

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Building for the Future Through Electric)	
Regional Transmission Planning and Cost)	Docket No. RM21-17-000
Allocation and Generator Interconnection)	

JOINT REPLY COMMENTS OF CONSUMER ORGANIZATIONS

The plethora of comments filed in the Commission’s transmission planning Advanced Notice of Proposed Rulemaking provided an unsurprising and repetitive litany of predictable self-interest. Regional Transmission Organizations and planning entities believe that their current processes are fair and effective. Industry that stands to profit from overbuilding new transmission believes the Commission should expeditiously act to facilitate its new profit center. Environmental organizations believe transmission is the key to achieving their climate change goals. States want more control over transmission planning and cost allocation that affects their residents. And landowners and community groups represented solely by the undersigned Consumer Organizations are the elephant in the room that is ignored by nearly all other commenters.

RECOGNIZING TRANSMISSION OPPOSITION

No matter the new rules implemented through this proceeding, the Commission cannot avoid the elephant. All commenters support their own version of transmission utopia, with very few acknowledging that the transmission the new rules are designed to encourage can be made more expensive, delayed, or perhaps even cancelled, through

opposition from affected landowners and communities. No rule made by the Commission can overcome the will of the people to join together to protect their interests against what may be seen as an invasion that jeopardizes their homes, health, heritage, and ability to earn a living. Distractions for landowners that promise “meaningful” participation do not achieve the landowners’ goal, which is to prevent an overhead transmission line on their property in the first place, not make it more palatable. Furthermore, bribing local governments with giveaways in exchange for looking the other way when the transmission developer takes private property in their community only adds insult to injury and fuels community controversy, distrust of transmission owners, and opposition to the transmission project. Opposition to transmission projects cannot be tamed or thwarted, it can only be avoided by building better projects that do not require new rights-of-way and eminent domain that impacts landowners.

Grassroots transmission opposition is persistent. This has been exemplified by the recent historic and successful citizens’ referendum in Maine to stop Avangrid’s New England Clean Energy Connect transmission project. Opposition groups will heroically run the long mile to protect their homes, communities and economic interests, and they never give up. When each door is shut in their faces, opponents will open a window. Hope never dies when there’s so much at stake.

The Consumer Organizations are the only commenter that actually represents the interests of landowners directly affected by new transmission rights-of-way. All of us have been affected by proposed transmission projects, and the majority has won their battle when the offending transmission project was cancelled. But our work is not over. With proposals to triple the amount of electric transmission in this country, it is a

certainty that we will be joined by thousands of others who suddenly find themselves in the crosshairs of new projects. Only someone who has opposed transmission can know the true motivation and remedies for opposition. Without careful consideration from the Commission to encourage better projects, this power struggle between new transmission and affected persons will continue.

Environmental groups purporting to represent the public interest suggest that landowners should be “meaningfully addressed” by the Commission’s Office of Public Participation, but ultimately dismissed so that transmission may be built at an alarming rate in order to fulfill their environmental goals.¹ There is no actual meaning for the term “meaningfully addressed”. Does it mean that landowners shall be beaten with a padded club instead of a bare one? At the end of the day, landowners are still beaten with a club. Environmental groups do not represent landowners; in fact these groups have recently garnered the ire of landowners in state siting and permitting proceedings by opposing landowners in order to support new transmission for “clean energy”. The environmental groups’ comments and suggestions for managing landowners should be ignored because they will serve only to fuel controversy and distrust, and foment entrenched opposition.

Another entity purporting to represent landowner interests actually misrepresents landowner demands and motivation. This is hardly surprising, since Niskanen Center’s conclusions about what landowners want were drawn from industry consultants without the participation of any landowner interest groups. Niskanen has not interacted with any transmission opposition groups and they do not represent our interests. Therefore Niskanen’s suggestions should be ignored.

¹ Comments of Public Interest Organizations at 109-110.

Niskanen misses the mark on its purported factors that shape community attitudes.² Omitted from its list are impacts on farmers, ranchers, and other landowners whose income is produced from the land they own. New transmission rights-of-way can severely impact farm operations and may be a primary motivating factor for transmission opposition.

