

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

**Building for the Future Through Electric     )  
Regional Transmission Planning and Cost     )  
Allocation and Generator Interconnection     )**

**Docket No. RM21-17-000**

**INITIAL COMMENTS OF THE  
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

October 12, 2021

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Pursuant to the Advance Notice of Proposed Rulemaking issued by the Federal Energy Regulatory Commission (“Commission” or “FERC”) on July 15, 2021 (“ANOPR”),<sup>1</sup> the New England States Committee on Electricity (“NESCOE”) files comments on the Commission’s inquiries about potential reforms to electric regional transmission planning and cost allocation and generator interconnection processes.

**I. DESCRIPTION OF COMMENTER**

NESCOE is the Regional State Committee (“RSC”) for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO New England Inc. (“ISO-NE”) administers.<sup>2</sup> NESCOE’s mission is to represent the interests of the citizens of the New England region by advancing policies that will provide electricity at the

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<sup>1</sup> *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).

<sup>2</sup> *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007). Capitalized terms not defined in these Initial Comments are intended to have the meaning given to such terms in the ISO-NE Transmission, Markets and Services Tariff (“Tariff” or “ISO-NE Tariff”).

lowest possible price over the long term, consistent with maintaining reliable service and environmental quality.<sup>3</sup> These comments represent the collective view of the six New England states.

## **II. INTRODUCTION**

The ANOPR is a potential initial step toward a new paradigm in electric system planning. It foreshadows major reforms across a number of interrelated transmission planning, generator interconnection, and cost allocation processes. The ANOPR seeks comments on reforms that, if implemented, “contemplate a more forward-looking approach to the regional transmission planning process that plans for anticipated future generation,” which may produce “a different and broader set of benefits and beneficiaries.”<sup>4</sup>

Concepts and approaches in the ANOPR provide frameworks for expansive and impactful Commission action that could shape infrastructure decisions and consumer costs for many decades. The implications of potential reforms in these areas warrant careful consideration of the trade-offs involved in pursuing—or not pursuing—reforms. NESCOE appreciates the Commission’s use of an ANOPR to explore these issues before determining the specifics of any further action. NESCOE looks forward to continued engagement with the Commission and others on the ANOPR topics.

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<sup>3</sup> See Sept. 8, 2006 NESCOE Term Sheet (“Term Sheet”) that was filed for information as Exhibit A to the Memorandum of Understanding among ISO-NE, the New England Power Pool (“NEPOOL”), and NESCOE (the “NESCOE MOU”). Informational Filing of the New England States Committee on Electricity, Docket No. ER07-1324-000 (filed Nov. 21, 2007). Pursuant to the NESCOE MOU, the Term Sheet is the binding obligation of ISO-NE, NEPOOL, and NESCOE.

<sup>4</sup> ANOPR at P 75.

Given the magnitude and breadth of questions raised in the ANOPR, NESCOE’s Initial Comments necessarily focus on a number of select issues at a high-level. On some of these issues, NESCOE provides principles for the Commission’s consideration as it weighs whether, and how, to develop abstract concepts and various approaches into concrete proposals or if further inquiry is warranted. NESCOE’s silence on any of the issues raised in the ANOPR should not be interpreted as a lack of interest in any topics not covered or construed as opposition to or support for any proposed reforms. In the case of all issues covered in the ANOPR, NESCOE is interested in reviewing comments addressing a range of perspectives to inform further consideration of the broad topics that the Commission has identified for potential reform.

At the outset, NESCOE notes what the Commission has long recognized: regional differences matter.<sup>5</sup> NESCOE’s comments are informed by New England’s long-standing electricity market design objectives, state laws and policy priorities, current regional activities, and system conditions under the current structures in place—all of which are discussed briefly in the next section to give context to NESCOE’s perspectives on the ANOPR.

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<sup>5</sup> See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,176 at P 57 (2018) (“In its orders, the Commission has consistently rejected a one-size-fits-all approach in the various RTOs/ISOs due, in large part, to significant differences between each region and that there can be more than one just and reasonable rate.”); *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 at P 61 (2011) (“the Commission recognizes that each transmission planning region has unique characteristics and, therefore, this Final Rule accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate these regional differences.”); *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 at P 39 (2007) (stating that in applying cost allocation principles, “the Commission has permitted different just and reasonable rate designs reflective of particular system characteristics and stakeholder input” and has deferred “to regional preferences a number of times” in various orders “as well as in our approval of rate designs for different regional markets.”).

There is much commonality between the concepts and approaches included in the ANOPR and ideas and initiatives that NESCOE has actively pursued in the region over the past year. NESCOE hopes that any further Commission action in connection with the ANOPR will encourage and facilitate (and not disrupt or delay) ongoing regional efforts in these areas. For that reason, NESCOE respectfully cautions the Commission against a prescriptive approach to many—but not all—of the planning and cost issues identified in the ANOPR. Reforms to achieve greater cost oversight, for example, will likely require a heavier regulatory hand. NESCOE supports the Commission prioritizing the consideration of proposed rules that enhance the transparency, monitoring, and containment of transmission charges. Reforms in these areas can help discipline the costs that new transmission infrastructure will impose on consumers and, in turn, foster greater confidence in and support for new projects.

### **III. EXECUTIVE SUMMARY**

As discussed in detail below, when considering further action in connection with the ANOPR, NESCOE respectfully asks that the Commission:

- Afford regions flexibility.
  - Avoid proposing reforms that could impede ongoing progress in regions like New England where states and regional transmission organizations (“RTOs”)/independent system operators (“ISOs”) are now collaborating on executing new planning and cost allocation frameworks that go to the heart of the reforms contemplated in the ANOPR.
  - Provide flexibility in developing regional transmission planning and cost allocation rules tailored to the unique needs of each region.
  - Do not pursue rules prescribing inputs, assumptions, or specific geographic zones to be used in long-term scenario modeling.
  - Retain flexibility around the length of regional planning processes.
- Ensure states have a meaningful role in transmission planning and cost allocation related to the execution of state laws and mandates.

- Avoid “hardwiring” particular laws or regulations into transmission planning processes.
- Require transmission providers to bring state officials into planning discussions and decision-making early and on a continuing basis.
- Codify into tariffs the states’ role with respect to evaluation and selection of public-policy driven transmission projects.
- Prioritize consumer protections and keeping consumer costs at reasonable levels.
  - Promote strong cost oversight and transparency.
  - Ensure more meaningful competition in the development and construction of transmission solutions.
  - Revisit ways in which competitive processes can help place discipline on rising transmission costs in the context of integrating transmission planning processes.
- Revisit reforms of RTO/ISO governance and related practices in conjunction with a holistic reassessment of transmission planning.
  - Initiate a periodic review of Order No. 719.<sup>6</sup>
  - Ensure that regional planning processes accommodate state efforts to advance equity and environmental justice concerns.
- Develop reforms to establish independent transmission monitors.
  - Consider a broad scope for independent monitors.
  - Include details about how such a monitor would be funded and the cost impact to consumers.
  - Do not propose reforms that would shift greater burdens to states or consumer advocates in the oversight of transmission costs.
- Pursue potential reforms focusing on longer-term transmission system needs and associated costs.

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<sup>6</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071 (2008), *order on reh’g*, Order No. 719-A, 128 FERC ¶ 61,059, *order on reh’g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).



- Ensure that anticipated future generation and other resources developed pursuant to state requirements and state-led investments are considered in the planning process.
- Encourage transmission providers to consider grid-enhancing technologies in longer-term system planning.
- Consider developing reforms encouraging a more integrated, holistic approach to transmission planning that would:
  - Prioritize:
    - reliability: potential integration of transmission planning processes must not disrupt reliability; and
    - consumer cost protections.
  - Ensure such reforms are sufficiently robust to evaluate various benefits.
    - Regions should have sufficient flexibility in measuring benefits.
    - States should have a key role in defining and measuring benefits, including advancing state energy and environmental requirements and goals.
  - Exercise caution against leaping to integration of generator interconnections with transmission planning.
    - Avoid reforms that would base findings of transmission needs on generation interconnection queues.
- In considering cost allocation reforms:
  - Steer clear of reforms that would unsettle existing cost allocation methodologies that have proven effective for addressing system reliability needs.
  - Insulate consumers from investment risk to the greatest extent possible, especially when weighing potential reforms to participant funding structures.
  - Retain the option of transmission providers being able to charge the higher of the incremental cost caused by the customer or the rolled-in embedded cost rate.
- Explore ways to address speculation in the generator interconnection process.
  - A “fast-tracking” feature to the interconnection queue process may be a useful tool but may not fully address concerns around speculative projects.

#### **IV. BACKGROUND – NEW ENGLAND EXPERIENCES AND RECENT ACTIVITIES**

##### **A. Electric Restructuring and State Energy and Environmental Requirements**

In the 1990s, most New England states restructured their electric utilities with an overriding objective of achieving cost savings for consumers. To this end, states created competitive power markets that put investment risk in the hands of asset owners rather than ratepayers.<sup>7</sup> Merchant facilities—*i.e.*, owned and operated by non-utility entities—now compose the majority of electric generation in our region. When New England transitioned to a regional market, most states in our region also established renewable portfolio standards (“RPS”) to leverage competitive market forces as a means of achieving targeted levels of clean energy resources, but—importantly—not at any cost; RPS programs imposed cost discipline on those investments.<sup>8</sup> Today, with every New England state having some form of renewable energy standard (“RES”),<sup>9</sup> the states continue to pursue the development of clean energy resources through these and other means while seeking to discipline and control the consumer costs of those investments.

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<sup>7</sup> See *Electric Restructuring in New England – A Look Back*, Abstract of white paper released by NESCOE in December 2015, available at [https://nescoe.com/wp-content/uploads/2019/06/Reishus\\_RestructuringSummary\\_3Jun2019.pdf](https://nescoe.com/wp-content/uploads/2019/06/Reishus_RestructuringSummary_3Jun2019.pdf).

<sup>8</sup> See NESCOE, *Renewable and Clean Energy Scenario Analysis and Mechanisms 2.0 Study, Phase I: Scenario Analysis*, Winter 2017, at 11, available at <https://nescoe.com/resource-center/mechanisms-scenario-analysis-mar2017/>. RPS programs include a mechanism called an Alternative Compliance Payment that “caps the amount of money consumers will spend to satisfy the state’s RPS requirement.” NESCOE, *Renewable and Clean Energy Scenario Analysis and Mechanisms 2.0 Study, Phase II: Mechanisms Analysis*, Spring 2018, at 13, available at <https://nescoe.com/resource-center/mechanisms-ph2-apr2018/>.

<sup>9</sup> See ISO-NE, *Key Grid and Market Stats: Resource Mix*, available at <https://www.iso-ne.com/about/key-stats/resource-mix/> (setting forth each state’s RES requirements).

In fact, New England state laws and policies are the driving force for renewable resource integration in the region, as ISO-NE recognized earlier this year.<sup>10</sup> New England states’ legal requirements and policy goals are increasingly transitioning the region’s power mix away from a central station, carbon-intensive fleet and toward a clean distributed energy system.<sup>11</sup> In the last year alone, various New England states have continued their steady march toward a clean energy future by enacting new climate policy legislation,<sup>12</sup> releasing an integrated resource plan aimed at pathways to achieving a 100 percent zero-carbon electric sector,<sup>13</sup> and forging ahead with additional procurements of large-scale clean energy projects.<sup>14</sup> Five of the six New England states are committed to reducing economy-wide greenhouse gas emissions by at least 80 percent below 1990 levels by 2050.<sup>15</sup> The New England states also worked together years ago with other

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<sup>10</sup> ISO-NE, *2021 Regional Electricity Outlook*, March 2021 (“ISO-NE 2021 Outlook”), at 13, available at [https://www.iso-ne.com/static-assets/documents/2021/03/2021\\_reo.pdf](https://www.iso-ne.com/static-assets/documents/2021/03/2021_reo.pdf).

