

**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 THE LARGE PUBLIC POWER COUNCIL

Introduction and Summary of Position

These comments are submitted by the Large Public Power Council (“LPPC”) pursuant to the Supplemental Notice of Technical Conference in this docket, issued February 20, 2009.

LPPC is an association of 23 of the nation’s largest municipal and state-owned utilities.¹ LPPC members are located in all regions of the nation. Although LPPC members are not subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) for most purposes, under section 201(f) of the Federal Power Act (“FPA”),² LPPC committed nonetheless to offer open access service under publically available Open Access Transmission Tariffs (“OATT”).³

¹ LPPC speaks for the larger, non-federal, asset owning members of the municipal community. Together, its members own approximately 34,000 miles of transmission, representing nearly 90% of the transmission investment owned by non-Federal public power entities in the United States. LPPC’s members supporting this pleading are Austin Energy, Chelan County Public Utility District No. 1, Clark Public Utilities, Colorado Springs Utilities, CPS Energy (San Antonio), IID Energy (Imperial Irrigation District), JEA (Jacksonville, FL), Long Island Power Authority, Lower Colorado River Authority, MEAG Power, Nebraska Public Power District, New York Power Authority, Omaha Public Power District, Orlando Utilities Commission, Platte River Power Authority, Puerto Rico Electric Power Authority, Sacramento Municipal Utility District, Salt River Project, Santee Cooper, Seattle City Light, Snohomish County Public Utility District No. 1, and Tacoma Public Utilities.

² 16 U.S.C.A. § 824(f).

³ See Initial Comments of the Large Public Power Council in response to Notice of Proposed Rulemaking in Docket Nos, RM05-25, *et al.*, pp. 15 – 17, filed August 8, 2006. This commitment was reflected in Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 418-602, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

Further, LPPC members have been voluntary participants in the regional planning processes set in motion under Order No. 890.⁴

LPPC members welcome the opportunity to participate in regional and super-regional discussions aimed at identifying and furthering optimal solutions to transmission issues. As industry leaders in the deployment of renewable resources, LPPC members are particularly interested in working to implement optimal means for interconnecting renewable generation into local and regional transmission operations in the most cost effective, reliable and efficient manner. LPPC members are taking meaningful steps to improve interconnection-wide transmission planning in order to facilitate the development of transmission facilities designed to interconnect new generation resources. Accordingly, LPPC supports efforts now underway in both the Western and Eastern Interconnections to refocus current planning processes for this purpose. LPPC members are active participants in these processes, and welcome the Commission's involvement in these discussions.

With respect to the allocation of costs for new transmission, LPPC urges the Commission to steer clear of proposals which would allocate the costs of transmission facilities designed to interconnect large load centers with remote renewable generation to all load serving entities without regard to use of the facilities. LPPC believes it would be poor policy and inequitable to assess the cost of a transmission build-out to customers that cannot make use of the facilities, or who elect not to because they can access more cost effective options that do not rely on large new transmission investments to meet environmental mandates or goals. Nonetheless, since transmission is undoubtedly part of the mix of resources that must be brought to bear in

⁴ *Id.* at pp. 26 – 27. For LPPC members within RTOs, planning is undertaken in conjunction with the RTOs' activities. This is true of LIPA and NYPA, both members of the New York Independent System Operator ("NYISO"), and Nebraska Public Power District, a transmission-owning member of the Southwest Power Pool.

addressing environmental requirements, LPPC members are committed to working actively to see that transmission is built where needed and economically supported.

Comments⁵

1. Enhancing Regional Transmission Planning Processes

FERC Questions (Notice, p. 3): Are existing transmission planning processes adequate to identify and evaluate potential solutions to needs affecting the systems of multiple transmission providers?

LPPC Response: LPPC sees room for improvement in existing processes for indentifying and evaluating projects that would span multiple transmission providers.⁶ Yet, LPPC emphasizes that processes in both Western and Eastern Interconnections are currently evolving in response to existing and anticipated state and federal renewable requirements. Accordingly, LPPC urges the Commission to proceed cautiously with new mandates while the industry sorts out new processes with which it has only recently begun to grapple.

