131 FERC ¶ 61,253
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 35

[Docket No. RM10-23-000]

# Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities

(Issued June 17, 2010)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend the transmission planning and cost allocation requirements established in Order No. 890 to ensure that Commission-jurisdictional services are provided on a basis that is just, reasonable and not unduly discriminatory or preferential. With respect to transmission planning, the proposed rule would (1) provide that local and regional transmission planning processes account for transmission needs driven by public policy requirements established by state or federal laws or regulations; (2) improve coordination between neighboring transmission planning regions with respect to interregional facilities; and (3) remove from Commission-approved tariffs or agreements a right of first refusal created by those documents that provides an incumbent transmission provider with an undue advantage over a nonincumbent transmission developer. Neither incumbent nor nonincumbent transmission facility developers should, as a result of a Commission-approved tariff or agreement, receive different treatment in a regional transmission

planning process. Further, both should share similar benefits and obligations commensurate with that participation, including the right, consistent with state or local laws or regulations, to construct and own a facility that it sponsors in a regional transmission planning process and that is selected for inclusion in the regional transmission plan. With respect to cost allocation, the proposed rule would establish a closer link between transmission planning processes and cost allocation and would require cost allocation methods for intraregional and interregional transmission facilities to satisfy newly established cost allocation principles.

DATES: Comments are due [insert date that is 60 days after publication in the **FEDERAL REGISTER**].

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

- Agency Web Site: http://www.ferc.gov. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Washington, DC 20426.

*Instructions*: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities — Docket No. RM10-23-000

# NOTICE OF PROPOSED RULEMAKING

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131 FERC ¶ 61,253
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities — Docket No. RM10-23-000

# NOTICE OF PROPOSED RULEMAKING

(Issued June 17, 2010)

## I. Introduction

1. In this Notice of Proposed Rulemaking (Proposed Rule), the Federal Energy Regulatory Commission (Commission) is proposing to reform its electric transmission planning and cost allocation requirements for public utility transmission providers. The proposed reforms are intended to correct deficiencies in transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and thereby ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

2. This Proposed Rule builds on Order No. 890,[1] in which the Commission reformed the *pro forma* open access transmission tariff (OATT). Among other changes, Order

[1] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g,* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on*

(continued)

No. 890 required each public utility transmission provider to have a coordinated, open, and transparent regional transmission planning process. Order No. 890 also established nine transmission planning principles, one of which addressed cost allocation for new projects.

3. The Commission acknowledges that significant work has been done in recent years to enhance regional transmission planning processes. The reforms proposed herein seek to build on this progress by improving the effectiveness of regional transmission planning and the efficiency of resulting transmission development. In formulating this proposal, the Commission has sought to balance competing interests and identify a package of reforms that, if implemented, would support the development of transmission facilities identified by the region as necessary to satisfy reliability standards, reduce congestion, and enable compliance with public policy requirements established by state or federal laws or regulations. The Commission recognizes that opinions may differ as to whether the proposal as formulated will best achieve the Commission's goals. The Commission therefore seeks comment on the reforms proposed herein and encourages commenters to identify enhancements to the reforms that could better support the efficient and effective development of transmission facilities.

4. With respect to transmission planning, the reforms proposed in this Proposed Rule would provide that: (1) local and regional transmission planning processes account for

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*clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

transmission needs driven by public policy requirements established by state or federal laws or regulations; (2) coordination between neighboring transmission planning regions is improved with respect to facilities that are proposed to be located in both regions, as well as interregional facilities that could address transmission needs more efficiently than separate intraregional facilities; and (3) a right of first refusal that is created by a document subject to the Commission's jurisdiction and that provides an incumbent utility with an undue advantage over nonincumbent transmission project developers is removed from that document. Neither incumbent nor nonincumbent transmission facility developers should, as a result of a Commission-approved OATT or agreement, receive different treatment in a regional transmission planning process. Further, both should share similar benefits and obligations commensurate with that participation, including the right, consistent with state or local laws or regulations, to construct and own a facility that it sponsors in a regional transmission planning process and that is selected for inclusion in the regional transmission plan. The Commission preliminarily finds that these proposed reforms are needed to protect against unjust and unreasonable rates, terms and conditions and undue discrimination in the provision of Commission-jurisdictional services.