<sup>11</sup> NESCOE has strongly supported a current ISO-NE initiative—the Future Grid Reliability Study—which will examine “the implications of a substantially changed grid, one where the majority of the resource mix is clean, intermittent resources. . . . [to] provide information on what the regional system will need to run reliably.” ISO-NE 2021 Outlook at 17. The second phase of the study will analyze whether “the current market structure will be sufficient to attract and retain the resources needed to keep the grid reliable under the range of future scenarios.” *Id.*

<sup>12</sup> *See, e.g.*, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, 2021 Mass. Acts 8 (“2021 MA Climate Law”); An Act Relating to State Affairs and Government – 2021 Act on Climate, R.I. Gen. Laws §§ 42-6.2 (“2021 RI Climate Law”).

<sup>13</sup> *See* Connecticut Department of Energy and Environmental Protection, *2020 Integrated Resources Plan: Pathways to achieve a 100% zero carbon electric sector by 2040*, Oct. 2021, available at <https://portal.ct.gov/-/media/DEEP/energy/IRP/2020-IRP/2020-Connecticut-Integrated-Resources-Plan-10-7-2021.pdf>.

<sup>14</sup> *See, e.g.*, Fitchburg Gas & Electric Light Company d/b/a Unitil et al., *Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects* (May 7, 2021) (soliciting proposals to deliver up to 1,600 MW of offshore wind generation); An Act To Require Prompt and Effective Use of the Renewable Energy Resources of Northern Maine, 2021 Public Law ch. 380 (authorizing the procurement of renewable energy generation projects in an amount that is at least 18% of the state’s 2019 retail electric load).

<sup>15</sup> ISO-NE 2021 Outlook at 16. *See also* Statement of the Governors of Connecticut, Maine, Massachusetts, Rhode Island and Vermont: New England’s Regional Wholesale Electricity Markets and Organizational Structures Must Evolve for 21<sup>st</sup> Century Clean Energy Future (Oct. 2020) (“2020 Governors’ Statement”), at 1, available at [http://nescoe.com/wp-content/uploads/2020/10/Electricity\\_System\\_Reform\\_GovStatement\\_14Oct2020.pdf](http://nescoe.com/wp-content/uploads/2020/10/Electricity_System_Reform_GovStatement_14Oct2020.pdf); Conn. Gen. Stat. §§ 22a-

states in the Mid-Atlantic to form the Regional Greenhouse Gas Initiative (“RGGI”), the nation’s first power sector carbon pricing program, and all six states continue to participate in RGGI.<sup>16</sup>

## **B. New England States’ Vision for a 21st Century Power Grid**

While New England state officials implement diverse laws and mandates, they work together to advance their common interest in ensuring that the regional power grid delivers electricity reliably and at least cost to consumers over the long-term. In furtherance of this common interest, last year the New England states again joined together to pursue transformative changes to the regional electric power system. NESCOE released a Vision Statement in October 2020 that provided both a framework and recommended processes for reforms to promote a clean, affordable, and reliable electric grid.<sup>17</sup> This followed a New England Governors’ statement that called for the evolution of the power grid to meet 21st century needs.<sup>18</sup> The Vision Statement sought to identify a path forward for the region, one that accounts for and supports the New England states’ clean energy requirements and addresses market design flaws and transmission planning gaps that cause consumers to overpay for power. That path forward

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200a and 22a-200c; 38 Me. Rev. Stat. ch. 3-A and 3-B; Mass. Gen. Laws ch. 21A § 22 and ch. 21N § 3; R.I. Gen. Laws §§ 42-6.2-2, 23-23, and 23-82; Public Act No. 153 (2020 Vt. Adj. Sess.).

Some states have gone even further in their greenhouse gas emissions reduction goals. For example, Rhode Island has established economy-wide, enforceable targets for greenhouse gas emission reductions culminating in net-zero emissions by 2050. *See* 2021 RI Climate Law.

<sup>16</sup> *See* <https://www.rggi.org/>.

<sup>17</sup> NESCOE, *New England States’ Vision for a Clean, Affordable, and Reliable 21st Century Regional Electric Grid* (Oct. 2020) (“Vision Statement”), available at <http://nescoe.com/resource-center/vision-stmt-oct2020/>. New Hampshire noted in the Vision Statement that it “does not have the same or similar clean energy mandates as do the other New England states” but that it has “a common interest in preserving efficient wholesale markets and in ensuring that transmission system planning achieves least-cost solutions; as well as a legislative mandate to prevent or minimize any rate impact of other states’ policies on New Hampshire retail electric rates.” *Id.* at n. 2.

<sup>18</sup> *See* 2020 Governors’ Statement.

also identified the need for ISO-NE governance changes “to achieve greater transparency around decision-making, a needed focus on consumer cost concerns, and support for States’ energy and environmental laws.”<sup>19</sup>

Over the last year, as part of the broader call for reforms in the Vision Statement, NESCOE has sought to work collaboratively with ISO-NE and stakeholders to advance fundamental changes in transmission planning and in how ISO-NE accounts for consumer and other state interests in its mission and governance.<sup>20</sup> After a process in which state officials brought these ideas to the public for input, NESCOE’s subsequent *Advancing the Vision* report identified more detailed recommendations. It also proposed the creation of an Ad Hoc State Work Group on Equity and Environmental Justice in Energy Infrastructure and recommended concrete actions that ISO-NE could implement in the near-term to promote greater transparency and accessibility in regional electricity matters.<sup>21</sup>

The Vision Statement and *Advancing the Vision* reflect some common themes on transmission: investments in transmission should result from a comprehensive and proactive planning process; states must occupy a more central role in that process than they do today; and cost will play a key role in states’ decisions of when and how to pursue transmission in furtherance of state laws and mandates.<sup>22</sup> NESCOE is encouraged to see echoes of these themes

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<sup>19</sup> Vision Statement at 8.

<sup>20</sup> See *New England Energy Vision Statement: Report to the Governors – Advancing the Vision* (June 2021) (“*Advancing the Vision*”), at 10-20, available at [https://nescoe.com/resource-center/advancing\\_the\\_vision/](https://nescoe.com/resource-center/advancing_the_vision/). *Advancing the Vision* was informed by a series of technical forums that New England state officials held to address the areas set forth in the Vision Statement. In March 2021, New England state officials also hosted a forum on equity and environmental justice issues related to the Vision Statement. The state officials invited written input following each of the forums. See <https://newenglandenergyvision.com/>.

<sup>21</sup> *Advancing the Vision* at 22.

<sup>22</sup> *Id.* at 12-13; Vision Statement at 3-6.

in the ANOPR. Ensuring that states have “a more meaningful role in the evaluation and selection of public-policy driven transmission projects”<sup>23</sup> is necessary to make progress in areas that the ANOPR identifies for potential reform. It will also help state officials integrate equity and environmental justice considerations—which the Commission has also prioritized<sup>24</sup>—into state energy infrastructure decision-making.<sup>25</sup>

In the fall of 2020, ISO-NE responded positively to NESCOE’s call in the Vision Statement for transmission planning changes. Through ISO-NE’s *2050 Transmission Study*, analysis is underway to provide, through inputs and assumptions that states develop, visibility into potential future transmission system needs that account for the clean energy transition over a longer-term planning horizon.<sup>26</sup> This work “will inform the region of the amount, type and high-level cost estimates of transmission infrastructure that would be necessary to cost-effectively incorporate clean-energy and distributed energy resources and to meet New England states’

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<sup>23</sup> *Advancing the Vision* at 13.

<sup>24</sup> *See, e.g.*, FERC, Office of Public Participation (“OPP”) (stating that, in carrying out its functions, “OPP will work closely with . . . the Office of General Counsel including the Senior Counsel for Environmental Justice and Equity” and that collaboration within FERC “will better ensure that the concerns of Tribal members, environmental justice communities, and other historically marginalized communities are fully and fairly considered in Commission proceedings.”), available at <https://www.ferc.gov/OPP>; FERC, News Releases, *FERC Chairman Acts to Ensure Prominent FERC Role for Environmental Justice*, Feb. 11, 2021, available at <https://www.ferc.gov/news-events/news/ferc-chairman-acts-ensure-prominent-ferc-role-environmental-justice>; FERC, News Releases, *Glick Names Montana Cole to Top Environmental Justice Post at FERC*, May 20, 2021, available at <https://www.ferc.gov/news-events/news/glick-names-montina-cole-top-environmental-justice-post-ferc>.

<sup>25</sup> *Advancing the Vision* at 13.

<sup>26</sup> *See id.* at 11-12. *See also* ISO New England’s Draft 2022 Annual Work Plan, Sept. 27, 2021 (“ISO-NE 2022 Work Plan”), at Slide 8 (describing 2050 Transmission study as “a high-level transmission study for the years 2035, 2040, and 2050, that informs the region of the amount, type, and high-level cost estimates of transmission infrastructure that would be needed to cost-effectively incorporate clean-energy and distributed-energy resources and to meet state energy policy requirements and goals, including economy-wide decarbonization.”), available at [https://www.iso-ne.com/static-assets/documents/2021/09/2022\\_awp\\_draft\\_for\\_10\\_07\\_21\\_pc.pdf](https://www.iso-ne.com/static-assets/documents/2021/09/2022_awp_draft_for_10_07_21_pc.pdf).

energy policy requirements and goals, including economy wide decarbonization.”<sup>27</sup> Concurrent with this work, last month ISO-NE commenced a stakeholder process to consider Tariff changes that would establish this kind of state-led, scenario-based analysis as a permanent feature of ISO-NE’s planning process—along with “rules to enable a state or states to consider potential options for addressing the identified issues and cost allocation for associated transmission improvements.”<sup>28</sup>

ISO-NE’s Board also recently responded to NESCOE’s call for governance changes.<sup>29</sup> NESCOE appreciates the Board’s engagement on these foundational issues and looks forward to continuing discussion regarding the need for further reforms to governance practices and procedures that correspond to our evolving power system and states’ legal requirements. While directionally responsive to NESCOE’s request, as discussed below, ISO-NE’s governance changes fall short of making structural reforms that would expressly account for state interests, including laws and mandates, that are driving the region’s power grid transformation.

### **C. Overlay Network Expansion (ONE) Transmission**

Earlier this year, NESCOE presented to ISO-NE’s Planning Advisory Committee (“PAC”) a high-level concept to integrate reliability system planning and public policy

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<sup>27</sup> *Advancing the Vision* at 11.

<sup>28</sup> ISO-NE, Attachment K Revisions: Extended-Term Planning, Transmission Committee, Sept. 28, 2021 (“ISO-NE TC Presentation”), at Slide 5, available at [https://www.iso-ne.com/static-assets/documents/2021/09/a07\\_tc\\_2021\\_09\\_28\\_atk\\_ext\\_trans\\_presentation.pdf](https://www.iso-ne.com/static-assets/documents/2021/09/a07_tc_2021_09_28_atk_ext_trans_presentation.pdf).

<sup>29</sup> See ISO New England Board of Directors, Response to the New England States’ Vision Statement and Advancing the Vision Report: Meeting with New England States, Sept. 23, 2021 (“ISO-NE Board Response”), available at [https://www.iso-ne.com/static-assets/documents/2021/09/iso-ne-response\\_to\\_states-vision\\_sept\\_23\\_2021.pdf](https://www.iso-ne.com/static-assets/documents/2021/09/iso-ne-response_to_states-vision_sept_23_2021.pdf).

transmission planning.<sup>30</sup> That concept is called Overlay Network Expansion (“ONE”) Transmission. The ONE Transmission concept seeks to leverage ISO-NE’s only existing routine transmission planning process—system reliability planning—to provide visibility into potential cost-effective investments to support public policy-driven resources. The concept could be adapted to consider economic benefits as well. This integrated approach could help provide consumer cost savings through increased efficiencies and scale, and by eliminating silos in current planning that fail to co-optimize infrastructure projects. ONE Transmission could also promote regulatory efficiency: siting a single multi-use transmission project can avoid separate siting proceedings, potentially only years removed, involving the same right-of-way or substation. Importantly, ONE Transmission is *not* intended to disrupt planning for system reliability. Any concrete proposal drawing from the concept will need to be carefully developed to ensure that the reliability planning process is not impeded.

