

**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 CLEAN ENERGY BUYERS ASSOCIATION**

**I. INTRODUCTION**

The Clean Energy Buyers Association (“CEBA”)<sup>1</sup> formerly known as Renewable Energy Buyers Alliance respectfully provides these Reply Comments on the Advance Notice of Proposed Rulemaking (“ANOPR”). CEBA’s Reply Comments clarify CEBA’s Initial Comments submitted on October 12, 2021 and respond to comments submitted by others. CEBA’s comments herein primarily address the proposal for an independent transmission monitor and issues regarding interregional transmission planning reform.

At the outset, CEBA notes that the ANOPR discusses reforms in regions where there are Regional Transmission Organizations (“RTOs”) or Independent System Operators (“ISOs”), as well as whether there should be reforms in non-RTO/ISO regions. The Commission has over the years encouraged RTO formation and participation, and REBA urges the Commission to strongly encourage expansion and formation of RTOs/ISOs, to promote a transparent, coordinated, and holistic planning process to facilitate the buildout of transmission. Key to the inquiries in the ANOPR, the centralized planning and cost allocation in RTO and ISO regions facilitates

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<sup>1</sup> [www.cebayers.org](http://www.cebayers.org) The Clean Energy Buyers Association’s aspiration is to achieve a 90% carbon-free U.S. electricity system by 2030 and to cultivate a global community of energy customers driving clean energy.

identification of needed transmission for our changing electricity sector, in a manner that should result in identification of the most efficient solutions. A piecemeal approach to transmission planning, cost allocation and generator interconnection cannot achieve the economies of scale and coordination, and consideration of diverse interests, that can be expected in an RTO/ISO region. To avoid implementation of different reforms based on whether a region is covered by an RTO/ISO, CEBA reiterates its recommendation that the Commission consider reforms to the *pro forma* Open Access Transmission Tariff (“OATT”)<sup>2</sup> so that all public utilities with OATTs on file are required to comply with the requirements of the Final Rule(s) promulgated in this proceeding.

## **II. OVERVIEW OF CEBA’S INITIAL COMMENTS**

In its Initial Comments, CEBA generally supported the Commission’s consideration of the need for reforms to improve transmission planning, cost allocation, and generator interconnection processes. Reforms are urgently needed because resolution of these issues is foundational to facilitating the type of transmission build out and investment that is essential to a reliable, affordable, decarbonized, and forward-facing transmission grid. In summary, CEBA’s Initial Comments included the following recommendations<sup>3</sup>:

- A. The Commission should implement reforms to transmission planning, cost allocation, load, and generator interconnection to achieve the following key goals: (1) an improved coordination process for both interregional transmission planning and coordination with state and local authorities; (2) transparency; (3) cost effective solutions; (4) resource adequacy; (5) transmission capacity adequacy; (6) a flexible and dynamic market; and (7) reliability.

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<sup>2</sup> See *Initial Comments of the Renewable Energy Buyers Association*, submitted in this proceeding on November 12, 2021, at 7, 11 (“CEBA Initial Comments”).

<sup>3</sup> *Id.* at 10-24.

- B. The reforms in this proceeding should consider environmental justice, including development of quantifiable goals for “fair treatment and meaningful involvement of all people,” including ensuring that disadvantaged communities do not bear a disproportionate burden of any adverse environmental consequences resulting from these new policies and processes.
- C. The Commission should consider the use of federal backstop siting/permitting authority as provided by FPA section 216<sup>19</sup>, strengthened by the new bipartisan infrastructure law, while respecting state authority. Additionally, the Infrastructure Investment and Jobs Act (“IIJA”) legislation recently signed into law on November 15, 2021, strengthens FERC’s backstop authority and makes it a more effective tool.<sup>4</sup>
- D. The Commission must require transmission planning that considers broad and holistic changes in the power sector and use of the electric transmission grid on a longer-term horizon.
- E. There should be a holistic aspect to transmission planning and cost allocation that considers (1) whether there is a potential solution that might more cost-effectively or efficiently resolve more than one need; (2) whether the identified solution addresses any other need; and the (3) identification of all beneficiaries of the solution, consistent with any legal limitations.
- F. The Commission should work toward regional transmission planning as the core transmission planning function in a region, with limited local transmission planning that is part of the regional plan.

