJM generator interconnection queue

³⁴ PJM Initial Comments at p. 100.

³⁵ *Id.* at § III.A.2.a.1.

³⁶ OPSI Initial Comments at p. 4.

³⁷ Comments of the National Association of Regulatory Utility Commissioners, Docket No. RM 21-17 at p. 5 (August 17, 2022).

³⁸ *Id.*

until nearly 2030.³⁹ OPSI recognizes that, ideally, the GI planning process and the LTRT planning process should operate on very different time horizons and is concerned about the implications of these timelines failing to remain distinct.

VI. CONCLUSION

In any final rule, the Commission should not make the processes for state involvement any more cumbersome and less inclusive for retail regulators than proposed in the NOPR. Any final rule that meaningfully and deeply engages retail regulators in the creation and maintenance of LTRT processes is much more likely to achieve savings for customers than one that does not.

Respectfully Submitted,

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³⁹ PJM Interconnection, L.L.C, *Tariff Revisions for Interconnection Process Reform, Request for Commission Action by October 3, 2022, and Request for 30-Day Comment Period* at § IV.B, Docket No. ER22-2110 (June 14, 2022).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

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Dated at Newark, Delaware this September 19, 2022.