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Federal Energy Regulatory Commission Advances Major Initiative to Overhaul Transmission Planning, Cost Allocation and Generator Interconnection Processes

On July 15, 2021, in Docket No. RM21-17-000, the Federal Energy Regulatory Commission (FERC or the Commission) issued an Advance Notice of Proposed Rulemaking (ANOPR) pursuant to its authority under Section 206 of the Federal Power Act to consider various reforms to improve the electric regional transmission planning, cost allocation and generator interconnection processes.[1] The ANOPR was published in the Federal Register on July 27, 2021. Initial comments are due October 12, 2021 and reply comments are due November 9, 2021.

The ANOPR is an ambitious, early-stage rulemaking that seems to be an attempt to establish the necessary groundwork for potential reforms to transmission planning, cost allocation and the generator interconnection processes. The ANOPR touches on a wide array of issues and will certainly generate a multitude of comments from a wide range of stakeholders.

Need for Reform

The Commission identifies the continuing evolution of the wholesale electric industry since the issuance more than 10 years ago of major orders on transmission planning and cost allocation (Order Nos. 890 and 1000) and generator interconnection (Order No. 2003), including the changing generation fleet, the effects of state policies, the anticipation of future generation projects, and the ability of current processes to plan and pay for the transmission and generator interconnection as major factors in the potential need for reform. The Commission notes that "regional transmission planning processes may not adequately model future scenarios to ensure that those scenarios incorporate sufficiently long-term and comprehensive forecasts of future transmission needs."[2] The Commission concludes that a system that fails to account for future scenarios does not capture economies of scale and leads to infrastructure development that may not be efficient or cost-effective and may not satisfy the Commission's statutory mandate or its policies in Order Nos. 890, 1000 and 2003.

The Commission also notes that when Order No. 2003 was issued, it was less likely that interconnection customers would be responsible for significant transmission-related upgrades associated with the interconnection of their project. "Now, however, there is little remaining existing interconnection capacity on the transmission system ... that may require new resources to fund [upgrades] that are more extensive and, as a result, more expensive." The Commission questions whether these upgrades benefit more than just the interconnection customer. Given that the Commission's cost allocation precedent requires that costs be allocated on a basis roughly commensurate with benefits, failing to adequately capture the benefits of a project could lead to unjust and unreasonable rates.

Proposed Potential Reforms[3]

Generally, the ANOPR reflects the Commission's goal to "ensure the development of regional transmission facilities needed to meet the transmission needs of the changing resource mix occurs in a more efficient or cost-effective manner, at just and reasonable rates" while maintaining reliability.[4] The Commission proposes several reforms consistent with this goal and makes numerous requests for comment related to these proposals. The proposals range across three main themes: (1) regional transmission planning and cost allocation processes, (2) identification of cost and responsibility for regional transmission facilities and interconnection-related network upgrades, and (3) enhanced transmission oversight.

Regional Transmission Planning and Cost Allocation Processes

The Commission proposes reforms to plan for the future needs of anticipated generation and to coordinate between the regional transmission planning, cost allocation and generator interconnection processes. First, the Commission discusses a few potential reforms to anticipate future generation and requests comment on the following, among other issues:

- Changing the modeling scenarios for transmission planning, proposing to examine factors using a longer-term outlook and to incorporate new factors such as state and local climate and clean energy regulation.
- Requiring transmission providers in each region to establish a process to identify geographic zones that would potentially support large amounts of renewable generation and to plan transmission investment to facilitate the integration of renewable generation in those zones.
- Incentivizing the development of regional transmission facilities that may offer a solution that is more efficient or cost-effective than a local alternative.
- Increasing interregional and state-to-state coordination that may be necessary for reforming the transmission planning and cost allocation processes.

Additionally, the Commission seeks comment on coordination between the regional transmission planning, cost allocation and generator interconnection processes.

Cost and Responsibility for Regional Transmission Facilities and Interconnection-Related Network Upgrades

The Commission devotes a significant portion of the ANOPR to a discussion of cost allocation and to the participant funding and crediting policy approaches to funding interconnection-related network upgrades.