Reacting to the ONE Transmission concept, ISO-NE has recently expressed support for “the idea of optimizing solutions to reliability, economic, and public policy based needs.”<sup>31</sup> ISO-NE raised a number of clarifying questions and noted some concerns about implementation of the concept in practice.<sup>32</sup> NESCOE greatly appreciates feedback received from ISO-NE and many stakeholders on the concept, both at PAC and in later written comments. NESCOE

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<sup>30</sup> See NESCOE, Overlay Network Expansion (ONE) Transmission: Concept for Discussion, Planning Advisory Committee, April 14, 2021 (“NESCOE ONE Tx Presentation”), available at [https://www.iso-ne.com/static-assets/documents/2021/04/a5\\_nescoe\\_overlay\\_network\\_expansion\\_transmission\\_concept\\_for\\_discussion.pdf](https://www.iso-ne.com/static-assets/documents/2021/04/a5_nescoe_overlay_network_expansion_transmission_concept_for_discussion.pdf).

<sup>31</sup> ISO-NE, Comments on the Overlay Network Expansion (ONE) Transmission Concept that NESCOE staff presented to PAC on April 14, 2021, July 27, 2021 (“ISO-NE ONE Tx Comments”), at 1, available at [https://www.iso-ne.com/static-assets/documents/2021/07/nescoe\\_overlay\\_transmission\\_network\\_expansion\\_one\\_transmission\\_concept\\_iso\\_new\\_england\\_comments.pdf.pdf](https://www.iso-ne.com/static-assets/documents/2021/07/nescoe_overlay_transmission_network_expansion_one_transmission_concept_iso_new_england_comments.pdf.pdf).

<sup>32</sup> See generally *id.*



continues to evaluate that feedback in conjunction with similar concepts presented in the ANOPR.

#### **D. New England’s Substantial Regional Transmission Investments**

In the past 20 years, ISO-NE’s regional planning process for identifying and solving for system reliability needs has led to over 800 project components placed in service.<sup>33</sup> Over these two decades, the cumulative cost of these investments exceeded \$11 billion,<sup>34</sup> which is ultimately paid for by electricity customers. Projects expected to go in service through 2022 would add another \$2 billion in system reliability investments.<sup>35</sup>

ISO-NE has described multiple benefits flowing from these transmission projects: reduced risk of power outages, lower costs of wholesale energy, reduced air pollution, and enabling “the grid [to be] positioned to become greener and more flexible.”<sup>36</sup> ISO-NE’s External Market Monitor (“EMM”) has also stated that New England’s transmission spending has benefitted the region by “eliminat[ing] substantial local reliability [uplift] costs and prepared the system to integrate renewable resources in the future.”<sup>37</sup> These investments have “nearly

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<sup>33</sup> ISO-NE Key Grid and Market Stats: Transmission (“ISO-NE Transmission Stats”), available at <https://www.iso-ne.com/about/key-stats/transmission/>.

<sup>34</sup> *See id.*

<sup>35</sup> *See* Participating Transmission Owners Administrative Committee – Rates Working Group Presentation, RNS Rates Effective June 1, 2021 and January 1, 2022, NEPOOL Transmission Committee, July 14, 2021 (“RNS Presentation”), at Slides 9 and 15 (listing \$1.132 billion and \$1.039 billion in forecasted project additions for 2021 and 2022, respectively), available at [https://www.iso-ne.com/static-assets/documents/2021/07/a03\\_tc\\_2021\\_07\\_14\\_rns\\_rates\\_presentation.pdf](https://www.iso-ne.com/static-assets/documents/2021/07/a03_tc_2021_07_14_rns_rates_presentation.pdf).

<sup>36</sup> ISO-NE Transmission Stats. To NESCOE’s knowledge, ISO-NE does not currently provide information on the level of reduced power outage risk related to transmission system investments. Going forward, that information could be helpful in understanding transmission benefits.

<sup>37</sup> Potomac Economics, External Market Monitor for ISO-NE, *2020 Assessment of the ISO New England Electricity Markets*, June 2021 (“EMM Report”), at 21, available at <https://www.iso-ne.com/static-assets/documents/2021/06/iso-ne-2020-emm-report-final-6-18-21.pdf>.

eliminat[ed] congestion on the system.”<sup>38</sup> In a recent assessment of New England’s markets for 2020, the EMM explained that our region “experiences far less congestion than other RTOs.”<sup>39</sup> The EMM stated that, due to substantial transmission investments over the past decade, “[a]s per MWh of load, the average congestion cost in New England has been less than \$0.35 in the last five years – 10 to 20 percent of the congestion levels in other RTO markets.”<sup>40</sup>

The benefits of transmission investments, while significant, have come at a substantial cost to consumers. The Regional Network Service (“RNS”) rate has steadily increased over much of the last decade. It has almost doubled over that period, rising from \$75.25/kW-yr in 2012 to \$140.98/kW-yr in 2021.<sup>41</sup> The EMM compared our region’s transmission rates with rates in four other regions—New York Independent System Operator, PJM Interconnection, L.L.C., Midcontinent Independent System Operator, Inc., and the Electric Reliability Council of Texas—and found that “transmission rates in other RTO areas are much lower than in New England[.]”<sup>42</sup> The EMM also underscored that New England’s transmission expansion has been exclusively focused on reliability, while the driver for transmission expansion in some other regions has “been to increase the deliverability of renewable resources to consumers.”<sup>43</sup> In addition to new transmission infrastructure that ISO-NE has planned to meet reliability needs,

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<sup>38</sup> Post-Technical Conference Comments of ISO New England Inc., Docket No. AD20-18-000 (filed May 10, 2021), at 14. *See* ISO-NE Transmission Stats (showing reduction in costs for congestion, uplift, and reliability agreements).

<sup>39</sup> EMM Report at 6. *See also id.* at 20.

<sup>40</sup> *Id.* at 6.

<sup>41</sup> RNS Presentation at Slide 19.

<sup>42</sup> EMM Report at 20.

<sup>43</sup> *Id.* at 21.

“asset condition” projects planned by incumbent utilities in New England have climbed steadily.<sup>44</sup>

The EMM does not believe that any near-term future incremental transmission will meet the criterion for being considered “economic.” The EMM Report states:

In general, transmission investment is economic when the marginal benefit of reducing congestion is greater than the marginal cost of the transmission investment. Given that the average congestion cost per MWh of load in New England has been roughly \$0.36 per MWh over the past three years, it is unlikely that additional transmission investment would be economic in the near term.<sup>[45]</sup>

To date, no projects in ISO-NE have been planned as economic projects.<sup>46</sup>

For reasons discussed below,<sup>47</sup> the New England states have not requested that ISO-NE study public-policy driven transmission needs under existing Tariff provisions implementing the

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<sup>44</sup> In New England, transmission owners initiate “asset condition” projects to maintain reliability of assets on their systems in accordance with national and regional standards. Asset condition projects are a separate category of projects that are not part of the regional planning process ISO-NE uses to select reliability projects for inclusion in the Regional System Plan to solve issues identified in Needs Assessments. Asset condition projects are primarily attributed to aging, damaged, or otherwise obsolete equipment. The costs of asset condition projects are allocated to consumers in the same way as reliability projects that ISO-NE selects, *i.e.*, on a *pro rata* basis across regional network load. As of June 2021, almost \$2 billion in asset condition projects have been placed in service. See [https://www.iso-ne.com/static-assets/documents/2021/06/final\\_asset\\_condition\\_list\\_june\\_2021.xlsx](https://www.iso-ne.com/static-assets/documents/2021/06/final_asset_condition_list_june_2021.xlsx). These projects are not open to competition.

<sup>45</sup> EMM Report at 21.

<sup>46</sup> In New England, economic projects are called “Market Efficiency Transmission Upgrades” or “METUs.” These are “upgrades designed primarily to provide a net reduction in total production cost to supply the system load.” See ISO-NE, Market Efficiency Transmission, available at <https://www.iso-ne.com/system-planning/transmission-planning/met/>. ISO-NE identifies METUs “where the reduction in cost to supply system load exceeds the cost of the transmission upgrade.” *Id.*

<sup>47</sup> See *infra* Section IV.A.2.

Commission’s Order No. 1000<sup>48</sup> requirements.<sup>49</sup> No public policy projects have been planned to date using this process. However, some New England states have existing legal mechanisms to contract for transmission in connection with their utilities’ procurement of certain clean energy resources.<sup>50</sup> Such transmission can be pursued as an elective project under the ISO-NE Tariff.

As discussed above, NESCOE is currently working with ISO-NE on the *2050 Transmission Study* and a related stakeholder process to consider Tariff changes that would establish a state-driven scenario-based analysis as a permanent feature of ISO-NE’s planning process. Those Tariff changes are expected to include a mechanism for states to pursue public policy-driven transmission options.

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<sup>48</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh’g*, Order No. 1000-A, 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. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

<sup>49</sup> See ISO-NE Tariff, Section II, Open Access Transmission Tariff (“OATT”), Attachment K, § 4A. See also ISO-NE OATT, Schedule 12 (containing the cost allocation method for Public Policy Transmission Upgrades).

<sup>50</sup> See, e.g., 2021 MA Climate Law at § 95 (permitting Massachusetts state agency to require utilities to solicit proposals for electric transmission in connection with offshore wind generation procurement); An Act to Advance Clean Energy, 2018 Mass. Acts 227, at § 21 (same); Massachusetts Dep’t. of Pub. Utils., Docket Nos. 18-64, 18-65, 18-66 (June 25, 2019) (approving power purchase agreements that included the costs of new transmission infrastructure to deliver hydroelectric generation from Canada to New England); Conn. Gen. Stat. section 16a-3n(a)(1) (the Commissioner of the Connecticut Department of Energy and Environmental Protection may “solicit proposals, in one solicitation or multiple solicitations, from providers of energy derived from offshore wind facilities that are Class I renewable energy sources, as defined in section 16-1, and any associated transmission . . .”) (emphasis added); An Act to Require Prompt and Effective Use of the Renewable Energy Resources of Northern Maine, 2021 Public Law ch. 380 (requiring the Maine Public Utilities Commission to issue “a request for proposals for the development and construction of a 345-kilvolt double circuit generation connection line, or, in the commission’s discretion, a transmission line or lines of greater capacity, to connect renewable energy resources located in northern Maine”).

## V. COMMENTS

### A. **Potential Reforms Should Be Guided By Several Core Principles and Address Systemic Impediments to Achieving a Just and Reasonable Energy Transition.**

NESCOE appreciates the Commission's leadership in considering reforms to regional transmission planning, interconnection, and cost allocation processes to meet the needs of a changing resource mix. Before providing perspectives on a number of the concepts and approaches in the ANOPR, our comments begin by offering some principles and complementary areas for reform that cut across the broad range of potential actions that the Commission may pursue in connection with this proceeding.

NESCOE respectfully asks the Commission to incorporate the following guiding principles or actions in any concrete proposals it develops:

- Regional flexibility;
  - A central role for states in transmission planning and project selection to satisfy state law requirements and decision-making around cost;
  - Prioritizing consumer protections; and
  - Ensuring that RTO/ISO governance keeps pace with a transitioning transmission system.
1. The Commission Should Afford Regions Flexibility in the Development of Rules.

As it crafts potential reforms stemming from the ANOPR, the Commission should take great care to ensure that it does not inadvertently impede ongoing progress in regions where states and RTOs/ISOs are now collaborating on executing new planning frameworks. The Commission should afford flexibility in developing rules that are tailored to the unique needs of each region. For example, NESCOE believes that our ongoing regional work on the *2050 Transmission Study* and related Tariff changes is directionally consistent with the objectives

outlined in the ANOPR around longer-term regional planning. NESCOE respectfully cautions the Commission against implementing reforms that could disrupt momentum in New England on these issues or redirect resources needed to bring them to completion on their current time track. NESCOE believes, in fact, that this new planning process in our region could serve as a model to inform further action on the Commission's part in proposing similar approaches to forward-looking planning for anticipated future generation.

