

2. The Federal Power Act (FPA) provides ample authority for the Commission to adopt the proposed reforms to its planning and cost allocation rules, and its provisions require the Commission to address the deficiencies identified in the NOPR. Commenters' claims that the Commission lacks such authority are unconvincing and they are not supported by facts or legal precedent. Similarly, claims that NOPR proposals would interfere with existing robust planning practices are unsupported and appear to misinterpret the NOPR's provisions.

3. In our initial comments, PIOs strongly supported the NOPR proposals and recommended minor modifications to enhance the Commission's Final Rule, including the provision of additional guidance to planning authorities to facilitate compliance with the proposed reforms. A diverse array of commenters and a sizable body of Commission precedent clearly support these recommendations, and PIOs urge their adoption in the final rule.

4. One of the most important recommendations in PIOs' initial comments was that the final rule require more than just "consideration" of public policies likely to affect future resource choices and infrastructure decisions in regional planning processes; rather, it should require transmission providers to develop *plans that actually incorporate those policy considerations*.³ The integration into regional plans of state and federal energy, environmental and natural resource conservation policies is essential to the development of a sustainable electric grid, and

³ See *Joint Comment of Public Interest Organizations, Docket No. RM10-23-000, September 29, 2010*, ¶ 23.

the new rule should require regional processes to identify the public policies that affect grid development and to develop criteria for integrating those policies into regional plans.

5. Finally, PIOs and many other commenters have requested that the Commission provide additional guidance on grid planning by adding greater specificity to the proposed rule to ensure clarity and to facilitate compliance with final rule's provisions. More specifically, PIOs recommend that the Final Rule include existing regional planning practices that represent industry "best practices" – e.g., planning processes that are broadly participatory and transparent, that incorporate relevant public policies, and that consider all available resource options to meet system needs – to provide additional guidance for planning authorities.

I. The FPA Provides the Commission with Clear Authority to Adopt the Proposed Rules.

A. Under the FPA, FERC has a duty to impose planning requirements that ensure a sustainable electric grid.

6. PIOs strongly support the Commission's grid planning reforms because reliable, cost effective, and broadly supported transmission infrastructure development is essential to a sustainable electric power system and, under the FPA, ensuring a sustainable electric power future is one of the Commission's fundamental duties. The planning reforms proposed in the NOPR are both reasonable and necessary to regulating industry planning processes in a manner that ensures a sustainable transmission system—a grid that is reliable, clean and affordable—as well as resource and infrastructure decisions that yield just and reasonable rates.

7. To address deficiencies identified in the NOPR, it is essential that Commission rules address both procedural and substantive problems with current planning processes. Just and reasonable rates and the elimination of undue discrimination require that regional planning processes be reformed⁴ and that new, substantive planning requirements be imposed.⁵ Effective regulation of the transmission and sale of electric energy in interstate commerce requires the Commission to ensure that transmission system planning is designed to serve the public interest goals of the FPA⁶--specifically providing the basis for Commission determinations regarding just and reasonable rates, terms and conditions of service and instances of undue discrimination or preference.

B. Claims that FERC lacks authority to adopt NOPR proposals are unsupported.

1. The Commission has ample authority under the FPA to adopt rules to remedy deficiencies in the regional planning processes required by Order No. 890.

8. PIOs support the proposed NOPR reforms because they will help to correct deficiencies in existing transmission planning and cost allocation processes. The NOPR identified five existing planning process deficiencies that can result in unjust and unreasonable rates or undue discrimination,⁷ and proposed NOPR reforms would help ensure that the transmission grid can

⁴ See *id.* ¶ 6.

⁵ See *id.* ¶ 7.

⁶ “It is declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest...” See 16 USC 12 (§824(a)).