Also, without support of any kind, Niskanen asserts, “[f]or some new projects, communities ask for financial assistance for a new fire station or library or park.”³ We are unaware of any instance where a transmission opposition group, or a community, asked for such things in exchange for ending opposition. Niskanen’s eagerness to bribe local governments in exchange for impacts on land the government does not own is concerning. Bribing local governments does not ameliorate community opposition and distrust; it actually increases it. The new library will hold no value for the farmer whose most productive field is cut diagonally in half. The new park is no consolation prize for the young family that perceives the hulking transmission line right outside their back door to be a health risk to their children. The “benefits” received do not even come close to the sacrifice made. We also question whether these kinds of bribes to local governments are actually recoverable expenses for transmission owners.

LS Power’s contention that “payments to landowners” are a benefit of new transmission⁴ is off the mark. Payments to landowners for new rights-of-way taken under threat of eminent domain are *compensation* for what is taken from them. Compensation is ostensibly an equal exchange, not a windfall or benefit.

² Comments of Niskanen Center, Clean Air Task Force Report at Page 11.

³ *Id.* at 26.

⁴ Limited Supplemental Comments of LS Power Grid at 3-4.

The Harvard Electricity Law Initiative purports that there may be instances “...where building transmission is more economical and feasible than alternative energy transportation means, such as pipelines.”⁵ The reality is that more transmission projects have been delayed, abandoned, or denied over the past 15 years than pipeline projects. Building greenfield transmission is never more “feasible” than pipelines. Perhaps they meant that they prefer transmission to pipelines based on fuel source, but that’s hardly a fact.

However well meaning its intent, we also reject the State Agencies’ suggestion that “representatives from disadvantaged communities”⁶, i.e. urban communities that have historically been unjustly subjected to polluting energy infrastructure, participate in the development of the Commission’s policies in this proceeding. While we support these communities’ involvement in policy regarding infrastructure that directly affects them, it must be recognized that they do not represent the interests of rural landowners affected by new transmission development. However, we feel this concept could still have merit if the disadvantaged communities are supplemented with landowners who have been subjected to eminent domain takings for transmission rights-of-way. It simply is not true that rural landowners are “...well financed... to intervene in processes to prevent projects from being constructed in their communities.”⁷ Funding transmission opposition is a burden on landowners. We have no deep well of funding from political organizations or outside groups; all our funding comes from our members and community supporters and every dollar contributed is one less we can spend on our own families. But it is a sacrifice we make because the alternatives are simply horrifying. It’s

⁵ Comments of Harvard Electricity Law Initiative at 35.

⁶ Comments of The State Agencies at 26.

⁷ *Id.* at 25.

not only the personal ramifications, it's also the larger environmental destruction that spurs opponents into action. This proceeding is first and foremost about transmission planning and its targets are the rural areas that stand between remote renewable energy generators and urban load centers. Consultation and participation must come from affected landowners, not other disconnected groups or individuals.

PLANNING USED AND USEFUL TRANSMISSION

Regional transmission organizations and planning entities seem to agree that the current system is working, and that where deficiencies have arisen, new procedures have been devised through the stakeholder process. These entities rightly point out that a wholesale, national revision of the transmission planning, cost allocation, and generation interconnection processes that does not account for existing regional differences is going to subject the entire transmission process to years of delay. However, it seems like the very commenters who want to make the most sweeping changes are also the ones who demand expediency. It just can't happen.

PJM Interconnection takes issue with the Commission's assertion that renewables are located far from load. PJM states, "[t]he majority of current in-service generation and queued, future generation projects in PJM (most of which are renewable resources) are geographically located 100 miles or less from load centers."⁸ In contrast, the Kansas Corporation Commission states, "[i]n SPP, the penetration of variable energy resources, particularly wind generation, has reached levels such that it is depressing market prices. Additional transmission infrastructure is necessary to move that power out of SPP to far away load centers in other regions."⁹ One region is fulfilling its goals with local

⁸ Comments of PJM Interconnection at 9.

⁹ Comments of Kansas Corporation Commission at 3.

renewables, while the other region wants to supplant those local renewables with ones from distant generators. Which scenario is more reliable, environmentally friendly and economic for consumers?

Northeastern states, regional transmission organizations, and utilities all demonstrated enormous preference for offshore wind to meet their public policy requirements. Is it up to the Commission to decide whether state goals are met with local or remote resources? The battle between onshore wind and offshore wind has been going on for at least a decade and the Commission should not perpetuate it. We suggest that the Commission separate the two in future transmission planning so that a comparison between onshore and offshore wind may be made when selecting projects. The process should compare the all-in cost and benefit of one source compared to the other, including costs for new transmission and the harm the new transmission may do to the environment. Only then could an informed choice of which project to pursue be made by the entity consuming and paying for the power.