The premise underpinning much of the reforms contemplated in the ANOPR is that changes in the resource mix are precipitating a need for reforms to regional planning processes. While NESCOE agrees with this conceptually, the industry, technology, and the requirements of state laws are constantly in flux. Indeed, it is reasonable to expect that federal, state, and local governments will pursue material shifts in policies in the coming years. The exact nature of changes that are occurring today and that will be occurring even five years from now could be vastly different twenty years from now. The development of more advanced storage technologies and load management programs, for example, could have a significant effect on the nature of what transmission projects are needed and where they are needed. It would be counterproductive if any rules coming out of this inquiry were so prescriptive as to inhibit the ability of regional transmission planning processes to be adaptive to changing technologies, system conditions, and legal requirements.

One example where flexibility is especially warranted is scenario analysis and modeling. The Commission seeks comment on whether/how long-term scenario modeling “should be used in identifying and selecting solutions to meet future transmission needs[,]” including how to

determine benefits and beneficiaries of transmission projects.<sup>51</sup> The Commission should not pursue reforms that are prescriptive in assigning inputs and assumptions that *must* be used in scenario analysis. Flexibility is key to allowing the planning process to adapt as needed.

Similarly, the Commission asks whether it should require transmission providers to establish processes “to identify geographic zones that have the potential for the development of large amounts of renewable generation and plan transmission to facilitate the integration of renewable resources in those zones.”<sup>52</sup> Here, again, tariff reforms should provide optionality. Transmission providers may elect to identify geographic zones as part of a larger scenario analysis process, but the Commission should not require it. Allowing such optionality would recognize that resource types and locations that satisfy the requirements of diverse laws and policy imperatives, including prioritizing economic development, may well change over time. History illustrates the point: in the not too distant past, New England’s analyses of resource-rich areas did not have a particular focus on our waters and were instead largely aimed at onshore wind development and hydropower from Eastern Canada.

Another area where flexibility is key is the length of the regional planning process. The Commission seeks “comment on whether the development of longer-term scenarios for planning purposes should be pursued and, if so: (1) the number of years into the future the scenarios should consider (including an explanation of how far ahead it is reasonable to forecast anticipated future generation and system requirements). . . .”<sup>53</sup> As discussed above, ISO-NE has

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<sup>51</sup> ANOPR at P 53.

<sup>52</sup> *Id.* at P 54.

<sup>53</sup> *Id.* at P 48.

initiated the *2050 Transmission Study* in response to the New England states’ previously articulated concerns on the need for longer-term visibility into system needs accounting for state laws and mandates. NESCOE strongly supports this effort and greatly appreciates ISO-NE’s early commitment to it. NESCOE emphasizes that the title of the study does mean that a 30-year future scenario is necessarily the right—or the only useful—time frame. The New England states have expressed interest in transmission analysis as part of the *2050 Transmission Study*, along with cost information, over near-, medium- *and* long-term horizons. There is a critical need for states, in partnership with RTOs/ISOs, to have the ability to adapt modeling to emerging needs and changing laws as they arise. We may not know what those needs and changes will be, but we can be assured they will be different than what we expect.

2. States Must Occupy a Central Role in Transmission Planning and Cost Allocation Related to State Requirements.

In fashioning any proposals around regional transmission planning and cost allocation, it is critical that states have a central role in transmission analysis and project evaluation and selection related to the execution or integration of state energy and environmental requirements. Like wholesale power markets, transmission and “public policy . . . are inextricably intertwined.”<sup>54</sup> When transmission is being planned to support state-led investments in new resources, states must be brought into the analyses and decision-making. Indeed, as Chairman Glick explained, the Federal Power Act (“FPA”) affords states a special role in “shaping the mix of resources used to generate electricity.”<sup>55</sup> NESCOE agrees with Chairman Glick that “RTOs, and regional markets more generally, should be one of the principal building blocks for the

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<sup>54</sup> *ISO New England Inc.*, 173 FERC ¶ 61,161 (2020) (Glick, Comm’r, dissenting at P 7).

<sup>55</sup> *Id.* at P 4 (citation omitted).



transition to the electricity grid of the future.”<sup>56</sup> The states are uniquely positioned to work in partnership with RTOs/ISOs to plan for this future grid.

The Commission seeks comment on “whether and how transmission providers should account for federal, state, local, and individual utility energy and climate goals (including federal, state and local laws and regulations, as well as other policies or goals), and the source of the Commission’s authority to account for such laws, regulations, policies and goals....”<sup>57</sup>

Similarly, the Commission asks “what factors shaping the generation mix are appropriate to use for transmission planning purpose,” and goes on to list, among others, “(1) federal, state, and local climate and clean energy laws and regulations; (2) federal, state, and local climate and clean energy goals that have not been enshrined into law...”<sup>58</sup> The Commission also posits: “Given that states or other local governing bodies may be uniquely situated in determining how much anticipated future generation is needed, or in providing information related to infrastructure siting or resource mix as influenced by state and local policies, we seek comment on how their input should be reflected by transmission providers in developing a sufficiently wide range of future scenarios, including those for anticipated future generation, and the more efficient or cost-effective transmission facilities that may be necessary to facilitate those future scenarios.”<sup>59</sup>

NESCOE’s comments do not purport to address each of these questions in detail. Rather, the salient point is the need to ensure a meaningful role for states in analyses of transmission

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<sup>56</sup> *Id.* at P 9 (citation omitted).

<sup>57</sup> ANOPR at P 48.

<sup>58</sup> *Id.* at P 46.

<sup>59</sup> *Id.* at P 52.

needed to support resources developed in furtherance of states’ public policy requirements. Transmission planning processes need not, and should not, generally “hardwire” particular laws, regulations, or policies or categories of legal requirements. Laws and regulations are not static. Bringing state officials into the conversation both early on and on a continuing basis is the best way to ensure that regional transmission planning will take into account resources—both current and future—needed to meet evolving state requirements.

Moreover, regarding states’ role in scenario analysis for anticipated future generation, that question has been answered in New England. The *2050 Transmission Study* has, to date, been a model of the kind of planning partnership which states and RTOs/ISOs can pursue to better understand system needs when accounting for state laws and mandates. The analysis relies on states, working closely with ISO-NE, to identify inputs and assumptions. Such a “state-led transmission planning tool must be routine”<sup>60</sup> to produce information that enables state officials to consider options to satisfy state mandates and policies. As a point of contrast, the absence of an explicit role of states in decision-making under ISO-NE’s current Order No. 1000 public policy process has effectively made it a dormant tool, as discussed more below.

The ANOPR’s inquiry into whether “clean energy goals that have not been enshrined into law”<sup>61</sup> should be incorporated into long-term regional planning processes further underscores the need for state input into transmission analyses. There could be endless debate over which clean energy goals not enshrined into law—a phrase that could mean many things and very different things to different interests—should be factored into modeling for long-term transmission

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<sup>60</sup> *Advancing the Vision* at 12.

<sup>61</sup> ANOPR at P 46.

projects. But there is no need to go down this rabbit hole. If regional transmission planning processes ensure meaningful state input and decision-making, such processes can—as they should—adapt to evolving state priorities, amended legal requirements, and changing state policy preferences.

As reforms are developed, they should include rules that codify the states’ role in the tariff with respect to evaluation and selection of public-policy driven transmission projects. As NESCOE recently explained in another Commission proceeding, despite the central role that New England states occupy over electric power supply within their borders—an authority clearly reserved to states under the FPA<sup>62</sup>—there remains a fundamental gap in the ISO-NE Tariff related to the states’ role in public policy-driven transmission planning.<sup>63</sup> Under the current ISO-NE Tariff, the states’ defined role in the transmission planning process implemented pursuant to Order No. 1000 ends when policy needs are identified. The states have no part in evaluating and selecting projects—or recommending that projects not be selected—other than offering input as a “stakeholder,” even if a state’s own legal requirements are identified as being drivers of the projects.<sup>64</sup> NESCOE expects that New England state officials will be discouraged from using such a planning process unless there is a defined role that is comfortable for states in connection with the execution of their laws.

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<sup>62</sup> 16 U.S.C § 824(b)(1); *see Hughes v. Talen Energy Mktg. LLC*, 136 S. Ct. 1288, 1292 (2016) (“The States’ reserved authority includes control over in-state ‘facilities used for the generation of electric energy.’”) (citation omitted).

<sup>63</sup> *See* Comments of the New England States Committee on Electricity, Docket No. AD20-18-000 (filed May 10, 2021) (“NESCOE Offshore Wind Comments”), at 7.

<sup>64</sup> *See generally* ISO-NE OATT, Attachment K § 4A (detailing process by which ISO-NE conducts public policy studies; obtains input and provides results of studies to Qualified Transmission Project Sponsors in preparing Stage One proposals; obtains input on Stage One proposals; moves to Stage Two Solutions, and project selection—all without any decision-making authority afforded the states).

This is an area ripe for reform, and ISO-NE appears to be generally supportive of such reforms.<sup>65</sup> Filling this gap should be a priority in any reforms to long-term regional transmission planning rules.

3. Consumer Protections Should Be a High Priority.

The Commission's inquiries include questions about the justness and reasonableness of transmission rates when transmission investments are *not made* to account for anticipated future generation.<sup>66</sup> However, the lawfulness of transmission rates is also implicated when transmission is built in anticipation of future generation that does not materialize, when more cost-effective non-transmission options could have been pursued, and when project costs are higher than they should be.

NESCOE discusses below its support for the Commission's development of a proposal to implement independent transmission monitors.<sup>67</sup> The Commission should prioritize reforms that promote cost discipline and cost containment generally, not just tethered to potential transmission monitors. Key among these reforms should be enhancing competition in the development and construction of transmission solutions. The Vision Statement framework supports "competitive processes to minimize costs to consumers."<sup>68</sup> President Biden's Executive Order on Promoting Competition in the American Economy, issued in July 2021, also called on the Commission and other federal agencies to promote greater competition, noting that

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<sup>65</sup> In providing feedback to the ONE Transmission concept that NESCOE staff presented to the PAC in April 2021, ISO-NE stated that "[t]he states would likely be in a better position [than the ISO] to understand the cost/benefit trade-offs of public policy projects and therefore should be making the decision on whether or not to proceed and what upgrades to pursue." ISO-NE ONE Tx Comments at 1.

<sup>66</sup> See ANOPR at PP 44, 48.

<sup>67</sup> See *infra* Section V.B.

<sup>68</sup> Vision Statement at 5.

“[a]gencies can influence the conditions of competition through their exercise of regulatory authority or through the procurement process.”<sup>69</sup>

As NESCOE has pointed out to the Commission, competitive transmission processes have not developed in New England as the Commission may have hoped and anticipated with implementation of Order No. 1000.<sup>70</sup> All but one project to date that ISO-NE has selected for inclusion in its Regional System Plan have been exempted from competition due to ISO-NE’s designation of project needs as “immediate” (*i.e.*, within three years). When ISO-NE classifies projects developed under the Order No. 1000 planning process as immediate-need reliability projects, and thus assigns them to incumbent utilities rather than using a competitive process, “consumers lose the benefit of competition on costs and associated cost control mechanisms.”<sup>71</sup> This includes the potential for mechanisms that limit consumer cost exposure by shifting some risk of investment to developers. Indeed, “[w]hile transmission investments can, of course, provide consumers with reliability benefits, project costs matter. Competition provides a platform to drive down costs by incenting developers to bid lower prices, propose innovative solutions, assume project risks, and commit to contain costs.”<sup>72</sup>

NESCOE commends ISO-NE for beginning work with stakeholders to consider Tariff changes that would expand the eligibility of its competitive transmission procurements to include

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<sup>69</sup> See <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

<sup>70</sup> See Comments of the New England States Committee on Electricity, Docket No. EL19-90-000 (filed Jan. 27, 2020) (“NESCOE Competitive Exemption Comments”), at 1-13; *see also* Comments of the New England States Committee on Electricity, Docket No. AD16-18-000 (filed May 31, 2016) (“NESCOE Technical Conference Comments”), at 9; Reply Comments of the New England States Committee on Electricity, Docket No. PL19-3-000 (filed Aug. 26, 2019), at 12.

