

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

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

**REPLY COMMENTS OF THE
SOUTHEAST PUBLIC INTEREST GROUPS**

Southern Environmental Law Center, Energy Alabama, North Carolina Sustainable Energy Association, South Carolina Coastal Conservation League, Southface Energy Institute, and Southern Alliance for Clean Energy (together, Southeast Public Interest Groups) submit these comments in response to certain initial comments on the Federal Energy Regulatory Commission’s (FERC or Commission) Notice of Proposed Rulemaking, published on May 4, 2022 in the above-captioned proceeding (NOPR).¹ In particular, Southeast Public Interest Groups address initial comments submitted by utilities, state bodies, and trade organizations supporting the status quo in the Southeast.

Southeast Public Interest Groups demonstrated in their initial comments that the region’s transmission planning processes fail to meaningfully consider the benefits of more efficient or cost-effective regional projects and lack opportunity for state and stakeholder engagement. As a result, transmission expansion occurs on a piecemeal, project-by-project basis within the confines of each utility’s local service territory. Despite changes to the generation mix creating common transmission needs across the region, the regional transmission planning processes have systematically ignored the benefits of regional coordination. Meanwhile, at the state level, regulatory bodies assume that the FERC-sanctioned regional process has thoroughly considered

¹ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 87 Fed. Reg. 26504, 179 FERC ¶ 61,028 (2022) (NOPR).

all potentially economic alternatives and proceed to approve the local projects the utilities present to them. The utilities then point to the state regulatory processes as comprehensive, holistic, and the rightful forum for transmission expansion. All the while, snowballing inefficiencies created by numerous small-scale transmission band-aids, unfit to address broader generation trends, translate into excessive, unjust, and unreasonable rates borne by an already overburdened populace.²

These reply comments reject the premise put forth by Southeast utilities that the current transmission planning processes can best fortify the region's grid for the transformational shift already underway. First, these comments will show that the record in this proceeding supports a Commission finding under section 206 of the Federal Power Act (FPA) that the existing planning processes may produce unjust and unreasonable transmission rates, especially in the Southeast. Second, they posit that a final rule imposing forward-looking, scenario-based transmission planning that evaluates a broad suite of quantifiable benefits would represent a just and reasonable replacement of the current processes. Southeast Public Interest Groups urge the Commission to resist the temptation to afford too much flexibility to utilities in crafting a final rule. Doing so would ensure that regional planning processes—particularly those administered by vertically integrated utilities in regions outside Regional Transmission Organizations (RTO) and Independent System Operators (ISO)—will continue to obscure the benefits of regional coordination to achieve the utilities' desired outcome: a rubber stamp of local expansion to address minimum reliability needs. Finally, these comments will rebut claims that the NOPR's

² See Southeast Public Interest Groups' August 17, 2022 Comments at n.3 (SPIG Initial Comments) (citing materials showing the energy burden in the Southeast exceeding that of all other regions in the country).

proposals would overstep the Commission’s statutory authority and highlight helpful suggestions proposed by certain commenters.

Southeast Public Interest Groups appreciate the opportunity to share their unique perspective with the Commission in this proceeding and implore the Commission to give due regard to the region’s ratepayers. A regional planning process that comprehensively evaluates the benefits of regional facilities and creates a mutually reinforcing relationship with state authorities would best serve their interests.

I. REPLY COMMENTS

The NOPR garnered 200 initial comments, fitting for a proposal of its magnitude. Given this sheer volume, Southeast Public Interest Groups cannot respond to every comment submitted. Instead, these comments will focus on matters specifically relevant to the Southeast and address statements made by its utilities, its state regulatory commissions, and the trade organizations that represent its many municipal and cooperative utilities. Some of these entities allege a central tension between the NOPR’s proposals and the region’s energy landscape. These comments will dispel any notion that forward-looking, scenario-based transmission planning designed to efficiently allocate resources is either incompatible with or unwelcome to the region. Such reforms are critically needed in a region with minimal coordination among its utilities and a purposely balkanized grid.

A. The Record Supports a Finding Under FPA Section 206’s First Prong that Existing Regional Transmission Planning Processes Are Unjust and Unreasonable.

The Commission will issue a final rule in this proceeding under FPA section 206, which allows the Commission to find that any rate or jurisdictional practice is “unjust, unreasonable,

unduly discriminatory or preferential.”³ “Only after having made the determination that the utility’s existing rate fails that test may FERC exercise its section 206 authority to impose a new rate.”⁴ Contrary to the claims of certain Southeast utilities in this proceeding,⁵ the NOPR adequately made the preliminary finding that the existing regional transmission processes have intrinsic flaws that could result in unjust and unreasonable transmission rates—including in the Southeast—and proposed a replacement process that would ameliorate those issues. Utility assertions that the Southeast’s regional planning processes, as informed by state planning through Integrated Resource Plan (IRP) and Request for Proposals (RFP) processes, have ably addressed the concerns animating Order No. 1000⁶ do not stand up to scrutiny. By contrast, the immense record in this proceeding bolsters the NOPR’s preliminary finding and shows that the region is ill-equipped to efficiently and cost-effectively address substantial changes in the resource mix and demand.

1. The Record Contains Substantial Evidence to Support a Final Rule in this Proceeding.

The Commission’s factual findings are conclusive when supported by “substantial evidence,”⁷ which equates to “such relevant evidence as a reasonable mind might accept as

³ 16 U.S.C. § 824e(a) (2018).

