UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

REPLY COMMENTS OF PJM INTERCONNECTION, L.L.C.

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On behalf of PJM Interconnection, L.L.C.

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REPLY COMMENTS OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. ("PJM") hereby submits the following reply comments[1] in response to select issues raised in initial comments on the Notice of Proposed Rulemaking ("NOPR") issued by the Federal Energy Regulatory ("Commission" or "FERC") in the above-captioned docket.[2] PJM does not respond to each of the numerous issues raised in the approximately 200 sets of comments filed in response to the NOPR. Rather, PJM limits these reply comments to:

(i) emphasizing the issues on which PJM believes the Commission should focus as this proceeding moves forward to a Final Rule;

(ii) responding to factual inaccuracies or providing clarification about PJM's processes in response to other commenters' filings; and

(iii) addressing proposals suggested by other commenters about which PJM agrees, has concerns, or finds would be unworkable in the PJM Region.

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[1] PJM submitted initial comments in this proceeding on August 17, 2022. *See Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection* ("*RM21-17*"), Initial Comments of PJM Interconnection, L.L.C., Docket No. RM21-17-000 (Aug. 17, 2022) ("PJM Initial Comments" or "PJM's Initial Comments").

[2] *RM21-17, Notice of Proposed Rulemaking,* 179 FERC ¶ 61,028, 87 Fed. Reg. 26,504 (May 4, 2022) ("NOPR" or "LTRTP NOPR").

I. OVERVIEW OF PJM'S RECOMMENDATIONS IN THIS PROCEEDING

As stated in its Initial Comments, PJM generally supports the Commission's proposed reforms aimed at requiring forward-looking, long-term scenario planning to meet transmission needs driven by "changes in the resource mix and demand" (referred to herein as "Long-Term Regional Transmission Planning"). That said, as PJM emphasized in its Initial Comments, as well as in other filings responding to other recently-issued Notices of Proposed Rulemaking,[3] PJM believes that it is essential that any future rule in this docket ("Final Rule") factor resilience into revisions to intermediate-term and Long-Term Regional Transmission Planning processes.[4] To that end, PJM proposed a comprehensive proposal to serve as a roadmap for how the Commission should address the concept of "Enhanced Reliability."[5] PJM also highlighted several other specific issues that the Commission should prioritize as it considers appropriate planning reforms to be included in the Final Rule. Below, PJM further: (i) elaborates on its Enhanced Reliability proposal, and (ii) summarizes the other issues that PJM (and other parties) believe the Commission should focus on as it develops the Final Rule.

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[3] *See Transmission System Planning Performance Requirements for Extreme Weather*, 179 FERC ¶ 61,195 (2022) (referred to herein as the "Extreme Weather NOPR"); *One-Time Informational Reports on Extreme Weather Vulnerability Assessments Climate Change, Extreme Weather, and Electric System Reliability*, 179 FERC ¶ 61,196 (2022) (referred to herein as the "Informational Reports NOPR"). Together with the LTRTP NOPR that is the subject of these comments, the Extreme Weather NOPR and the Informational Reports NOPR are collectively referred to as the "Transmission Planning NOPRs."

[4] *See RM21-17,* PJM Initial ANOPR Comments, at 27-41 (Oct. 12, 2021); *RM21-17,* PJM ANOPR Reply Comments, at 7-10 (Nov. 30, 2021).

[5] As set forth in its Initial Comments, PJM proposes to define "Enhanced Reliability" as "[t]he ability to withstand or reduce the magnitude and/or duration of disruptive events, which includes the capability to identify vulnerabilities and threats, and plan for, prepare for, mitigate, absorb, adapt to, and/or timely recover from such an event." PJM uses this term rather than the term "resilience," given concerns raised by some regarding the use of the term "resilience" and its being confused with a prior Department of Energy ("DOE") proposal, long since rejected by the Commission.

A. PJM Responds to Inquiries Regarding PJM's Enhanced Reliability Planning Proposal

In PJM's Initial NOPR Comments, as well as its comments submitted in response to the other Transmission Planning NOPRs,[6] PJM outlined a proposed "roadmap" pursuant to which the Commission could holistically and comprehensively address the need for Enhanced Reliability measures on both a regional and interregional level.[7] In response to comments and questions that have since arisen, PJM summarizes below:

- the legal authority pursuant to which the Commission can address Enhanced Reliability-related issues using authority beyond its more limited Federal Power Act ("FPA") section 215[8] authority to review North American Electric Reliability Company ("NERC") standards;

- the tie between PJM's Enhanced Reliability proposal and issues already raised in the various Transmission Planning NOPRs;

- the record support for PJM's proposals;

- the relationship between moving forward on Enhanced Reliability planning and: (i) the need for not disturbing existing short-term planning processes[9] and (ii) the LTRTP NOPR's

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[6] *See* PJM Initial NOPR Comments at 11-25. *See also Transmission System Planning Performance Requirements for Extreme Weather*, Comments of PJM Interconnection, L.L.C., Docket No. RM22-10-000, at 2-4 (Aug. 26, 2022) ("PJM Extreme Weather Comments"); *One-Time Informational Reports on Extreme Weather Vulnerability Assessments Climate Change, Extreme Weather, and Electric System Reliability*, Comments of PJM Interconnection, L.L.C., Docket Nos. RM22-16-00, *et al.*, at 3-4 (Aug. 30, 2022) ("PJM Informational Reports Comments").

[7] PJM Initial Comments at 11-25, 66-67 and 123-125.

[8] 16 U.S.C § 824o(d)(5).

[9] *See* NOPR at P 72 ("With respect to transmission needs associated either with maintaining reliability or for addressing economic considerations and their associated cost allocation, we do not propose in this NOPR to change Order No. 1000's requirements for public utility transmission providers to create a regional transmission plan that will identify transmission facilities that more efficiently or cost-effectively meet the region's reliability and economic requirements"). For purposes of PJM's comments in this docket, PJM focuses on three different planning horizons within the planning process: (i) the present five-year forward planning horizon to address short-term reliability and market efficiency needs, which PJM describes herein as "short-term planning;" (ii) the six- to 15-year analysis that PJM undertakes today to consider the aggregate effects of many system trends including long-term load growth, impacts of generation deactivation, and broader generation development patterns, including renewable resources and storage technologies that may be under development, which PJM describes herein as "intermediate-term planning;" and (iii) the NOPR's proposed 20-year long-term planning process, which PJM describes herein as "Long-Term Regional Transmission Planning" (the term the Commission uses in the NOPR). In the future, these three planning horizons will inform each other, just as the existing short-term planning and intermediate-term planning processes do today.

focus on transmission development to meet the changing resource mix driven by state and federal public policy; and

- PJM's specific requests to ensure that the Enhanced Reliability issue is appropriately addressed.

Legal Authority: In Section II.A.7 of its Initial NOPR Comments, PJM detailed the legal authority pursuant to which the Commission can implement the initiatives that PJM proposed in this docket (and raised in each of the other dockets as well). Although directing NERC to develop standards pursuant to FPA section 215 is one regulatory tool, it is not the only regulatory tool to address Enhanced Reliability planning.[10] Moreover, for the reasons PJM detailed in its Extreme Weather Comments in Docket No. RM22-10, use of the NERC process and the adoption of standards is notably a sub-optimal tool to utilize at this early stage.[11]

The Commission clearly has authority over just and reasonable rates, and terms and conditions of public utility service. Although at first blush that may lead to the view that any initiative has to directly involve rate setting, Congress made clear through the Energy Policy Act of 2005[12] and FPA section 217(b)(4)[13] that planning to meet the needs of load serving entities is an integral part of the Commission's responsibilities under the FPA. Thus, the topic of Enhanced Reliability touches several aspects of the Commission's jurisdiction: reliability (FPA section 215), wholesale rates (FPA sections 201, 205), Congressional directives to ensure that planning meets

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[10] *See* PJM Extreme Weather Comments at 3-5.

[11] *Id*.

[12] Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005); *id*. at § 1233(a) (adding FPA § 217(b)(4)).

[13] 16 U.S.C. § 824q ("The Commission shall exercise the authority of the Commission under this chapter ***in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities***…") (emphasis added).

the needs of load serving entities (FPA section 217(b)(4)), and transmission (FPA sections 201, 205).

In short, Congress has made the link between planning and the Commission's responsibilities under FPA sections 201, 205, 216 and 217(b)(4) by noting that in exercising its authority, the Commission "***shall*** … facilitate[] the ***planning*** and expansion of transmission facilities to meet the ***reasonable needs of load-serving entities to satisfy the service obligations of load serving entities***" (emphasis added).[14] Although the statute goes on to discuss availability of long term financial transmission rights, a directive to the Commission to expand planning so as to ensure that it facilitates load serving entities meeting their service obligations to load was a key component of the legislation and the genesis of this very section of the FPA.

PJM wishes to underscore that it is *not* seeking a directive from the Commission to order transmission to be built. Such provisions already exist in the authority that transmission owners have granted to Regional Transmission Organizations ("RTOs") through their governing documents,[15] and utilities in non-RTO areas already have obligations under state law to build to meet the needs of retail customers in their footprint (essentially paralleling the directive Congress granted to the Commission through FPA section 217(b)(4)).[16] Rather, PJM requests that the Commission utilize its authority over planning to ensure that enhanced reliability planning is undertaken in the intermediate and long term. Enhanced Reliability is clearly integral to the needs

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[14] *Id.*

[15] *See, e.g.*, PJM Consolidated Transmission Owner Agreement ("CTOA"), Articles 4.1.4 (Planning Information) and 4.2 (Obligation to Build); New York Independent System Operator and Transmission Owners, section 3.10(d) and (e); and Independent System Operator - New England, Transmission Owner Agreement, Article 3.09 and Schedule 3.09(a) and Open Access Transmission Tariff, Attachment K, section 8.

[16] Under state statutes, transmission owners are obligated to provide safe and reliable service to their native load customers.

of load-serving entities and, through those load-serving entities' service obligations, to ultimate end use customers.