Nearly all states that commented expressed a desire to incorporate state integrated resource or other energy plans into regional transmission planning, instead of relying on the planner or the Commission to decide on their energy supply. How state energy laws and policies are fulfilled should be determined by the states that create them, not by some regional entity, or even the Commission on a national level.¹⁰ It is not up to the Commission to mandate that an eastern state's energy goals be met with resources from Kansas. Regional and state preferences for resource choices must be respected.

Dominion Energy Services points out that even though some regions want to export, other regions don't want to import.

¹⁰ Comments of Southern Company Services at 26, 31.

“As the Commission considers cost allocation methods that might support new transmission projects, such as long-haul projects to bring renewable generation from the middle of the country to the coasts, it will be important to recognize such projects might not be seen as needed or benefiting local customers, which means that state regulators may not be supportive of customers paying for those projects. There is a significant amount of local and regional transmission investment that can be made to support local renewable projects to meet clean energy goals. Those projects should not be blocked or discouraged by a focus on high profile projects that will likely be expensive, take a long time to build, and may cause a delay in achieving clean energy goals.”¹¹

The Commission must guard against building transmission for resources that others don't want or need. Are we building transmission for a determined consumer need, or are we building transmission for the sake of building transmission, or simply to increase renewable energy production without any clear idea of who wants or needs the energy? Renewable generation developers want more transmission so they can sell more product and make more money. Interconnection queues are full of renewables because building them is profitable, not because these resources are needed to provide energy. Transmission developers want to build more transmission because it is profitable, not because they think they are saving the planet. If the Commission facilitates transmission built solely for private profit, and not actual need, consumers may be left paying for unused transmission for eternity.

LOCAL PROJECTS

While building local transmission projects that are not included in regional plans has been characterized as incumbent utilities gaming the system to avoid competition, perhaps the Commission should not throw the baby out with the bathwater. If incumbent utilities found this way around Order No. 1000, why would anyone believe that they

¹¹ Comments of Dominion Energy Services at 31.

won't find a new way around any orders stemming from this proceeding? It is said that necessity is the mother of invention, and investor owned utilities find profits to be a necessity.

Many commenters point out that local projects can be necessary to support local renewables connected to these lower voltage systems. Allowing the lower voltage, local transmission system to wither and fail while pursuing more high-voltage regional and interregional transmission projects may discriminate against small, local renewables in favor of large renewable imports from other regions. Perhaps the Commission should create a new driver or a separate planning process for low-voltage enhancements that support the addition of local renewables, instead of trying to regionalize local projects to serve only distant generators. The Commission should smartly work *with* investor owned utilities, not against them.

BETTER IDEAS MAKE BETTER POLICY

If we're going to double or triple the size of our electric grid, we're essentially starting from scratch and must do better to ensure that new transmission is used and useful and doesn't cause unnecessary sacrifice to landowners along the way. New energy ideas¹² free us from the oppressive transmission infrastructure of the past. We should not be creating new energy policy "controlled by advocacy groups"¹³ as stated by the Alabama Public Service Commission. A new grid can be right from the start, thoughtfully planned and built to avoid excessive cost and sacrifice. Why bother with the charade of planning if the outcomes are predetermined? Why provide incentives if new policies remove all permitting risk and mandate new transmission and certain favored

¹² Advanced small modular reactors, repurposing existing generation sites for renewables, local distributed generation, buried transmission on existing rights-of-way.

¹³ Comments of Alabama Public Service Commission at 2.

generation? There's little actual proof that today's transmission rates are not just and reasonable, only the assertion that they are because certain commenters are not getting what they want.

Some of the suggestions for the Commission are simply outlandish. The City of New York suggests that the Commission "explore opportunities to establish a federal funding mechanism" for transmission so that the system is paid for by federal taxpayers, instead being allocated to beneficiaries of the system.¹⁴ This would radically change transmission ratemaking and make planners and regulators completely indifferent to cost. Our federal debt credit card is maxed out and the money printing presses cannot keep up with demand. This is a horrible idea for consumers, who will ultimately pay the increased costs in their taxes.