⁴ *Emera Maine v. FERC*, 854 F.3d 9, 21 (D.C. Cir. 2017) (citing *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 10 (D.C. Cir. 2002); *Cities of Bethany v. FERC*, 727 F.2d 1131, 1143 (D.C. Cir. 1984)).

⁵ See, e.g., Duke Aug. 17, 2022 Initial Comments at 6-9 (Duke Comments); Southeastern Regional Transmission Planning Process Sponsors Aug. 17, 2022 Initial Comments at 31-36 (SERTP Comments); Southern Company Services, Inc. Aug. 17, 2022 Initial Comments at 36-40 (Southern Company Comments).

⁶ See *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, 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).

⁷ 16 U.S.C. § 8251(b).

adequate to support a conclusion.”⁸ In rulemaking proceedings, this standard “requires the Commission to specify the evidence on which it relied and to explain how that evidence supports the conclusion it reached.”⁹ Like Order No. 1000 before it, the NOPR made a broad finding that transmission rates may be unjust and unreasonable due to the insufficiency of the existing transmission planning processes:

[W]e preliminarily find that the Commission’s regional transmission planning and cost allocation requirements fail to require public utility transmission providers to: (1) perform a sufficiently long-term assessment of transmission needs; (2) adequately account on a forward-looking basis for known determinants of transmission needs driven by changes in the resource mix and demand; and (3) consider the broader set of benefits and beneficiaries of regional transmission facilities planned to meet those transmission needs. We believe that these deficiencies may be resulting in unjust and unreasonable and unduly discriminatory and preferential Commission-jurisdictional rates to the extent that they lead public utility transmission providers to fail to identify transmission needs driven by changes in the resource mix and demand, select more efficient or cost-effective transmission facilities to meet those transmission needs, and allocate the costs of transmission facilities selected in the regional transmission plan for purposes of cost allocation to meet those transmission needs in a manner that is at least roughly commensurate with the estimated benefits.¹⁰

The NOPR supported this conclusion by finding that (1) the existing planning processes utilize a limited planning horizon,¹¹ (2) many planning processes “provide an inaccurate portrayal of the comparative benefits of different transmission facilities,”¹² and (3) rapid changes to the generation

⁸ *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d at 55 (citing *Murray Energy Corp. v. FERC*, 629 F.3d 231, 235 (D.C. Cir. 2011)).

⁹ *Id.* (citing *Wis. Gas Co. v. FERC*, 770 F.2d 1144, 1156 (D.C. Cir. 1985)).

¹⁰ NOPR at P 47. See Order No. 1000 at P 43 (“[I]nadequate transmission planning and cost allocation requirements may be impeding the development of beneficial transmission lines or resulting in inefficient and overlapping transmission development due to a lack of coordination, all of which contributes to unnecessary congestion and difficulties in obtaining more efficient or cost-effective transmission service.”).

¹¹ See NOPR at P 49.

¹² *Id.* P 53.

fleet and demand are creating increasingly urgent transmission needs,¹³ yet no non-RTO/ISO region's planning process has ever resulted in a transmission facility selected for cost allocation.¹⁴

Despite these findings, Southeast utilities contend that FERC has failed to make a sufficient evidentiary showing under FPA section 206 to require changes to the existing transmission planning processes, especially with respect to the Southeast. Duke Energy Corporation (Duke) would require the Commission to show “why in *all* cases for *all* transmission providers, local planning is a less efficient means of developing transmission to address changing generation and resource mix and such planning must be done via regional transmission planning process to yield efficient investments.”¹⁵ Utility sponsors of the Southeastern Regional Transmission Planning (SERTP) process characterize the NOPR's findings as “too generalized, lack[ing] any factual basis and, . . . *not* correct for the SERTP region.”¹⁶ And Southern Company Services, Inc. (Southern Company) asserts that the Commission has failed “to establish that existing rates and practices are unjust, unreasonable, and unduly discriminatory.”¹⁷

In contesting the Commission's basis for issuing the NOPR, the utilities resurrect the same arguments that the United States Court of Appeals for the D.C. Circuit (D.C. Circuit) rejected in upholding Order No. 1000. As that court noted, while the Commission must support its findings with substantial evidence, that does “not necessarily mean empirical evidence.”¹⁸ As long as a supposition “is at least likely enough to be within the Commission's authority and it is based on

¹³ *See id.* P 45.

¹⁴ *Id.* P 39.

¹⁵ Duke Comments at 8 (emphasis in original).

¹⁶ SERTP Comments at 32 (emphasis in original).

¹⁷ Southern Company Comments at 40.

¹⁸ *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d at 65.

reasonable economic propositions, the court will uphold it.”¹⁹ Applying this standard, the D.C. Circuit upheld the Commission’s findings in Order No. 1000, which included (1) a “threat to just and reasonable rates” arising “from existing planning and cost allocation practices that could thwart the identification of more efficient and cost-effective transmission solutions,”²⁰ (2) “significant changes in the nation’s electric power industry, including the proliferation of renewable energy resources,”²¹ and (3) a “recent increase in transmission investment” indicating the “need to ensure that transmission planning and cost allocation requirements are adequate to support more efficient and cost-effective investment decisions moving forward.”²² This substantial evidence led the Commission to conclude that “the threat to just and reasonable rates was acute” and warranted the reforms imposed by Order No. 1000. It also mirrors the support preliminarily relied upon by the NOPR, as described above.