The regional planning processes the Commission itself set in motion with Order No. 890 are relatively new, having been implemented with an effective date of December 7, 2007.⁷ Moreover, these processes are undergoing substantial evolution as companies position themselves to meet existing and anticipated state and federal Renewable Energy Standard ("RES") requirements and carbon control measures.

⁵ LPPC's comments are organized in response to the specific questions identified at pp. 3 – 5 and 7 – 8 of the Notice. LPPC's responses to the general concerns on these topics that are articulated in the Notice prior to the questions are included in response to the related questions. LPPC does not address all of the Commission's questions.

⁶ LPPC takes this inquiry to consider an RTO to be a single system.

⁷ *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103 (2007).

As the Commission is aware, the planning processes in the Western and Eastern Interconnections are in very different stages of development. The Western Interconnection has a long history of broad regional and inter-regional cooperation under the Western Electricity Coordinating Council ("WECC") umbrella. California utilities are participants in the Renewable Energy Transmission Initiative ("RETI"), which has identified potential transmission to serve generation currently planned and operating in California's identified Competitive Renewable Energy Zones. Arizona, Colorado, New Mexico and other western states have similar programs in place to identify both energy zones and transmission corridors for renewable resources. The Western Governors' Association has undertaken a similar initiative examining potential transmission development throughout the West, in a process that has included stakeholders' comments on documents and detailed maps identifying renewable zones throughout the West. WECC's Transmission Expansion Planning Policy Committee ("TEPPC") and West Connect develop common data bases for modeling the economic benefit and potential impacts of new transmission and assist in the coordination of interconnection-wide expansion planning. As reflected in the OATT Attachment Ks filed by utilities throughout the Western Interconnection, transmission capabilities and constraints are continuously studied through TEPPC, as are the impacts of stakeholder proposals.

WECC and TEPPC processes are currently evolving in order to better evaluate the transmission needs that follow from increasingly ambitious state-based renewable requirements. As WECC represents in comments filed contemporaneously in this docket, in responding to the funding opportunity available through the America Recovery and Reinvestment Act of 2009 ("ARRA"), WECC has proposed to expand and accelerate regional and subregional planning

activities in anticipation of developing medium (ten-year) and long-term (twenty-year) transmission needs.

Broad planning processes are also under discussion in the Eastern Interconnection. There, major transmission providers have established the Eastern Interconnection Planning Collaborative ("EIPC") to explore interconnection-wide planning coordination and analysis. EIPC contemplates a substantial role for input from stakeholders, and will reflect policy guidance from state and federal regulators.⁸ The aim of this effort is to provide a platform for modeling the impact on a regional and super-regional basis of various transmission policy options that are identified by stakeholders, incumbent utilities, and state and federal policy makers. EIPC is a cooperative effort of Regional Planning Authorities, Federal, State and Canadian Provincial representatives and stakeholder groups, including Regional Transmission Owners and IPPs. LPPC members participating in this effort include Jacksonville Electric Authority ("JEA"), Municipal Electric Authority of Georgia ("MEAG"), and South Carolina Public Service Authority ("Santee Cooper"). Long Island Power Authority and the New York Power Authority are also participants in this process, as members of NYISO. EIPC will also be filing comments in this docket, providing additional detail on its plans and their bearing on the Commission's inquiry herein.

In addition, there is also a process underway in the Northeast to actively coordinate planning studies and assumptions through the development of a Northeast Coordinated System Plan. That process is led by the NYISO, PJM Interconnection, LLC ("PJM"), and ISO New England, and includes active stakeholder input through the Interregional Planning Stakeholder Advisory Committee, in which LPPC members in the region participate.

⁸ See <http://eipconline.com>.

With this, it is quite clear that in both interconnections, planning processes are currently undergoing substantial evolution as a consequence of: (1) existing and anticipated state-based renewable energy and greenhouse gas initiatives; (2) increasing reliance on demand response techniques; and (3) the potential for substantial federal renewable and carbon reduction mandates. LPPC urges the Commission to proceed cautiously with any new mandates while the industry sorts out these new processes. There is undoubtedly room for cooperative input and coordination between the Commission and the parties to these processes as they develop.

FERC Question (Notice, p. 3): Should prospective transmission developers coordinate their projects in the interest of "right-sizing" facilities to make the best possible use of available corridors and minimize environmental impacts? If so, what process should govern the identification and selection of projects that affect multiple systems?