⁷ The deficiencies noted in the NOPR were 1) the lack of a requirement for a regional transmission plan; 2) failure to account for transmission needs driven by public policy requirements; 3) obstacles to non-incumbent transmission project developers’ participation in regional planning processes; 4) the lack of coordination between transmission planning regions; and 5) methods for allocating the costs of new transmission that may inhibit the development of efficient, cost-effective grid facilities necessary to produce just and reasonable rates. *Notice of Proposed Rulemaking*, 131 FERC ¶ 61,253, June 17, 2010, P 35-41 (NOPR).

better support wholesale power markets and that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.⁸

9. Contrary to claims that the Commission has little authority over transmission system planning and that NOPR planning proposals infringe upon state jurisdiction,⁹ FPA duties require that the Commission address planning deficiencies identified. Order No. 890 clearly established the importance of regional planning for infrastructure development and the implementation of other Commission responsibilities under EAct 2005, as well as for ensuring just and reasonable rates and preventing undue discrimination. PIOs believe that regional grid planning falls squarely within the jurisdiction of the Commission and that the proposed NOPR reforms are critical to ensuring that transmission planning processes produce results that meet FPA goals.

10. Although regional coordination of planning has traditionally been left to the *voluntary* efforts of public utilities¹⁰ and although Order No. 890 included a coordination requirement, the absence of effective coordination between transmission planning regions may have led to solutions that needlessly increase costs for customers, potentially excluding cost-effective interregional transmission projects.¹¹ Yet, the California ISO argues that requiring involuntary

⁸ See *id.*, ¶ 1.

⁹ See Initial Comments of North Carolina Public Service Commission, pp. 2-4.

¹⁰ See Initial Comments of the California ISO, pp. 20-24.

¹¹ See NOPR, *supra*, ¶ 39.

coordination on a scale broader than the RTO's footprint exceeds Commission authority.¹² Such arguments, however, fail to recognize that demands on the current electric system are very different than they were even a few years ago, requiring the consideration of solutions to address a host of new system needs (e.g., state RPS requirements and new federal environmental rules) and necessitating increased interregional coordination to address consequences that occur outside an individual RTO's footprint (e.g., loop-flow problems).¹³ Responsibly addressing these challenges requires coordinated planning between planning regions,¹⁴ and the Commission has the duty under the FPA to make sure these challenges are justly and reasonably addressed.

2. Planning processes that only address reliability and economic efficiency are insufficient to meet modern system challenges.

11. Claims that existing state-based coordinated planning processes ensure the adequacy, reliability and cost-effectiveness of the electric grid¹⁵ ignore the NOPR's preliminary finding that the failure to account explicitly for public policy requirements may result in undue preference or discrimination, as well as rates, terms, and conditions of service that are not just and reasonable.¹⁶ Planning to ensure reliability and economic efficiency, while a vital component of comprehensive system planning, is insufficient by itself to address the challenges of ensuring a

¹² See Initial Comments of California ISO, p. 52.

¹³ For example MISO recently filed revisions to its open access transmission tariff seeking to allocate a portion of the costs of phase angle regulator devices, installed within its own footprint and needed to address Lake Erie loop flow issues to ISO-New England and the New York ISO. Docket No. ER11-1844-000, October 20, 2010.

¹⁴ According to the Federal Trade Commission, regional and inter-regional planning is necessary because the highly-interconnected nature of the grid and the interstate markets it supports means that many transmission projects will have effects beyond the boundaries of a single transmission entity. See Initial Comments of Federal Trade Commission, p. 5. The FTC added that the scope of transmission planning should ideally extend to each interconnection because any action taken by one transmission provider can have major and nearly instantaneous effects on the transmission facilities of other transmission providers (e.g., the spread of blackouts). See *id.*, pp. 5-6.

¹⁵ See Initial Comments of Florida Public Utilities Commission, p. 5.

¹⁶ See NOPR, ¶ 37.

sustainable energy future. It is indisputable that an increasing number of energy, environmental and natural resource protection policies will drive future transmission system resource and infrastructure needs and limit planners' options, and it is equally clear that responsible grid planning must consider the implications of those policies and incorporate those considerations into regional grid plans. Grid planning that fails to integrate known public policy considerations is likely to result in poorly designed plans that lead to rates that are unjust and unreasonable.

C. Claims that NOPR requirements would interfere with existing robust planning practices are misplaced, and they are not supported by facts or reasoned analysis.

12. The Southern Company claims that the deficiencies identified in the NOPR do not pertain to it¹⁷ and that the application of the proposed NOPR reforms would harm existing transmission planning practices.¹⁸ Such claims are unsupported by facts or analyses and may reflect the inability of certain planning authorities to recognize the limits of their own procedures or a tendency to discount the importance of those limits.