Southeast utilities hold the Commission to a much higher standard than the D.C. Circuit and applicable law. The utilities would require the Commission to make a discrete finding that the Southeast’s planning processes have failed to plan transmission expansion to address changes to the resource mix and demand. The D.C. Circuit previously rejected that argument as well, holding that the “Commission may rely on generic or general findings of a systemic problem to support imposition of an industry-wide solution.”²³ There, the court highlighted FERC’s generic finding in Order No. 1000 that “some transmission providers were merely confirming the simultaneous feasibility of transmission facilities in their local transmission plans and overlooking

¹⁹ *Id.* (quotations omitted).

²⁰ *Id.* at 66.

²¹ *Id.* (quotations omitted).

²² *Id.* (quotations omitted).

²³ *Id.* at 67.

more efficient or cost-effective regional alternatives.”²⁴ The Commission could make that same general finding today, and it would apply with equal force to the Southeast. The affidavit of Daryl C. McGee, attached to Southern Company’s initial comments, acknowledges that SERTP compiles the utilities’ individual expansion plans to ensure they “reconcile with no unintended consequences on neighboring systems.”²⁵ The D.C. Circuit also dismissed claims that *some* utilities “may engage in sufficient transmission planning” as “unastonishing as it is irrelevant.”²⁶ Because the Southeast utilities, like those claimants, “have not shown that the deficiencies identified by the Commission exist only in isolated pockets,” the Commission can “reasonably proceed to address a systemic problem with an industry-wide solution.”²⁷ To this end, the Southeast utilities have not shown that the flaws identified by the Commission affect only a small subset of the country’s regional transmission planning processes. Instead, they claim that the Southeast’s transmission planning processes adequately plan for changes to the resource mix by relying entirely on state proceedings, whose “holistic” processes render the regional processes largely unnecessary, as demonstrated by the lack of any regional projects selected through the regional planning processes.²⁸ Far from contradicting the Commission’s findings, the utilities unwittingly support them, as the region’s focus on state processes has diverted resources and attention from the regional process, ensuring that it fails to comprehensively consider regional alternatives and overlooks opportunities for more efficient or cost-effective investment, as described in greater detail below.

²⁴ *Id.*

²⁵ Southern Company Comments, Ex. 2, Affidavit of Daryl C. McGee, at 4.

²⁶ *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d at 67.

²⁷ *Id.*

²⁸ *See, e.g.*, Southern Company Comments, Ex. 2, Affidavit of Daryl C. McGee, at 4-5.

Consistent with the Commission’s upheld findings in Order No. 1000, the NOPR identified substantial evidence, which initial comments have only reinforced, to find that the existing transmission planning processes may result in unjust and unreasonable rates.

2. Commenters Have Shown that the Existing Transmission Planning Processes in the Southeast May Produce Unjust and Unreasonable Rates.

Initial comments filed in this proceeding have supplemented the NOPR’s preliminary findings and contradicted the utilities’ depiction of the Southeast’s planning processes. Specifically, Southeast Public Interest Groups and the Southern Renewable Energy Association (SREA)²⁹ have demonstrated that the Southeast’s regional planning processes do not meaningfully consider regional projects that could more efficiently or cost-effectively address transmission needs.

In their comments, Southeast Public Interest Groups provided discrete examples of transmission needs arising or upcoming that could benefit from regional coordination to explore more efficient joint transmission solutions.³⁰ However, none of the utilities encountering those transmission needs had brought them before the regional planning process or had any explicit intention of doing so.³¹ Even if they had, the regional processes’ protocols for assessing regional alternatives would ensure that no such options would emerge. Each of these processes—SERTP, the South Carolina Regional Transmission Planning process (SCRTP), and the Florida Regional Coordinating Council planning process (FRCC)—evaluates alternative regional projects by comparing their costs with the costs they would avoid by displacing planned local reliability projects.³² SCRTP and FRCC consider any reduction in transmission losses as well, while SERTP

²⁹ See generally SREA Aug. 17, 2022 Comments.

³⁰ See SPIG Initial Comments at section II.B.

³¹ See *id.*

³² See *id.* at section II.A.

only does so in certain circumstances (that have never occurred).³³ This narrow benefit rubric ensures that large regional projects will never approach the benefit-to-cost ratio required for selection for cost allocation. As the NOPR recognized, this “inaccurate portrayal of the comparative benefits of different transmission facilities” prevents the identification of more efficient or cost-effective facilities,³⁴ leaving state regulatory bodies and stakeholders in the dark as to potentially more economic alternatives.

Rather than recognizing this shortcoming, the utilities and some state commissions celebrate it. The SERTP Sponsors claim that the “lack of alternative transmission facilities selected for regional cost allocation demonstrate that the SERTP Sponsors’ IRP/RFP-driven transmission planning, in fact, already successfully identifies cost-effective and efficient solutions.”³⁵ Likewise, the Alabama Public Service Commission (Alabama PSC) states that SERTP’s bottom-up process “ensur[es] that there are no regional transmission solutions that are more efficient and cost effective than solutions identified through the underlying state-jurisdictional processes.”³⁶ But when the evaluation process structurally favors small-scale solutions, only small-scale solutions will be built. Put another way, a straight cost comparison between small local projects and large regional projects that ignores the latter’s broader benefits will select the incremental local projects every time. As transmission needs arise throughout the

³³ *See id.*

³⁴ NOPR at P 53.