5. With respect to transmission cost allocation, the Commission is proposing to require public utility transmission providers to establish a closer link between cost allocation and regional transmission planning processes in which the beneficiaries of new transmission facilities are identified, as well as to establish principles that cost allocation methods must satisfy. The Commission sees these proposals as steps that would increase

the likelihood that facilities included in regional transmission plans are actually constructed. For example, establishing a closer link between transmission planning and cost allocation processes would diminish the likelihood that a transmission facility would be included in a regional transmission plan, only to later encounter cost allocation disputes that inhibit construction of that facility.

## II. Background

### A. Order Nos. 888 and 890

6. In Order No. 888,[2] issued in 1996, the Commission found that it was in the economic interest of transmission providers to deny transmission service or to offer transmission service on a basis that is inferior to that which they provide to themselves.[3] Concluding that unduly discriminatory and anticompetitive practices existed in the electric industry and that, absent Commission action, such practices would increase as competitive pressures in the industry grew, the Commission in Order No. 888 and the accompanying *pro forma* OATT implemented open access to transmission facilities owned, operated, or controlled by a public utility.

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[2] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[3] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,682.

7. As part of those reforms, Order No. 888 and the *pro forma* OATT set forth certain minimum requirements for transmission planning. For example, the *pro forma* OATT required a public utility transmission provider to account for the needs of its network customers in its transmission planning activities on the same basis as it provides for its own needs.[4] The *pro forma* OATT also required that new facilities be constructed to meet the service requests of long-term firm point-to-point customers.[5] While Order No. 888-A went on to encourage utilities to engage in joint and regional transmission planning with other utilities and customers, it did not require those actions.[6]

8. In early 2007, the Commission issued Order No. 890 to remedy flaws in the *pro forma* OATT that the Commission identified based on the decade of experience since the issuance of Order No. 888. Among other things, the Commission found that *pro forma* OATT obligations related to transmission planning were insufficient to eliminate opportunities for undue discrimination in the provision of transmission service. The Commission stated that particularly in an era of increasing transmission congestion and the need for significant new transmission investment, it could not rely on the self-interest of transmission providers to expand the grid in a not unduly discriminatory manner. Among other shortcomings in the *pro forma* OATT, the Commission pointed to the lack of clear criteria regarding the transmission provider's planning obligation; the absence of a requirement that the overall transmission planning process be open to customers,

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[4] *See* Section 28.2 of the *pro forma* OATT.

[5] *See* Sections 13.5, 15.4, & 27 of the *pro forma* OATT.

[6] Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,311.

competitors, and state commissions; and the absence of a requirement that key assumptions and data underlying transmission plans be made available to customers.

9. In light of these findings, one of the primary goals of the reforms undertaken in Order No. 890 was to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in transmission planning activities, the Commission required each public utility transmission provider to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to its OATT (Attachment K). The Order No. 890 transmission planning principles are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects.[7]

10. The transmission planning reforms adopted in Order No. 890 apply to all public utility transmission providers, including Commission-approved regional transmission organizations (RTOs) and independent system operators (ISOs). The Commission also stated that it expected all non-public utility transmission providers to participate in the planning processes required by Order No. 890. The Commission noted that reciprocity dictates that non-public utility transmission providers that take advantage of open access due to improved planning should be subject to the same requirements as jurisdictional

[7] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 418-601.

transmission providers.[8] The Commission stated that a coordinated, open, and transparent regional planning process cannot succeed unless all transmission owners participate. However, the Commission did not invoke its authority under FPA section 211A, which allows the Commission to require an unregulated transmitting utility (i.e., a non-public utility transmission provider) to provide transmission services on a comparable and not unduly discriminatory or preferential basis.[9] The Commission instead stated that if it found on the appropriate record that non-public utility transmission providers are not participating in the planning processes required by Order No. 890, then the Commission may exercise its authority under FPA section 211A on a case-by-case basis.

11. On December 7, 2007, pursuant to Order No. 890, most public utility transmission providers and several non-public utility transmission providers submitted compliance filings that describe their proposed transmission planning processes.[10] The Commission addressed these filings in a series of orders that were issued throughout 2008. Generally, the Commission accepted the compliance filings to be effective December 7, 2007, subject to further compliance filings as necessary for the proposed transmission planning

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[8] *Id.* P 441.