LPPC Response: Certainly, transmission developers should coordinate their projects to ensure that they make the best use of available corridors and minimize environmental impact. The process LPPC suggests for selecting multiple system projects involves collaboration and cost sharing among those entities that have identified a need for the facility, thus ensuring that the facility provides reliability, environmental or economic benefits to the transmission provider or will be self-sustaining, in the sense that it will not require a subsidy in order to be viable. As discussed more extensively below in connection with the Commission's inquiry on cost allocation, to the extent projects are identified for the purpose of accessing new generation resources outside a transmission owner/operator's footprint, LPPC believes there must be market support for a project to be considered viable. Put another way, LPPC firmly believes that there must be "market pull" for projects accessing new resources, not a "regulatory push." LPPC believes, as well, that the best evidence of "market pull" is the presence of customers willing to

support funding for a project in exchange for the use of it. The assurance that planning processes will focus on facilities that are needed and are commercially viable follows from an approach to cost allocation that assesses the cost of new facilities to customers using them.

The danger in proceeding without market support is several-fold. First, there is the substantial risk that those in charge of the planning process will misjudge demand for facilities, leaving them underutilized, and customer rates needlessly inflated. Second, as discussed below, socializing the cost of new transmission facilities will provide a subsidy for one means by which utilities may respond to requirements to reduce greenhouse gasses and respond to RES standards, to the detriment of other alternatives that may have been more economical and effective absent the subsidy. Subsidies for transmission solutions will inevitably divert resources from a myriad of potential alternatives to the reliance on remote renewable resources, including energy efficiency and demand response initiatives, conversion of existing generation to more efficient operations, the development of nuclear capability, advanced coal generation and carbon capture, and local renewable resources.

- **FERC Question (Notice, pp. 3 – 4): Are there adequate opportunities for stakeholders to participate in planning activities that span different regions, including for example those undertaken pursuant to bilateral agreements?**

LPPC Response: LPPC recognizes that stakeholder participation in the planning process is the lynchpin of the transparent, participatory regional planning process envisioned in Order No. 890. Similarly, at the inter-regional level, LPPC supports processes that are fully open to stakeholders. At WECC, such participation is already an integral part of the inter-regional planning protocols, and regularly scheduled meetings are open to stakeholders at the local, sub-regional and regional levels. Further detail on such participation is provided in WECC's

comments in this docket, along with an outline of the stakeholder process envisioned in response to the ARRA.

In the Eastern Interconnection, the EIPC structure is designed to institutionalize stakeholder input at the inter-regional level. As at WECC, this input builds on stakeholder participation at the sub-regional and regional levels. At the interconnection-wide level, EIPC's ARRA proposal contemplates the creation of a representative Stakeholder Steering Committee. While the composition and role of the Committee is currently under development, its creation and prominence signal EIPC's commitment to robust stakeholder input. Similarly, in the Northeast there are processes such as Interregional Planning Stakeholder Advisory Committee, which provides stakeholders the opportunity to provide input on planning studies and analyses spanning multiple regions.

- **FERC Question (p. 4): Is there adequate coordination among planning entities to provide consistency in the data, assumptions and models being used in planning activities?**

LPPC Response: LPPC members participating in WECC's inter-regional planning process report that TEPPC's open-season study request process involves data and model validation work through workgroup meetings to assure that information and modeling techniques are coordinated. TEPPC is further charged with assisting in the coordination of data associated with other regional processes, including the Western Governors' Association Renewable Energy Zone Initiative. Further, WECC's proposal to DOE in response to ARRA contemplates the creation of two new data management systems (the Base Case Coordination System and the Transmission Planning Management System) designed to provide a central point of data management for transmission system data and planning cases throughout the Western

Interconnection. More detail on these plans is available in comments WECC will file in this docket.

Similarly, in proposing a process for "rolling up" regional and sub-regional plans, and providing a forum for coordinated analysis, EIPC contemplates inter-regional coordination in the development of consistent data, assumptions and modeling techniques in a fashion that will facilitate the interconnection-wide review of planning procedures and projects. In the Northeast, the Northeast Coordinated System Plan provides a necessary forum for coordination of databases and assumptions as well as stakeholder input into the process.

Again, these are areas in which there is ongoing work and room for improvement, to which LPPC members are committed.