³⁵ SERTP Comments at 34.

³⁶ Alabama PSC Aug. 17, 2022 Comments at 4 (Alabama PSC Comments).

region that could benefit from the economies of regional coordination,³⁷ a regional process designed in this manner will fail to identify such solutions.³⁸

This structural bias toward local facilities ensures that the region's transmission grid will expand on a piecemeal basis. Regardless of whether these small-scale expansions occur through the interconnection process or state-approved resource procurements,³⁹ the region's systemic failure to meaningfully consider more efficient and cost-effective regional solutions causes ratepayers to bear the inefficiencies of exclusively local expansion. As currently constituted, the Southeast's regional planning processes cannot assure state regulators that utilities have considered the most efficient alternatives, but regulators may nevertheless rely on these processes because they bear the legitimacy of Commission approval. Aided by Southeast-specific comments that

³⁷ See SPIG Initial Comments at section II.B.

³⁸ In its comments, Dominion Energy Services, Inc. (Dominion), corporate parent of Dominion Energy South Carolina, Inc. (DESC), asserts that SC RTP has "approved important regional transmission projects." Dominion Energy Services, Inc. Aug. 17, 2022 Initial Comments at 13-14 (Dominion Comments). Dominion provides a single example, a recently completed tie-line between substations owned by DESC and South Carolina Public Service Authority (Santee Cooper). *Id.* at 14. However, it is not apparent from the publicly available materials that this project actually resulted from SC RTP's regional planning process. The facility appears in a February 25, 2020 presentation as a DESC project. See *South Carolina Regional Transmission Planning Stakeholder Meeting*, SC RTP, at 53 (Feb. 5, 2020), <https://www.scrtp.com/assets/pdfs/meeting-archives/scrtp-meeting-2020-02-05-presentation.pdf>. Further, SC RTP presentations from June 2018, June 2019, and May 2020 state that no regional projects were received for consideration in the applicable planning cycle. See *South Carolina Regional Transmission Planning Stakeholder Meeting*, SC RTP, at 78 (May 31, 2018), <https://www.scrtp.com/assets/pdfs/meeting-archives/scrtp-meeting-2018-05-31-presentation.pdf>; *South Carolina Regional Transmission Planning Stakeholder Meeting*, SC RTP, at 27 (June 13, 2019), <https://www.scrtp.com/assets/pdfs/meeting-archives/scrtp-meeting-2019-06-13-presentation.pdf>; *South Carolina Regional Transmission Planning Stakeholder Meeting*, SC RTP, at 28 (May 5, 2020), <https://www.scrtp.com/assets/pdfs/meeting-archives/scrtp-meeting-2020-05-05-presentation.pdf>. From these materials, it is unclear how the identified project could have emerged from the SC RTP process, which has certain transparency and process requirements, as opposed to off-the-books discussions between DESC and Santee Cooper, which do not. Dominion provided no additional examples of regional projects that clearly resulted from SC RTP's regional planning processes.

³⁹ Southern Company and the SC RTP Sponsors seek to diminish the NOPR's preliminary findings by explaining that the interconnection process accounts for only small fraction of the network expansion in their territory. See SC RTP Comments at 34; Southern Company Comments at 38-39. Southern Company notes that generation resources are typically only developed if they have a long-term Power Purchase Agreement in place, so they are integrated through the IRP/RFP or transmission planning process. *Id.* This does not change the fact that the transmission provider must expand the transmission system to specifically accommodate that resource, presenting the same piecemeal expansion problems that animate the NOPR.

demonstrate the inherent inadequacies of these processes, the record contains substantial evidence to allow FERC to fix them.

3. Defenses of the Region's Existing Planning Processes and Results Are Unavailing.

Utilities and certain of the region's state commissions characterize the region's existing IRP/RFP-driven planning processes as sufficiently holistic and comprehensive to address the NOPR's concerns.⁴⁰ They also describe the region as an energy utopia of extensive transmission line-miles, innumerable renewable resources, unwavering reliability, and low rates. These depictions do not stand up to scrutiny or in any way lessen the need for the NOPR's proposed reforms.

Throughout their comments, the region's utilities describe their IRP/RFP-driven planning processes as "holistic,"⁴¹ "proactive,"⁴² "forward-focused,"⁴³ and "state-supported."⁴⁴ They insist that only IRP/RFPs can serve as inputs to the NOPR's proposed Long-Term Regional Transmission Planning (LTRTP) requirements for this reason.⁴⁵ Similarly, the Alabama PSC asserts that "Alabama has a resource planning process that accounts for needed transmission buildout to maintain reliable service" and that Alabama Power Company's (Alabama Power) "IRP Process" already incorporates many of the factors proposed in the NOPR.⁴⁶ However, Alabama does not have an official IRP process. As Southeast Public Interest Groups explained in their

⁴⁰ See, e.g., Alabama PSC Comments at 4-5; SERTP Comments at 7-8; Southern Company Comments at 10-13.

⁴¹ E.g., SERTP Comments at 7; Southern Company Comments at 10.

⁴² E.g., SERTP Comments at 7.

⁴³ E.g., Southern Company Comments at 10.