<sup>71</sup> NESCOE Competitive Exemption Comments at 5 (quoting NESCOE Technical Conference Comments at 9).

<sup>72</sup> NESCOE Competitive Exemption Comments at 12.

storage as a transmission asset.<sup>73</sup> Such a change is a welcome step toward enhancing competition in our region and one for which NESCOE has advocated. However, such Tariff revisions will be muted so long as competitive processes are the extreme exception, as they have been to date, rather than the rule.

The Commission initiated an FPA section 206 proceeding two years ago in connection with the exception for time-sensitive projects.<sup>74</sup> Ultimately, the Commission found that there was insufficient evidence in the record to find under FPA section 206 that ISO-NE's implementation of the exemption for immediate need reliability projects was unjust, unreasonable, or unduly discriminatory or preferential, and it terminated the proceeding.<sup>75</sup>

Given the broad scope of the ANOPR, NESCOE encourages the Commission to revisit ways in which competitive processes can help place discipline on rising transmission costs, particularly as it contemplates integrating transmission planning processes. This would be in line with the Commission's articulated desire "to better understand how the reforms of the federal right of first refusal in Order No. 1000 have shaped the type and characteristics of transmission facilities developed through regional and local transmission planning processes, such as a relative increase in investment in local transmission facilities or the diversity of projects resulting from competitive bidding processes."<sup>76</sup> Mindful of the balance between the dual needs of

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<sup>73</sup> See ISO-NE 2022 Work Plan at Slide 16.

<sup>74</sup> *ISO New England Inc., et al.*, Order Instituting Section 206 Proceedings, 169 FERC ¶ 61,054 (2019).

<sup>75</sup> *ISO New England Inc.*, Order on Section 206 Investigation, 171 FERC ¶ 61,211 (2020), Order Addressing Arguments Raised On Rehearing, 172 FERC ¶ 61,293 (2020), appeal pending sub nom. *LSP Transmission Holdings II, LLC v. FERC*, D.C. Cir. No. 20-1422 (Oct. 17, 2020).

<sup>76</sup> ANOPR at P 37.

ensuring reliability and protecting consumers from excessive costs,<sup>77</sup> NESCOE urges the Commission to take the opportunity now to consider reforms to ensure more meaningful competition in meeting the needs of the future grid.

4. As the Commission Considers a Holistic Rethink of Transmission Planning, It Should Also Ensure RTO/ISO Governance Keeps Pace.

The issues discussed in the ANOPR related to transmission planning are inseparable from RTO/ISO governance. NESCOE respectfully suggests that for reform to take root in the areas that the ANOPR identifies, the Commission should give contemporaneous consideration to revisiting its past reform of RTO/ISO governance and related practices.

Through the Vision Statement, NESCOE asked ISO-NE and its Board to initiate a process in 2021 with states and stakeholders to identify potential changes to ISO-NE’s mission and governance structure that:

improve transparency and foster improved alignment with a rapidly-evolving 21st century clean energy grid. As part of this process, NESCOE seeks to explore reform of ISO-NE governance to achieve greater transparency around decision-making, a needed focus on consumer cost concerns, and support for States’ energy and environmental laws.<sup>[78]</sup>

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<sup>77</sup> *FERC v. Elec. Power Supply Ass’n*, 136 S. Ct. 760, 781 (2016) (one of the FPA’s core objectives is to “protect against excessive prices”) (cleaned up); *NAACP v. FCP*, 425 U.S. 662, 666 (1976) (FPA includes “the legislative command to the Commission . . . to establish just and reasonable rates for the transmission and sale of electric energy, . . . and, consequently, to allow only such rates as will prevent consumers from being charged any unnecessary or illegal costs.”) (cleaned up); *NextEra Energy Res. v. FERC*, 898 F.3d 14, 21 (D.C. Cir. 2018) (“The Commission must protect . . . consumers from excessive rates and charges.”) (cleaned up); *TransCanada Power Mktg. Ltd. v. FERC*, 811 F.3d 1, 12 (D.C. Cir. 2015) (“It is indisputable that, under established ratemaking principles, rates that permit excessive profits are not just and reasonable.”); *City of Detroit v. FPC*, 230 F.2d 810, 817 (D.C. Cir. 1955) (the Commission can increase rates to promote consumer benefits, but “it must see to it that the increase is in fact needed, and is no more than needed, for the purpose.”); *see Jersey Cent. Power & Light Co. v. FERC*, 810 F.2d 1168, 1207 (D.C. Cir. 1987) (Starr, J., concurring) (“The Commission stands as the watchdog providing a complete, permanent and effective bond of protection from excessive rates and charges.”) (cleaned up).

<sup>78</sup> Vision Statement at 7-8.

Among other things, as set out in the Vision Statement, NESCOE identified shortcomings in the ISO-NE governance structure and processes, particularly in light of current state laws and changed circumstances since those structures and processes were adopted. ISO-NE's mission and Board structure are critically important not just to being responsive to state laws and policies but also to the consideration of transmission system costs and wholesale electric charges that consumers ultimately pay. Reforms in these areas would ensure that, in making decisions around system expansion and exercising its authority to affect electric power rates, ISO-NE places emphasis on disciplining costs and protecting against excessive charges.

NESCOE called on ISO-NE to convene a collaborative process with states and stakeholders to identify potential governance changes.<sup>79</sup> ISO-NE did not commence that process, and instead announced certain changes to its practices in a meeting with the New England states.<sup>80</sup> NESCOE appreciates the first efforts of ISO-NE and its Board to make some changes that are directionally compatible with NESCOE's recommendations as set out in *Advancing the Vision*.<sup>81</sup> For example, the Board's commitment to hosting at least one open meeting each year<sup>82</sup> is a welcome step toward a more visible decision-making process.

The Board's response, however, swerves around structural changes that the New England states requested, such as mission statement revisions, that are required for ISO-NE to be meaningfully accountable to the states and consumers that it serves. NESCOE emphasizes the

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<sup>79</sup> *Id.* at 6-8.

<sup>80</sup> *See generally* ISO-NE Board Response.

<sup>81</sup> NESCOE is reviewing the ISO-NE Board Response to the *Advancing the Vision* recommendations and will communicate further with ISO-NE and stakeholders in the weeks ahead about these important issues.

<sup>82</sup> *See* ISO-NE Board Response at Slide 15.



need for continuing evolution of governance to keep pace with a transforming power system and state requirements and policies that continue to drive change. Much work remains to address the states' core concerns in this area, and NESCOE understands that ISO-NE is open to a continued dialogue. The New England states will continue to work with ISO-NE to address ongoing governance concerns. These discussions should recognize—as the Commission has—that states are not market participants. The discussions should include how greater accountability for state interests in ISO-NE's governance fits comfortably with ISO-NE exercising independence in carrying out its responsibilities and may also serve the public interest.<sup>83</sup>

NESCOE brings these issues to the Commission's attention in the context of the ANOPR because they are critical to any changes the Commission contemplates to regional transmission planning processes. Simply stated, the Commission may not achieve the lasting reforms reflected in the ANOPR without corresponding changes to RTO/ISO governance. Reforms that

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<sup>83</sup> In encouraging the formation of RTOs, Order No. 2000 demarcated between state and other interests in RTO affairs. *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999) (cross-referenced at 89 FERC ¶ 61,285), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000) (cross-referenced at 90 FERC ¶ 61,201), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash. v. FERC*, 272 F.3d 607 (D.C. Cir. 2001). For example, in discussing the need for RTO governing boards to be independent, the Commission's concerns were focused on ensuring that "their decisionmaking process should be independent of any *market participant or class of participants*." Order No. 2000 at pp. 227-28 (emphasis added).

In fact, the Commission expressed openness to state government officials serving as voting members on RTO boards: "While most commenters agreed that state officials should not serve as voting members of RTO boards, most of these same commenters were comfortable with allowing state officials to serve as *ex officio* members. It was thought that state officials would be better informed in making their own decisions if they could closely observe the considerations and constraints that were weighed by the RTO in making its decisions. It was thought that the ability of state officials to observe the RTO's decisionmaking process would be especially useful if the RTO had to recommend one or more expansions to the existing grid. While we see considerable merit in the arguments that state officials should not be voting members of an RTO governing board (and note that most state commissions share this view), the Commission is not imposing such a prohibition. Since RTOs do not yet exist, it would be premature to conclude that state officials should not participate as voting members of RTO boards. *There may be special circumstances in some regions that would make it in the public interest to give voting rights to one or more state government representatives. Therefore, we will be willing to entertain such proposals and perhaps revisit the issue after we gain more experience.*" *Id.* at p. 232 (emphasis added).

stop at procedural planning miss the opportunity to effectuate needed systemic changes that lie at the root of transmission system planning and development.

We are at an inflection point in a significant energy transition, and RTO/ISO governing structures must be revisited to keep pace and protect against unjust and unreasonable costs. Indeed, “ISO-NE’s mission and governing structure were established when the electric industry was restructured about twenty-five years ago. At that time, regional planning and markets had relatively marginal interaction with the requirements of state laws: markets were to be fuel-neutral, transmission needs were largely reliability-based, and states were to achieve their clean energy goals through the new Renewable Portfolio Standards.”<sup>84</sup> Moreover, just as governance reforms are inseparable from changes to the regional transmission planning process, governance changes will enable timely consideration of important equity and environmental justice concerns.

In the ANOPR, the Commission focuses on changes that have occurred in the industry since the issuance of Order No. 890,<sup>85</sup> Order No. 1000, and Order No. 2003.<sup>86</sup> It has also been thirteen years since the issuance of Order No. 719. The governance reforms adopted in that order are ripe for reassessment in conjunction with the ANOPR’s potential reforms. The

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<sup>84</sup> Vision Statement at 6.

<sup>85</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh’g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>86</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh’g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh’g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh’g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff’d sub nom. Nat’l Ass’n of Regul. Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007). *See, e.g.*, ANOPR at P 5 (“We believe it appropriate to review whether there are questions that should be explored and possible solutions proposed regarding any potential shortcomings in the existing regional transmission planning and cost allocation and generator interconnection processes, which may have become evident since the Commission issued Order No. 2003, Order No. 890, and Order No. 1000.”) (citation omitted).

Commission should consider these issues holistically. As the Commission evaluates the scope of reforms it wishes to pursue in connection with the ANOPR, NESCOE respectfully suggests that the Commission also consider initiating a periodic review of Order No. 719. This would include ensuring that regional planning processes accommodate states' efforts to advance equity and environmental justice considerations. Recognizing the constraint of time and resources, if such a periodic review cannot take place concurrent with any proposed rule stemming from this proceeding, the Commission could signal its intent to relook at its Order No. 719 reforms in a separate proceeding.

**B. NESCOE Strongly Supports the Development of Potential Reforms to Establish Independent Transmission Monitors.<sup>87</sup>**

Across policy, technical, and engineering discussions involving transmission, one issue always looms large: cost. The Commission is right to focus on how potential reforms to the planning process implicate the justness and reasonableness of transmission rates. NESCOE wholeheartedly agrees that “[t]he potential for a significant investment in the transmission system in the coming years underscores the importance of ensuring that ratepayers are not saddled with costs for transmission facilities that are unneeded or imprudent.”<sup>88</sup> Accordingly, NESCOE strongly supports the Commission developing proposed reforms to “establish an independent entity to monitor the planning and cost of transmission facilities in the region.”<sup>89</sup>

Strong transmission cost transparency and oversight would help to build consumer confidence in infrastructure decisions and support for incremental investment. As discussed

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<sup>87</sup> See ANOPR at PP 163-75.

<sup>88</sup> *Id.* at P 159.

