

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning Processes)
Under Order No. 890)

Docket No. AD09-8-000

INITIAL COMMENTS OF WIRES

I. Introduction

WIRES, also known as the **W**orking group for **I**nterest in **R**eliable and **E**conomic electric **S**ystems, is a national non-profit association of transmission providers and customers, technology and service companies, and renewable energy developers created to promote investment in the nation's high-voltage transmission system.¹ WIRES respectfully submits these comments in response to the issues raised by the Staff of the Federal Energy Regulatory Commission ("Commission" or "FERC") in its October 8, 2009 Notice in the above-referenced docket.

WIRES applauds the Commission Staff for its insightful Notice on Order No. 890 matters and its efforts to reach out to market participants in all regions of the country to sample opinion on the state of transmission planning, cost allocation, and other matters affecting the future of the nation's high voltage system. It goes without saying that the industry is prepared to strengthen the transmission system and we are persuaded that private capital will flow into this sector if the regulatory environment provides sufficient opportunity and certainty with respect to investment, and returns on investment, in electric transmission. The obstacles to transmission development are well-documented and we recognize that only legislative innovation can solve certain of those problems. Transmission planning and cost allocation are nevertheless areas of Commission responsibility under existing law and the Commission is therefore urged to take action to assist appropriate grid development in the future.²

¹ More information about WIRES is available at www.wiresgroup.com.

² WIRES has petitioned the Commission to take generic action to make clear what cost allocation methodologies can be presumed to be just and reasonable transmission in specific circumstances. *See* Petition for Rulemaking on Transmission Cost Allocation Principles, filed November 12, 2009 (Docket No. RM10-4-000).

In our view, Order No. 890 represents a major step in the right direction. Properly enforced, it can provide a template for efficient planning processes and offers the promise that transmission which affects regional markets or which is located in multiple jurisdictions can be efficiently planned and constructed without either ignoring local concerns or national energy policies or becoming mired in stakeholder, legal, or regulatory processes whose length and complexity jeopardize the reliability or security of the electric system.

WIRES' initial comments herein are thematic. Its individual members will address specific questions posed by Staff in its Notice in either individually- or jointly-filed comments submitted separately.

COMMUNICATIONS

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II. Comments on Planning

TRANSMISSION PLANNING MUST BE REGIONAL.

Like the interstate highway system, transmission has evolved from a limited support and delivery system for local customers to a broad high-capacity network serving diverse loads in multiple states and regions. To optimize the use and sharing of investment dollars for the grid and to accommodate the diverse stakeholder interests affected by transmission development, any upgrade or expansion of the grid must be pragmatically designed. The scope of planning

activities should therefore replicate the operation of bulk power markets. Viable and efficient plans for expansion and upgrade of the high-voltage network needs to be more than the sum of individual utility plans for transmission facilities that, quite legitimately, are designed to serve load.

While regional plans should reflect the consideration of local or sub-regional concerns, the Commission should ensure that regional planners utilize viable and effective planning mechanisms. Many acceptable and effective processes already exist and customers have already made significant investment in them. However, in the future, planners must also adopt inter-regional and coordinated approaches that ensure smooth grid operations between regions as well as a rational interconnection-wide perspective on future resources and needs.

REGIONAL TRANSMISSION PLANNING MUST BE INCLUSIVE. The grid is an integrated network that serves all interconnected resources and loads. The power it transports according to the laws of physics respects neither jurisdictional boundaries nor organizational or legal status. Power producers and consumers in the three North American interconnections, including Canadian utilities and consumers, depend on this network.

For the grid to evolve in rational fashion, the public interest, fairness, and sheer efficiency require that it be planned for all purposes and with all participants in the market. Today, transmission planning efforts can vary in their procedures and objectives from market to market, and often utility to utility. Some regions have not evolved from the model of balkanized electricity markets and operations. Although the Commission and the industry have strived to ensure that regional planning processes lead to market outcomes that reflect regional needs and are responsive to national public policies, high-voltage transmission is not always planned regionally, despite the integrated nature of the grid at that level.³ As jurisdictional entities continue to implement, and gain experience under, FERC's Order No. 890, stakeholders perceive planning as not always open, transparent, and participatory.⁴ Because all major transmission owners in the Eastern and Western

³ Section 121, Title I, of pending S. 1462, American Clean Energy Leadership Act of 2009, would renovate the regulatory regime for "high priority national transmission projects" (345kV and above) because they are inherently important to regional grid operations, reliability, security, and economic development. *See also, Comments of E.ON U.S. LLC*, at 3, in this docket: "Regional grid enhancements are generally not included in the native load cost/benefit analysis and are considered as residual impacts."