⁴⁴ E.g., *id.*

⁴⁵ See, e.g., Southern Company Comments at 18-19.

⁴⁶ See Alabama PSC Comments at 4-5.

initial comments, the Alabama PSC does not hold a regular administrative proceeding to examine and approve the utility's comprehensive IRP.⁴⁷ Rather, the Alabama PSC assesses each Alabama Power certificate request for new generation, including associated transmission facilities, on a case-by-case basis.⁴⁸ This approach cannot possibly take a proactive, holistic view of the utility's systemwide needs, let alone provide a basis for addressing regional needs.

Alabama's process is emblematic of a major flaw in the region's overreliance on IRP/RFP processes to drive transmission planning: these processes vary wildly across the region in terms of frequency, comprehensiveness, transparency, and the degree to which they proactively consider systemwide transmission needs.⁴⁹ Georgia's process contrasts sharply with Alabama's, as the Georgia Public Service Commission (Georgia PSC) triennially assesses and approves an IRP for Georgia Power Company (Georgia Power) and allows interested parties to intervene and present evidence.⁵⁰ But while the process typically involves consideration of the utility's 10-year transmission plan, the Georgia PSC commits comparatively little attention or resources to this evaluation beyond an assessment of compliance with reliability standards.⁵¹ The Tennessee Valley Authority (TVA) conducts its own IRP process entirely in-house and describes the process as providing "broad direction," rather than a "precise route" for meeting future demand.⁵² Similarly,

⁴⁷ See SPIG Initial Comments at section II.B.3.

⁴⁸ See *id.*

⁴⁹ For a more detailed description of the region's various IRP/RFP processes, see SREA Sept. 19, 2022 Reply Comments at 4-14.

⁵⁰ See Georgia PSC Aug. 17, 2022 Comments at 1-2.

⁵¹ See *Georgia Power Company*, Docket No. 44160, Public Staff, Direct Testimony and Exhibits of John W. Chiles, at 17-18 (Ga. Pub. Serv. Comm'n May 6, 2022) ("No cost analysis was performed by the Company or by my team in an attempt to optimize the transmission system plan with respect to cost.").

⁵² 2019 IRP Frequently Asked Questions, TVA, at 5 (2019), https://tva-azr-eastus-cdn-ep-tvawcm-prd.azureedge.net/cdn-tvawcma/docs/default-source/default-document-library/site-content/environment/environmental-stewardship/irp/2019-documents/faqs-updatedfinal.pdf?sfvrsn=ed8d8716_4.

Dominion notes that IRPs “are not definitive plans for serving the grid.”⁵³ Chairman Kent A. Chandler, who currently comprises the entire Kentucky Public Service Commission (KPSC), describes a process for his state that is devoid of proactive transmission planning, where the “KPSC only plays a role in approval or cost recovery of a facility, not planning”:⁵⁴

The KPSC becomes aware of the utility’s assumptions, drivers, and alternatives when the utility presents before the commission an application for a [Certificate of Public Convenience and Necessity] or rate adjustment. There is no prior testing of assumptions, and certainly no KPSC input into the most-appropriate solution to the presented need, never mind a vetting of whether a need actually exists before the utility sets off in search of a solution. Instead, in CPCN proceedings the KPSC endeavors to determine, according to its precedent, whether the utility has demonstrated that a need for the proposed facility exists, and if so, whether it has further demonstrated, assuming the facility is built, the absence of wasteful duplication. . . . The entire analysis is notable in this regard in that it is backwards looking and takes place only after a facility has been chosen. Said differently, the KPSC’s CPCN analyses occur after the utility has conducted its planning.⁵⁵

The disparate nature of IRP processes throughout the region contradicts the utilities’ insistence that IRPs/RFPs represent a monolithic, comprehensive resource planning apparatus that provides the only appropriate foundation for transmission planning.

Where there is little to no state oversight over the utility’s broad plan, the “IRP” simply translates to the “utility’s preferred plan,” which ensures that the utilities will resist changes to that plan in the regional planning process. Indeed, as currently constituted, the existing planning processes create a feedback loop where the utilities’ own plans are simply reinforced at both the state and regional planning level. As the National Association of State Utility Consumer Advocates (NASUCA) from non-RTO states (including North Carolina) aptly put it, “the same

⁵³ Dominion Comments at 18-19.

⁵⁴ KPSC Chairman and Commissioner Kent A. Chandler Aug. 17, 2022 Initial Comments at 20.

⁵⁵ *Id.* at 20-21.

underlying utility-generated transmission plans and modeling are used both in the state [IRP] process and the regional planning process and, in a circular fashion, the results from one process are used as evidence in the other process to justify the same or similar plan and modeling results.”⁵⁶ In each of the Southeast’s regional transmission planning processes, these individual plans provide the sole point of comparison for all potential regional project alternatives. The region’s utilities would have the Commission accept these existing transmission planning processes as sufficient to proactively plan for changes in the resource mix and demand even though some of the IRPs/RFPs underlying them (1) provide little to no opportunity for stakeholder input or state approval, (2) take a resource-by-resource approach to transmission “planning,” and (3) may not involve transmission facilities at all. Accepting this premise would preserve the status quo in a region incapable of regional coordination and facility optimization, the opposite of the NOPR’s intent.