<sup>89</sup> *Id.* at P 163.

above, needed investments in system reliability have led to escalating transmission costs in New England over the last two decades. Our rates far outpace those in other regions.<sup>90</sup> An independent transmission monitor could examine structural and rate design issues that require a relook to guard against unwarranted consumer costs and could shed light on complex ratemaking processes. Just as market monitors are indispensable to the administration of wholesale electricity markets, so too could monitors serve a critical role in the oversight of transmission rates.

NESCOE preliminarily supports a broad scope and charge for a newly formed independent transmission monitor. This could include closely scrutinizing standards used to assess system needs to ensure that system reliability is maintained at reasonable costs. In developing the scope for an independent transmission monitor, the Commission should provide further details about how such a monitor would be funded and the level of consumer costs contemplated. In NESCOE's view, relatively modest investment in resources to oversee transmission costs could provide meaningful discipline and benefit to consumers.

Rate review should be a key area for transmission monitor engagement. In New England, as in many other regions, a formula rate is used to calculate updated transmission charges. Under this structure, "the formula itself is the rate, not the particular components of the formula."<sup>91</sup> Updates to the formula rate, which in New England and in many regions are new inputs based initially on forecasted costs and later on trued-up actual costs, are typically not scrutinized by the Commission in the absence of a formal, resource-intensive challenge to an

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<sup>90</sup> See *supra* Section IV.D.

<sup>91</sup> *ISO New England Inc. Participating Transmission Owners Administrative Committee et al.*, 167 FERC ¶ 61,164 at P 7 (2019) (quoting *Ocean State Power II*, 69 FERC ¶ 61,146 at 61,544 (1994)).

annual update of charges brought by states, consumers advocates, transmission customers or others.<sup>92</sup>

In late 2015, the Commission initiated an FPA section 206 investigation into the ISO-NE Tariff regarding the RNS rate. The Commission found that the Tariff lacked “adequate transparency and challenge procedures with regard to the formula rates” charged by the Participating Transmission Owners and that the formula rates of the Participating Transmission Owners appeared “to lack sufficient detail in order to determine how certain costs are derived and recovered in the formula rates.”<sup>93</sup> Following a multi-year settlement process, the Commission accepted a settlement establishing revised formula rates and formula rate protocols for the Participating Transmission Owners.<sup>94</sup>

Interim protocols have been implemented this year pursuant to the settlement. NESCOE appreciates the engagement of Participating Transmission Owners through this process. They have been responsive to NESCOE’s requests for information and have provided opportunities along the way to ask questions more informally to enhance understanding of various rate components. Still, for organizations that advocate on behalf of consumer interests as part of the protocol process, it is a daunting task. For example, this year’s informational filing containing updated transmission charges and revenue requirements is over 1,800 pages long,<sup>95</sup> consisting

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<sup>92</sup> *See id.*

<sup>93</sup> *ISO New England Inc. and Participating Transmission Owners Administrative Committee*, 153 FERC ¶ 61,343 at P 1 (2015).

<sup>94</sup> *ISO New England Inc., et al.*, Letter Order, 173 FERC ¶ 61,270 (2020).

<sup>95</sup> Participating Transmission Owners Administrative Committee, Annual Informational Filing Regarding ISO Tariff Charges in Effect as of June 1, 2021 and January 1, 2022, Docket Nos. RT04-2-000, *et al.* (filed July 30, 2021).

largely of rate schedules and worksheet calculations. Reviewing the filing is resource intensive and requires specialized rate expertise. Given the breadth of information contained in the filing, any organization representing consumer interests would reasonably question whether it has missed asking important questions or failed to challenge inputs that create unjust and unreasonable charges.

The Participating Transmission Owners legally bear the burden of demonstrating that the updated charges are just and reasonable under FPA section 205. Nonetheless, because the updated charges largely escape scrutiny at the Commission unless interested parties devote substantial resources to review and analysis in order to submit a formal challenge, as a practical matter, that burden falls on states and other consumer-interested entities. Having an independent transmission monitor could help shoulder some of that burden. As New England transitions to a new formula rate structure and protocol process, this type of reform would be timely.

**C. The Commission’s Inquiries Focusing on Longer-Term Transmission Planning to Support Future Renewable Resources Are Heading in the Right Direction.<sup>96</sup>**

NESCOE generally supports the Commission’s decision to examine whether existing regional processes adequately account for the transmission needs of the changing resource mix.<sup>97</sup> In particular, NESCOE appreciates the Commission’s leadership in recognizing a need for longer-term and comprehensive regional transmission analysis to account for this changing resource mix. In many cases, the grid’s evolution is being driven by the requirements of states’ laws and mandates.

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<sup>96</sup> See generally ANOPR at PP 44-53.

<sup>97</sup> *Id.* at P 30.

1. The Resource Mix in New England Has Been Changing in Response to State Requirements.

NESCOE agrees that the resource mix is fundamentally changing. As articulated in the concurring statement issued by Chairman Glick and Commissioner Clements, “[d]ue to a myriad of factors—including improving economics, customer and corporate demand for clean energy, public utility commitments and integrated resource plans, as well as federal, state, and local public policies—renewable resources in particular are coming online at an unprecedented rate.”<sup>98</sup> In New England, significant amounts of clean energy resources were added to the region’s resource mix by the end of 2019, including 2,900 MW of energy efficiency (“EE”) resources; 3,500 MW of photovoltaic (“PV”)/solar (mostly distributed); and 1,400 MW of wind power, including the nation’s first off-shore installation.<sup>99</sup> Although some of these changes may be utility-driven,<sup>100</sup> in New England, achieving a decarbonized system is required by the laws and mandates in Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.<sup>101</sup>

ISO-NE has recognized that decarbonization requirements and state-led investments in clean energy are driving a power grid transition in New England.<sup>102</sup> In its 2019 Regional System Plan, ISO-NE explained:

New England states’ Renewable Portfolio Standard targets and related policies are driving new proposals for renewable energy, a trend expected to continue to the middle of the century. In

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<sup>98</sup> *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) (Glick, Comm’r and Clements, Comm’r concurring) (“Glick/Clements Concurrence”), at P 1.

<sup>99</sup> ISO-NE 2021 Outlook at 9.

<sup>100</sup> Glick/Clements Concurrence at P 5 (“dozens of the biggest utilities in the country have established their own decarbonization goals, the achievement of which will require their own significant investment in renewable generation”).

<sup>101</sup> Vision Statement at 4. *See also* 2020 Governors’ Statement at 1.

<sup>102</sup> *See* ISO-NE 2021 Outlook at 13-16.

addition to RPSs, the states' goals for reducing greenhouse gas emissions are encouraging the development of EE and PV and are regulating emissions from larger-scale electric power plants. The states also have individually and collectively issued a number of RFPs for more than 5,000 MW of clean energy resources and an HVDC interconnection to deliver Canadian hydro power.<sup>[103]</sup>

NESCOE expects that ISO-NE's 2021 Regional System Plan, when updated this year, will describe New England's continued strong progress toward a decarbonized power grid. As recounted above, just this past year several states have enacted landmark energy and environmental legislation and are actively pursuing clean energy procurements.<sup>104</sup>

The ANOPR does not quite tell the full story in stating that “[t]he electricity sector is transforming as the generation fleet shifts from resources located close to population centers toward resources, including renewables, that may often be located far from load centers.”<sup>105</sup> While NESCOE agrees there is no doubt that the electric sector is transforming, in New England, this does not necessarily mean that the generation resources are or will be located far from load centers. NESCOE has previously explained that “New England consumers are increasingly investing in technologies such as solar PV and energy efficiency in connection with state laws and programs that encourage resources *located close to where consumers use power*.”<sup>106</sup> Other recent developments in the industry in New England include the creation of “virtual power plants”—essentially networks of batteries, solar power, or other distributed energy resources.

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<sup>103</sup> ISO-NE 2019 Regional System Plan (Oct. 31, 2019), at 155, available at [https://www.iso-ne.com/static-assets/documents/2019/10/rsp19\\_final.docx](https://www.iso-ne.com/static-assets/documents/2019/10/rsp19_final.docx).

<sup>104</sup> See *supra* Section IV.A.

<sup>105</sup> ANOPR at P 3.

<sup>106</sup> NESCOE 2017 Annual Report to New England Governors (Mar. 28, 2018), at 19 (emphasis added), available at <https://nescoe.com/wp-content/uploads/2018/03/AnnualReport2017.pdf>.



For example, a Vermont utility deploys an aggregation of residential scale battery back-up systems, offered to homes at below-market rates, to help offset peak demand.<sup>107</sup> Another New England market participant was able to offer 11 MW of localized renewable capacity in ISO-NE's Fourteenth Forward Capacity Auction by aggregating its residential portfolio of solar power as a virtual power plant.<sup>108</sup>

As noted at the outset, however, the ANOPR is broad and NESCOE believes the Commission gets to the heart of the matter when stating that “[e]nsuring just and reasonable rates as the resource mix changes, while maintaining grid reliability, remains the priority in the regional transmission planning and cost allocation and generator allocation processes.”<sup>109</sup>

2. Longer-Term Planning Is Needed to Account for the Changing Resource Mix Required by and Reflected in State Requirements.

NESCOE strongly supports reforms that would lead to greater visibility into longer-term system needs and associated costs, especially anticipated future generation that includes distributed energy resources (“DERs”) developed pursuant to state-led investments. NESCOE agrees that—at least with respect to New England—as the Commission suggests, the existing regional transmission planning process may “fail to adequately account for anticipated future generation.”<sup>110</sup>

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<sup>107</sup> Alejandro de la Garza, Time Magazine, *This Vermont Utility Is Revolutionizing Its Power Grid to Fight Climate Change. Will the Rest of the County Follow Suit?*, July 26, 2021, available at <https://time.com/6082973/vermont-electric-grid/>.

<sup>108</sup> Kelly Pickerel, Solar Power World, *SunPower combines its New England residential portfolio into 11-MW virtual power plant for ISO*, Mar. 16, 2020, available at <https://www.solarpowerworldonline.com/2020/03/sunpower-combines-is-new-england-residential-portfolio-into-11-mw-virtual-power-plant-for-iso/>.

<sup>109</sup> ANOPR at P 3.

<sup>110</sup> *Id.* at P 44.

NESCOE is working closely with ISO-NE to pursue planning on a longer-term basis so that the transmission system can support the changing resource mix. In its Vision Statement, NESCOE emphasized that “[a]s a region, we cannot effectively plan for integrating clean energy resources and decarbonization of the electricity system required by certain states’ laws without having a clear understanding of the investments needed in regional transmission infrastructure.”<sup>111</sup> The Vision Statement concluded that “ISO-NE currently does not conduct a routine transmission planning process that helps to inform all stakeholders of the amount and type of transmission infrastructure needed to cost-effectively integrate clean energy resources and DERs across the region. The need for such planning has become paramount.”<sup>112</sup>

Last fall, NESCOE recommended that ISO-NE adopt a new planning framework to begin to address these issues. Specifically, NESCOE recommended that ISO-NE:

1. Initiate a regional transmission planning effort that provides a high-level transmission system plan to meet the needs of States’ energy transition, with participation and input by State officials,
2. Use the scenarios that have been developed and used in various States’ analyses of pathways to decarbonization as a starting point for developing multiple future resource scenarios (e.g., 3-4) as the basis for assessing future regional transmission needs, and conduct a conceptual regional transmission system plan for the select future scenarios for identified timeframes (e.g., 2030, 2040 and 2050),
3. Provide needed transmission system planning information to the region, including high-level cost estimates,

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<sup>111</sup> Vision Statement at 3-4.

<sup>112</sup> *Id.* at 4.