[9] FPA section 211A(b) provides, in pertinent part, that "the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services – (1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and (2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential." 16 U.S.C. 824j (2006).

[10] A small number of transmission providers were granted extensions.

processes to satisfy the nine transmission planning principles. The Commission issued additional orders on Order No. 890 transmission planning compliance filings in the spring and summer of 2009.

12. As a result of these compliance filings, RTOs and ISOs have enhanced their regional transmission planning processes, making them more open, transparent, and inclusive. Regions of the country outside of RTO and ISO regions have also made significant strides with respect to transmission planning by working together to enhance existing, or create new, regional transmission planning processes.[11] These improvements to transmission planning processes have given customers and other stakeholders the opportunity to participate in the identification of regional needs and corresponding solutions, thereby facilitating the development of more efficient and effective transmission expansion plans.

### B. Technical Conferences and Notice of Request for Comments on Transmission Planning and Cost Allocation

13. In several of the above-noted orders issued in 2008 and early 2009 on filings submitted to comply with the Order No. 890 transmission planning requirements, the Commission stated that it would continue to monitor implementation of these

[11] The regional transmission planning processes that public utility transmission providers in regions outside of RTOs and ISOs have relied on to comply with certain requirements of Order No. 890 are the North Carolina Transmission Planning Collaborative, Southeast Inter-Regional Participation Process, SERC Reliability Corporation, ReliabilityFirst Corporation, Mid-Continent Area Power Pool, Florida Reliability Coordination Council, WestConnect, ColumbiaGrid, and Northern Tier Transmission Group.

transmission planning processes. The Commission also announced its intention to convene regional technical conferences in 2009.

14. Consistent with the Commission's announcement, Commission staff in September 2009 convened three regional technical conferences in Philadelphia, Atlanta, and Phoenix, respectively. The focus of the technical conferences was to: (1) determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas that may need improvement; (2) examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates; and (3) explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of interregional transmission facilities and the integration of large amounts of location-constrained generation. Issues discussed at the technical conferences included the effectiveness of the current transmission planning processes, the development of regional and interregional transmission plans, and the effectiveness of existing cost allocation methods used by transmission providers and alternatives to those methods.

15. Following these technical conferences, the Commission in October 2009 issued a Notice of Request for Comments.[12] The October 2009 Notice presented numerous

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[12] *Federal Energy Regulatory Commission, Transmission Planning Processes Under Order No. 890; Notice of Request for Comments*; Docket No. AD09-8-000, October 8, 2009 (October 2009 Notice).

questions with respect to enhancing regional transmission planning processes and allocating the cost of transmission.

16. In response to the October 2009 Notice, the Commission received 107 initial comments and 45 reply comments.[13] Many of these comments are discussed in greater detail later in this Proposed Rule, in the context of the Commission's proposals on specific issues.

17. In general, some commenters oppose additional Commission action at this time with respect to transmission planning. Among these commenters, some argue that existing transmission planning processes are adequate to achieve the Commission's stated goals.[14] Some of these commenters highlight work already underway in their own transmission planning regions, arguing that no Commission action is needed at least in those regions. Other commenters argue that existing processes are new or are being revised and should be given time to mature before additional changes are proposed. Many of these commenters state that if the Commission chooses to act, it should do so in a manner that does not disrupt existing transmission planning processes. Some commenters that oppose Commission action on transmission planning at this time state that it is important to maintain what they describe as a "bottom-up" approach to transmission planning, in which regional transmission planning is based on transmission

[13] *See* Appendix A for a list of the commenters and their abbreviated names.

[14] *E.g.*, Dominion, Large Public Power Council, Midwest ISO, New York PSC, Northern Tier Transmission Group, and WECC.

planning conducted by the individual transmission-owning utilities in a transmission planning region.[15]

18. Many other commenters support additional Commission action on transmission planning at this time.[16] These commenters offer a wide range of views on why and how the planning process should be improved. Although these commenters express diverse views, there appears to be a consensus among those supporting action that the Commission should—at a minimum—provide guidance about planning for large, interregional transmission projects.