The utilities next highlight the general “results” of their IRP/RFP-driven transmission planning processes. These include an expansive transmission network, “significant” renewable penetration, proven reliability and resilience, high customer satisfaction, and “relatively low” rates.⁵⁷ Even if these characteristics were accurately represented (they are not), none justifies maintaining a regional planning process if that process produces unjust and unreasonable rates. First, the absolute value of transmission expansion—\$20.35 billion in SERTP between 2012-2021⁵⁸—does not itself indicate efficient planning, especially where the regional process intentionally overlooks the economies of regional transmission facilities, such that every cent funds only local expansion. Second, the region’s comparable deployment of “clean” resources to RTO/ISO regions misleadingly accounts for its relatively large share of nuclear generation; its

⁵⁶ Non-RTO NASUCA States Aug. 17, 2022 Initial Comments at 8 (Non-RTO NASUCA Comments).

⁵⁷ See SERTP Comments at 8-14.

⁵⁸ *Id.* at 9.

share of *renewable* resources represents less than half that of RTO/ISO regions, as shown in the Energy Information Administration data highlighted by the SERTP Sponsors.⁵⁹ Third, utilities in the region are not immune to reliability concerns. For example, SERTP member TVA asked customers to limit their electric consumption earlier this summer to ease strain on the grid during prolonged stretches of intense heat.⁶⁰ Fourth, information asymmetries built into the regional planning processes⁶¹—and, for that matter, every aspect of utility service in the Southeast—caution against relying on consumer satisfaction metrics. If ratepayers knew that their utilities do not seriously plan transmission investment in an efficient or cost-effective manner that could reduce rates, they might change their answer. Finally, the face value of the region’s electricity rates do not tell the whole story. As Southeast Public Interest Groups explained in their initial comments, the region’s ratepayers experience some of the highest energy burdens in the country, *i.e.*, the portion of income spent on home energy costs.⁶² The number printed on their electric bills provides cold comfort when it represents a significant fraction of their earnings.

The rosy portrait of the region painted by its utilities obscures deep underlying cracks. Proactive transmission planning on the scale needed to address ongoing changes to the resource mix will not occur through the state-level processes alone, especially where the regional planning process exists merely to confirm the utilities’ preferred plans. Utilities will not engage in meaningful, regional planning unless strong minimum standards force their hand. Until this happens, the region’s energy burden will only continue to mount.

⁵⁹ See *id.* at 10 (showing utilities in the Southeast Energy Exchange Market (SEEM) footprint with 8 percent of “Renewables/Other” resources, compared to 18.3 percent for all RTOs).

⁶⁰ See, e.g., Paige Hill, “TVA Asks Customers to Reduce Electric Usage Due to Increased Temperatures,” WVLT 8 (June 13, 2022), <https://www.wvlt.tv/2022/06/13/tva-asks-customers-reduce-electric-usage-due-increased-temperatures/>.

⁶¹ See SPIG Initial Comments at 13-16.

⁶² See *id.* at 1, n.3.

B. The NOPR Proposal (As Modified) Would Satisfy FPA Section 206's Second Prong as a Just and Reasonable Replacement Rate.

With a sufficient record to find that the existing transmission planning processes may produce unjust and unreasonable transmission rates, the Commission may implement a replacement rate, *i.e.*, a process that will ensure that efficient and cost-effective transmission planning takes place on a regional scale. The NOPR's proposal to require LTRTP would represent such a process, so long as the Commission institutes substantial minimum requirements to ensure that utilities do not circumvent its intent. In crafting the final rule, the Commission must ignore strawmen erected by Southeast utilities suggesting that proactive, scenario-based planning would encroach on traditional state roles. The Commission has unquestioned authority over transmission, and a planning process that imposes no obligation on states cannot supersede their jurisdiction over transmission siting or generation resource planning.

1. The NOPR Proposal Would Not Usurp State Roles.

Southeast utilities roundly assert that LTRTP as proposed would dictate investment outcomes and incorporate planning inputs that effectively make generation resource assumptions without state approval. Dominion claims that the Commission "intends LTRTP to become a form of transmission IRP that will essentially mandate investments in transmission projects."⁶³ Southern Company contends that "the NOPR's proposed process would require resource assumptions that are jurisdictional to the states" because IRP/RFP processes "do not generally identify specific supply-side resources beyond a 10-year planning horizon" whereas LTRTP would plan 20 years ahead.⁶⁴ It also asserts that the NOPR would require consideration of factors in addition to IRP/RFP plans that "could be conflicting or otherwise trigger resource decisions

⁶³ Dominion Comments at 18.

⁶⁴ Southern Company Comments at 18-19.

different from those sanctioned by the state.”⁶⁵ The SERTP Sponsors similarly express concern that the Commission seeks to “impose the results of such planning without state consent.”⁶⁶

These concerns are not serious. The utilities know that the Commission cannot compel the states to approve a transmission facility, even if it results from a FERC-established regional planning process. Indeed, the SERTP Sponsors acknowledge that even a transmission project included in a regional transmission plan “may be dropped from later iterations if it is determined that it is no longer needed, if more appropriate solutions are identified, and/or if requisite approvals and permits are not obtained.”⁶⁷ The Georgia PSC, an authority on this subject, confirms that LTRTP would not overstep on its IRP process.⁶⁸ To this end, the NOPR went out of its way to ensure that its proposed reforms “are focused on the transmission planning process, and not on any substantive outcomes that may result from this process.”⁶⁹ The D.C. Circuit favorably cited Order No. 1000’s similar disclaimer in upholding its mandated planning processes.⁷⁰

Instead, the utilities are truly concerned that LTRTP will *work*:

If transmission projects identified through such studies are selected in a regional plan for purposes of cost allocation (which the NOPR intends), then those transmission projects would bias subsequent state resource decisions by making certain resource options more

⁶⁵ See *id.* at 19.