13. Contrary to claims that the NOPR may compel ISOs/RTOs to re-demonstrate compliance with Order No. 890 planning requirements already satisfied,¹⁹ the NOPR proposals address only the *remaining deficiencies* in transmission planning and cost allocation processes so that the grid can better support wholesale power markets and ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly

¹⁷ See Initial Comments of Southern Company, p. 2.

¹⁸ See *id.*, p. 14.

¹⁹ See Initial Comments of New York ISO, p. 2.

discriminatory or preferential.²⁰ There is no basis in the NOPR's provisions for inferring Commission intent to modify or interfere with progress already being made by planning authorities that have adopted planning processes that comply with (or exceed) requirements adopted in Order 890, and the reforms proposed will have no such effect.

14. Jurisdictional utilities that have sufficiently addressed the deficiencies identified in the NOPR may need to make few, if any, changes in their planning tariffs to comply with the proposed planning reforms. For example, it may be that the New York ISO's reliability and economic planning processes already include robust scenario analyses of the impacts of environmental regulations, energy efficiency, renewable resource and other public policies,²¹ and that California ISO's proposed revised comprehensive planning process would address all the deficiencies noted.²² In such cases, the planning entities would need only to submit their current planning tariffs to demonstrate compliance with NOPR reform requirements or, as ISO-NE suggested, submit tariff revisions only in the areas affected by changes to planning process requirements reflected in the final rule.²³

15. The NOPR proposals afford planning authorities ample flexibility to develop through their stakeholder processes and in consultation with state regulatory commissions, strategies and

²⁰ See NOPR, ¶ 33.

²¹ See Initial Comments of New York ISO, p. 13.

²² See Initial Comments of California ISO, p. 5. The California ISO's revised planning process provides for, among other things, collaboration with other transmission providers, policy-driven transmission projects, comprehensive planning, an open solicitation framework, and extensive regional, sub-regional and interregional planning. See *id.*, pp. 5-6.

²³ See Initial Comments of ISO New England, p. 20.

metrics appropriate for their region to address the planning deficiencies identified in the NOPR. This is the approach recommended by the Southwest Power Pool,²⁴ and PIOs support regional flexibility in conjunction with clear Commission guidance on reform implementation.

II. Diverse Stakeholder Groups & Commission Precedent Support PIO Recommendations.

A. Requiring development of *grid plans* is essential to effective regional planning processes.

16. As stated in the NOPR, the lack of a regional transmission plan development requirement can lead not only to failure to identify the facilities best suited to meet a particular regional need, but can inhibit construction of proposed new facilities.²⁵ Without a plan development mandate, planning authorities and stakeholder groups may have insufficient incentives to participate meaningfully in regional planning processes.²⁶ With limited financial, staff and volunteer resources, non-market participant stakeholders and small resource providers are unable to participate in scores of meetings in planning processes that may be important but have no clear end dates or required work products that would justify their ongoing involvement and corresponding commitment of scarce resources.

²⁴ See Initial Comments of SPP, p. 11.

²⁵ See Commission NOPR, ¶ 35. A host of commenters support a requirement of regional plan development in the Final Rule. See generally, comments of Natural Resources Defense Council, Environmental Defense Fund and Conservation Law Foundation.

²⁶ See PIO Initial Comments, ¶ 11. For example, narrow and self-interested needs assessments, resource option analyses based on inconsistent assumptions and datasets, and insufficient incentives to complete the seemingly endless studies, meetings and negotiations will deter effective stakeholder participation.

B. Integration of *public policy considerations* into regional grid planning is critical to ensuring a sustainable electric power future.

17. Commenters have identified important system benefits likely to result from a requirement to integrate public policy considerations into regional planning processes. The Western Grid Group, for example, noted that consideration of public policies can serve to align transmission infrastructure development with state laws and public desires.²⁷ Earthjustice noted, importantly, that EPA regulations can have significant impacts on existing generators, and that consideration of those impacts in transmission planning can protect customers from incurring unnecessary and therefore unjust and unreasonable economic costs and environmental harms related to operating uncontrolled and inefficient power plants solely to maintain reliability that would otherwise be shut down for environmental and economic reasons.²⁸ Framing the benefits of incorporating public policies more broadly, NextEra Energy stated that planning processes must be “sufficiently flexible to include reasonably foreseeable policy objectives” and that failure to include such forward-looking policies can undercut a region’s plans for new resources.²⁹ In support of its position, NextEra focused on the risks of not considering the prospect of generating units that may have to be retired due to climate change legislation, regulation of greenhouse gas emissions, and/or the implementation of other EPA rules governing electric plant emissions, stating that failure to consider “at risk” generation could result in our nation’s not meeting