<u>The Relationship between Enhanced Reliability and Issues Raised in the LTRTP NOPR</u>: The Transmission Planning NOPRs begin to address the elements of Enhanced Reliability, though, in PJM's view, they do so in a more piecemeal approach. Nevertheless, the LTRTP NOPR *already* has introduced this topic by proposing transmission providers to consider among the Factors used to develop Long-Term Scenarios both (i) mitigation of extreme events and system contingencies and (ii) mitigation of weather and load uncertainty.[17] As a result, this is not a new topic in this docket or in the other related dockets.

Similarly, the Extreme Weather NOPR has introduced planning for hot and cold temperatures (one aspect of Enhanced Reliability planning) as a topic that needs immediate Commission action. In addition, through the Informational Reports NOPR, the Commission will have before it a record as to the steps that Balancing Authorities are taking to address extreme weather both from a planning and operations viewpoint. In short, the Commission has already brought this subject into each of the Transmission Planning NOPRs. PJM is simply proposing a more comprehensive approach to connect those threads found in each of these dockets by instead proposing that the Enhanced Reliability issue be addressed comprehensively, rather than a piecemeal approach.

<u>Record Support for PJM's Enhanced Reliability Proposal</u>: There is extensive support in the record for PJM's Enhanced Reliability proposal upon which the Commission can rely to address these issues more comprehensively in this docket. For one, PJM detailed the specific facts

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[17] *See* LTRTP NOPR at P 104.

that gave rise to these recommendations and a detailed list of those recommendations in the Commission's record in the Commission in Docket No. AD18-7-000 (the "RTO/ISO Resilience Proceeding").[18] As PJM explained, both the Commission and individual Commissioners noted that although the Commission was closing the RTO/ISO Resilience Proceeding, it was not rejecting the record in that case or finding that the issue did not require action. Specifically, while the Commission did not take any particular action based on the record, it stated that ***"the resilience and reliability of the bulk power system must—and will—remain one of the Commission's paramount responsibilities and concerns***."[19] Similarly, Commissioners Christie and Clements in their concurrence stated that "***[t]he issues attendant to grid resilience and reliability that this particular proceeding raised are compelling and must command this Commission's future attention.***"[20]

By the same token, PJM has previously provided the Commission information regarding its annual fuel security analysis to identify any risks to grid reliability that can result from prolonged extreme weather, coupled with fuel unavailability.[21] Similarly, the U.S. Department of

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[18] *See* PJM Initial NOPR Comments, Section II.A.

[19] *Grid Resilience in Regional Transmission Organizations and Independent System Operators,* 174 FERC ¶ 61,111, at P 4 (2021) ("Order Terminating Resilience Proceeding").

[20] Order Terminating Resilience Proceeding, Christie and Clements Concurring opinion at P 1 (emphasis added).

[21] *See, e.g.*, *Climate Change, Extreme Weather, and Electric System Reliability,* Docket No. AD21-13-000, Post-Technical Conference Comments of PJM Interconnection, L.L.C, at 16-17 (explaining PJM's Fuel Security Initiative, which is an annual Fuel Security analysis to identify any risks to grid reliability that can result from prolonged extreme weather, coupled with fuel unavailability); PJM Extreme Weather Comments at 11. *See also, e.g.*, PJM Interconnection, L.L.C., *PJM's Evolving Resource Mix and System Reliability* (Mar. 30, 2017), https://www.pjm.com/~/media/library/reports-notices/special-reports/20170330-pjms-evolving-resource-mix-and-system-reliability.ashx; PJM Interconnection, L.L.C., *Fuel Security – Analyzing Fuel Supply Resilience in the PJM Region* (Nov. 1, 2018), https://www.pjm.com/-/media/committees-groups/committees/mrc/20181101-fuel-security/20181101-pjm-fuel-security-summary.ashx; PJM Interconnection, L.L.C., *Fuel Security Monitoring Methodology* (June. 10, 2021), https://www.pjm.com/-/media/committees-groups/committees/oc/2021/20210610/20210610-item-13-fuel-security-monitoring-methodology.ashx, and PJM's related presentation to the Operating Committee, https://www.pjm.com/-/media/committees-groups/committees/oc/2021/20210715/20210715-item-08-fuel-security-update.ashx.

Energy ("DOE") included in the record a long list of studies, which include studies that directly analyze the reliability impacts of the changing resource mix *across the nation*.[22] Moreover, (a) the comments submitted by parties in the Extreme Weather NOPR docket;(b) the soon-to-be submitted informational reports on extreme weather; and (c) other parties' comments on the Factors to be considered as part of the Long-Term Regional Transmission Planning process, all provide record support for the Commission to ensure, through specific actions as detailed below, that Enhanced Reliability is addressed.

<u>The Relationship of Enhanced Reliability Issues to the Other NOPR Initiatives</u>: PJM wishes to underscore that its Enhanced Reliability proposal is *additive to, rather than a substitute for,* the proposed Long-Term Regional Transmission Planning processes set forth in the LTRTP NOPR. PJM has proposed specific rule language to ensure that Enhanced Reliability is included in the planning process.[23] In addition, as summarized below, PJM requests that in the Final Rule the Commission underscore its continued focus on these issues and the need for them to be addressed, as well as its using its convening authority to bring together entities such as the DOE National Laboratories, Interconnection-wide planning entities like the Eastern Interconnection Planning Collaborative and the Western Electricity Coordinating Council, NERC, and the National Association of Regulatory Utility Commissioners ("NARUC"), so that their actions complement rather than disturb the other actions of the Commission to encourage enhanced long range planning consistent with its NOPR proposals.

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[22] *See RM21-17*, Comments of the United States Department of Energy to Notice of Proposed Rulemaking (Aug. 17, 2022).

[23] *See* PJM Initial Comments, Appendix A.

PJM recognizes that the tasks already assigned under the LTRTP NOPR are substantial. However, in PJM's view it would not be prudent to set requirements for forward planning that do not address the Enhanced Reliability issue. Nothing in PJM's proposal changes any of the remaining aspects of the NOPR concerning Long-Term Regional Transmission Planning, most of which PJM supports as explained in PJM's Initial Comments.

<u>PJM's Specific Requests</u>: To reiterate, PJM requests that the Commission stitch together the threads of Enhanced Reliability that are now sprinkled through several NOPRs and assigned to different entities. PJM has proposed a "roadmap" that includes the following affirmative steps that it requests that the Commission undertake:

- Adopt the proposed language changes set forth in PJM's Initial Comments, including (i) PJM's proposed revisions to Attachment K of the Commission's *pro forma* OATT in the Final Rule and (ii) PJM's proposal to add additional Factors to be considered in the development of Long-Term Scenarios, so that there is clarity that Enhanced Reliability planning is a key component of Long-Term Regional Transmission Planning;

- Make clear in its Final Rule that Enhanced Reliability is a vital component of planning on which the Commission intends to focus, and for which it will be reviewing individual transmission planner and interregional efforts;

- Challenge the industry to submit action plans on the various issues related to Enhanced Reliability that different transmission providers see as needed in their footprint; and

- Use its convening authority to bring together the industry, NERC, NARUC, *et al.*, on issues which are interregional- or interconnection-wide in nature where common metrics and methodologies should be developed to ensure that solutions recognize the interconnected and co-dependent nature of each Planning Authority within its respective Interconnection.

B. PJM Highlights Other Areas on Which the Commission Should Focus in the Final Rule

In addition to Enhanced Reliability, PJM requests that the Commission prioritize the following specific issues as it considers appropriate planning reforms to be included in any Final Rule in this docket:

- ***Lessons Learned from the Order No. 1000 Compliance Process***: There is near unanimous agreement among Regional Transmission Organizations ("RTOs"), Independent System Operators ("ISOs") and other regional planning organizations that the Commission must consider "lessons learned" when directing any compliance process arising out of the Final Rule.[24] A number of other commenters similarly urged the Commission to avoid mandating an overly prescriptive planning process, and to allow for flexibility that recognizes regional differences.[25] The Order No. 1000[26] compliance process was extremely resource-intensive and litigious, which, in turn, delayed implementation of Order No. 1000 reforms across the country.[27] PJM urges the Commission to: (i) consider the comments of RTOs and ISOs, who will be the parties implementing any reforms set forth in a Final Rule, (ii) avoid overly-prescriptive requirements to implement the Long-Term Regional Planning process, consistent with the compliance proposal set forth in PJM's Initial Comments,[28] and (iii) consider PJM's proposed solution for avoiding a litigious, elongated and disparate compliance process.[29]

- ***Include a Uniform, Nationwide Decision Regarding the Federal Right of First Refusal***: As PJM[30] and others[31] argued, it would be inappropriate to take a region-by-region

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[24] *RM21-17*, Initial Comments of the ISO/RTO Council, at 1-5, 9 (Aug. 17, 2022); *RM21-17*, Comments of the Midcontinent Independent System Operator, Inc., at 2-5 (Aug. 17, 2022) ("MISO Initial Comments"); *RM21-17*, Comments of the New York Independent System Operator, Inc., at 10-11 (Aug. 17, 2022); *RM21-17*, Comments of the California Independent System Operator Corporation on Notice of Proposed Rulemaking, at 1-4 (Aug. 17, 2022) ("CAISO Initial Comments"); *RM21-17*, Initial Comments of ISO New England Inc., at 4-5 (Aug. 17, 2022) ("ISO-NE Initial Comments"); *RM21-17*, Southeastern Regional Transmission Planning Process Sponsors' Initial Comments, at 3-4 (Aug. 17, 2022).

[25] *See, e.g., RM21-17*, Comments of the Organization of PJM States, Inc., at 4 (Aug. 17, 2022) ("OPSI Initial Comments"); *RM21-17*, Comments of the National Association of Regulatory Utility Commissioners, at 9 (Aug. 17, 2022) ("NARUC Initial Comments"); *RM21-17*, Comments of the Public Utilities Commission of Ohio's Office of the Federal Energy Advocate, at 23 (Aug. 17, 2022); *RM21-17*, Comments of the Pennsylvania Public Utility Commission, at 6 (Aug. 17, 2022).

[26] *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 77 Fed. Reg. 32,184 (May 31, 2012), 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom.*, *S.C. Pub. Serv. Auth.* v. *F.E.R.C.*, 762 F.3d 41 (D.C. Cir. 2014).