- **FERC Question (p. 4): Will the interconnection-wide processes adopted pursuant to funding opportunities under the American Recovery and Reinvestment Act of 2009 result in an ongoing process for jointly identifying and evaluating alternatives to solutions identified in transmission plans developed through existing sub-regional and regional planning processes? Will the scope and function of these interconnection-wide planning activities be sufficient to help address the concerns identified above? How will planning activities conducted on an interconnection-wide basis be integrated into the development of sub-regional and regional transmission plans and vice versa?**

LPPC Response: As described further in WECC's comments in this docket, WECC's response to the ARRA includes further formalized procedures for a feedback loop between existing regional and sub-regional processes, and interconnection-wide planning activities. Similarly, EIPC's submission to DOE contemplates interconnection-wide planning, with input from regional planning authorities, states and other stakeholders. EIPC will "roll up" and integrate regional plans, analyze the combined system from an interconnection wide standpoint, identify areas for further study relative to state and federal policy goals, and develop

interregional transmission expansion options. The collaborative processes are designed to address the concerns FERC has identified above, while the “bottom-up” approach ensures that inputs from local/regional plans are respected in the interconnection-wide process.

Again, LPPC believes that the consideration of transmission solutions crossing multiple transmission systems is important, but emphasizes that the solutions settled upon must ultimately find support among customers choosing to use the facilities.

- **FERC Question (p. 4): How are reliability impact studies aligned with economic-based evaluations of sub-regional or regional projects and assessments of projects needed to satisfy renewable energy standards? If not aligned, how can reliability assessments and economic evaluations be aligned in order to better identify options that meet regional needs?**

LPPC Response: LPPC does not see in the planning processes with which its members are familiar the dichotomy the Commission's inquiry suggests. The impact on system reliability is the key for the evaluation of any proposed project, whether the project is proposed for economic reasons, or to provide access to renewable resources. The metrics by which transmission planners study system impacts – and the measures by which facilities are evaluated in order to ensure that reliable service is adequate and cost-effective – does not change depending on the fuel source of the generator.

- **FERC Questions (p. 4): How should merchant and independent transmission projects be treated for purposes of regional transmission planning?**
 - **Should they be required to participate in the planning process and, if so, at what point must they engage in the planning process?**

LPPC Response: There is no doubt that merchant and independent transmission project sponsors should participate in the regional planning process. Plans for such facilities

obviously hold the potential for substantially affecting regional planning assumptions, and should be taken into account at an early stage.

- **Do rights of first refusal for incumbent transmission owners unreasonably impede the development of merchant and independent transmission? If so, how can this impediment be addressed?**

LPPC Response: The responsibility for maintaining reliable transmission service falls, in the first instance, on existing transmission owners. LPPC members do not see an advantage (but rather, complications and confusion) in the construction and interconnection of facilities by third-party vendors where incumbent utilities are willing to step up to add facilities needed to provide reliable service. While LPPC recognizes the Commission's interest in promoting transmission adequacy in order to attach renewable and competitive generation resources to the grid, it does not see a public policy need to competitively outsource work on transmission upgrades, unless an incumbent utility declines to step up.

- **Should similar assumptions regarding resource availability be used for generation owned by the transmission owner and merchant or independent developers?**

LPPC Response: LPPC believes that transmission planning criteria relevant to generation resources should be objective, transparent, and applied even-handedly, regardless of generation ownership.

- **FERC Question (p. 4): Is the interconnection queue process hindering the ability to plan the transmission system to integrate new generation? Would any reforms to the Commission's interconnection procedures support efficient planning of the transmission system?**

LPPC Response: LPPC members have a difficult time envisioning a logical study process that does not involve undertaking studies in some sequenced fashion. To be sure, any sequencing process holds the potential for apparently arbitrary results, as is arguably the case

when available capacity is offered to one applicant in the queue, and not to the next, for the mere fact of the timing of an application. The practice of "clustering" applicants in the performance of system impact studies, such as is the process for queues in RTO systems, ameliorates certain anomalies, but causes others, as a result of the assignment of upgrade costs to groups of customers, depending on their inclusion in class-year studies.

Having said this, LPPC members will continue to work with stakeholders on alternatives which address system planners' needs to focus on a finite set of studies, and to ensure, to the extent possible, that projects for which studies are undertaken have genuine market support.