²⁷ See Comments of Western Grid Group, p. 16. According to WGG, the lack of consideration of public policies hinders public understanding of the need for expanding and modernizing the grid and undermines public acceptance of proposed projects. See *id.*, p. 17.

²⁸ Comments of Earthjustice, ¶ 10.

²⁹ Comments of NextEra, p. 14.

climate change goals on one hand and being confronted with insufficient generating resources on the other.³⁰

18. The Conservation Law Foundation emphasized that public policies must serve as a driver for electric system investment decisions.³¹ Further, many comments demonstrated that the integration of public policy requirements into planning processes should not be narrowly confined, for example, solely to renewable electricity standards, but should be broadly construed to include all public policy requirements for which new infrastructure or other resources may be necessary or beneficial. As ITC Holdings noted, such policies would include smart grid deployment, environmental laws and regulations, demand side management, distributed generation, and other policies “that will lead, directly or indirectly, to changes in generation portfolios” (as well as to transmission infrastructure upgrades).³² PIOs believe the Commission should clarify that the NOPR public policy mandate should not be narrowly construed, but rather should be understood to encompass all public policy requirements grounded in state and federal laws and regulations for which transmission system upgrades may be necessary or beneficial. The integration of all such policies into planning is critical to ensuring just and reasonable rates and eliminating opportunities for undue discrimination or preference.

³⁰ See *id.*, p. 15. In support of its position, NextEra cites EPA’s program for regulating greenhouse gas emissions and a NERC report on “Reliability Impacts of Climate Change Initiatives: Technology Assessment and Scenario Development,” July 2010.

³¹ See Comments of Conservation Law Foundation, p. 7. According to CLF, public policy consideration can facilitate the replacement of old generating resources that are increasingly outliving their useful lives and which are often an obstacle to new resource development. See *id.*, p. 4.

³² See Comments of ITC Holdings, p. 16. See also, Comments of Midwest ISO, p. 10.

C. Establishing minimum *interregional coordination* requirements will help to ensure the adoption of common approaches, standards and assumptions that facilitate cost-effective grid planning across the regions in an interconnection

19. The Commission has often relied on rulemakings to facilitate standard practices deemed important to eliminating undue discrimination and ensuring just and reasonable rates, terms and conditions of service. Among the most important in the past 15 years are Order Nos. 888 and 889, providing *pro forma* tariff and OASIS requirements, and Order Nos. 2003 and 2006, which standardized interconnection requirements for large and small generation facilities.³³

20. The Commission more recently determined that new demand response measurement and verification standards will help create a framework for a more seamless electricity marketplace by providing consistent terms and definitions that can be used in electronic protocols across the wholesale and retail electric markets.³⁴ In addition, the Commission recently noted that there is a need to further develop a common semantic framework and software models for enabling effective communication and coordination across inter-system interfaces.³⁵ In this case, interoperability standards could play an important role in the movement to a smarter grid capable of addressing challenges to the operation of the bulk-power system.

³³ See, respectively, Order 888, 75 FERC ¶ 61,080, *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, April 24, 1996; Order 889, 75 FERC ¶ 61,078, *Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct*, April 24, 1996; and Order 2006, Docket No. RM02-12-000, *Standardization of Small Generator Interconnection Agreements and Procedures*, May 12, 2005.

³⁴ See 131 FERC ¶ 61,022, *Standards for Business Practices and Communication Protocols for Public Utilities*, April 15, 2010, pp. 6-7.

³⁵ See 128 FERC ¶ 61,060, *Smart Grid Policy*, July 16, 2009, ¶ 51.

D. *Effective participation* in grid planning processes by non-market participant stakeholders is critical to ensuring the development of viable transmission system plans.