[27] As PJM explained in its Initial NOPR Comments, the Order No. 1000 compliance process delayed the implementation of the Order No. 1000 reforms across the country. In addition, there remain marked differences in the level of compliance across the nation, with PJM opening 28 competitive windows while other regions, and particularly, non-RTO regions, have yet to hold a single competitive window. *See* PJM Initial NOPR Comments, section III.C.

[28] *See* PJM Initial Comments, Section II.B and Appendix A. PJM emphasizes that its proposed solution for avoiding a litigious compliance process is intended to apply to Long-Term Regional Transmission Planning processes.

[29] *See id.*, Section II.B.

[30] *See id.*, Section II.C.

[31] *See, e.g.*, *RM21-17*, Comments of LS Power Grid, LLC to the Commission's Notice of Proposed Rulemaking, at 73-76 (Aug. 17, 2022) ("LS Power Initial Comments").

approach to reinstating the federal right of first refusal.[32] Rather, because the Commission eliminated the federal right of first refusal on a nationwide basis in Order No. 1000, the decision about whether to reinstate the federal right of first refusal must be made by the Commission on a nationwide basis.[33] However, some commenters recommend that the Commission adopt a "state 'opt-in' approach for the elimination of the [right of first refusal]."[34] As a practical matter, there is no need for the Commission to address this proposal. Instead, PJM lays out below an alternative approach, grounded in today's planning practices, that respects and gives full effect to both state and federal authority in this area. Moreover, as PJM explains below, there are unaddressed legal and practical questions as to how proposals for a "hard-wired" opt in or opt out would work in practice that the Commission would need to address were it to pursue this approach.[35]

- ***Equitable Treatment Between RTO/ISO and Non-RTO/ISO Regions***: Changes to the resource mix and demand are not limited to RTO/ISO regions. Therefore, as PJM[36] and others[37] explained, the Commission should ensure equitable treatment as between RTO/ISO and non-RTO/ISO regions.

- ***Common Measures of Interregional Transfer Capability***: As PJM[38] and many others have noted in this proceeding and in other ongoing Commission proceedings,[39] the Commission should act more decisively now to prepare for the future trends and needs associated with the evolving resource mix and increasing frequency of extreme weather events by driving the development of a robust standardized minimum interregional transfer capability methodology. Specifically, PJM continues to embrace the development of common

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[32] *See* PJM Initial Comments, Section II.C. PJM clarifies below some of the data presented by other parties regarding the current state of competition in their arguments regarding the federal right of first refusal. *See* Section II.B, below.

[33] *See* LS Power Initial Comments at 73, n.235 (noting "Order No. 1000-A rejected calls for regional differences to the removal of the federal right of first refusal").

[34] *See* MISO Initial Comments at 21. *See also RM21-17*, Comment of Harvard Electricity Law Institute, at 5-6, 31-33 (Aug. 17, 2022) ("Harvard Initial Comments").

[35] *See* Section III.A, *infra*.

[36] *See* PJM Initial Comments, Section I.

[37] *See, e.g.*, Transmission Access Policy Study Group Comments at 68-69.

[38] *See* PJM Initial Comments, Section III.F.

[39] *See, e.g.*, *RM21-17*, Initial Comments of the Edison Electric Institute, at 47-48 (Aug. 17, 2022) ("EEI Initial Comments); *RM21-17*, Initial Comments of American Electric Power Service Corporation, at 17-18 (Aug. 17, 2022); *See also Joint Federal-State Task Force on Electric Transmission*, Fourth Meeting Transcript, Docket No. AD21-15-000, at 13 (July 20, 2022) ("Transcript") (Chairman French: "There is overwhelming and continually growing body of evidence that materially expanding import and export capabilities among the regions will produce immense economic reliability and public policy benefits, and adding this extra transmission capacity to our grid will help solve the long-term planning and generator interconnection challenges that we face as well"); *id*. at 15 (Commissioner Brown Dutrieuille: "the most important interregional transmission opportunity … may be to increase the transfer capacity between the regions.… The next step would be to study what kind of future transfer capacity will be necessary based on a diverse range of planning scenarios, and I see the need for two studies. One for the present, and one for the future, but both studies should utilize a diverse set of planning scenarios").

measures of interregional transfer capability across the seams through a process that includes: (i) Commission support for enhanced reliability steps to be taken by each region and (ii) the Commission using its convening authority to bring together the industry, NERC, NARUC, DOE and its National Labs in a concerted effort to tackle this larger issue.

II. CLARIFICATION OR CORRECTION OF STATEMENTS IN OTHER PARTIES' COMMENTS

A. PJM Provides Clarification Regarding the Planning Community Tool Used as Part of the PJM Transmission Owners' Attachment M-3 Process

In the NOPR, the Commission proposes reforms that would require transmission providers to include a planning process providing for additional transparency into transmission owners' local transmission planning processes in order to better facilitate the identification of regional transmission facilities that may be more efficient or cost-effective than the proposed local transmission facilities.[40] The Commission proposes a process that largely mimics the PJM Transmission Owners' "Attachment M-3 Process,"[41] which the Commission has found to be a transparent, iterative planning process that affords stakeholders meaningful opportunities to participate and provide feedback on local transmission planning throughout the regional transmission planning process.[42]

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[40] PJM Transmission Owners plan Supplemental Projects that address a need to expand or enhance transmission facilities where the responsibility for planning to address such needs has not been transferred to PJM pursuant to the CTOA. Supplemental Project planning is conducted under PJM Tariff, Attachment M-3.

[41] NOPR at P 400.

[42] PJM Tariff's local planning processes providing for review of Attachment M-3 Projects that include, among other things: (i) review of Attachment M-3 Projects that allows the Subregional RTEP Committees to have a meaningful opportunity to participate and provide feedback, including written comments for Attachment M-3 Projects; (ii) review transmission owner's criteria, assumptions and models through a minimum of one Subregional RTEP Committee meeting; (iii) schedule a minimum of one Subregional RTEP Committee meeting per planning cycle to review identified criteria violations and resulting system needs; (iv) schedule a minimum of one Subregional RTEP Committee per planning cycle to review potential solutions for identified criteria violations, as well as any alternative solutions identified by transmission owners or stakeholders; and (v) each transmission owner will finalize for submittal to the transmission provider Attachment M-3 Projects for inclusion in the Local Plan. Tariff, Attachment M-3, section (c).

In its comments, American Municipal Power, Inc. ("AMP") makes several misleading and inaccurate statements about the PJM Planning Community tool used as part of the PJM Transmission Owners' Attachment M-3 Process to support its argument that the Attachment M-3 Process should not be applied nationwide.[43] PJM responds to AMP's misleading and inaccurate statements below.

First, AMP suggests that the Planning Community tool deprives stakeholders from having meaningful opportunities to participate in the PJM Transmission Owners' Attachment M-3 Process, because the PJM Transmission Owners are not required to provide responses to questions submitted through the tool.[44] AMP suggests that the Planning Community tool is nothing more than a "deposit of superfluous information on a web portal, without explanation or response to feedback."[45] This is categorically untrue.

The PJM Planning Community tool was developed in response to stakeholders' and PJM's observations that there needed to be a more efficient and transparent means to have specific stakeholder questions on specific projects answered in a forum other than belabored discussion at multi-hour stakeholder meetings. The PJM Planning Community gives stakeholders the ability to find answers to their questions by initiating discussions and collaborating with other users - including PJM subject matter experts - about planning initiatives, proposal windows and PJM Transmission Owner Attachment M-3 process questions.

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[43] *RM21-17*, Initial Comments of American Municipal Power, Inc. (Aug. 17, 2022) ("AMP Initial Comments" or "AMP's Initial Comments").

[44] *Id*. at 19.

[45] *Id*.

Discussions within the Planning Community are based on planning items discussed in Transmission Expansion Advisory Committee ("TEAC") stakeholder forums. Through the Planning Community electronic tool, users have the unfettered ability to:

- Research topics quickly and easily, on a 24x7 basis;
- Access a repository of articles or answers to previously submitted user questions;
- View trending topics;
- Initiate discussion board questions which include previously asked questions and answers to popular Planning-related topics, organized by subject matter, and which are facilitated by PJM;[46]
- Interact with other users and PJM subject matter experts within discussion boards, as facilitated by PJM; and
- Submit questions, issues and requests directly to PJM Customer Service in order to "escalate" an inquiry from a discussion thread in the Planning Community to a formal request.

Moreover, internal PJM data shows that since the tool's creation in 2018, the Planning Community has received 305 questions (otherwise known as "discussion threads"), focusing mainly on consideration of alternate solutions in the context of lower cost. PJM notes that throughout this period, AMP itself initiated 173 of the discussion threads, amounting to 57 percent of all Planning Community activity. Stakeholders from 28 other entities comprised the other 43 percent of the discussion threads. Of the 173 questions posted by AMP, 170 were answered and three (3) of the questions were passed along to the respective transmission owners, who confirmed receipt, but did not provide a response. Overall, 302 out of 305 - over 99 percent – Planning Community discussion threads received responses. It is simply inaccurate to state that

[46] Examples of discussion boards include Proposal Windows, Stakeholder Meetings and Reliability Planning. A log-in is required to access the PJM Community Planner.

the Planning Community tool is a "deposit of superfluous information on a web portal, without explanation or response to feedback."[47] To the contrary, it is clear that stakeholders, including AMP, have made use of the Planning Community and have had a meaningful opportunity to participate in the Attachment M-3 Process. Certainly if AMP had found the tool as useless as it now claims, it would not have made 173 separate inquiries, 99 percent of which received responses.

Second, AMP states "PJM has actually touted the reduction in the number of questions [through the Planning Community tool] as a demonstration that the process is working."[48] AMP states that this reduction actually shows that "stakeholders do not have the time and resources to commit questions to writing and post them to the PJM planning tool and wait on a response, rather than simply discuss them during the course of a planning meeting, and reflect[s] stakeholders' view that the process is futile."[49] As an initial matter, PJM notes that every month at each of the three Subregional RTEP meetings, PJM presents open Planning Community questions, thereby enhancing open and transparent engagement between parties. So, AMP and other stakeholders do in fact "have the opportunity to discuss [their questions] during the course of a planning meeting."[50]

Additionally, the fact that AMP may not have the time or resources to commit questions to writing and post them to the PJM Planning Community tool does not mean that the Transmission

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[47] AMP Initial Comments at 19.