⁶⁶ SERTP Comments at 17.

⁶⁷ SERTP Comments at n.25.

⁶⁸ See Georgia PSC Comments at 3.

⁶⁹ NOPR at P 9. See also *id.* P 245 (“We acknowledge the inherent uncertainty involved in predicting future transmission needs and emphasize that we are not proposing to require public utility transmission providers to achieve, *ex post*, any particular outcome but rather to adopt an evaluation process that, *ex ante*, aims to maximize consumer benefits over time without over-building transmission facilities.”).

⁷⁰ *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d at 57-58 (“In Order No. 1000, the Commission expressly declined to impose obligations to build or mandatory processes to obtain commitments to construct transmission facilities in the regional transmission plan. More generally, the Commission disavowed that it was purporting to determine what needs to be built, where it needs to be built, and who needs to build it. As the Commission explained on rehearing, Order No. 1000’s transmission planning reforms are concerned with process and are not intended to dictate substantive outcomes. The substance of a regional transmission plan and any subsequent formation of agreements to construct or operate regional transmission facilities remain within the discretion of the decision-makers in each planning region.”) (citations and quotations omitted).

economic (due to integrating transmission projects) and others relatively less economic (because they would not benefit from such integrating transmission projects). The resource decision, thus, then would become largely inevitable by virtue of cost bias emanating from this FERC-sanctioned transmission planning process.⁷¹

In other words, by facilitating the identification of more efficient and cost-effective transmission facilities, LTRTP will reduce transmission costs for some resources, making them more economic and ripe for state approval than other costlier alternatives. The utilities fail recognize that this would vindicate the Commission's overarching purpose for regulating transmission planning: achieving efficiency in transmission expansion and, by extension, just and reasonable rates.⁷² Utilities simply do not want to lose any semblance of control over the facilities they build; and if they cannot dictate the information provided to state regulators, they cannot guarantee the outcome of the regulatory process. To this end, LTRTP would give state regulators a fuller and more accurate picture of the array of possible expansion alternatives and enable them to select the projects that best advance their statutory missions, even if that conflicts with the utility's preferred alternative.

The utilities cannot seriously contend that this amounts to directing generation resource planning. LTRTP would not favor certain types of resources over others but would instead facilitate transmission expansion that may enable more efficient resource decisions down the road. It merely affects one input to the state approval process—transmission costs—over which the

⁷¹ Southern Company Comments at 19. *See also id.*, Ex. 1, Affidavit of Jeffrey A. Burleson, at 9 (“[B]y expanding the transmission system to integrate the resource assumptions included in that long-term scenario planning, such planning will interfere with state-regulated IRP/RFP planning by biasing the marginal and total cost analysis described above in favor of certain supply-side/resource alternatives by reducing their associated transmission costs to the detriment of other possible alternatives.”).

⁷² *See Preventing Undue Discrimination and Preference in Transmission Serv.*, Order No. 890, 118 FERC ¶ 61,119, at P 3, *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) (“[T]he Final Rule will increase the ability of customers to access new generating resources and promote efficient utilization of transmission by requiring an open, transparent, and coordinated transmission planning process.”).

Commission has undisputed authority. Consistent with the SERTP Sponsors' request, LTRTP results are "informative only, allowing the states to determine how best to use the results to inform future IRP decisions."⁷³ The Georgia PSC agrees that "[a]dditional Long-Term planning scenarios can help inform decision makers and do not appear to be redundant with the Georgia's IRP transmission planning processes."⁷⁴ Ideally, LTRTP would create a symbiotic relationship with state processes to ensure that both the regional planning process and the individual state IRP/RFP process are in constant conversation with one another and have all necessary information to carry out their respective functions. Armed with this information, state regulators could approve with confidence transmission facilities that will lower systemwide costs.

To achieve this outcome, state involvement in both the development and execution of LTRTP is critical. The utilities make the important point that a regional planning process lacking state support is practically "unworkable," as states must ultimately approve any transmission facility identified by the process.⁷⁵ The NOPR's proposal to seek state input on supplemental planning factors,⁷⁶ selection criteria,⁷⁷ and a cost allocation methodology⁷⁸ should assuage this concern. However, once the region has established its planning process, Southeast states must take ownership over their crucial role and fully engage in regional planning. The Commission can mandate only a process that enables state and stakeholder participation; it cannot compel either to participate. Fully acknowledging that state commissions have limited resources, they may find it more efficient to participate from the beginning rather than checking the utilities' work. A

⁷³ SERTP Comments at 18.

⁷⁴ Georgia PSC Comments at 3.

⁷⁵ *See, e.g.*, SERTP Comments at 20-21.

⁷⁶ *See* NOPR at P 109.

⁷⁷ *See id.* P 244.

⁷⁸ *See id.* P 305.

committed state presence at both conception and administration of LTRTP will smooth any potential friction and ensure LTRTP becomes a helpful resource rather than an unwelcome incursion.