21. Funding support for participation by non-market participant stakeholders in planning processes is essential and, although the Commission has supported RTO membership waivers or fee reductions for public interest groups in some cases,³⁶ substantial financial assistance is required to enable meaningful participation by NGOs that could be most helpful in developing plans that are broadly supported by the public.

22. The Commission has approved funding for state regulatory participation in RTOs and it should make comparable provisions for funding other legitimate non-market participants. PIOs note, however, that transmission providers (including ISOs/RTOs) are unlikely to adopt such mechanisms without clear FERC direction. Although the New York ISO has recently appointed a strategic energy policy advisor who will in part advise the ISO on consumer issues,³⁷ and PJM had previously funded a liaison to facilitate consumer advocate and environmental organization participation PJM processes – steps in the right direction, to be sure – PJM stakeholders recently turned down a consumer advocate proposal for funding that would enable greater participation by consumer advocates in committee meetings and other PJM processes.³⁸

³⁶ See 113 FERC ¶ 61,014, *Order on Compliance and Proposed Tariff Revisions*, October 7, 2005, p. 10.

³⁷ See New York ISO Press Release, *NYISO Board Retains Former FERC Commissioner as Strategic Energy Policy Advisor*, October 25, 2010.

³⁸ The proposal received only 2.6 out of 5 sector votes in the PJM Members Committee, not enough to move the proposal to the PJM Board for approval.

E. *Comparable consideration* of non-transmission options is critical to a sustainable electric power future.

23. Non-transmission resource options, including clean supply- and demand-side resources, provide an ever increasing number of viable solutions for planners to consider for meeting transmission system needs. However, planners need more accurate assessments of the potential of demand response resources, federal appliance and lighting standards, and state policies that promote energy efficiency and other demand-side resources to meet and/or shape system needs.³⁹ The potential for distributed renewable generation, energy efficiency, demand response, and Smart Grid technologies to outperform traditional transmission capacity upgrades and provide superior reliability at far lower cost and with less or no environmental footprint must be evaluated.⁴⁰ In addition, proper assessment of the impacts these resources on load growth and overall demand is critical to ensuring that new grid investments result in rates that are just and reasonable.

24. The NYISO's Comprehensive Reliability Planning Process (CRPP) offers an example of a system reliability planning process that compares regulated transmission and other market-based solutions on an equal basis. In 2008, the NYISO CRPP resulted in sufficient non-transmission solutions (including 425 MW of demand response) to defer a 2,350 MW reliability need by one year.⁴¹ An example of the failure to consider non-transmission options in the planning process may be seen in a Virginia State Corporation Commission proceeding in which

³⁹ The Western Grid Group Comments at 15, the National Audubon Society at 4, and the Omaha Public Power District at 4 support consideration of non-transmission solutions.

⁴⁰ See Initial Comments of Grid Solar, p. 2.

⁴¹ NYISO White Paper, Transmission Expansion in New York State, November 2008.

the modeling of demand-side resources was ordered by the hearing officer (subsequent to the planning process), and the modeling demonstrated that a major transmission project would not be needed in the timeframe proposed.⁴²

F. The final rule should require *comparable cost recovery treatment* for non-transmission resource options that address identified grid needs, as well as comparable non-incumbent resource providers.

25. The Commission has long supported comparable treatment of resources in organized markets, and it should be explicitly included in planning process requirements. Comparable treatment of non-transmission resources and non-incumbent providers is essential to eliminating opportunities for undue discrimination and assuring just/reasonable rates.

26. The Vermont Northwest Reliability Project provides an example of how the current transmission cost allocation methodology in ISO-NE effectively shuts out non-transmission solutions. Distributed generation and targeted efficiency were found to provide the same reliability at 5.19 percent less than the cost of the transmission project. Although the non-transmission solution had a lower expected total social cost, Vermont ratepayers would have to pay 100 percent of the cost of the non-transmission solution, but only 7 percent of the transmission solution (Northwest Reliability Project), with the rest of the cost shared by ratepayers throughout New England (Order, Vermont Public Service Board, Docket No. 6860, January 28, 2005). The New York Public Service Commission cost allocation methodology, on the other hand, provides comparable cost support for regulated transmission and market-based

⁴² See Comments of Earthjustice, ¶ 13.

solutions to system needs. To prevent bias towards transmission solutions, the PSC adopted the beneficiaries pay principle developed by NYISO for regulated non-transmission projects, consistent with the cost allocation methodology for regulated transmission projects.⁴³

G. The final rule should provide *additional guidance to planning authorities to ensure that regional planning processes are effective.*

27. In its initial comments, PIOs recommended that the Commission include detailed minimum regulatory requirements for plan development that put public interests above electric utility and market participant self-interests when identifying regional grid needs and evaluating transmission and non-transmission options for meeting them.⁴⁴ Without detailed minimum requirements, regional stakeholder processes are likely to be less efficient, with narrow, more powerful interests prioritized over the public interest.