[48] *Id*. at 20.

[49] *Id*.

[50] *Id*.

Owners' Attachment M-3 process is not sufficiently transparent or fails to provide a meaningful opportunity for it or other stakeholders to participate.

Finally, PJM has not heard from any other stakeholder that the Planning Community tool is "futile." PJM believes that the Planning Community tool is a helpful, efficient way to allow interested stakeholders the opportunity to get answers to their questions, initiate discussions and collaborate with other users, as well as PJM subject matter experts about planning initiatives, proposal windows and PJM Transmission Owner Attachment M-3 questions. If AMP or stakeholders have proposals for how to improve the Planning Community tool, PJM would encourage AMP and others to offer proposed improvements. In the meantime, however, PJM does not believe that the Commission should find, based on the unsupported statements of one stakeholder, that the Planning Community tool is insufficient or that the Transmission Owners' Attachment M-3 process is somehow defective as a result.

B. PJM Provides Clarification Regarding Data Submitted in Support of Other Commenters' Arguments Regarding the Federal Right of First Refusal

In comments,[51] certain parties tout that "despite limited opportunities for competitive transmission development over the last decade, nonincumbent transmission developers have been quite successful in nearly every solicitation that has included a bid from the local incumbent."[52] The examples used to support such comments focus primarily on a limited subset of projects, *e.g.*,

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[51] *RM21-17*, Initial Comments of NextEra Energy, Inc., at 28 (Aug. 17, 2022) ("NextEra Initial Comments"); *see also RM21-17*, Initial Comments of Anbaric Development Partners, LLC, at 2 (Aug. 17, 2022) ("Anbaric Initial Comments"); LS Power Initial Comments at 106-107; *RM21-17*, Comments by the Electricity Transmission Competition Coalition in Opposition to Certain Aspects of the Proposed Rule, at 3 (Aug. 17, 2022) ("ETCC Initial Comments") (collectively referred to as "Commenters").

[52] NextEra Initial Comments at 28; *see also* ETCC Initial Comments at 3-7 (relying on the 2019 Brattle Report). *See,* J. Pfeifenberger, *et al*., Cost Savings Offered by Competition in Electric Transmission: Experience to Date and the Potential for Additional Customer Value (Prepared for LSP Transmission Holdings, LLC) (Apr. 2019) (the "2019 Brattle Report"), https:// www.brattle.com/wp-content/uploads/2021/05/16726_cost_savings_offered_by_competition_in_electric_ transmission.pdf.

mostly public policy and multi-value, multi-state projects or unique system needs that provided opportunity for competitive greenfield solutions.[53] One example cited for the PJM region is the Artificial Island Project. While that project was a reliability project, it was identified as a unique system stability need stemming from an exceptionally large generating station necessitating an additional transmission outlet. That particular need afforded all proposers (incumbent transmission owners and nonincumbent transmission developers alike) the opportunity to submit a number of innovative proposals, including competitive greenfield solutions.[54] In the end, LS Power, a nonincumbent transmission developer, was awarded the Artificial Island Project, because its greenfield proposal was found to be the more efficient or cost effective solution.

Another example of a project awarded to a nonincumbent transmission developer through PJM's competitive proposal window includes the Transource 9A Project, which is a multi-state market efficiency project. That project afforded all project proposers an opportunity to propose competitive greenfield solutions. In fact, the project proposal selected as the more efficient or cost effective solution was awarded to a nonincumbent transmission developer.[55]

None of those examples detract from the fact that while nonincumbent developers have had ample opportunity to participate in PJM's 28 competitive proposals windows, of the 464

[53] Commenters also referenced the 2022 New Jersey offshore wind competitive proposal window convened at the request of the New Jersey Board of Public Utilities pursuant to PJM's State Agreement Approach process (the "SAA Competitive Proposal Window"). *See* ETCC Initial Comments at 6. The SAA Competitive Proposal Window identified needs for extending the PJM transmission system where none currently exists. While the results of that solicitation are pending, the New Jersey Board of Public Utilities is expected to announce a project selection in October 2022.

[54] *See* LS Power Comments at 104.

[55] Other project examples cited in comments also appear to be limited to a subset of projects such as large projects addressing New York Independent System Operator's public policy initiatives, Midcontinent Independent System Operator's multi-value solutions, *e.g.*, the Duff-Coleman project and California Independent System Operator's Harry Allen – Eldorado 500 kV transmission line identified to address economically driven needs between Southern California Edison and Nevada Energy.

proposals submitted by nonincumbent transmission developers only 2 percent (three projects) were found to be the more efficient or cost effective solution.[56] To that point, PJM found that the projects cited by commenters to demonstrate the success of the competitive processes actually support PJM's finding on what has seemed to work under the competitive process and what has not. More specifically, and as demonstrated by commenters, competition has been effective for a subset of projects focused on public policy[57] or multi-value/multi-state solutions where there are opportunities for more innovative and competitive greenfield solutions. However, as the PJM data indicated, competition has not been effective for short-term needs that do not warrant or require innovative solutions or provide opportunity for competitive greenfield solutions.[58]

Thus, even when nonincumbent transmission developers have had the opportunity to submit project proposals through PJM's competitive proposal windows (a total of 42 percent of

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[56] PJM Initial NOPR Comments at 32-50. *See also id.* at 33, Table 2. In arguing that nonincumbent transmission developers have been foreclosed from competitive bidding, Commenters have referred to and relied upon data included in a table drafted by the Brattle Group ("Brattle Table") and included in the 2019 Brattle Report at 20. *See* Initial Comments of Anbaric Development Partners, LLC at 12-14; NextEra Comments at Attachment A, Figure 3 (the Morris Affidavit at 17-18); and ETCC Comments at 12-13, n.42, 16, n.49. The Brattle Table was used by Commenters to illustrate the point that ISO/RTO qualification and exclusion criteria greatly reduce the scope of projects eligible for competition. PJM found that the Brattle Table indicates that PJM's competitive process excludes Local Reliability Projects and Projects allocated solely to one zone or upgrades to existing transmission facilities or existing rights of way. That is not correct. There is no blanket local transmission exemption for competition in PJM. By way of clarification, all of PJM's proposal windows are open to both incumbent transmission and nonincumbent developers. Unless a need is exempted as an immediate-need reliability project, a reliability violation on lower voltage facilities or a thermal reliability violation on substation equipment, all need-related information is posted in PJM's competitive proposal windows for proposers to submit project proposals, which is how nonincumbent transmission developers were able to submit 464 project proposals in PJM's 28 competitive proposal windows. It is not until PJM selects the more efficient or cost-effective solution from the proposals submitted through a competitive proposal window that a project is determined to be a Local Reliability Project or a project allocated solely to one zone or an upgrade to an existing transmission facility and, therefore, must be designated to the incumbent transmission owner. As a result, the Brattle Table erroneously overstates for the PJM Region the local transmission exemptions, which, in fact, are much more limited than the chart illustrates.

[57] *See* LS Power Comments at 106 (citing to the New Jersey offshore wind solicitation where "80 distinct proposals were submitted" by both incumbent transmission owners and nonincumbent transmission developers). The results of that solicitation are pending; however, the New Jersey Board of Public Utilities is expected to announce a project selection in October 2022.

[58] PJM Initial Comments at 33-46.

proposals submitted by nonincumbent developers overall as compared to the 58 percent of proposals submitted by incumbent transmission owners[59]), in almost all instances the nonincumbent transmission developers' proposals were not found to be the more efficient or cost effective solution (even with a cost containment provision).

Moreover, given the significant amount of proposals submitted by nonincumbent transmission developers for mostly short-term needs, the process has required an extensive amount of time and effort on the part of PJM,[60] PJM transmission owners, and nonincumbent transmission developers resulting in only three out of 185 projects awarded to nonincumbent transmission developers. More specifically, based on a review of hours dedicated to the PJM competitive proposal windows, PJM found that PJM staff logged approximately 49,354 hours.[61]

C. PJM Provides Clarification Regarding a Recent Rate Schedule for Reliability Must-Run Service

NARUC supports the NOPR proposal to require transmission providers to use "best available data" for the development of Long-Term Scenarios,[62] and emphasizes its belief that "using reasonable data inputs is essential to effective Long-Term Regional Transmission Planning."[63] In support of this position, NARUC points to a Reliability Must-Run ("RMR") rate schedule recently filed by NRG Power Marketing LLC, on behalf of Indian River Power LLC

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[59] *But cf.,* NextEra Comments, Attachment A (Morris Affidavit), at 15, n.52, which incorrectly states that "[t]hrough its competitive solicitation window, PJM awarded 136 projects to incumbent [transmission owners]. Few of these were open to non-incumbents because virtually all of them involved upgrades to existing facilities. Because it is unknown which were open to non-incumbents, none of the 136 are included in this list of 25 competitive solicitations" (citations omitted).

[60] PJM Initial Comments at 47.

[61] Those numbers generally refer to the PJM system planning division and do not include other support groups, such as legal.

[62] NOPR at P 130.

[63] NARUC Comments at 12.

("Indian River").[64] In its comments, NARUC seems to suggest that PJM should have anticipated that the Indian River Unit 4 would deactivate because it had been "uneconomic for years," and PJM therefore should have proactively accelerated the transmission upgrades that would be needed to address any reliability violations resulting from the then-hypothetical deactivation of Indian River Unit 4.[65]

PJM agrees with NARUC that it is important for transmission providers to use best available data when developing Long-Term Scenarios.[66] That said, PJM wishes to clarify that under its currently-effective Tariff rules, PJM does not have a process pursuant to which it could have identified a need for transmission enhancements or expansions to address the *potential* retirement of Indian River Unit 4 (or of any generating unit). Rather, PJM's Tariff provides for the identification of transmission system upgrades to mitigate identified reliability violations associated with a *planned* generator deactivation.[67] Only *after* a generator owner gives PJM notice of the planned deactivation does PJM have the authority to perform a study of the transmission system to determine whether the planned deactivation would adversely affect system reliability and, if so, what transmission upgrades would be needed to resolve the identified needs.[68]

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[64] NARUC Comments at 14. *See also NRG Power Marketing LLC*, Tariff Filing of NRG Power Marketing LLC, Docket No. ER22-1539-000, at 14 (Apr. 1, 2022).