- **FERC Question (p. 4): Should there be consistency in the way transmission providers treat demand resources, such as demand response, energy efficiency and distributed storage, in the transmission planning process? Are there preferred methods of modeling or otherwise accounting for demand resources in the planning process? Does the planning process investigate transmission needs at fine enough granularity to identify beneficial demand resource projects?**

LPPC Response: LPPC fully supports protocols which ensure that demand resources are all treated fairly. Planning engineers, however, caution that all of these resources have different characteristics, causing disparate impacts on the grid that must be acknowledged in modeling assumptions.

2. Allocating the Cost of Transmission

- **FERC Question (p. 7): To the extent that a lack of up-front certainty about cost allocation is inhibiting transmission development, describe the relative impact of this concern on specific projects and as it relates to other impediments to development.**

LPPC Response: LPPC supports the development of more certain rules governing the recovery of costs for inter-system transmission development. To the extent the Commission's question asks commenters to rank barriers to transmission development in relative order of

importance, LPPC notes that its members' experiences have been that the difficulty in siting facilities has been a substantially more significant problem than cost recovery. For this reason, LPPC has supported proposed federal legislation that would confer on the Commission additional backstop siting authority.

In addition, LPPC's Western members have been frustrated by the obstacles to the development of interstate renewable transmission projects associated with a lack of coordination and focus among Federal agencies before whom issues associated with transmission projects crossing federal lands are presented, including the Department of the Interior's Bureau of Land Management, the Department of Agriculture's Forest Service and the Department of Defense. Federal land is often traversed by large-scale transmission projects, and LPPC's Western members report a lack of coordination, lengthy processes, and the inability to focus on the benefits of national renewable goals by these agencies. LPPC is hopeful that the Memorandum of Understanding between these agencies that was released on October 28, 2009 will streamline federal permitting processes as intended.

With respect to the nature of the rules governing cost recovery, LPPC is concerned that the Commission may be seriously considering mechanisms that would allocate the cost of new inter-system facilities to transmission owners (perhaps on an interconnection-wide basis), without respect to the use of such facilities under approved tariffs, or consensual commitment of capital.⁹ LPPC does not believe that the allocation of costs without regard to actual use of the

⁹ In the Notice's discussion preceding the questions (pp. 4 - 5), the Commission comments: "[t]here are few rate structures in place today that provide the allocation and recovery of costs for these inter-system projects, creating significant risk for developers that they will have no identified group of customers from which to recover the cost of their investment... While these projects likely will face other hurdles such as siting and other regulatory risk, many of them will not be able to move forward until they receive up front certainty about their opportunity to recover the cost of their investment."

facilities and a contractual relationship would be a wise as a matter of policy or consistent with the law.

LPPC notes that the cost of some of the more ambitious transmission build-out proposals it has reviewed are very substantial, and that the estimates LPPC has reviewed appear to be meaningfully understated. The Joint Coordinated System Plan study undertaken by PJM and the Midwest Independent Transmission System Operator, Inc. (see JCSStudy.org) shows an estimated \$80 billion investment aimed at resolving congestion and meeting a 20% wind scenario. When all costs associated with integrating these transmission facilities into the grid and interconnecting wind resources are added, there is reason to believe the cost may actually range between \$100 billion and \$200 billion for the Eastern Interconnection alone. Nationwide costs, including the Western Interconnection may range between \$135 billion and \$325 billion, equating to a monthly per customer cost of between \$14 and \$35.

Putting potential new legislation to one side, LPPC does not believe that FERC has the authority to assess transmission costs on an interconnection-wide basis, without respect to usage of the system or contractual relationships between transmission providers and their customers. The Federal Power Act is structured on the assumption that rates subject to FERC approval are supported by a contractual agreement to take and provide service between a utility and its customers.¹⁰ It seems obvious that proposals to allocate costs interconnection-wide to all load serving entities would call for the assessment of cost to entities having no contractual

¹⁰ *United Gas Pipe Line Co. v. Mobile Gas Corp.*, 350 U.S. 332 (1955); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956); *Borough of Lansdale v. FPC*, 494 F.2d 1104, 1113 (D.C. Cir. 1974) (commenting that the purpose of the *Mobile-Sierra* doctrine is “to subordinate the statutory filing mechanism to the broad and familiar dictates of contract law.”).

relationship with the transmission provider. Accordingly, it is difficult to square interconnection-wide cost socialization regardless of an agreement to take and provide service with governing law.