Harvard Electricity Law Initiative suggests a scenario where the Commission "would have control over the entire transmission development process"¹⁵ of planning, paying and permitting. This is not a good idea; we all know that absolute power corrupts, absolutely. Our current system of both state and federal authority provides necessary balance that protects consumers and landowners from out-of-control Big Government.

Niskanen Center's version of environmental utopia requires 590,000 square kilometers of new industrial wind and solar installations, an area roughly equal to the size of Connecticut, Illinois, Indiana, Kentucky, Massachusetts, Ohio, Rhode Island, and Tennessee put together.¹⁶ Where are all the displaced citizens supposed to live? Can we really afford to take all that agricultural land out of production, or at the very least seriously impede its productivity? If you think grocery stores prices are high now, you

¹⁴ Comments of the City of New York at 18.

¹⁵ Comments of Harvard Electricity Law Initiative at 36-37.

¹⁶ Comments of Niskanen Center, Clean Air Task Force Report at page 6.

ain't seen nothing yet! Northern Virginia Electric Cooperative points out that “[t]he conversion of prime agricultural land to non-food producing land is one major concern that is far from over.”¹⁷ Other crucial factors garnering opposition include aesthetic changes to the visual landscape, zoning, and watershed concerns.¹⁸

The idea of resilience is also tossed around, although it has yet to be officially defined. Resilience is a word that has only recently been given relevance as our electric generation shifts increasingly from resources that can run when called to resources that are intermittent depending upon weather. Would we really need to plan transmission for resilience if our energy sources were local, varied, and dependable? And how reliable is a long-distance aerial transmission line to supply resilience when it is also dependent on the vagaries of weather and sabotage? Will we need resilient local generators to provide resilience for resilient transmission lines?

CONCLUSION

If the Commission goes big on revisions to its transmission planning, cost allocation and generation interconnection policies, it risks creating an enormous waste of time and money that ultimately achieves nothing. As Southern Company Services noted in its comments, “[a] federal transmission mandate to plan for and build expensive transmission to support hypothetical resource development will only lead to waste—wastes of time, of effort and of money.”¹⁹

The Resale Power Group of Iowa asks important questions of the Commission that we would also like to see answered:

¹⁷ Comments of Northern Virginia Electric Cooperative at 7.

¹⁸ *Id.*

¹⁹ Comments of Southern Company Services at 17.

“However, RPGI recognizes that interregional projects raise complex, almost intractable technical and cost allocation issues. In these uncertain times, placing too much reliance on, and committing large amounts of capital to, massive projects to transmit electricity over hundreds of miles from remote to heavily populated areas may not be most prudent approach technically or financially. If a fault occurs in one region and results in cascading outages, will a seamless national grid be able to contain those outages or will they be even more widespread? Will such a grid facilitate or impede restoration of service? And if the ultimate objective is to reduce carbon emissions as soon as possible, would that objective be achieved if miles of copper and aluminum cable, metals and manufacturing of transmission facilities and substations, cement produced and concrete poured, and the components of renewable facilities were taken into account? At what point do the net carbon emissions from all aspects of this expansion become positive?”²⁰

We also wonder whether such an expansive plan to create preferred resource zones and thousands of miles of new speculative transmission lines is a federal action with the potential to cause significant environmental effects that should be reviewed under the National Environmental Policy Act?

The comments of others are full of references to “demand” for clean energy. Demand is a strong word, an insistent and peremptory request made as if by right. But where does a corporation’s demand for clean energy to fulfill its commercial goals intersect with a citizen’s right to own and enjoy property, or even to use his personal property to eke out a living? A person’s demand for a certain type of energy he passively consumes should end at the property line of another. There’s a world of difference between an adequate supply of energy, and a demand for a certain type of energy. The Commission must consider carefully how it will balance the demands of passive energy consumers with the demands of persons to live and work without unnecessary obstruction on land they rightfully own. Demanding how another person will use and enjoy his own

²⁰ Comments of Resale Power Group of Iowa at 15-16.

castle can set the stage for an epic battle. The word “demand” carries a sledgehammer and must be equitably managed in this proceeding.

Ignoring the elephant in the room is never a good idea. Elephants may charge as a way of protecting themselves, their homes, and their families.

Respectfully submitted November 30, 2021,

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