[65] NARUC Comments at 14-15 ("Given the age of the transmission facilities, much of the identified upgrades may have been needed soon in any event. The purported need for the RMR is lamentable for various reasons, including that the plant has been uneconomic for years, its significant air emissions are inconsistent with numerous state policies, and its continued use may impose additional costs upon ratepayers of up to several hundred million dollars over the life of the RMR. Better data input in long-term planning may have resulted in accelerated work on necessary transmission upgrades, thus obviating the need for consideration of an RMR. Both the generator retirement date and the aging transmission system upgrade date appear to be data inputs that could be considered in Long-Term Regional Transmission Planning").

[66] PJM Initial Comments at 76-77.

[67] *See* PJM Tariff, Part V, § 113.

[68] *See* PJM Tariff, Part V, § 113.1. Under the Tariff rules that were in effect when Indian River notified PJM that it intended to retire Indian River Unit 4, a generator owner was required to give PJM 90 days' notice of its intent to deactivate its generating unit, after which PJM had 30 days to perform necessary reliability analyses to assess whether

Thus, as far as the Indian River Unit 4 deactivation is concerned, PJM complied with its Tariff when it: (i) performed reliability analyses in response to Indian River's June 29, 2021 notice that it intended to retire Indian River Unit 4, effective May 31, 2022, due to expected uneconomic operations; (ii) identified reliability violations resulting from the planned deactivation and the estimated time it would take to complete the necessary system upgrades to alleviate the reliability impacts; and (iii) upon receipt of Indian River's agreement to operate beyond its planned deactivation date, notified Indian River that it was entitled to pursue either a cost of service recovery rate[69] or receive the Deactivation Avoidable Cost Credit[70] provided for under the Tariff.

PJM does not have a specific criteria by which to identify enhancements or expansions to address potential retirements.[71] Moreover, the issue is not as simple as NARUC suggests. For instance:

- Generation resource owners own interconnection rights and could have entered the PJM new services queue to install a replacement generator at the site, avoiding the need for reinforcements; and

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the planned deactivation would adversely affect the reliability of the PJM Transmission System absent upgrades to the system. PJM recently submitted a filing proposing to revise the timing and process by which it will study generator deactivation notices; the Commission accepted the revised Tariff provisions to be effective as of September 11, 2022. *See PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER22-2342-000 (Aug. 19, 2022). Under both the rules in effect when Indian River notified PJM of its intent to deactivate Indian River Unit 4 and the currently-effective rules, if PJM identifies reliability criteria violations associated with a planned deactivation, PJM identifies the transmission upgrades that would be needed to resolve the identified issues. If the transmission upgrades cannot be put in place prior to the requested deactivation date, then PJM may request that the generator stay online beyond its proposed deactivation date in order to maintain system reliability pending the completion of necessary transmission system upgrades. Should a generation owner elect to continue to operate a generation unit beyond its planned deactivation date in order to maintain system reliability pending the completion of necessary transmission system upgrades, the generation owner can elect to either (i) pursue a cost of service recovery rate or (ii) receive the Deactivation Avoidable Cost Credit (as defined in Part V of the PJM Tariff). *See* PJM Tariff, Part V, § 113. The generation owner is not obligated to operate beyond its requested deactivation date.

[69] PJM Tariff, Part V, § 119.

[70] PJM Tariff, Part V, § 114.

[71] Without such criteria does not have the authority to pursue costly enhancement or expansions, particularly given the fact that such enhancements or expansions may not be needed if the generator were to have decided to refurbish the existing generator or enter the PJM interconnection queue and build a replacement generator at the site.

- The same "market signals" that NARUC suggests that PJM should have seen to know that the deactivation of Indian River Unit 4 was impending were also there for all market participants. Other interconnection customers could have entered the new services queue to avoid the need. A transmission upgrade is a backstop, not the primary desired fix of replacement generation.

PJM does not raise these issues to say that analyses of at-risk generation should not be undertaken. PJM agrees that they should be studied and analyzed. However, PJM raises these complexities as the criticism raised by NARUC concerning Indian River Unit 4 facility is not so black and white.

Notwithstanding the above, as stated in its Initial NOPR Comments, PJM agrees that it is appropriate to consider resource retirements when developing planning assumptions for its regional transmission planning process,[72] and supports engaging in economic impact analyses of generation resource retirements or deactivations in a transparent manner.[73] As PJM cautioned, however, developing generation retirement forecasts may be interpreted by stakeholders within the PJM footprint as sending economic signals to the viability of existing generating units, which can have a number of consequences.[74] As such, PJM urges the Commission to provide clear direction on how to balance the heightened transparency and public processes proposed in the NOPR with the need to have appropriate safeguards against releasing data and results that could preempt unit owner economic decisions, as well as decisions by market participants.

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[72] NOPR at P 104 & n.193.

[73] *See* PJM Initial NOPR Comments at 69.

[74] *See id*. ("Nevertheless, the Commission must recognize that publicly releasing information as to specific generators at risk of retirement, and then building new transmission based on that prognostication, has direct market as well as plant workforce impacts. Such public releases could drive disinvestment in generation units to the extent that transmission is built to move generation as if the plant were no longer operational. Moreover, the impact on the workforce of a generating plant cannot be ignored as laborers seek to square the transmission planner's analysis with management's pronouncements and the terms of labor agreements. Further, once the transmission case is released, this information will be apparent so there is no practical way to mask the specific generation units that the transmission planner has deemed to be shut down by a specific date").

D. Clarification Regarding Evidence Offered in Support of Portfolio-Based Transmission Planning

New Jersey Board of Public Utilities ("NJ BPU") urges the Commission to exercise its authority under FPA section 206 "to mandate long-term multi-value, portfolio-based transmission planning in order to remedy currently unjust and unreasonable practices affecting electricity rates."[75] NJ BPU offers evidence to demonstrate "that the failure to exercise this authority will likely cost consumers tens of billions of dollars in needlessly high electricity costs over the coming years."[76] With respect to the PJM Region, NJ BPU points to PJM's recently-issued Offshore Wind Transmission Study: Phase 1 report[77] to support its argument that "proactive, portfolio-based planning in PJM could ultimately save ratepayers over $30 billion compared to the status quo."[78] Although PJM agrees with NJ BPU that there is value in portfolio-based transmission planning, the cost savings estimates upon which NJ BPU relies to support its argument are incorrect, at least with respect to PJM. Accordingly, PJM provides the following information to correct the record in this proceeding.

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[75] *RM21-17*, Comments of New Jersey Board of Public Utilities, at 9 (Aug. 17, 2022) ("NJ BPU Initial Comments").

[76] *Id*. at 9.

[77] *See id*. at 6, citing PJM Interconnection, L.L.C., Offshore Wind Transmission Study: Phase 1 Results (Oct. 19, 2021), *available at*: https://www.pjm.com/-/media/library/reports-notices/special-reports/2021/20211019-offshore-wind-transmission-study-phase-1-results.ashx ("OSW Transmission Study"). The OSW Transmission Study was a collaborative effort between PJM and its States, and is purely advisory in nature. PJM conducted a PJM-wide reliability study to determine reinforcements to the onshore grid to reliably deliver the 14,268 MW of announced offshore wind in the PJM region, as well as to achieve all state Renewable Portfolio Standards ("RPS") targets in the PJM region by determining the necessary renewable capacity by resource type and location. OSW Transmission Study at 1. As PJM explained, "[b]y synchronizing the planning of its coastal states' offshore wind deployment, PJM is able to identify transmission solutions that could present a more efficient and economic path for states to achieve their offshore wind policy objectives than if each state integrated their offshore wind generation completely independent of one another." *Id*. PJM analyzed offshore wind injection totals that ranged from 6,416 MW to 17,016 MW, in addition to modeling all state RPS targets, across short-term and long-term scenarios. For the five scenarios, the cost estimates to upgrade the existing onshore transmission system were identified to be $627.34 million in the short-term scenario and between $2.16 billion and $3.21 billion for the long-term scenarios. *Id*.

[78] NJ BPU Initial Comments at 7.

NJ BPU correctly relies on information contained in the OSW Transmission Study to support its argument that "if [PJM] planned upgrades as a holistic portfolio, it could build all the necessary onshore network upgrades to support *all* of PJM states' current offshore wind *and* total RPS goals for just $3.2 billion."[79] However, NJ BPU points to two additional reports[80] and states that "an analysis of PJM interconnection queue data indicates that it would cost $6.4 billion just to build the onshore network upgrades for 15.6 GW of offshore wind, if they were to be built piecemeal through the interconnection queue process—or about $413 per kW of interconnected capacity."[81] NJ BPU concludes that, assuming the $413 per kW costs are the same for other resource types, "it follows that interconnecting the aforementioned 87.1 GW of capacity through piecemeal interconnection queue projects would cost nearly $36 billion in total—*more than eleven times* the $3.2 billion cost of the integrated portfolio approach."[82] NJ BPU's assumption that the average per-unit network upgrade costs for all resource types is $413 per kW is incorrect.

Based on PJM's internal analyses, the analysis upon which the NJ BPU relies overstates transmission costs associated with the interconnection of new renewable generation in PJM by orders of magnitude. The $413 per kW estimate was derived from a limited number (24) of interconnection studies for offshore wind capacity. The transmission costs necessary to support offshore wind capacity are not indicative of the costs for other renewable types given their massive

[79] NJ BPU Initial Comments at 6 (emphasis original). NJ BPU states that this would amount to 87.1 GW of capacity altogether. *Id*.

[80] NJ BPU cites the following reports: (i) Brattle Grp. & Grid Strategies, Transmission Planning for the 21st Century: Proven Practices that Increase Value and Reduce Costs (2021), https://www.brattle.com/wp-content/uploads/2021/10/2021-10-12-Brattle-GridStrategies-Transmission-Planning-Report_v2.pdf; reprinted in Comments of Americans for a Clean Energy Grid, App. A (Oct. 12, 2021) ("Brattle/Grid Strategies Study") and (ii) Brandon W. Burke, Michael Goggin, & Rob Gramlich, Offshore Wind Transmission White Paper 14 (2020), https://gridprogress.files.wordpress.com/2020/11/business-network-osw-transmission-white-paper-final.pdf.