4. From the conceptual system plan, conduct detailed analyses for specific scenarios, with the objective being to understand future conditions and needs, including:
  - a. Onshore system upgrades, including specific areas that need strengthening,
  - b. Offshore systems that may be needed to support offshore wind resources,
  - c. Potential options that should be explored, including non-transmission alternatives, and
  - d. The impact of DERs (both distributed generation and flexible load sources) on transmission needs,
5. With the insights gained from the scenarios used in the long-term system planning, conduct stakeholder meetings to discuss the potential use of transmission to integrate all of the necessary energy resources in the region at the lowest cost possible, and
6. Informed by States' direction, conduct detailed planning processes to maximize the use of existing transmission, build new transmission only where absolutely necessary, and use competitive processes to minimize costs to consumers.<sup>[113]</sup>

As subsequently reported in *Advancing the Vision*, ISO-NE has responded constructively to the Vision Statement's framework for longer-term regional planning. This includes the two activities discussed above: (1) conducting the *2050 Transmission Study*, and (2) developing Tariff language to ensure that such a planning tool becomes, through close partnership with the New England states, part of ISO-NE's ongoing routine transmission planning process. The result of the *2050 Transmission Study* is not intended be just a one-off analysis for New England, and work is already underway to ensure it is regularized. NESCOE encourages the Commission

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<sup>113</sup> *Id.* at 5.

to consider the Vision Statement’s recommendations in the development of long-term planning reforms stemming from the ANOPR.

3. Grid-Enhancing Technologies Should Be Considered in Longer-Term Planning Scenarios.

The Commission seeks comment “on whether the development of longer-term scenarios for planning purposes should be pursued and, if so: .... whether and how Grid-Enhancing Technologies should be accounted for in determining what transmission is needed under such scenarios[.]”<sup>114</sup> NESCOE generally supports the consideration of grid-enhancing technologies in interconnection studies and transmission planning more broadly, including in longer-term scenarios.

Planning for the future grid cannot happen effectively without integrating grid-enhancing technologies. As explained in the Vision Statement, NESCOE “supports the efficient use of existing transmission facilities and the construction of new facilities, where necessary and appropriate, to ensure the transmission grid’s reliability, efficiency, and ability to integrate clean energy resources, consistent with certain States’ legal requirements and other mandates.”<sup>115</sup> Grid-enhancing technologies can play a valuable role in deferring the need for, and intensity of, new infrastructure. In developing potential reforms governing the development of longer-term scenarios, the Commission should ensure flexible processes that allow transmission providers to adequately consider the contribution of grid-enhancing technologies in modeling the future system.

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<sup>114</sup> ANOPR at P 48 (citation omitted).

<sup>115</sup> Vision Statement at 3.

In addition, to the extent the Commission pursues reforms to expand competition—which NESCOE respectfully suggests it should<sup>116</sup>—those reforms should include opening competitive processes to grid-enhancing technologies that serve a transmission function (*e.g.*, storage-as-transmission, dynamic line rating). As a complement to these reforms, the Commission should consider a sufficiently broad scope for any independent transmission monitor so that it can develop recommendations on rate structures that achieve an appropriate balance between incentivizing such innovative technologies and protecting consumers. The independent transmission monitor could also work with RTOs/ISOs, states, and regional stakeholders to develop any needed changes to facilitate the deployment of certain types or categories of technologies.

**D. A More Integrated Approach to Transmission Planning Could Be a Useful Reform if it Supports Effective Reliability Planning and Provides Consumer Benefits.**

The Commission asks a series of questions probing whether a more integrated approach to transmission planning should be explored as a potential reform.<sup>117</sup> For example, the Commission seeks comment on whether it “should require transmission providers to operate their regional transmission planning and cost allocation and generator interconnection processes on concurrent, coordinated timeframes, with the same or similar assumptions and methods, and whether such a potential requirement may identify more efficient or cost-effective transmission solutions that could address needs shared between the two processes.”<sup>118</sup>

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<sup>116</sup> See *supra* Section V.A.3.

<sup>117</sup> See ANOPR at PP 65-68.

<sup>118</sup> *Id.* at P 65.

In general, NESCOE supports opportunities for enhanced visibility into transmission system needs and how to better capture economies of scale. As discussed above, NESCOE earlier this year presented the ONE Transmission concept, the objective which is to integrate ISO-NE’s only existing routine transmission planning process—system reliability planning—with the consideration of public policy-driven transmission options.<sup>119</sup> The ONE Transmission approach has the potential to co-optimize transmission projects that can satisfy both reliability and other public policy objectives, such as interconnecting clean energy resources mandated by state laws. ISO-NE has similarly supported the concept of “[i]ntegration of [and] coordination between the reliability-based upgrade process and any long-term public policy development process.”<sup>120</sup> ISO-NE has expressed that this integration is necessary, for example, “to make sure reliability upgrades are an appropriate technology and sized to meet public policy goals.”<sup>121</sup> Features of ONE Transmission may be useful to the Commission in considering broad reforms along these lines.

NESCOE could support moving toward such an integrated and holistic approach to regional transmission planning, provided that any ultimate proposal prioritizes the areas set forth below. Like the ONE Transmission concept, it is critical that any new planning structure keep reliability and consumer benefits in primary focus.

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<sup>119</sup> See *supra* Section IV.C.

<sup>120</sup> Robert Ethier, ISO-NE Vice President of System Planning, Transmission Planning in New England: New England Energy Vision for a 21st Century, Electric Grid Technical Forum, Feb. 2, 2021 (“Ethier Presentation”), at Slide 6, available at [https://www.iso-ne.com/static-assets/documents/2021/02/energy\\_vision\\_tech\\_forum\\_feb\\_2021\\_ethier\\_final.pdf](https://www.iso-ne.com/static-assets/documents/2021/02/energy_vision_tech_forum_feb_2021_ethier_final.pdf). See also ISO-NE ONE Tx Comments at 1 (“The ISO supports the idea of optimizing solutions to reliability, economic, and public policy based needs.”).

<sup>121</sup> Ethier Presentation at Slide 17.

1. Reliability Must Remain Paramount.

In fashioning potential reforms that would potentially integrate reliability, economic, and public policy transmission planning, it is essential that those reforms are implemented in a way that does not inadvertently disrupt reliability planning. New England has been successful in planning and building projects to address identified risks to system reliability—over \$11 billion worth of such upgrades since 2002.<sup>122</sup> Reliability is one of the cornerstones of the Vision Statement in which the New England states called for “a clean, affordable, and reliable 21st century regional electric grid[.]”<sup>123</sup> In the context of ISO-NE’s immediate-need planning approach, NESCOE explained that “[w]ith the Commission’s direction, the process can and should be adjusted to promote competition without placing reliability at risk”<sup>124</sup> and confirmed that it “shares the Commission’s concern about the need to balance the promotion of competitive processes with reliability risks if time-sensitive projects are delayed.”<sup>125</sup>

The ONE Transmission concept discussed above is deliberate in seeking to overlay a planning study for policy-driven transmission only *after* the reliability planning process is well underway.<sup>126</sup> This approach is flexible and could potentially support planning for other purposes, *e.g.*, economic reasons. However, even if the concept were to be expanded beyond reliability and public policy, the need to keep close focus on reliability would remain.

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<sup>122</sup> See *supra* Section IV.D.

<sup>123</sup> Vision Statement at 1.

<sup>124</sup> NESCOE Competitive Exemption Comments at 13.

<sup>125</sup> *Id.* at 17.

<sup>126</sup> NESCOE ONE Tx Presentation at Slide 8.

2. Consumer Cost Savings and Cost Protections Must Be a Top Priority.

The Commission observes that “although the regional transmission planning process considers transmission needs driven by reliability, economic considerations, and Public Policy Requirements, these types of transmission needs are generally considered in a silo from one another; the cost allocation methods for regional transmission facilities developed in response to these needs are similarly for the most part separated by type.”<sup>127</sup> The Commission goes on to “seek comment as to whether a shift to a more integrated and holistic process for regional transmission planning and cost allocation is appropriate.”<sup>128</sup>

One of the primary objectives behind any reforms to integrating transmission planning processes—whether reliability, economic, and/or public policy-driven—must, of course, be to ensure that consumer rates remain just and reasonable. A driver of NESCOE’s ONE Transmission concept is the opportunity for savings that can be achieved through co-optimizing infrastructure projects that promote both reliability and public policy objectives. NESCOE urges the Commission to ensure that any reforms it proposes will employ mechanisms to the maximum extent possible to promote cost savings and discipline and contain costs.

3. Integrated Planning Processes Should Be Capable of Evaluating Multiple Benefits, Including Advancing State Energy and Environmental Requirements and Goals.

Any reforms directing transmission processes to be undertaken on a more holistic basis must have sufficiently robust future scenario analysis capabilities to evaluate various potential benefits. For example, conclusions around economic benefits cannot be assumed; they must be

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<sup>127</sup> ANOPR at P 85.

<sup>128</sup> *Id.* at P 86.



based on sufficient analysis of the cost savings that a potential transmission project would achieve. Ultimately, any reforms directing a more integrated planning process should provide regions with flexibility in defining and setting criteria for measuring the benefits of transmission, with states occupying a key role in that process.<sup>129</sup> Indeed, transmission itself is not an end. One potential benefit of new transmission infrastructure is to support certain states' initiatives to meet their public policy requirements.

4. NESCOE Cautions Against Reforms Seeking to Integrate Generator Interconnection Upgrades with Regional Transmission Planning.

The Commission poses a number of inquiries which all generally speak to the question of “whether reforms are needed to improve the coordination between the regional transmission planning and cost allocation and generator interconnection processes.”<sup>130</sup> NESCOE cautions against developing one-size-fits-all prescriptive rules that would base findings of transmission needs on the level of generation projects in the interconnection queue. As the Commission notes, there is a concern that some generator interconnection projects may be speculative.<sup>131</sup> ISO-NE reports that “[h]istorically, almost 70% of proposed new megawatts in the [ISO-NE interconnection queue] have ultimately been withdrawn.”<sup>132</sup> At least in New England, NESCOE does not believe there is sufficient data to support relying on the existence of generation projects

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<sup>129</sup> See *supra* Sections V.A.1- 2.

<sup>130</sup> ANOPR at P 65. See generally *id.* at PP 65-68.

<sup>131</sup> See, e.g., *id.* at P 41 (“We also note that the cost of interconnection-related network upgrades can depend entirely on both the timing of when and the specific site where the interconnection customer enters the interconnection queue that may result in interconnection customers submitting multiple speculative interconnection requests in an effort to receive a favorable queue position and reduce their interconnection-related network upgrade costs.”).

<sup>132</sup> ISO-NE, Interconnection Request Queue, available at <https://www.iso-ne.com/system-planning/interconnection-service/interconnection-request-queue/>.

in the interconnection queue to accurately identify or solve for reliability needs. Any nexus between the generator interconnection queue and regional planning are best addressed as part of a longer-term scenario planning process and identification of appropriate inputs and assumptions.

**E. Cost Allocation Reforms Should Provide Regional Flexibility, Ensure that Reliability System Planning Is Not Impeded, and Ensure that States Are Meaningfully Involved in Identifying Public Policy-Related Benefits.**

1. Regional Flexibility Is Needed on Cost Allocation Reforms.

The Commission’s requests for comment on regional cost allocation cover a broad range of potential reforms. Fundamentally, the Commission appears to seek to understand whether its policies should be revised to take into account broader transmission benefits.<sup>133</sup> NESCOE shares the Commission’s focus on ensuring that transmission costs are matched with the benefits that a project provides. NESCOE has identified the need to relook at cost allocation in New England as part of the implementation of a new planning framework to analyze future system needs when accounting for state energy and environmental laws and mandates. The Vision Statement deferred consideration of regional cost allocation when it requested development of what became the *2050 Transmission Study* and revisions to ISO-NE’s Tariff to establish this state-led analysis as a permanent feature of the planning process.<sup>134</sup>

The reason for deferral of these discussions in 2020 was to prevent complexities around cost allocation from delaying overdue planning and analysis reforms. As discussed above, along

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<sup>133</sup> See, e.g., ANOPR at PP 90-91, 94.