19. Many commenters that support Commission action on transmission planning raise issues related to the procedural characteristics or geographic scope of existing transmission planning processes. Some commenters contend that the Order No. 890 transmission planning principles should be extended to support interregional coordination, while others argue that additional planning principles are necessary to ensure the effectiveness of transmission planning processes. Some commenters suggest that the type of "bottom-up" transmission planning described above is insufficient,[17] and other commenters advocate changes such as establishing a regional or interconnection-wide planning coordinator.[18] A few commenters suggest that the Commission add to the

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[15] *E.g.*, Ohio Commission, PPL, Southern Companies, and WECC.

[16] *E.g.*, American Transmission, CAlifornians for Renewable Energy, Dayton Power and Light, E.ON, LS Power, NRG, Pioneer Transmission, San Diego Gas & Electric, and Transmission Access Policy Study Group.

[17] *E.g.*, Calvin Daniels (commenting as an individual).

[18] *E.g.*, AEP.

OATT a *pro forma* seams agreement that includes joint collaborative planning and cost allocation across planning regions.[19] Still other commenters support changes to transmission planning processes, but caution against adopting a one-size-fits-all or an interconnectionwide approach.[20]

20. Other commenters that support Commission action on transmission planning argue that some existing transmission planning processes provide an incumbent transmission owner with an unfair advantage over merchant and independent transmission project developers, such as by providing an incumbent transmission owner with a right of first refusal[21] to construct a transmission facility that is included in a regional transmission plan and meets certain other criteria.[22] These commenters argue that such practices discourage other, merchant and independent transmission developers'[23] participation in the transmission planning process and present a significant barrier to transmission

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[19] *E.g.*, Midwest ISO Transmission Owners, National Rural Electric Coops, and SPP.

[20] *E.g.*, Pacific Gas and Electric and Transmission Agency of Northern California.

[21] A right of first refusal is defined, for the purposes of this proposed rulemaking, as the right of an incumbent transmission owner to construct, own, and propose cost recovery for any new transmission project that is: (1) located within its service territory; and (2) approved for inclusion in a transmission plan developed through the Order No. 890 planning process.

[22] *E.g.*, AWEA, EPSA, LS Power, and Transmission Dependent Utility Systems.

[23] Merchant transmission projects are defined as those for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates. For purposes of this proposed rulemaking, an incumbent transmission developer is an entity that develops a project within its own service territory. We note that a transmission owner that proposes a project outside of its own service territory is not considered an incumbent for purposes of that project.

investment. Other commenters state that projects proposed by merchant and independent transmission project developers need to be included fully in regional transmission planning processes on the same basis as other projects.[24]

21. Still other commenters that support Commission action on transmission planning express concern that current transmission planning processes do not adequately assess all of the potential benefits associated with transmission project proposals.[25] Some of these commenters state that more attention needs to be devoted to analyzing the benefits associated with economic-based projects and incorporating such projects into regional transmission plans.[26] PJM states that generic planning principles are needed to deal with the various social, environmental and economic impacts of regional transmission projects. In addition, several commenters recommend that the Commission incorporate state and federal public policy objectives into the transmission planning process,[27] noting, for example, that doing so could facilitate cost-effective achievement of those objectives.

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[24] *E.g.*, Allegheny Companies, AEP, CAlifornians for Renewable Energy, Delaware Municipal and Southwestern Electric, E.ON Climate & Renewables North America, Great River Energy, Sun Flower and Mid-Kansas, National Nuclear Security Administration Service Center, Organization of MISO States, and Transmission Agency of Northern California.

[25] *E.g.*, AEP, AWEA, Baltimore Gas and Electric, Energy Future Coalition, Exelon, Green Energy Express, ITC Holdings, MidAmerican, National Audubon Society, *et al.*, NextEra, and Public Interest Organizations & Renewable Energy Groups.

[26] *E.g.*, MidAmerican and Old Dominion.

[27] *E.g.*, AWEA, Baltimore Gas and Electric, Exelon, Eastern PJM Governors, The Brattle Group, ITC Holdings, LS Power, National Audubon Society, et al., National Grid, NextEra, Old Dominion, PJM, Public Interest Organizations & Renewable Energy Groups, Renewable Energy Systems Americas, and Trans-Elect.