Equally fundamental, LPPC believes it would be inequitable and would send the wrong economic signals for the cost of a major transmission build-out to be borne by customers who cannot make use of the facilities, or who elect not to because they can access more cost effective options that do not rely on large new transmission investments to meet environmental mandates. With an RES in place, and the potential for other carbon control measures, utilities will respond in the most cost-effective manner possible, in view of the resources available to them. Favoring one technology or market segment over others through a transmission subsidy would prejudice that choice, to the detriment of the consumers footing the bill.

Building transmission to access remotely located renewable resources is only one of many means by which utilities may respond to requirements to reduce greenhouse gases (“GHG”). Studies by the Electric Power Research Institute (“EPRI”) (the “Full Portfolio” analysis) and by McKinsey and Company in its 2007 “U.S. Greenhouse Abatement Mapping Initiative” show a wide variety of options that may be employed in meeting GHG reduction, including: energy efficiency initiatives (many calling for capital investment); conversion of existing generation to more efficient operations; the development of additional nuclear capability; advanced coal generation and carbon capture and storage; distributed renewable resources (including distributed solar); plug-in hybrid vehicles and the development of large-scale remotely located renewable generation.¹¹

¹¹ See mydocs.epri.com/docs/public/DiscussionPaper2007.pdf; and <http://www.mckinsey.com/client-service/ccsi/greenhousegas.asp>.

At such time as a federal RES and some form of carbon control regime is in place, utilities will have a powerful incentive to employ all available options for GHG emission reductions. Of course, many utilities will make plans to build new transmission facilities in order to access remotely located renewable resources, while project developers will have reason to invest in such facilities in order to access newly motivated markets. But socializing the cost of that transmission will tilt the playing field dramatically away from any alternatives that do not depend heavily, or at all, on transmission. If the substantial cost of transmission to remote resources is forced upon all load, it will be, to use an economist's term, sunk cost, and alternatives to meeting carbon control requirements will be far less economical by comparison. This will have the effect of crowding out more cost-effective investment in other means of satisfying environmental goals, including the reliance on local renewable resources.

In parts of the country where significant transmission for renewable resources is unlikely to be constructed, the allocation of cost would amount to an inequitable tax without a service being provided. In the Southeastern United States, for example, the options for meeting RES requirements include further reliance on biomass resources, the development of additional solar facilities, a substantial investment in efficiency and demand response initiatives, the potential development of off-shore wind resources for local use, and the exploration of additional nuclear capability. These options do not depend on a substantial transmission build-out to remote renewable resources, nor has a good case been made for facilities that would cross half a continent in order to supply significant segments of the Southeast (and certainly Florida) with

power from remote wind resources. Accordingly, transmission build-out proposals are unlikely to serve much of the Southeast.¹²

The Seventh Circuit's recent decision in *Illinois Commerce Commission v. FERC* (Case No. 09-1306, issued August 6, 2009) further calls into question an approach which would assess transmission costs to entities and their customers which can make no use, or very limited use, of the facilities. The court remanded the Commission's decision to roll into RTO-wide rates assessed to all transmission owners the cost of new transmission facilities of 500 kV and larger, without respect to use of those facilities. According to the court: "FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members." *Slip Op.* at 17.

This is not to say that FERC does not have resources to facilitate the development of transmission for the interconnection of renewable resources. Indeed, the Commission has taken meaningful steps in this direction. In *Chinook Power Transmission, LLC and Zephyr Power Transmission, LLC* ("Chinook"),¹³ the Commission modified its open-access rules to permit transmission project developers to commit capacity to anchor customers, thus promoting the development of new merchant facilities designed to access remotely-located renewable resources. The decision in *Chinook* is quite similar to the approach taken by the Commission in connection with the development of offshore natural gas pipeline facilities in *Green Canyon Pipe Line Co.*, 47 FERC ¶ 61,310 (1989). There, as in the *Chinook* decision, the Commission was persuaded by project developers that capital formation for large transmission projects would be

¹² See AEP's proposal for building the new green grid at <http://www.aep.com/about/i765project/docs/WindTransmissionVisionWhitePaper.pdf>. The map at p. 8 of that proposal shows no facilities planned for the Southeastern United States.