[81] NJ BPU Initial Comments at 6.

[82] NJ BPU Initial Comments at 7 (emphasis original).

size per each site. For example, nearly two-thirds of the transmission costs for these 24 interconnection studies were driven by three injection locations. Often, developers submit interconnection requests that are exploratory in nature, and result in much higher transmission costs in the interconnection study phase than the actual transmission costs for the ultimate interconnection projects that move forward to commercial operation. In other words, the interconnection network upgrade requirements and costs for the identified interconnection studies for offshore wind capacity are expected to overall be much lower on a per kW basis by the time the developers execute Interconnection Service Agreements.

In short, while PJM agrees that proactive, portfolio-based planning in PJM would likely result in savings to ratepayers, PJM finds NJ BPU's estimated cost savings associated with such an approach to be overstated with respect to the PJM Region. PJM raises this issue lest the record contain and the Commission rely on numbers that do not accurately represent the entire cost picture.

III. PJM'S RESPONSE TO CERTAIN PROPOSALS IN OTHER PARTIES' COMMENTS

A. PJM Proposes an Alternative to Other Parties' Proposals to Allow States to Opt In or Out of the Federal Right of First Refusal

On the issue of the federal right of first refusal, some commenters argue that the Commission should, as an alternative, "hard-wire" into the federal tariff specific state opt-in or opt-out provisions.[83] As a practical matter, there is no need for the Commission to reach this proposal. Instead, PJM proposes below an alternative approach – grounded in today's planning practices – that respects and gives full effect to both state and federal authority in this area.

[83] *See e.g.*, MISO Initial Comments at 21; Harvard Initial Comments at 5-6, 31-33.

Moreover, as explained below, there are unaddressed legal and practical questions as to how proposals for a "hard-wired" opt-in or opt-out would work in practice that the Commission must address if it were to pursue this approach.

The proponents of state opt-in or opt-out proposals inadvertently conflate the difference between states exercising their authority over siting and certification/franchising of public utilities under state laws and the Commission exercising its authority over Planning Authorities under federal law and through a federal tariff. The two are not compatible given their separate origins. Moreover, mixing the two only works to blur those lines.

Planning Authorities *already* take into account the impact of state siting and certification/franchising laws when deciding which project to select in carrying out their federal tariff responsibilities. One of the key components of deciding which project to select through an Order No. 1000 competitive solicitation is the feasibility of siting the facility under state law.[84] Moreover, state limitations on which entity may qualify as a public utility for purposes of state siting and certification are decided by state legislatures and embodied in laws passed by those legislatures. As a result, they are not subject to potential project-by-project application or changes to those laws based solely on changing Governors or the make-up of state public utility commissions. In essence, the states are already exercising their policy judgments over the right of first refusal through their state siting and certification laws, and Planning Authorities are taking those into account when examining the feasibility of siting a project proposed by a nonincumbent versus one proposed by an incumbent. As a result, there is no need for the Commission to go

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[84] For example, in determining the feasibility of siting, PJM has retained state counsel to advise it on the application of state siting and certification laws where questions would otherwise exist.

further and "hard-wire" into a federal tariff a particular opt-in or opt-out in order to fully respect and make actionable state authority in this area.

By contrast, adding a specific opt-in or opt-out provision into the federal tariff will create its own set of legal ambiguities and practical issues. For one, the Commission would have to define how often a state may exercise its opt-in or opt-out right. Can a state opt in or opt out selectively on a project by project basis? Unlike state siting and certification laws that are based on state legislative action, who in the state decides whether the state may opt in or opt out of the federal tariff? Is it the state public utility commission or is it another state authority that has jurisdiction over siting? Does it require a formal action of that body and can that body simply revoke that action upon a change of administration at the state level? And, if a state opts out of the federal tariff, what process does the Planning Authority then use to select the more efficient or cost-effective solution in that state for a need that crosses state lines? Finally, if part of the project were to fall into a National Interest Electric Transmission Corridor and other parts of the line do not fit within that Corridor in a given state, what is the impact of that action on the Planning Authority's choosing a project that would span both areas designated Corridors and areas not so designated?

None of these difficult issues would need to be addressed if the Commission were to simply recognize in its Final Rule that Planning Authorities are to continue, as they do today as a practical matter, consider state siting and certification laws and the feasibility of siting a given project in their project designations. Such an indication would avoid the complications and additional detail that would be needed were the Commission to add to the Planning Authorities' federal tariffs a provision allowing a state to state opt-in or opt-out of competition.[85]

Finally, PJM notes certain practical issues that would arise were the Commission to "hard-wire" in an opt-in or opt-out provision rather than simply recognizing the plenary authority of states to site facilities as described above. By way of example, assume, as is the case in PJM and many other jurisdictions, that a single transmission zone spans multiple states. The Planning Authority has chosen a single transmission line, which spans at least two states within that zone (and potentially additional zones) to address an identified regional need. "State A" within that zone is comfortable with the Planning Authority's competitive process of choosing the more efficient or cost-effective project as between incumbent transmission owners and nonincumbent transmission developers, and therefore does not exercise any opt-in or opt-out rights. "State B," on the other hand, indicates that for its portion of the line, it is exercising its opt-out right (or never exercised its right to opt in to that portion of the federal tariff) and insists the line be built by the incumbent transmission owner.

In this instance, the Planning Authority, if it awarded the project in State A to a nonincumbent, would have to establish a specific demarcation point and build associated substation infrastructure in order that the "'hand-off" at the state border from the nonincumbent transmission developer to the incumbent transmission owner were clear. This would clearly add to customer cost and cause the construction of additional, otherwise unnecessary infrastructure to be sited at the state border solely to establish that new demarcation point as between the incumbent

[85] PJM is mindful of the fact that the Commission implemented a state opt-out for end user participation in RTO Demand Response markets. However, that was a notably different fact situation as the Commission did not have plenary jurisdiction over end users. By contrast, authority over transmission development and siting spans both federal and state jurisdiction.

transmission owner's facility and the nonincumbent transmission developer's facility. Moreover, complex maintenance and operational protocols would be needed as responsibilities to operate and maintain this single line are now divided between two entities.

PJM recognizes that such "hand-offs" already exist among utilities at the borders of their zones today. However, as a practical matter, "hard-wiring" in a state opt-in or opt-out would require additional costly "hand-off" infrastructure, potentially within a single zone. In addition, unlike today where these hand-offs are arranged between two incumbent utilities with fixed zonal boundaries, these new hand-offs (and associated infrastructure and maintenance and operating agreements) would now have to be negotiated at the front end between competitors to an Order No. 1000 competitive solicitation. Although not impossible, the heightened level of disputes and future challenges surrounding maintenance and operation of what is, in effect, a single line will be inevitable.

PJM poses these issues *not* to take sides on the degree of state authority over the transmission development process. Rather, PJM explains above that both state and federal authority can be harmonized and respected, if the Commission were to simply make clear in its Final Rule that state siting and certification laws must be (as they are today) considered by the Planning Authority in exercising its planning function. This approach would avoid all of the complications outlined above with the alternative proposal of "hard-wiring" into the federal tariff complex opt-in and opt-out procedures.

B. PJM Supports Consideration of Alternatives to the NOPR's Proposal to Require Transmission Providers to Identify Geographic Zones

For the reasons set forth in its Initial Comments, PJM does not support the Commission's proposal to require transmission providers to identify geographic zones with the potential for large amounts of new generation, nor does PJM believe that transmission providers should be responsible for assessing whether there is evidence that generation developers have demonstrated commercial interest in developing generation within a geographic zone.[86] That said, PJM believes there is value in approaches that would be more tailored to specific marketplace information and the nearer term decisions of interconnection customers. To that end, PJM proposed an alternative process pursuant to which PJM would: (i) assess whether clusters of generation interconnection requests could drive more robust transmission solutions to interconnect greater numbers of generation resources at once, and (ii) present this information to states which could, under PJM's State Agreement Approach process,[87] approve a more robust build (and arrive at a cost-sharing arrangement as between interconnection customers and the state(s)).[88] PJM also discussed additional initiatives already in place pursuant to which PJM could assess potential geographic clusters to identify infrastructure that may be necessary to plan for transmission needs of an anticipated future generation to meet a changing resource mix and demand.[89]

In their initial comments, both NJ BPU and Vistra Corp. ("Vistra") propose additional alternatives to the Commission's geographic zone proposal that build on the original concept that PJM described above and in its Initial Comments. Specifically, NJ BPU proposes a generator subscription model, pursuant to which transmission projects would be built only if generators subscribed to a sufficient percentage of the transmission capacity and committed to paying the corresponding costs.[90] Under NJ BPU's proposal, states interested in incentivizing transmission development within certain geographic zones could also voluntarily subscribe to a portion of such

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[86] *See* PJM Initial Comments, Section III.A.2.e.

[87] *See* Operating Agreement, Schedule 6, section 1.5.9.

[88] *See* PJM Initial Comments, Section III.A.2.e.

[89] *See id*.

[90] *Id*. at 16.

a transmission project's capacity and commit load in their states to paying for the relevant costs.[91] NJ BPU further recommends that transmission providers be encouraged to explore mechanisms that could enable the transfer of such capacity subscriptions from states or generators.[92]

On the other hand, Vistra argues that rather than relying on transmission providers' projections of which geographic zones may have the potential for large amounts of new generation, the Commission should "provide for use of open seasons or other comparable tools to elicit concrete commitments from generator developers, ideally using a structure where developers put 'skin in the game' in exchange for rights to newly created interconnection capacity."[93]

Specifically, Vistra proposes a two-step process whereby the transmission provider would: (i) identify zones requiring new transmission capacity to support new resource development and invite generation developers to submit valid commercial expressions of interest in the increased transmission capacity, and (ii) institute a commercial open season process pursuant to which all or a portion of the rights to new transmission capacity would be allocated via an open, nondiscriminatory process, whereby the customer acquiring such rights would be obligated to pay for its relative share of the upgrade costs (via an offer into the open season) and separately to allow for third-party use of capacity deliverability rights that they hold, but are not currently using.[94]

PJM believes that, subject to certain refinements, the proposals offered by NJ BPU and Vistra may have merit and are worthy of further dialogue among PJM, its stakeholders, and the Commission. For instance, rather having generators "subscribe" to a portion of a transmission

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[91] *Id*. at 17.