Commenters also recommend that the Commission provide for flexibility so that each transmission planning region could determine which resources it would use to fulfill these public policy objectives.[28]

22. The Commission's questions in the October 2009 Notice with respect to allocating the cost of transmission also drew wide-ranging responses. For example, some commenters express concern that the lack of a link between transmission planning and cost allocation procedures may unnecessarily block or delay needed projects.[29] Other commenters support establishing a generic cost allocation method as a backstop that would apply when parties or transmission planning regions cannot agree on a cost allocation method.[30]

23. Some commenters indicate that the Commission should provide more detailed guidelines or principles for allocating the costs of new transmission facilities.[31] These commenters generally agree that those who share in the benefits of transmission facilities should be responsible for their costs. However, there is not a consensus on how this principle should be implemented, what benefits should be considered for purposes of cost allocation, or how to determine who is a beneficiary.

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[28] *E.g.*, Consolidated Edison, *et al.*

[29] *E.g.*, ITC Holdings, AEP, American Transmission, Green Energy Express, and WIRES.

[30] *E.g.*, American Transmission; National Grid; and NEPOOL Participants.

[31] *E.g.*, APPA, Green Energy Express, ITC Holdings, NEPOOL Participants, NextEra, Ohio Commission, Solar Energy Industries, and Transmission Access Policy Study Group.

24. Some commenters urge the Commission to avoid rushing to a one-size-fits-all approach to determining beneficiaries of transmission projects, due to the varying nature of projects and benefits.[32] Others express the view that it is difficult to quantify certain benefits that they consider relevant, such as carbon emission reduction, integration of renewable generation, or the most efficient use of existing rights-of-way.[33] Other commenters suggest that there are ways to factor difficult to quantify benefits into the planning process such that they are adequately considered.[34]

### C. Additional Developments Since Issuance of Order No. 890

25. Other developments with important implications for transmission planning have occurred amid the above-noted Order No. 890 compliance efforts on transmission planning and as the Commission gathered information through the technical conferences and the October 2009 Notice discussed above.

26. For example, in February 2009, Congress enacted the American Recovery and Reinvestment Act (ARRA), which provided $80 million for the U.S. Department of Energy (DOE), in coordination with the Commission, to support the development of interconnection-based transmission plans for the Eastern, Western, and Texas interconnections. In seeking applications for use of those funds, DOE described the

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[32] *E.g.*, APPA, Bonneville, California ISO, ColumbiaGrid, Consolidated Edison, *et al.*, Dayton Power and Light, EEI, Entergy, Midwest ISO, Southern Companies.

[33] *E.g.*, California ISO, Electricity Consumers Resource Council, MidAmerican, National Grid.

[34] *E.g.*, AWEA, Energy Future Coalition, Entergy, Exelon, ITC Holdings, Integrys, *et al.*

initiative as intended to: (1) improve coordination between electric industry participants and states on the regional, interregional, and interconnection-wide levels with regard to long-term electricity policy and planning; (2) provide better quality information for industry planners and state and federal policymakers and regulators, including a portfolio of potential future supply scenarios and their corresponding transmission requirements; (3) increase awareness of required long-term transmission investments under various scenarios, which may encourage parties to resolve cost allocation and siting issues; and (4) facilitate and accelerate development of renewable or other low-carbon generation resources.[35]

27. In December 2009, DOE announced award selections for much of this ARRA funding. In each interconnection, applicants awarded funds under what DOE defined as Topic A are responsible for conducting interconnection-level analysis and transmission planning. Applicants awarded funds under Topic B are to facilitate greater cooperation among states and stakeholders within each interconnection to guide the analyses and planning performed under Topic A.[36] Broad participation in sessions to date related to this initiative suggest that the availability of federal funds to pursue these goals has increased awareness of the potential for greater coordination among regions in transmission planning.

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[35] Department of Energy, *Recovery Act- Resource Assessment and Interconnection-Level Transmission Analysis and Planning Funding Opportunity Announcement*, at 5-6 (June 15, 2009).

[36] *Id.* at 4-8.