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<sup>4</sup> Infrastructure and Investment Jobs Act, H.R. 3684, Section 40105.

- G. The Commission should tie rate recovery to a demonstration made by the public utility that transmission projects were developed through an open, transparent, and coordinated process.
- H. An effective transmission planning process should consider all the factors and potential resources that are shaping the generation mix.
- I. The Commission should consider requiring public utilities to engage in transmission planning for a 15- to 20-year future to identify transmission needs based on reliability, economic, and/or public policy concerns that will take into account (1) integration of renewable and other resources (beyond resources that have advanced to the facilities study in the interconnection queue); (2) changes in loads such as industrial and commercial uses with the increased deployment of electric vehicles; and (3) reliability/resilience in the wake of increased severe weather events due to climate change.
- J. As suggested in the ANOPR, any Final Rule should include creation of an independent entity or entities to serve as independent transmission monitor (“ITM”).
- K. The Commission should adopt policies that strongly promote RTO/ISO formation and expansion.

### **III. REPLY COMMENTS**

#### **A. The Commission Should Require Proposals for Creation of an Independent Transmission Monitor**

In the ANOPR, the Commission requested comment on the oversight of how new regional transmission facilities are identified, built and paid for, including an ITM in both RTO/ISO regions as well as non-RTO/ISO regions.<sup>5</sup> CEBA supported the concept of an ITM to refer matters to the

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<sup>5</sup> ANOPR at PP 163-175.

Commission.<sup>6</sup> CEBA recommended that the Commission be clear in defining the role of an ITM and requiring true independence from market participants.<sup>7</sup> As CEBA explained in its Initial Comments, an ITM could offer efficiency, impartiality and assistance with mitigation by referring matters to FERC for ultimate resolution.<sup>8</sup>

Several parties filed comments in support of the concept of an ITM,<sup>9</sup> and CEBA agrees with comments that suggest the Commission consider the ITM for both RTO/ISO and non-RTO/ISO regions.<sup>10</sup>

Some parties raised concerns that the authority of an ITM not interfere with the authority of FERC and state and/or local entities in transmission planning and cost allocation. CEBA urges the Commission to proceed with a requirement for ITMs in all regions so that the monitor's role will not be seen as discriminatory in nature. The ITM's role, as a technical expert, is one that could help with efficiencies in the planning process to facilitate and accelerate the prudent buildout of transmission in a more coordinated and transparent manner. Similar to the Commission's adoption of market monitoring as a mandatory function of RTOs and ISOs, which clearly has helped the Commission ensure that RTO and ISO markets are just, reasonable and not unduly discriminatory or preferential,<sup>11</sup> the ITM can assist the Commission in ensuring that transmission planning and

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<sup>6</sup> CEBA Initial Comments at 34-35.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See Comments of Certain Transmission Dependent Utilities in the MISO Region; Comments of EDF Renewables; Comments of Electricity Consumers Resources Council; Harvard Law Initiative Comments on Transmission Planning Reforms and Prudence Reviews; Comments of the New England Offshore Wind Coalition; Initial Comments of the New England States Committee on Electricity; Comments of Potomac Economics, Limited; Comments of U.S. Department of Energy; Comments of Solar Energy Industries Association; Comments of Transmission Access Policy Study Group.

<sup>10</sup> See, e.g., Comments of Advanced Energy Economy filed in this proceeding on October 12, 2021 at 40-41.