[92] *Id*.

[93] *RM21-17*, Initial Comments of Vistra Energy Corp., at 2 (Aug. 17, 2022) ("Vistra Initial NOPR Comments").

[94] *Id*. at 25-26.

project's capacity as suggested by NJ BPU, Vistra's proposal to invite generation developers to submit valid commercial expressions of interest in increased transmission capacity in a particular area would help the transmission provider to identify transmission solutions to interconnect greater numbers of generation resources at once. Consistent with the Commission's goals set forth in the NOPR, such a process could result in a more holistic approach to building transmission enhancements or expansions to accommodate multiple interconnection requests, rather than network upgrades to address single interconnection requests. In turn, this process could allow associated costs to be spread among a larger group of interconnection customers. Such a process could benefit both the system and the ability to interconnect greater amounts of renewable resources.

While PJM continues to oppose the geographic zone proposal for the reasons set forth in its Initial Comments,[95] PJM believes alternate processes may accomplish the Commission's goal of finding more efficient and cost-effective transmission solutions. PJM requests that it be permitted to work with its stakeholders to determine a more case-specific flexible approach that builds on and is better synchronized with the interconnection process and market developments, and accommodates topologies as diverse as those in PJM versus those in far less densely networked regions of the nation.

C. PJM Provides the Following Comments Regarding Cost Allocation Methodologies for Facilities Selected through Long-Term Regional Transmission Planning Process

Several commenters urge that states must have the final decision regarding cost allocation. For instance, the Organization of PJM States, Inc. ("OPSI") argues that if retail regulators reach

[95] PJM Initial NOPR Comments at III.A.2.e.

an agreement regarding cost allocation, the transmission provider "should be required to file it for consideration under [section] 205 of the FPA."[96] OPSI states that if a transmission provider prefers a different cost allocation methodology from that agreed to by state regulators, then the transmission provider "may also make a filing proposing its preferred alternative, while also presenting the method agreed to by the relevant state entities."[97] Similarly, NARUC recommends that "if the states in which a selected regional transmission facility will be located unanimously agree on a state-negotiated alternate cost allocation method," that the transmission provider should be required to file that cost allocation methodology with the Commission.[98] NJ BPU likewise argues that "in the event that the transmission provider disagrees with the approach desired by states, … the Commission require[s] [the transmission provider] to submit the states' approach as well as their own in their Section 205 filing," leaving it to the Commission to decide which tariff filing to accept.[99]

As PJM explained in its Initial Comments,[100] the PJM transmission owners have exclusive authority and responsibility to submit filings under FPA section 205 "in or relating to . . . the transmission rate design under the PJM Tariff."[101] Therefore, as PJM explained, even though PJM agrees that providing state regulators with a formal opportunity to work with the PJM transmission owners to develop a cost allocation method for facilities selected through Long-Term Regional Transmission Planning process will increase stakeholder and affected state authorities' support for

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[96] OPSI Initial Comments at 10.

[97] *Id*.

[98] NARUC Comments at 53.

[99] NJ BPU Comments at 17-18.

[100] *See* PJM Initial NOPR Comments, Section III.C.1.

[101] CTOA § 7.3.1. *See also PPL Elec. Utils. Corp.*, 177 FERC ¶ 61,123, at PP 34-37 (2021) (affirming the scope of the PJM Transmission Owners' FPA section 205 filing rights under the Tariff and CTOA).

those facilities and that, in turn, the likelihood those facilities will be sited and ultimately developed,[102] such opportunities must be harmonized with the transmission owners' filing rights set forth in the CTOA and Tariff provisions.[103] PJM therefore requested that the Commission clarify the interrelationship of the proposals set forth in the NOPR with the PJM Region's present allocation of rights to revise existing or propose new *ex ante* cost allocation methods, which is embodied in the *Atlantic City v. FERC* decision.[104] PJM further requests that the Commission keep these principles in mind as it considers the state regulators' comments described above.

Additionally, PJM noted the importance of allowing transmission providers to be permitted to use existing *ex ante* cost allocation methodologies as the default cost allocation methodology to apply to facilities selected through the Long-Term Regional Transmission Planning process (absent agreement by all affected states regarding an alternate methodology as discussed below). Absent unanimous agreement by all states potentially impacted by an alternate cost allocation methodology, PJM continues to believe that the existing *ex ante* allocation methodology must apply to the facilities selected through the Long-Term Regional Transmission Planning process. In lieu of an agreed-upon alternate cost allocation methodology, PJM believes that the applicable

[102] NOPR at P 299.

[103] *See* PJM Initial NOPR Comments, Section III.C.1.

[104] *See Pennsylvania-New Jersey-Maryland Interconnection*, 105 FERC ¶ 61,294 (2003), *order on reh'g*, 108 FERC ¶ 61,032 (2004) (approving Settlement Agreement). The provisions of the Settlement Agreement were memorialized in Tariff, section 9.1(a) which provides: "The Transmission Owners shall have the exclusive and unilateral rights to file pursuant to Section 205 of the [FPA] and the [Commission's] rules and regulations thereunder for any changes in or relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the transmission rate design under the PJM Tariff, and such filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners." Tariff, section 9.1(d) further specifies that the PJM Transmission Owners' unilateral filing rights include any changes to Tariff, Schedule 12, which sets forth the methodologies for allocating costs of transmission enhancements and expansions included in PJM's RTEP). *See Atlantic City Elec. Co. v. F.E.R.C.*, 295 F.3d 1 (D.C. Cir. 2002), *order on remand, Pennsylvania–New Jersey–Maryland Interconnection*, 101 FERC ¶ 61,318 (2002), *subsequent appeal*, 329 F.3d 856 (D.C. Cir. 2003).

tariffed *ex ante* cost allocation method should be used to assign cost responsibility for the facility so as to ensure that gridlock in reaching consensus on alternative cost allocations does not stymie the development of needed transmission.[105] It is especially appropriate to utilize the existing cost allocation methodologies as a default as the states participated in the development of such methodologies, particularly the reliability and State Agreement Approach cost allocation methodologies, both of which were litigated with support from the states for the final method filed.[106]

D. PJM Requests that the Commission Clarify the Authority Over and Process to Select Projects through the Long-Term Regional Transmission Planning Process

In its comments, ISO-NE requests that the Commission give states a greater role "in all aspects of policy-based transmission planning – not just the criteria for selecting and methodology for allocating costs of long-term transmission facilities."[107] Specifically, ISO-NE urges the Commission to gives states in the ISO-NE region a central decision-making role throughout the policy-based planning process, with the ISO conducting the necessary studies and playing a technical supporting role throughout the process.[108]

PJM requested that the Commission make several clarifications regarding the NOPR's proposed selection process for regional transmission facilities identified through the Long-Term Regional Transmission Planning process.[109] In particular, PJM requested that the Commission make clear that although consultation with the states and stakeholders is a key part of the proposed

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[105] *See* PJM Initial NOPR Comments, Section III.C.1. *See also* NOPR at P 320.

[106] *See* PJM Initial NOPR Comments, Section III.C.1.

[107] ISO-NE Initial Comments at 16.

[108] *Id*. at 17-18.

[109] *See* PJM Initial NOPR Comments, Section III.B.3.

Long-Term Regional Transmission Planning process (and already is addressed through Order Nos. 890 and 1000 for the near-term planning processes), at the end of the day, the transmission planner must remain the entity responsible and accountable for selecting the more efficient or cost-effective project consistent with the criteria set forth by the Commission in Order Nos. 890, 1000 and any Final Rule coming out of this proceeding.

While PJM supports providing additional opportunity for involvement by states and the broader stakeholder membership in the Long-Term Regional Transmission Planning process, particularly as states and stakeholders take a more active role in helping to shape the long-term transmission needs driven by changes in the resource mix and demand, the transmission provider should retain authority to select project(s) based on a defined process, serving its role as the registered Transmission Planner, which is much more than a "technical supporting role." Accordingly, to the extent the Commission is inclined to allow for regional flexibility regarding the level of involvement by states in the Long-Term Regional Transmission Planning process, PJM respectfully requests that the Commission make clear that it is not requiring that states in each region be given a central decision-making role over facilities selected through the Long-Term Regional Transmission Planning process.

ISO-NE further suggests that the NOPR's proposed project selection criteria is ambiguous, and requests that the Commission clarify that the transmission provider "is not required to identify transmission facilities to address system issues identified in each scenario run, but rather a set of 'least regrets' transmission facilities that address common issues identified across multiple scenarios."[110] PJM agrees that the NOPR is unclear and supports the request for the Commission

[110] ISO-NE Initial NOPR Comments at 21.

to provide clarity regarding the ISO-NE "least regrets" approach.[111] Additionally, PJM requests the Commission provide further clarity that transmission providers can identify trends across multiple three-year Long-Term Regional Transmission Planning process planning cycles without necessarily identifying specific transmission facility reinforcements. Then, if trends reveal a system need, then PJM should be permitted the flexibility to continue to pursue solutions under window solicitations.

E. PJM Agrees with Commenters Who Argue that Requiring Transmission Providers to Consider Corporate Commitments in Developing Scenarios for the Long-Term Regional Transmission Planning Process Could Create Compliance Risks

In the NOPR, the Commission proposes that transmission providers be required to incorporate seven categories of Factors into the development of Long-Term Scenarios.[112] As indicated in its Initial NOPR Comments, PJM generally supports the specific categories of Factors, but suggested several modifications to the Commission's list of Factors.[113] After reviewing the comments filed by other parties in this docket, PJM offers an additional modification to the Commission's list.

In particular, a number of commenters cautioned that the Commission's proposal to include "corporate commitments … that affect the future resource mix and demand"[114] is vague and could lead to compliance risk.[115] PJM agrees. Specifically, PJM believes that requiring transmission providers to locate and catalogue all possible corporate goals or commitments in regional, long-

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[111] *See* PJM Initial NOPR Comments, Section III.B.3.

[112] *See* NOPR at P 104.

[113] *See* PJM Initial NOPR Comments at 64-69.

[114] *See* NOPR at P 104.