28. A number of parties consider additional specific Commission guidance critical to improving regional planning processes. For example, PJM stated that without further guidance that addresses when and how public policy obligations are triggered and how disputes about conflicting public policies are resolved, as well as ensures that public policy guidance covers cost allocation and siting process need determinations, the NOPR proposals will likely result in nothing more than planning for reliability and economics, which would effectively maintain the status quo.⁴⁵

⁴³ NY PSC, Case 07-E-1507, Order Initiating Electricity Reliability and Infrastructure Planning.

⁴⁴ PIO Initial Comments, ¶ 29.

⁴⁵ See PJM Initial Comments, p. 11.

29. Suggesting a lack of clarity on how to address impacts on one transmission system resulting from transmission upgrades built on a neighboring system, SPP requested detailed guidance in the final rule regarding the requirements for inter-regional transmission planning and cost allocation agreements.⁴⁶

30. In addition, some parties recommended Commission guidance on future scenario planning. Stating that public policy requirements should account for federal and state air quality requirements in addition to federal and state renewable energy goals and carbon regulations, NextEra recommended that planning criteria be sufficiently flexible to account for unknown future scenarios in case statutory or regulatory policies are revised and the planning process needs to make adjustments.⁴⁷ Similarly, Old Dominion Electric Cooperative recommended that the Commission direct transmission providers and their stakeholders to address how to accommodate scenario analysis and to provide opportunity to offer solutions in regional transmission planning processes.⁴⁸

III. Commission Rules Should Require Planning Authorities to Develop Planning Criteria for Integrating State and Federal Energy, Environmental and Natural Resource Protection Policies Into Regional Transmission System Planning.

⁴⁶ See Initial Comments of SPP, p. 30.

⁴⁷ See Initial Comments of NextEra, p. 14. NextEra adds that the planning process must be sufficiently flexible to include reasonably foreseeable public policy objectives not yet explicitly required by existing law or regulation. See *id.*

⁴⁸ See Initial Comments of ODEC, p. 4.

A. The final rule should require planning authorities to (1) implement a process for identifying the public policies that affect grid development, and (2) develop planning criteria for integrating those policies into the regional planning process.

31. Some planning authorities have already begun to identify relevant public policies and fashion planning criteria to address them.⁴⁹ Discussing the complexity of current planning challenges and the need for a comprehensive planning approach, PJM stated that a holistic planning approach can best be implemented after the transmission provider identifies the system's reliability needs, evaluates opportunities to enhance market efficiency and the capability of the grid to facilitate public policy goals, and identifies all possible alternative transmission solutions (all pursuant to procedures detailed in its tariff).⁵⁰

32. PJM's Regional Planning Process Working Group, a broadly-representative stakeholder group, has already identified key public policies to be evaluated and is well into the process of developing criteria for integrating them into the RTO's forecasting and grid planning processes.⁵¹ The working group has focused on the development of criteria to evaluate state- and federally-mandated demand-side resources, renewable portfolio standards, and "at-risk"

⁴⁹ SPP, for example, has developed a 20 year Integrated Transmission Plan (ITP-20), a plan developed by its Synergistic Planning Project Team to address gaps and conflicts in all planning processes; to develop a holistic, proactive approach to planning that optimizes individual processes; and to position SPP to respond to "national energy priorities". The process modeled four futures, including a Business As Usual case with existing state RESs; a Federal RES of 20% case; a Carbon Mandate case with carbon tax of \$73/ton; and an RES case with existing state RESs, a Carbon Mandate, plus a Federal RES of 20%.