<sup>11</sup> See Order No. 2000 at [189].

cost allocation is just, reasonable and not unduly discriminatory or preferential.<sup>12</sup> Moreover, as the Commission recognized in adopting the market monitor requirement for RTOs and ISOs, an ITM could provide valuable information regarding opportunities for efficiency improvements.<sup>13</sup> In this regard, CEBA notes that in Order No. 2000,<sup>14</sup> the Commission required that market monitoring plans “must evaluate the behavior of market participants, including transmission owners, if any, in the region to determine whether their behavior adversely affects the ability of the RTO to provide reliable, efficient and nondiscriminatory transmission service.”<sup>15</sup> The Commission should similarly require public utilities to propose transmission monitoring plans that will evaluate whether market participants, including transmission owners, are engaging in behavior that will adversely affect the region’s ability to conduct transmission planning and cost allocation in a just, reasonable and not unduly discriminatory or preferential manner.

With respect to concerns that an ITM would exercise authority reserved to the Commission and/or state and local authorities, CEBA submits that such concerns are easily addressed with a clear delineation of the monitor’s duties and responsibilities. Thus, the Commission should proceed with establishing an ITM in all regions. The ITM’s role should be seen as a technical facilitator who partners with FERC to build a high-capacity transmission system that accelerates the build out of transmission responsibly and allows a just transition that serves all customers in an equitable and sustainable manner.

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285 (2000), FERC Stats. & Regs. ¶ 31,089 (1999) (Order No. 2000), *order on reh’g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000) (Order No. 2000-A), *aff’d sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

<sup>15</sup> *Id.*

In Order No. 2000, the Commission addressed similar concerns with respect to the role of market monitoring in RTOs, as follows:

In response to commenters' arguments that RTO market monitoring results in an impermissible shift of Commission authority to other entities, we emphasize that performance of market monitoring by RTOs is not intended to supplant Commission authority. Rather it will provide the Commission with an additional means of detecting market power abuses, market design flaws and opportunities for improvements in market efficiency. Further, because market monitoring plans will be required to be filed with and approved by the Commission as part of an RTO proposal, we will retain the ability to determine what, how and by whom activities will be performed in the first instance.<sup>16</sup>

CEBA recommends that the Commission clarify in the Final Rule that the role of the ITM will be to assist, not supplant, the Commission in fulfilling its statutory obligation to ensure that rates, terms, and conditions of jurisdictional service are just, reasonable, and not unduly discriminatory or preferential. To that end, CEBA notes that with respect to market monitoring within RTOs, the Commission found that information provided in the market monitoring reports would be beneficial to many parties, including state commissions "that protect the interests of retail consumers, especially where they are overseeing the development of a competitive electric retail market. We note, however, that the market monitoring function for the RTO does not limit the ability of each state within the RTO's region or other authorities to decide the nature and extent of their own market monitoring activities."<sup>17</sup> With similar clarifications in this proceeding, the Commission can resolve concerns over the role and authority of the ITM as distinct from the Commission's authority and/or matters reserved to the states.

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

**B. The Commission should ensure the benefits of interregional planning.**

CEBA supports the Commission implementing reforms to require interregional transmission planning.<sup>18</sup> The dearth of interregional transmission planning alone establishes the need for the Commission to implement further reforms. CEBA agrees with comments, such as those submitted by the U.S. Department of Energy (DOE), that acknowledge the need for reforms to current interregional transmission planning, despite existing voluntary coordination agreements between some regions.<sup>19</sup>

The benefits of interregional transmission planning include the recognition that underlies the Commission's inquiry in the ANOPR – the transformation of the electricity sector means that resources, including renewable, may be located far from load centers or far from the load they are intending to serve. Where transmission solutions across regions can facilitate greater access to diverse resources, interregional transmission planning will help that access be achieved through identification of the most efficient investment. A region's greater access to more geographically diverse resources should also confer reliability benefits. Additionally, as DOE explained in its comments, interregional transmission planning provides benefits in aligning the goals of affected states, coordinating lead times for generation and transmission projects, and addressing cost

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<sup>18</sup> See CEBA's Initial Comments at 24; ANOPR at PP 62-64.