With regard to cost allocation, the ANOPR notes that an existing cost allocation approach that considers only a single category of needs (reliability, economic or public policy) may fail to consider all relevant benefits and therefore fail to allocate costs commensurate with benefits. Thus, the Commission proposes to require a more "holistic" or "portfolio" approach for regional transmission planning.[5] The ANOPR does note, however, that this type of holistic approach may produce benefits that are very difficult to quantify, and it seeks comments on how to account for these benefits while still ensuring that both transmission and interconnection customers benefiting from the facilities pay their fair shares under the cost-allocation regime.

On the issue of funding, the ANOPR focuses on the current provisions for participant funding and crediting for interconnection-related network upgrades. The Commission suggests that the participant funding model, under which the interconnection customer pays all the costs of the network upgrades, may no longer be just and reasonable. The Commission proposes eliminating or reducing participant funding for such upgrades and, correspondingly, revisiting the crediting policy (under which the interconnection customer funds the interconnection facilities and the interconnection-related network upgrades subject to reimbursement for the network upgrades through transmission service credits). The Commission proposes the following alternatives to this form of funding and seeks comment on these alternatives:

- Each transmission provider provides upfront funding for all interconnection-related upgrades on its transmission system and, once the interconnection-related network upgrade is in service, rolls the cost of that interconnection-related network upgrade into its transmission service rate base paid by all customers.
- Interconnection customers contribute to the upfront funding of interconnection-related network upgrades through payment of a fee.
- Transmission providers provide upfront funding for only higher-voltage interconnection-related network upgrades, and interconnection customers fund the cost of interconnection-related network upgrades below the threshold and are reimbursed through transmission service credits pursuant to the crediting policy.
- The upfront costs of interconnection-related network upgrades are allocated to the interconnection customer on a percentage basis that could be less than 100%.

Enhanced Transmission Oversight

Finally, in recognition of the fact that other suggested proposals in the ANOPR could result in major transmission infrastructure upgrades, the Commission presented two potential approaches to enhance transmission oversight: (1) establish an independent transmission monitor on a regional or multiregional basis to review and provide input on transmission planning and spending, and (2) provide for an increased role for state involvement in regional transmission planning through structures like regional state committees. The Commission seeks comment on both of these proposals.

Commissioner Concurrences

The ANOPR was approved unanimously by all participating commissioners, but separate concurrences were issued.

In a joint concurrence, Chairman Glick and Commissioner Clements discussed the change in the resource mix in the United States and the pressing need for updates to the transmission planning process to accommodate renewable resources and state policies, while ensuring just and reasonable rates. Commissioner Danly wrote a separate concurrence to emphasize the potential limits of the Commission's jurisdictional authority for each of the ANOPR proposals and to bring attention to the potential effect on ratepayers. Commissioner Christie issued a concurrence emphasizing the importance of comments in this proceeding and supporting the Commission's approach in the ANOPR seeking comments on a broad range of proposals.

Conclusion

The ANOPR is an ambitious, early-stage rulemaking that has the potential to generate voluminous comments. Since the change in administration, the Commission has taken on many complex and aggressive issues, such as cybersecurity and reliability, the integration of distributed energy resources, and carbon pricing, and the priority to be placed on this issue is not entirely clear. The history of prior ANOPRs is mixed, with some not even advancing to proposed rules and others resulting in major reforms to existing rules and the creation of new rules on regional transmission planning, cost allocation and generator interconnection. Given the changing composition of the Commission and policymakers' emphasis on infrastructure, it seems more likely than not that some of this ANOPR will evolve into major rule changes for the industry.

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[1] See *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (2021) (ANOPR); *see also* 16 U.S.C. § 824e (requiring that the Commission ensure that transmission rates are just and reasonable and not unduly discriminatory or preferential). The ANOPR can be found at https://elibrary.ferc.gov/eLibrary/filedownload?fileid=15829875.

[2] ANOPR at P 31.

[3] The Commission notes specifically that it "has not predetermined that any specific proposal discussed herein shall or should be made or in what final form"; rather, it seeks comment on the proposals. ANOPR at P 4.

[4] ANOPR at P 70.

[5] ANOPR at P 86.

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