⁵⁰ See Initial Comments of PJM, p. 12. PJM further stated that after consideration of the alternatives, the independent transmission planner would determine which project could best accommodate reliability, economic and public policy needs, subject to oversight by the Commission. In doing so, public policy must be translated into specific planning assumptions and judgment must be exercised by the transmission provider to weigh the benefits of three completely different metrics related to reliability, market efficiency and public policy where there is no obvious conversion. See *id.*

⁵¹ See RPPWG Planning Process Timeline, presented at October 29, 2010 RPPWG Meeting available at:

<http://www.pjm.com/~media/committees-groups/working-groups/rppwg/20101029/20101029-rppwg-slides-copy.ashx>

generation, and the PJM staff has proposed a timeline for their integration in the planning process.⁵²

33. Integrating public policy impacts into planning can have a significant effect on grid needs assessments and system costs. For example, in a presentation to the ISO-New England Board of Directors, Synapse Energy Economics demonstrated that the failure to accurately account for available energy efficiency resources in future load forecasts can lead to the unnecessary over-procurement of capacity resources.⁵³ In its analysis, which assumed a conservative 1% increase in annual EE installations over the ISO's ten-year planning horizon, Synapse showed that the ISO's current peak load forecasting methodology, which fails to assume any increase in EE installations beyond those committed in the base year of the Regional System Plan, could potentially over-procure generating reserves by thousands of MWs.⁵⁴ Further north, forecasts of peak loads in Central Maine Power's service territory used as the basis for the Maine Power Reliability Project were proven to be far too high, especially in light of state policies to reduce peak electric load, increase efficiency investments, and reduce greenhouse gas emissions through the Regional Greenhouse Gas Initiative. Revising the load forecasts to reflect these state policies and programs showed that CMP's estimated peak load for 2017 would not be realized until 2029.⁵⁵

⁵² See *id.*

⁵³ See *Load Forecasts for Regional System Planning*, a presentation by Synapse Energy Economics to the ISO-New England Board of Directors, September 10, 2009.

⁵⁴ See *id.*

⁵⁵ Petition by GridSolar, LLC. , Docket No. 2008-255, Maine Public Utilities Commission (January 28, 2009), also, Brief by Industrial Energy Consumer Group. Docket No. 2008-255, March 16, 2010.

B. The importance of developing planning criteria for integrating public policies is well demonstrated by the potentially significant impacts of state and federal policies on “at-risk” generation in the regions.

34. RTOs in the Eastern Interconnection have begun to examine the potential reliability impacts of at-risk generation, but much remains to be done to integrate the full range of grid impacts related to public policy requirements. During a recent presentation at the Edison Electric Institute’s Financial Conference, Exelon identified approximately 11 GW of coal plants in PJM that are likely to become uneconomic in the near future.⁵⁶ Yet, as discussed above, PJM has only recently begun to assess how such impacts can be integrated into its planning process.

35. New England ISO has a process in place to identify transmission upgrade alternatives to existing uneconomic power plants, and it has a market rule that requires a review of specific reliability needs and the identification of alternatives to resolve them.⁵⁷ Despite its own tariff language, the ISO has been slow to identify alternatives to its Salem Harbor Plant, an old coal and oil-fired plant that has submitted bids to de-list and retire for successive years, only to be rejected and remain online due to reliability concerns.⁵⁸

⁵⁶ See *Clean in Competitive Markets*, a presentation by Exelon, November 1-2, 2010, slide 4.

⁵⁷ See ISO New England Market Rule, § III.13.2.5.2.5(g). The market rule states that the ISO *shall* (i) review the status of the specific reliability need, identify alternatives to resolve that reliability need and the time to implement those solutions with the Reliability Committee. *Id.*

⁵⁸ See *Motion for Leave to Reply and Reply of Conservation Law Foundation*, Docket No. ER10-2477-000, November 5, 2010, pp. 4-6. The failure to identify a reliability solution to the Salem Harbor Plant has resulted in out-of-market, reliability-must-run (RMR) contracts burdening rate-payers with above-market costs and detrimental environmental impacts. See *id.*, pp. 6-7.

36. These cases demonstrate that responsibly planning for the grid-related consequences of new public policies and their implementation requires comprehensive regional planning provisions that ensure identification of relevant public policies and potential system needs and impacts, as well as evaluation of the full array of solutions to address those policies and needs in a timely and cost-effective manner.