⁴ *See e.g., Comment of Rep. Tom Sloan, Kansas House of Representatives*, October 9, 2009, in this docket, discussing the disadvantages that transmission dependent utilities, innovative technologies, and non traditional transmission entities may experience under current planning processes.

Interconnections are fully interconnected to the grid, their operations increasingly have wide-ranging impacts on utilities and consumers within those interconnections. Nevertheless, many are not subject to requirements of the Federal Power Act (“FPA”) even for purposes of ensuring the technical adequacy and appropriateness of their transmission upgrades or expansions. WIRES recognizes that achieving regional planning processes in which all transmission providers and market participants play an active role represents both a critical objective and a challenge for the Commission.⁵ However, by regularizing the process of transmission planning and drawing from those efforts transmission projects that are in the public convenience and necessity, the Commission can provide a clearer regulatory path to enhancement of the grid for purposes of ensuring reliability, promoting economic efficiency, and supporting emerging public policies such as renewable energy requirements. To do this, FERC must go beyond Order No. 890 and exercise its full FPA authority to establish firm guidance over all jurisdictional regional planning processes and to establish those processes where they do not exist.⁶

TRANSMISSION PLANNING PROCESSES MUST ENSURE FAIRNESS, EFFICIENCY, AND CONSISTENT OUTCOMES. We fully appreciate that more transmission is not an all-purpose response to what ails the energy sector. Energy efficiency, better demand response, and distributed and other new sources of generation are important to our energy independence and they must be part of the calculus about whether new generation or transmission capacity is needed. WIRES subscribes to the notion that transmission planning must be fair, unbiased, science-based, broadly participatory, and transparent. As the Commission has recognized since Order No. 2000, viable regional planning arbitrates between, and accommodates, the interests of all market participants and thereby arrives at the best technical and economic choices, consistent with these high objectives. The outcome of any plan will depend on what it is that is being planned for and the policy priorities the Commission articulates. Ensuring that the grid provides clean

⁵ That challenge may not be insoluble, however. For example, the Commission possesses important authority over otherwise non-jurisdictional entities under section 211A of the FPA, which could serve to make planning processes more inclusive. 16 U.S.C. § 824j - 1 (Supp. V 2005).

⁶ “Although planning is but one piece of the puzzle, PJM believes that the establishment of clear planning criteria up front can help to ensure the kind of interregional and interconnection-wide coordination that the Commission called for in Order No. 890.” *PJM’s Regional Transmission Expansion Planning Process*, presented to FERC Technical Conference, September 21, 2009, at 10. PJM proposes, among other things, a FERC rulemaking to identify appropriate planning principles and articulated criteria for judging the merits of proposed projects (including the relationship of renewable energy standards to planning, appropriate measures of deference to local, state, and regional needs, and how project benefits are to be ascertained) and a process whereby regional planners can file project recommendations with the Commission. *Id.* at 8. WIRES finds these suggestions very constructive.

energy, reliability, security, and economical results requires balance and perspective and, in short, a professional and well-managed planning process. This principle is not only consistent with Order No 890; it is fundamental to achieving its objectives.

It is WIRES view that the issues surrounding the “need” for particular transmission projects, especially at the extra-high-voltage level, should be resolved by regional planners in conjunction with stakeholder processes that both achieve the goals of Order No. 890 and are subject to federal oversight. High voltage transmission lines usually entail interstate benefits and costs and must be planned as a regional, if not interconnection-wide, resource. Consequently, we think that state decisions should be "back-stopped" by federal siting authority in all instances involving interstate transmission. Although only Congress can enhance FERC’s authority in this regard, the Commission is already in a position to reduce reliance on serial decision making in multiple forums by rationalizing the planning process that influences the ultimate decision about whether a project is needed and in the public interest. Planning is not merely an opportunity to exchange information; it must have discernible outcomes in terms of decisions about which projects will be built. Planning must not be allowed to become, in the words of one commenter, “an end in-itself.”⁷

Planning and cost allocation, as well as the future of much of the “clean energy economy,” are inseparable. A cost-effective and efficient transmission grid starts with a good planning process. Undue discrimination starts with a bad one. If a system is planned with technical integrity and clarity, of purpose, cost allocation becomes less complex and, hopefully, less contentious.

