- BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION -

Advance Notice of Proposed Rulemaking	DOCKET NO. RM21-17-000 COMMENTS OF THE UTAH PUBLIC SERVICE COMMISSION

The Utah Public Service Commission (UPSC) appreciates this opportunity to submit comments regarding the Federal Energy Regulatory Commission's (FERC) advance notice of proposed rulemaking ("Notice").

The UPSC supports intelligent transmission planning and acknowledges that existing processes for regional planning and cost allocation may be susceptible to improvement. For example, the Notice emphasizes that existing interconnection queue processes allow interconnection customers to occupy multiple positions in the queue when they have no intention of completing more than one interconnection, potentially resulting in redundant requests that crowd out otherwise viable projects. This appears to be suboptimal.[1] Whether and how existing interconnection queue processes could be made more efficient is an interesting question, but it is not a primary focus of the Notice.[2] Rather, the Notice points to the existence of such queue-gaming and its perceived impact on regional transmission planning as a basis upon which to

[1] The UPSC is, however, mindful of the immense complexity transmission owners face in determining upgrade costs for simultaneously pending interconnection requests and of interconnection customers' legitimate interest to understand how different interconnection points might affect significant network upgrade costs associated with their projects.

[2] The UPSC does not imply nothing in the Notice speaks to this concern. For example, the Notice's proposal concerning "fast-tracking" certain generation facilities, specifically those that are more "ready" (*e.g.* having executed a power purchase agreement or having already been selected through a request for proposals process) may be worth consideration and looks forward to reviewing additional comments on the proposal.

propose a host of potential reforms to promote and facilitate integration of new renewable generation resources.

As Commissioner Glick recently wrote: "The FPA is clear. The states, not [FERC], are the entities responsible for shaping the generation mix."[3]

Yet, the Notice unreservedly explains that FERC seeks to reshape transmission planning and cost allocation for the purpose of expanding the transmission system "in areas with high degrees of renewable resources" that require "extensive" and "more expensive" new transmission facilities.[4]

Increased development and integration of renewable generation is a highly charged political question and a matter of significant political interest. Different states' legislatures have made different policy choices. Some states, like California, have enacted very ambitious laws that require revolutionary changes to their generation mixes. As the Notice makes clear, these changes require significant investment in, among other things, new transmission infrastructure to wheel renewable generation.

Basic principles of cost causation, which FERC has long acknowledged and enforced, require that "all approved rates reflect to some degree the costs actually caused by the customer who must pay them."[5] While the Notice observes that one court has held this requirement "does not require exacting precision," surely, imposing the tremendous costs associated with certain

---

[3] *Calpine Corp., et al. vs. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035 (2020) (Commissioner Glick dissenting at ¶ 5); *see also* 16 USC § 824(b)(1) (providing FERC "shall not have jurisdiction … over facilities used for the generation of electric energy").

[4] Notice at ¶ 40.

[5] *Id.* at ¶ 74 (quoting *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992)).

states' statutory mandates to alter their generation mix on ratepayers in other states, who have no representation in those other states' legislatures, is not consistent with cost causation.

The UPSC is deeply concerned the Notice advertises an interest in rewriting the rules governing transmission planning and cost allocation to better facilitate policy choices, not of Congress, but of particular state legislatures. More specifically, the UPSC is opposed to any rule change that would allow such preferences to impose costs on ratepayers in other states.

The UPSC will, of course, support rule changes directed at eliminating economic inefficiencies in the existing transmission planning and cost allocation processes, provided such changes are a lawful exercise of FERC's jurisdiction. The measure of the lawfulness of rule changes, however, must be the effects such reforms can reasonably be expected to impose on ratepayers, consistent with regulators' responsibility to ensure just and reasonable rates and with cost causation principles.

Therefore, the UPSC endorses and reiterates the concerns Commissioner Danly expressed in his concurrence. In particular, the UPSC shares Commissioner Danly's concern that "[m]any of the contemplated proposals would exceed or cede [FERC's] jurisdictional authority, violate cost causation principles … [and] force neighboring states' ratepayers to shoulder the costs of other states' public policy choices … ."[6]

The UPSC looks forward to reviewing the comments other stakeholders submit in this proceeding and to providing additional comment on any specific rule changes that might stem from this docket.

[6] Notice, Commissioner Danly's Concurrence at ¶ 2.

DATED at Salt Lake City, Utah, October 8, 2021.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Utah Public Service Commission
Heber M. Wells Building
P.O. Box 4558
Salt Lake City, UT 84145-4558