IV. Current Regional “Best Practices” Should Inform Additional Commission Guidance

A. To ensure cost-effective, timely, and broadly supported transmission system planning and to facilitate compliance with the proposed planning reforms, a final rule should include FERC guidance based on existing regional planning best practices.

37. As noted earlier, the Commission has often used *pro forma* approaches to give guidance and facilitate compliance with reforms under the FPA (e.g., Order Nos. 888, 2003 and 2006), and such guidance is likely to be critical for compliance with the rules proposed in this NOPR. PIOs believe that *pro forma* guidance is, therefore, critical in the final rule.

38. Because several commenters have suggested that certain existing planning practices provide the Commission with excellent examples of how regional grid planning should be implemented, PIOs recommend that the Commission consider those practices as a basis for providing additional guidance in the final rule. For example, ISO-New England has recently initiated a number of economic studies, including a Year 2030 analysis of large-scale integration of renewable resources during the next 20 years.⁵⁹ The results of the studies are reported in annual Regional System Plans and can inform regional policymakers about the likely impacts of

⁵⁹ See Initial Comments of ISO-New England, p. 12. The New England Governors, through NESCOE, requested that the ISO study a Renewable Development Scenario Analysis to help identify the significant sources of renewable energy available to New England, the means to reliably distribute them within the region’s power grid, and the estimated cost of energy for generation and transmission. See *id.*, fn. 21.

proposed public policies, assisting in the development of solutions to identified grid needs that are compatible with regional public policy goals.⁶⁰ The information developed may reveal that one of several alternatives would more readily permit the integration of renewable resources (e.g., where alternatives identified in “solutions” studies are similar in cost and performance, but the “economic” studies provide information that better informs the decision-makers regarding non-reliability needs of the region).⁶¹

B. The record in this docket provides numerous examples of best practices that should be required by the Commission in its final rule.

39. The Midwest ISO’s recent Regional Generation Outlet Study (RGOS), which the RTO conducted in coordination with a broadly representative stakeholder group that included state regulators, transmission owners, and other interested stakeholders, provides one good example. The study sought to identify transmission projects needed to meet currently applicable RPSs within MISO’s footprint.⁶² The RGOS, in conjunction with extensive stakeholder discussions, led to MISO’s filing with the Commission a cost allocation mechanism to support projects derived from regional plans that provide both public policy and economic benefits across the region (Multi Value Projects) and that may also enhance reliability.⁶³

40. The New York ISO Comprehensive System Planning Process for reliability and economic expansion provides an approach that addresses system needs with market-driven and comparably treated resource options. For each “Reliability Need” identified in the reliability

⁶⁰ See *id.*, p. 13.

⁶¹ See *id.*

⁶² See Initial Comments of MISO, p. 9.

⁶³ See *id.* See also, Midwest Independent Transmission Operator, Inc., Docket No. ER10-1791, July 15, 2010.

planning process, the NYISO seeks market-based solutions, which may include generation, transmission, demand response or energy efficiency resources,⁶⁴ and gives preference to market-based solutions. If market solutions are not forthcoming, then a regulated solution is required that must be based on the most cost-effective alternative among proposed transmission, energy efficiency, demand response and generation solutions—or some mix of them.⁶⁵

V. Conclusion

41. PIOs appreciate this opportunity to respond to stakeholder comments and we continue to support Commission adoption of the NOPR proposals. PIOs believe that the FPA provides a clear legal foundation for the Commission to address the indentified deficiencies in existing system planning processes, and we urge the Commission to adopt our recommended modifications to the NOPR to further improve regional planning processes. Finally, we emphasize the importance of requiring the regions to develop clear criteria for public policy integration and recommend inclusion in the final rule of additional guidance informed by existing regional planning “best practices.”

Respectfully Submitted,

[Electronically Filed]

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⁶⁴ See Initial Comments of New York ISO, p. 6.

⁶⁵ See *2010 Reliability Needs Assessment Overview*, a presentation by Howard Tarler, October 4, 2010, pp. 8, 10. Also see NYISO OATT Attachment Y, Section 31.2.4. which is available at: http://www.nyiso.com/public/webdocs/documents/tariffs/oatt/oatt_attachments/att_y.pdf

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