III. Comments on Cost Allocation

REGULATORS MUST BE CLEAR ABOUT WHO PAYS FOR TRANSMISSION. Experts, including the National Renewable Energy Laboratory, recognize that the confusion and uncertainty about who should bear cost responsibility for transmission is a serious barrier to its development. Today, even in regional markets that should be conducive to standard cost allocation

⁷ See *Comments of San Diego Gas & Electric In response to Notice of Request for Comments*, at 2, in this docket. WIRES’ supports the position, similar to that of SDG&E, that “the results of planning . . . [should be] expressed in binding, near-judicial findings and conclusions related to project need and economic benefits that will, in turn, facilitate the permitting, financing and construction of specific projects.” Id.

principles, methodologies vary widely and the results can be inefficient and inequitable. No generic principles govern federal cost allocation decisions. Spreading costs broadly is often appropriate, particularly for large backbone additions that provide broad region-wide benefits or where national energy policy goals are facilitated by transmission expansions. Other cost allocation methodologies, including direct assignment of costs to immediate cost-causers, may be equitable and efficient in many circumstances. In either case, those who benefit from transmission investment should accept all or a portion of the responsibility. The fact that the elements of the industry and policymakers hold such divergent views on this subject, at this late date, is a sign that there is an urgent need for Commission guidance about what the FPA and public policy require in this area. We urge the Commission to engage stakeholders in an effort to move transmission development forward.⁸

The Commission should therefore:

Formulate metrics that will determine which projects are eligible for rate-based cost recovery based both on reliability considerations⁹ and on such factors as a project's importance to compliance with state or federal renewable energy standards.¹⁰

Formulate standards for recovery of costs of projects critical to integration into the grid of existing or reasonably anticipated location-constrained resources, including by addressing the interest of some regions with constrained rights of way in sizing projects to meet anticipated major expansion of these remote resources.

Develop principles for allocating costs of inter-regional projects between or among the regions that benefit.

⁸ In particular, WIRES recommends that the Commission consider action on its Petition for Rulemaking. *See*, Footnote 2, above.

⁹ Compliance with reliability rules formulated and implemented pursuant to FPA Section 215 will be a fundamental driver of transmission expansion. For an evaluation by the National Electric Reliability Corporation of the nation's need for transmission expansion, *see* NERC's 2009 Long-Term Reliability Assessment (www.nerc.com).

¹⁰ *See e.g., Prepared Opening Remarks of Dale Landgren, Vice President and Chief Strategic Officer of American Transmission Company LLC, September 21, 2009, at 2.*

Provide equitable rate treatment to all transmission developers, including equal standing to participate in regional planning and propose projects that integrate renewable resources.

In each of the above undertakings, take into consideration and accommodate the array of issues that may arise for jurisdictional entities in situations where transmission-related investment and costs are recovered through state-determined retail rates.

Current transmission regulations and shifting policies provide insufficient certainty to developers, stakeholders, and investors. FERC has deferred to varying stakeholder processes that operate in the absence of clear guidelines about which cost allocation approaches best serve the public interest and that ultimately produce no record upon which to make sustainable regulatory rulings. While edifying and sometimes productive, settlements do not inevitably produce “just and reasonable” rates unless they are achieved pursuant to clearly enunciated limitations and objectives.¹¹

IV. Conclusion

It is estimated that the U.S. will need to invest \$200-300 billion in new and upgraded electric transmission by 2030 to meet demand and ensure resource adequacy and the efficiency, security, and clean energy needs of the country. We would observe that recent federal legislation that funds transmission construction by federal utilities through the stimulus package will effectively socialize the costs of many of those expansions; however, it does so without consideration of cost causation or weighing the regional benefits, as is customary for infrastructure projects in other cases. The federal government can neither fund the coming expansion nor arbitrarily assign cost responsibility, however. Private capital, on the other hand, will respond to effective and fair regulation. Unlike the advent of the interstate highway system, the principal role of the federal government – through the Commission’s work – will be to provide clear policy and regulation, and not massive taxpayer funding.

¹¹ Based on the approach adopted by an independent Blue Ribbon Panel study conducted for WIRES, we are persuaded that FERC should at a minimum develop principles that govern all proposed cost allocations. *See, A National Perspective On Allocating the Costs of New Transmission Investment: Practice and Principles (2007)* (www.wiresgroup.com).

WIRES again applauds this initiative and registers its appreciation for the opportunity to submit its views on these important issues. We urge the Commission and its Staff to advance the goals of reliability, security, alternative energy, and economic development through a strengthening of the processes for planning and paying for new transmission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul McCoy". The signature is written in a cursive, flowing style.

Paul D. McCoy, P.E.
President of WIRES

November 23, 2009