<sup>19</sup> See DOE Comments (Recommending that the Commission should consider reforms to the current interregional coordination process and stating that "the current practice impedes the selection of cost-effective inter-regional projects because the initial regional prioritization of projects based on benefits to one region's ratepayers may exclude potential solutions that may offer superior aggregate benefits to the ratepayers across more than one region."); *see also* American Electric Power Service Corp. Comments ("The Commission should address planning for high-voltage interregional transmission projects, establishing system needs and common assumptions, which may include minimum interregional transfer capability requirements and resource adequacy standards, to encourage interregional transmission development."); Comments of EDF Renewables, Inc. at 8 ("Interregional coordination processes under Order No. 1000 are a useful first step, but a mandated process and criteria to continue monitoring congestion across seams and to identify transmission projects would be beneficial.")

allocation.<sup>20</sup> Interregional transmission planning also should allow for an identification of benefits to all connected regions, which should facilitate a more reasonable cost allocation.

### **C. Holistic interregional transmission planning does not encroach on states' rights.**

Some states and representatives of state interests recognize the need for federal policy for national interregional planning standards.<sup>21</sup> However, others raise concerns that interregional transmission planning is unnecessary, might be disruptive, or might encroach upon states' rights.<sup>22</sup> CEBA submits that meaningful interregional transmission planning is not mutually exclusive with honoring state jurisdiction and interests. First, in the same manner that regional transmission planning is conducted under existing FERC-jurisdictional tariff processes without encroaching upon states' rights to siting or related matters, so too can interregional transmission planning proceed while honoring states' rights. Therefore, the Commission should not be discouraged by those who claim improvements in interregional transmission planning will come at the cost of cooperative federalism. That simply is not the case.

Moreover, even beyond maintaining jurisdictional boundaries, many regions already have in place mechanisms to ensure that states' views are included in the transmission planning. As the

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<sup>20</sup> Comments of the United States Department of Energy to Advance Notice of Proposed Rulemaking at 25.

<sup>21</sup> See Comments of the National Association of Regulatory Utility Commissioners ("interregional transmission planning may be essential to meet demand for a large-scale clean energy transition, while ensuring rates remain just and reasonable," and stating that "some states suggest now may be the time for the Commission to provide new clear, high-level federal planning policy, which may include consistent national interregional planning standards."); *see also* Kansas State Corporation Commission Comments at 5 (the Commission's focus should be on reforms that facilitate the development of interregional transmission projects)

<sup>22</sup> See California Independent System Operator Corp. Comments ("requiring interregional planning is unnecessary to the Commission's goals and may be counterproductive."); National Conference of State Legislature's Comments ("energy facility siting must remain under state jurisdiction devoid of federal mandates and preemption."); Comments of the Michigan Public Service Commission (supporting more robust interregional transmission planning and cost allocation processes to ensure a reliable and economically efficient transmission system for Michigan's ratepayers, but recommending against mandatory joint planning against all RTOs); Comments of the NYISO ("The NYISO does not think that additional interregional planning requirements are needed in the northeastern United States.").

Commission acknowledged in the ANOPR, regional committees provide states an opportunity to be heard and considered in a collaborative manner as part of stakeholder processes. These same practices can and should be incorporated into interregional transmission planning as a venue for voluntary state participation.

#### **IV. CONCLUSION**

WHEREFORE, for the foregoing reasons, CEBA requests that the Commission favorably consider CEBA's Initial and Reply Comments and adopt the recommendations made therein.

Respectfully submitted,

/s/ Adrienne Mouton-Henderson

Adrienne Mouton-Henderson

Deputy Director, Policy & Markets Innovations

Clean Energy Buyers Association

[Amouton-henderson@cebuyers.org](mailto:Amouton-henderson@cebuyers.org)

1425 K Street, NW

Suite 1110

Washington, DC 20005

1-888-458-2322

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### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this 30<sup>th</sup> day of November 2021, caused a copy of the foregoing document to be sent to all parties on the official service list compiled by the Secretary of the Commission in this proceeding.

/s/ *Adrienne Mouton-Henderson*