¹³ 126 FERC ¶ 61,134, *order on reh'g*, 128 FERC ¶ 61,074 (2009).

substantially assisted by the commitment of anchor customers to the project.¹⁴ The approach taken in these cases makes it plain that capital will be made available for large-scale projects where there is demonstrated market support for the investment.

- **FERC Question (p. 7): Should processes be established to help stakeholders address cost allocation matters over larger geographic regions? What is an appropriate scope for those regions? Should they align with the regions for which planning is conducted?**

LPPC Response: LPPC has no objection to processes that may assist stakeholders interested in addressing allocation mechanisms for facilities over larger geographic regions. The nature and geographic scope of such discussions would naturally be coextensive with the scope of any proposed facilities. The first step in such a process is putting in place the organizational structure to study the benefits of projects across multiple regions, such as is underway with the development of EIPC. Having said this, LPPC reiterates its objection to a process which would lead to the imposition of costs on entities which do not use the associated facilities. Indeed, interjecting that highly contentious matter into these inter-regional discussions may very well undermine the work the organization would otherwise undertake.

- **FERC Question (p. 7): Are there regional cost allocation methodologies outside RTOs, and broader regional cost allocation within RTOs, that should be considered or established? If so, how should this be done?**

LPPC Response: Consistent with the comments above, the Commission's approach to regional and inter-regional cost allocation must respect the fundamental limitations of its authority under the FPA, and cost causation principles. Where entities agree to use new facilities, there are legitimate allocation questions based on relative usage and benefits. But the

¹⁴ *Green Canyon Pipe Line Co.*, 47 FERC at 62,114.

Commission cannot allocate cost to entities that do not use the facilities and have no contractual relationship with the transmission provider.

- **FERC Question (p. 7): Should each transmission provider hold an open season solicitation of interest for needed transmission projects identified through the transmission planning process in order to assist in cost allocation determinations?**

LPPC Response: An open season is a sensible idea for new projects designed to carry incremental load. Consistent with the decision in *Chinook*, the Commission should remain open to permitting developers to enter agreements with anchor tenants prior to requiring an open season. In any event, an open season is not sensible for reliability-driven projects.

- **FERC Question (p. 7): How can the customers that benefit from a particular facility be determined? Is there a preferred method? Should the method vary depending on the nature of the facility?**

LPPC Response: Most importantly, consistent with the comments above, there cannot be a presumed benefit without a contractual relationship between the customer and the transmission provider. For new projects designed to carry new load, benefits are best established based on use of the facility.

- **FERC Question (p. 9): Should the determination of beneficiaries of a transmission facility include generators as well as loads?**

LPPC Response: With respect to facilities designed to attach new generation, costs should be assessed to users based on contractual entitlements. Users may be load serving entities, end use customers and generators.

- **FERC Question (p. 8): Should benefits be recalculated over time? Would recalculations negatively affect usage decisions?**

LPPC Response: If, as LPPC argues above, the cost of new facilities crossing multiple systems is borne by those customers who choose to take service, highly complicated (and probably insolvable) questions regarding how benefits might be recalculated over time are simply not presented. Costs are billed to users of such facilities for tariffed service. Transmission customers should perform their own benefit analysis (analogous to natural gas pipeline customers) and determine whether they want to make a contractual commitment to additional capacity. Open seasons and the anchor tenant approach would both work with this approach. This time-honored approach requires no benefit recalculation, provides regulatory certainty, and avoids disputes over the myriad of assumptions that litigants will undoubtedly use to estimate benefits.

- **FERC Question (p. 8): How should non-quantifiable costs or benefits be identified, factored in or otherwise weighted?**

LPPC Response: See above.

CONCLUSION

LPPC members are committed to working regionally and on an interconnection-wide basis on approaches to transmission planning that will help ready the grid to respond to the challenges of the next decade and beyond. There is much that needs to be done, particularly to facilitate the interconnection of renewable generation into local and regional transmission operations in the most reliable and cost-effective manner. As the industry and the Commission proceed down this path, LPPC urges the Commission to embrace solutions that reflect sound economics and ensures that all resources – efficiency, demand response, and local and remote generation – are treated even-handedly.

Respectfully submitted,

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