<sup>134</sup> See Vision Statement at 6 (“While developing and implementing a transmission system planning framework that meets those enumerated criteria, cost allocation issues should be held aside until there is a better understanding of the type and magnitude of transmission needs under each scenario.”) and n.7 (“To the extent necessary, ISO-NE should work with States and stakeholders to revise ISO-NE’s tariff to reflect this planning approach.”).

with stakeholders, NESCOE and ISO-NE are now moving ahead on this work. Initial results of the *2050 Transmission Study* are anticipated next year. The first phase of Tariff changes necessary to implement these reforms is expected to be filed with the Commission in December 2021. ISO-NE plans to allocate resources in 2022 to developing and filing subsequent Tariff revisions related to how states may pursue options based on the transmission analysis, including cost allocation.<sup>135</sup>

Flexibility, as discussed above more generally,<sup>136</sup> is critical to these efforts. As NESCOE previously expressed to the Commission, one-size-fits-all planning or cost allocation directives could pause the momentum around these initiatives in New England or unintentionally derail them.<sup>137</sup> Just as flexibility is imperative in moving forward with reforms aimed at integrating planning processes, changes to cost allocation should similarly account for different regional considerations in establishing methods that define the standard for identifying project beneficiaries. To the extent the Commission pursues reforms to cost allocation, NESCOE respectfully urges it to incorporate a strong focus on regional flexibility in any proposals.

Flexibility will also help address issues related to cost shifting. The ANOPR “seek[s] comment on whether the use of planning criteria beyond reliability and economic considerations may place the burden for the costs driven by Public Policy Requirements of one state on customers of load serving entities in non-participating states.”<sup>138</sup> NESCOE appreciates the Commission’s inquiry into cost shifting, and the shared recognition of the potential controversies

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<sup>135</sup> See ISO-NE 2022 Work Plan at Slide 8. See also ISO-NE TC Presentation at Slide 5.

<sup>136</sup> See *supra* Section V.A.1.

<sup>137</sup> See NESCOE Offshore Wind Comments at 6.

<sup>138</sup> ANOPR at P 92.

and impediments to transmission development that arise in this area. Such concerns are not hypothetical: one New England state, for example, has enacted a law that seeks to protect its electric ratepayers from costs related to the policies of other New England states.<sup>139</sup> The Vision Statement noted that, in conjunction with NESCOE’s recommended transmission planning framework, “[t]here is no intent to modify the New England Governors’ agreement dated March 15, 2019 that States will ensure consumers in any one State do not fund the public policy requirements mandated by another State’s laws.”<sup>140</sup> As noted above, the New England states intend to address cost allocation as part of ongoing regional work to revise the Tariff to effectuate the Vision Statement’s transmission planning framework.

Echoing comments above advocating for a central role for states in the regional planning process,<sup>141</sup> NESCOE also notes that reforms to cost allocation will not remove a threshold impediment to transmission development: the absence of state decision-making in the evaluation and selection of projects providing public policy benefits. Key to any proposed rules that will effectuate the ANOPR’s intent is a sufficiently robust role for state participation in the regional planning process.

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<sup>139</sup> N.H. Rev. Stat. Chapter 374-F:8 (2021) (directing New Hampshire Public Utilities Commission and state Department of Energy to “advocate against proposed regional or federal rules or policies that are inconsistent with the policies, rules, or laws of New Hampshire. In its participation in regional activities, the commission and the department shall consider how other states’ policies will impact New Hampshire rates and work to prevent or minimize any rate impact the commission or the department determines to be unjust or unreasonable.”).

<sup>140</sup> Vision Statement at n.8.

<sup>141</sup> See *supra* Section V.A.2.

2. Cost Allocation Reforms Should Not Unsettle Existing Methodologies That Have Proven to Be Effective in Getting Projects Built.

NESCOE described above the substantial investments in regional system reliability over the last 20 years.<sup>142</sup> ISO-NE allocates the costs of Reliability Transmission Upgrades on a *pro rata* basis across regional network load.<sup>143</sup> This is a settled cost allocation method for reliability projects in our region. NESCOE respectfully cautions the Commission against developing proposals for cost allocation reform that could unintentionally disrupt New England's settled methodology for sharing transmission costs related to system reliability needs.

**F. Policies Favoring the Shifting of Investment Risk Away From Consumers Should Inform Any Proposal to Reform the Participant Funding Model.**

The ANOPR inquires whether it is appropriate to eliminate or reduce participant funding and whether the Commission should instead direct some form of Order No. 2003's crediting policy.<sup>144</sup> As the Commission considers potential reforms, it should ensure that any proposal it develops to modify participant funding insulates consumers from investment risk to the greatest extent possible.

Decades ago, states' decisions to restructure the electricity sector was driven in part by the policy objective of shifting investment risk from consumers to shareholders of merchant companies.<sup>145</sup> New England's approach to interconnection-related network upgrade costs is aligned with this principle. As NESCOE and others have detailed in separate proceedings,

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<sup>142</sup> See *supra* Section IV.D.

<sup>143</sup> See ISO-NE OATT, Schedule 12.

<sup>144</sup> See ANOPR at PP 119-23.

<sup>145</sup> See *supra* Section IV.A.

generators in New England pay the full cost of interconnection and related network upgrades.<sup>146</sup>

In turn, generators can inject energy onto the grid and access the ISO-NE markets at no additional charge. Generators do not pay for RNS in New England to transmit their power.<sup>147</sup>

This approach, established at ISO-NE's inception and reflected in Schedule 11 of the ISO-NE OATT, was part of a heavily negotiated package of rules developed "to reflect a fair and equitable balancing of [load and generator] interests[,]"<sup>148</sup> initially filed by NEPOOL, and after conditional acceptance by the Commission, filed by ISO-NE and accepted by the Commission.<sup>149</sup> The Commission affirmed Schedule 11 with no changes as part of New England's Order No. 2003 compliance process.<sup>150</sup>

Given these long-standing arrangements in New England, the Commission should afford the region flexibility in considering any changes to its participant funding structure. Similarly, the Commission should strongly consider consumer protections such as that provided by the current structure in New England in directing any reforms to existing participant funding models.<sup>151</sup>

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<sup>146</sup> NESCOE Offshore Wind Comments at 17-19. *See also* Comments and Protest of the New England Power Pool Participants Committee, Docket No. EL18-31-000 (filed Dec. 6, 2017) ("NEPOOL Schedule 11 Comments"), at 3-11 (discussing history of origin and development of Schedule 11).

<sup>147</sup> *See* NEPOOL Schedule 11 Comments at 4. *See also* ISO-NE Tariff, Section II.12.2 ("Regional Network Service shall be taken and paid for by each Eligible Customer which has a load within the New England Control Area . . . .").

<sup>148</sup> NEPOOL Schedule 11 Comments at 3-4.

<sup>149</sup> *See id.* at 4-7 (discussing history of Schedule 11). The Commission accepted ISO-NE's filing of Schedule 11 over 20 years ago. *ISO New England, Inc., et al.*, 91 FERC ¶ 61,311 (2000).

<sup>150</sup> *New England Power Pool*, 109 FERC ¶ 61,155 (2004). *See* NEPOOL Schedule 11 Comments at 7-10.

<sup>151</sup> To the extent the Commission develops a proposal to transition away from participant funding models, analysis would be helpful in understanding more comprehensively the consumer cost implications of such a reform, including potential effects on consumer charges related to wholesale markets.

In addition, the ANOPR explains that “[c]entral to discussions of the Commission’s interconnection-related network upgrade funding requirements is Order No. 2003’s continued prohibition of ‘and’ pricing.”<sup>152</sup> The Commission explains:

This prohibition provides that, when “a Transmission Provider must construct [interconnection-related] Network Upgrades to provide new or expanded transmission service, the Commission generally allows the Transmission Provider to charge the higher of the embedded costs of the Transmission System with expansion costs rolled in, or incremental expansion costs, but not the sum of the two.” The Commission also explained that allowing the transmission provider to charge either the higher of an embedded cost rate for transmission service or an incremental rate designed to recover the cost of the interconnection-related network upgrades “provides the Transmission Provider with a cost recovery mechanism that ensures that native load and other transmission customers will not subsidize service to the Interconnection Customer.”<sup>153]</sup>

NESCOE understands that the concepts and approaches set forth in the ANOPR do not propose to deviate from the Commission’s policy prohibiting “and” pricing. NESCOE supports the Commission retaining the option of transmission providers to charge the higher of the incremental cost caused by the customer or the rolled-in embedded cost rate.

**G. Ensuring That State Officials and Regional State Committees Have a Central Role in Regional Planning Is Key to the Success of the ANOPR’s Objectives.**<sup>154</sup>

NESCOE appreciates the Commission’s inquiry into potential heightened roles for state officials and RSCs. The Commission observes that “[a]nother way to add oversight to the transmission planning and cost allocation processes could be to involve state commissions in

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<sup>152</sup> ANOPR at P 101.

<sup>153</sup> *Id.* (citations omitted).

<sup>154</sup> *See id.* at PP 176-77.

those processes[,]” including through RSCs.<sup>155</sup> The role of state officials in regional transmission planning and cost allocation decisions may well be determinative of whether reforms can achieve, over time, the objectives that appear to be reflected in the ANOPR.<sup>156</sup>

An important caveat: while it is imperative to recognize the unique role that states need to have in the regional planning process, NESCOE cautions the Commission against reforms that would shift greater burdens to states or consumer advocates in the oversight of transmission costs. States are positioned to complement the Commission’s oversight tools, which could be expanded to include an independent transmission monitor, not to substitute for them.<sup>157</sup>

As discussed above, NESCOE emphasizes that adjusting the governance structure of RTOs/ISOs could cement greater collaboration between states and RTOs/ISOs.<sup>158</sup> Effectuating such directional changes could help fill gaps that exist in terms of meaningful state involvement in RTO/ISO matters.

#### **H. Commission Reforms to the Interconnection Queue Process Should Focus on Addressing Speculative Requests.**

NESCOE appreciates the Commission’s focus on issues related to the interconnection queue process. The Vision Statement reflects the need for new approaches to transmission system planning “to ensure the integration of clean energy resources at the lowest possible cost.”<sup>159</sup> An efficient interconnection study process is critical in facilitating the entry of new resources in a timely manner.

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<sup>155</sup> *Id.* at P 176.

<sup>156</sup> *See supra* Section V.A.2 (discussing the importance of a central role for states in the regional planning process).

<sup>157</sup> *See supra* Section V.B.

<sup>158</sup> *See supra* Section V.A.4.

<sup>159</sup> Vision Statement at 5.



The ANOPR raises concerns about queue backlogs driven by speculative projects.<sup>160</sup> Those concerns appear to be twofold and related: first, when multiple, speculative requests are submitted for a single project; and second, late-stage withdrawals of projects that are no longer viable. Among other queue management reforms, the Commission sets forth two potential “fast-tracking” approaches intended to expedite the interconnection process for projects that can demonstrate “readiness” by a defined criteria.<sup>161</sup>

NESCOE agrees that speculative projects can introduce inefficiency into the interconnection process by occupying resources and obstructing progress for higher-viability projects. Although the issues that the ANOPR identifies are closely linked, different reforms may be needed to address each one. While some late-stage withdrawals may be projects that were speculative from the outset, there are various reasons why previously “ready” projects may become unviable and seek to withdraw.

Introducing a “fast-tracking” feature to the interconnection queue process warrants further consideration, and NESCOE looks forward to reviewing comments from others on this issue. However, such an approach does not appear to address fully the concerns identified in the ANOPR. Fast-tracking would move a group of projects to the front of the line, but it would not prevent speculative projects from entering the queue or root them out when more viable projects are left waiting for study. Potentially more effective reforms could include focusing on limiting or reordering speculative projects in the queue and developing rules to prevent non-viable projects from stagnating in the queue. In taking further action on the queue process, the

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<sup>160</sup> See, e.g., ANOPR at PP 41, 153.

<sup>161</sup> *Id.* at PP 155-57.

Commission should consider prioritizing reforms that address its two concerns squarely, which may obviate need for other reforms.

## **VI. CONCLUSION**

For the reasons discussed above, NESCOE respectfully requests that the Commission consider its comments in developing any proposed rule or taking further action on the potential reforms discussed in the ANOPR.

Respectfully Submitted,

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