[115] *See, e.g.*, MISO Initial Comments at 36-37; ISO-NE Initial Comments at 26-27; *RM21-17*, Comments of the Illinois Commerce Commission, at 7 (Aug. 17, 2022).

range transmission planning would create an unreasonable compliance obligation, as well as a resource drain. It is not practical or efficient for PJM to be expected to research, track and maintain data about the commitments and goals of corporations located in the expansive PJM footprint. Although PJM supports a process by which transmission providers could develop a record of corporate commitment and goals through surveys and other means, PJM is nonetheless concerned that it would likely have incomplete information about the corporate commitments and goals of the corporations within the PJM Region, and that a compliance requirement to identify all corporate goals, whether identified to the transmission provider or not, would be an inappropriate and unworkable overreach.

Accordingly, PJM respectfully requests that the Commission consider an approach similar to the approach recommended by PJM for considering any local laws, local regulations and/or local goals as factors for developing Long-Term Scenarios. Specifically, PJM recommended that the Commission only require transmission planners to consider local laws, local regulations and/or local goals to the extent they are explicitly brought to PJM's attention by states, stakeholders, or other local regulators.[116] That is, PJM requested that the Commission clarify that the burden to ensure that a transmission planner is aware of any local laws, local regulations and/or local goals that should be considered is on states, stakeholders, or other local regulators, not on the transmission planner.[117] Similarly, PJM believes that the burden to ensure that a transmission planner is aware of corporate commitments and goals to include as Factors for the development of Long-Term Scenarios should be on the corporation or any other entity that believes such commitment or goal should be considered.

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[116] *See PJM Initial NOPR Comments* at 68.

[117] *Id*.

F. PJM Believes the Commission Should Reject the NOPR's Proposal to Entwine Interconnection Planning and Regional Transmission Planning

In the NOPR, the Commission proposed to require transmission providers to consider, as part of the Long-Term Regional Transmission Planning process, regional transmission facilities that would address interconnection-related needs previously identified in the generator interconnection process in specified circumstances.[118] PJM and other commenters urged the Commission to decline to implement the Network Upgrade Proposal, explaining that the proposal invites gaming, creates perverse incentives for generation developers, and would result in undue discrimination.[119]

In its comments, Enel North America, Inc. ("Enel") supports the Network Upgrade Proposal as "recogniz[ing] that network upgrades are ultimately part of integrated transmission systems, and provide at least some benefit to all system users," but argues that the proposal "risks delaying necessary upgrades relative to what could be achieved via more proactive planning."[120] Enel references the Working Paper that it attached to its comments in response to the Advance Notice of Proposed Rulemaking[121] in this docket,[122] and maintains that its proposal improves

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[118] Specifically, the NOPR proposes to require transmission providers to consider proposed transmission facilities in the regional planning process if those facilities would address interconnection-related needs that: (i) have been identified in at least two queue cycles in the past five years; (ii) require an upgrade of at least 200 kV or have an estimated cost of at least $30 million; (iii) have not been developed due to request withdrawals; and (iv) are not slated for address by an upgrade in an executed agreement (or in an agreement the developer requested to be filed unexecuted). PJM refers to this proposal herein as the "Network Upgrade Proposal."

[119] *See, e.g.*, PJM Initial NOPR Comments at 87-92; EEI Initial Comments at 18; CAISO Initial Comments at 33-35.

[120] *RM21-17*, Comments of Enel North America, Inc. on Notice of Proposed Rulemaking (Aug. 17, 2022) ("Enel NOPR Comments").

[121] *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (2021) ("ANOPR").

[122] *RM21-17*, Comments of Enel North America, Inc. (Oct. 12, 2021) ("Enel ANOPR Comments"). *See also id.,* Attachment, Enel Green Power, Working Paper, *Plugging In: A Roadmap for Modernizing & Integrating Interconnection and Transmission Planning*, at 5 ("Enel Working Paper").

transmission planning by integrating the generator interconnection process.[123]

As PJM stated when Enel previously submitted its Working Paper, PJM has concerns about specific aspects of the proposals set forth therein. As such, and for the reasons more fully described in PJM's ANOPR Reply Comments,[124] PJM cautions the Commission against incorporating the proposals in the Enel Working Paper in any Final Rule without allowing the opportunity for further discussion on the issues presented therein.

G. PJM Provides the Following Comments on Parties' Requests that the Commission Require the Establishment of an Independent Transmission Monitor

In the ANOPR, the Commission sought comments on whether it would be appropriate to establish an independent entity to monitor the planning and cost of transmission facilities in RTO/ISO and non-RTO/ISO regions (referred to as an "Independent Transmission Monitor").[125] However, the Commission did not propose to require transmission providers to establish an Independent Transmission Monitor or otherwise require additional oversight over local or regional transmission planning processes in the NOPR. Notably, the Commission will be holding a technical conference on October 6, 2022, where panelists will discuss, among other things, the possibility of establishing a role for an Independent Transmission Monitor to the extent it is consistent with the Commission's authority.[126] Nonetheless, several commenters requested that

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[123] Enel NOPR Comments at 5.

[124] *See* PJM ANOPR Reply Comments at 15-20.

[125] ANOPR at P 163.

[126] *See Transmission Planning and Cost Management*, Docket No. AD22-8-000, Supplemental Notice of Technical Conference, at 9 (Sept. 8, 2022).

the Commission require the establishment of an Independent Transmission Monitor in the Final Rule in this docket.[127]

As PJM explained in its ANOPR Initial Comments,[128] the Commission has previously found that although there may be benefits to be gained from independent third party oversight, transmission providers, customers and other stakeholders should determine for themselves in developing their regional planning process whether and, if so, how to utilize an independent third party.[129] PJM further explained that, consistent with the requirements of Order Nos. 890 and 1000, PJM has a coordinated open and transparent planning process, as well as meaningful dispute resolution processes for both planning and generator interconnection projects. Accordingly, PJM urged that absent any evidence that an independent RTO, like PJM, is not implementing its regional transmission planning process in a just, reasonable and not unduly discriminatory or preferential manner, the Commission should follow its decision in Order No. 890, and allow independent RTOs to address concerns related to oversight of local or regional transmission planning processes by continuing to demonstrate that they have a coordinated open and transparent planning process and meaningful dispute resolution processes.[130] This would be far more efficient than simply creating another independent entity to review an independent entity.

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[127] *See, e.g.*, *Docket No. RM21-17*, Comments of Office of the People's Counsel for the District of Columbia and the Maryland Office of People's Counsel, at 40-41 (Aug. 17, 2022); NJ BPU Initial Comments at 34-35; *Docket No. RM21-17*, Initial Comments of Kentucky Public Service Commission Chairman and Commissioner Kent A. Chandler, at 25 (Aug. 17, 2022); *Docket No. RM21-17*, Initial Comments of National Association of State Utility Consumer Advocates, at 6-7 (Aug. 17, 2022); *Docket No. RM21-17*, Comments Supporting Long-Term Regional Transmission Planning with Costs Allocated to the Consumers who Benefit for Network Upgrades for Generation Interconnections by The Office of the Ohio Consumers' Counsel, at 36-38 (Aug. 17, 2022).

[128] *See* PJM Initial ANOPR Comments at 75-80.

[129] *See id*. at 75 (citing Order No. 890-A at P 258).

[130] *See id*. at 75-80.

PJM further explained that if the Commission were to require an Independent Transmission Monitor, it would be far more appropriate to begin this initiative in areas where there is no structural independence as between the transmission planner and its generation affiliates.[131] Additionally, PJM suggested that, rather than simply layering another level of independent oversight onto a Commission-approved independent RTO/ISO, the oversight function over costs of transmission and the prudence of those investments not reviewed through the RTEP process are best addressed by improving customers' ability to make their voices heard through the Commission's regulatory process.[132]

Moreover, the function of an Independent Transmission Monitor would be different from that of an Independent Market Monitor. PJM's Independent Market Monitor is responsible for guarding against the exercise of market power in PJM's markets and assisting in the maintenance of competitive and nondiscriminatory markets in PJM. Market Monitoring was established as an RTO requirement under Order No. 2000 in recognition of the fact that prices under a market-based regime are being set every five minutes as well as hourly.[133] As a result, the Commission found that its traditional regulatory tools to examine the reasonableness of rates for the commodity of electricity would never be able to keep up on a real-time basis with approving individual rate levels. Order No. 2000 therefore provided a market monitor to serve as a regulatory tool to examine, in real-time, supply and demand fundamentals, patterns and concentration of ownership,

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[131] *See id*.

[132] *Id*.

[133] *See Reg'l Transmission Orgs.*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999) (cross-referenced at 89 FERC ¶ 61,285 (1999)), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000) (cross-referenced at 90 FERC ¶ 61,201 (2000)), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty. v. F.E.R.C.*, 272 F.3d 607 (D.C. Cir. 2001).

trade volumes, prices, revenue, revenue adequacy, participant bids, market structure test results, the application of offer bid caps and other relevant metrics.[134]

No such minute-by-minute price changes occur in the determination of the prudence and reasonableness of the costs of transmission upgrades. Project costs are added to rate base for the life of the asset unless challenged on prudence grounds. No "market" exists at that point. As a result, the traditional rationale for establishment of market monitoring for RTO markets simply does not carry over when addressing the prudence and reasonableness of costs of fixed assets being added to rate base. In PJM's view, this is a traditional regulatory function.

In addition, the proposal for an Independent Transmission Monitor overlooks the temporal issue around costs. RTOs approve projects included in the regional transmission plan based on cost estimates. It is only after the project is actually completed and placed into service that its costs are known with certainty. And, it is those costs – not the RTOs' estimates developed potentially years before – that are considered for rate base treatment. As a result, an Independent Transmission Monitor's oversight of the cost estimates may provide at best only limited information relevant to the actual regulatory decision to be made once the transmission project is in service and added to a transmission owner's rate base.

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[134] *Id*.

IV. CONCLUSION

PJM respectfully requests that the Commission consider the comments set forth above and in its Initial Comments in developing a Final Rule in this docket.

Respectfully submitted,

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On behalf of PJM Interconnection, L.L.C.

Dated: September 19, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on those parties on the official Service List compiled by the Secretary in these proceedings.

Dated at Audubon, Pennsylvania this 19th day of September, 2022.

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