28. DOE has also been involved in the development of several recent reports that may have implications for transmission planning. In its 2008 report, *20% Wind Energy by 2030*, DOE concludes that "[s]ignificant expansion of the transmission grid will be required under any future electric industry scenario. Expanded transmission will increase reliability, reduce costly congestion and line losses, and supply access to low-cost remote resources, including renewables."[37]

29. Similarly, in its 2009 report, *Keeping the Lights On in a New World*, the DOE Electricity Advisory Committee concluded that expanding and strengthening the nation's transmission infrastructure is becoming increasingly important for two reasons: "First, increasing transmission capability will help ensure a reliable electric supply and provide greater access to economically priced power. Second, the growth in renewable energy development, stimulated in part by state-adopted renewable portfolio standards (RPS) and the possibility of a national RPS, will require significant new transmission to bring these resources, which are often remotely located, to consumer load centers."[38]

30. The number of states that have adopted renewable portfolio standard measures, as well as the target levels set in those measures, has continued to increase. Some 30 states and the District of Columbia have now adopted renewable portfolio standard measures.

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[37] Department of Energy, *20% Wind Energy by 2030*, at 93 (July 2008).

[38] Electricity Advisory Committee, *Keeping the Lights On in a New World,* at 45 (Jan. 2009). The Electricity Advisory Committee was formed to provide advice to DOE in implementing the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007, and in modernizing the nation's electricity delivery infrastructure. The Electricity Advisory Committee includes representatives from industry, academia, and state government.

These measures typically require that a certain percentage of energy sales (MWh) or installed capacity (MW) come from renewable energy resources, with the target level and qualifying resources varying among the renewable portfolio standard measures.

31. In its role as the Commission-designated Electric Reliability Organization, the North American Electric Reliability Corporation (NERC) concluded that significant transmission expansion will be needed to comply with renewable mandates. Even in the absence of a national renewable portfolio standard, NERC has stated that "an analysis of the past 14 years shows that the siting and construction of transmission lines will need to significantly accelerate to maintain reliability over the coming years."[39] In its 2009 assessment of transmission needs, NERC found that if a national renewable portfolio standard of 15 percent were adopted, an additional 40,000 miles of transmission lines would be needed and "transmission would be a key component to accommodating new resources, linking geographically remote generation to demand centers."[40]

## III. The Need for Reform

32. The Commission notes that transmission planning processes, particularly at the regional level, have seen substantial improvement through compliance with Order No. 890. As noted above, these improvements have increased opportunities for customers and other stakeholders to participate in the identification of regional needs and

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[39] North American Electric Reliability Corporation, *2009 Long-Term Reliability Assessment: 2009-2018*, October 2009, at 29.

[40] North American Electric Reliability Corporation, *2009 Scenario Reliability Assessment: 2009-2018*, October 2009, at 9.

corresponding solutions, facilitating the development of more efficient and effective transmission plans. The Commission believes that the expanded cooperation and collaboration that is now occurring in transmission planning both among transmission providers and between transmission providers and their stakeholders is to be commended.

33. Although Order No. 890 became effective just a few years ago, there have been significant changes in the nation's electric power industry in those few years that require the Commission to consider additional reforms to transmission planning and cost allocation to reflect these new circumstances. These changes have been widely recognized within the industry.[41] Our intention in this Proposed Rule is not to disrupt the progress that is already being made with respect to transmission planning and investment in transmission infrastructure, but rather to address remaining deficiencies in transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and thereby ensure that Commission-

[41] For example, a trend of increased investment in the country's transmission infrastructure has emerged in recent years. EEI attributes that trend to, among other factors, recognition of the reliability and other developments discussed above, as well as enactment of the Energy Policy Act of 2005 and the Commission's implementation of its new transmission pricing policies. EEI has also observed that even amid this trend of increased investment in transmission infrastructure, transmission projects that would be located in more than one state "face significant challenges for siting, permitting, cost allocation and cost recovery." *Transmission Projects: At a Glance*, Prepared by Edison Electric Institute with assistance from Navigant Consulting, Inc., February 2010, at iii-iv. EEI has also stated that "[t]hese challenges must be resolved to facilitate the movement of large quantities of renewable energy." *Transmission Projects Supporting Renewable Resources,* Prepared by Edison Electric Institute, February 2009, at iv.