2. The Final Rule Should Incorporate Firm Minimum Requirements.

Southeast utilities and state commissions urge the Commission to afford regional flexibility and avoid prescriptive mandates in any final rule.⁷⁹ They request flexibility in the planning horizon,⁸⁰ the number and frequency of Long-Term Scenarios,⁸¹ data inputs,⁸² selection criteria,⁸³ benefit metrics,⁸⁴ and most other aspects of LTRTP. They also claim that the existing planning processes require only minor tweaks to achieve the NOPR's goals.⁸⁵ At some point, though, a final rule without firm requirements becomes license to ignore it. The Commission must impose substantial minimum responsibilities upon utilities to maintain the integrity of LTRTP. Given too much leeway, Southeast utilities will dilute the process to maintain as much control as possible, resulting in a planning process that maintains the status quo.

The NOPR recognized that the flexibility afforded by Order Nos. 890 and 1000 that allowed utilities to “determine the inputs, assumptions, and methodologies that are used” led to wildly divergent approaches to regional transmission planning.⁸⁶ While some of these processes

⁷⁹ See, e.g., Duke Comments at 10-29, Dominion Comments at 10-12; Southern Company Comments at 5-8; North Carolina Utilities Commission and North Carolina Commission Public Staff Aug. 17, 2022 Comments at 5-7; Georgia PSC Comments at 6-7.

⁸⁰ See, e.g., Dominion Comments at 18.

⁸¹ See, e.g., Duke Comments at 11-12, 14-16; Dominion Comments at 25-26.

⁸² See, e.g., Dominion Comments at 26-28.

⁸³ See, e.g., Duke Comments at 26-29.

⁸⁴ See, e.g., Georgia PSC Comments at 6-7; Duke Comments at 21-23; Southern Company Comments at 24-25.

⁸⁵ See, e.g., Dominion Comments at 12-16; SERTP Comments at 6-14; Southern Company Comments at 6-15.

⁸⁶ NOPR at P 50.

have fared better than others, the Commission found that none effectively “ensures the consideration of more efficient or cost-effective transmission facilities to meet transmission needs driven by changes in the resource mix and demand.”⁸⁷ In their initial comments, the Southeast Public Interest Groups described at the length the structural failings of the Southeast’s transmission planning processes to carry out this function, and traced some of those flaws directly to Order No. 1000’s permissive approach.⁸⁸ For example, in assessing regional facilities that may more efficiently or cost-effectively address transmission needs identified in local plans, SERTP considers only the avoided transmission costs of the displaced local facilities and, occasionally, reduced transmission losses.⁸⁹ SCRTP and FRCC utilize a similar benefits assessment.⁹⁰ All three incorporate a single selection criterion—a benefits-to-cost ratio threshold—that regional facilities cannot realistically meet when using these simplistic benefit metrics. If the Commission does not learn from Order No. 1000’s aftermath and permits utilities to determine all inputs and benefits, LTRTP will resemble the current process, a perfunctory box-checking exercise.

To be sure, some aspects of LTRTP could benefit from regional variation. For instance, the profiles of the various Long-Term Scenarios should reflect the region they will assess. But to ensure that utilities conduct them at all, the Commission should require a minimum quantity. The applicable cost allocation method should also account for regional preferences. As many Southeast commenters note, an *ex ante* methodology is likely a non-starter in the region, while a State Agreement approach has real potential.⁹¹ Similarly, given the prominent state role in

⁸⁷ *Id.*

⁸⁸ *See* SPIG Initial Comments at section II.A.

⁸⁹ *See id.* at section II.A.1.

⁹⁰ *See id.* at sections II.B.2-3.

⁹¹ *See, e.g.,* Dominion Comments at 50-52; Duke Comments at 35-37; SERTP Comments at 28-29; Southern Company Comments at 27-28.

approving and permitting transmission facilities, the LTRTP selection criteria should smooth the way for state approval by embedding state priorities into the process. This flexibility in selection can only work, however, if the process utilizes reliable and pertinent inputs. As such, the factors that guide the Long-Term Scenarios and the benefits that quantify the value of alternative facilities must have minimum standards to ensure they produce actionable results. Southeast Public Interest Groups will discuss individual factors and benefits in greater detail below, but generally, the Commission can only avert the utilities' natural, anticompetitive tendencies by giving them firm, mandatory direction. If it does so in the final rule, the Commission will avoid repeating its mistakes from Order No. 1000, which have led directly to this proceeding.

3. Commenters' Concerns with Certain NOPR Proposals Are Misplaced.

a. 20-Year Planning Horizon

Most of the Southeast utilities have expressed concern with the NOPR's proposed 20-year planning horizon. For example, Dominion cautions that it is "risky to look too far into the future and make concrete, definitive plans when conducting transmission planning."⁹² Southern Company claims that a 20-year planning horizon would outstrip the typical state resource planning processes, which "do not generally identify specific supply-side reserves beyond a 10-year planning horizon."⁹³ It also warns that planning for resources needed far in the future will complicate securing necessary state approval.⁹⁴

These concerns misperceive LTRTP's purpose. To start, the long lead-time of transmission development requires that planning begin sufficiently far in advance to avoid the subject

⁹² Dominion Comments at 19.

⁹³ Southern Company Comments at 19.

⁹⁴ *See id.* at 32-33.

transmission need from becoming an even greater threat without time to react.⁹⁵ Southern Company has first-hand knowledge of the existing process's failings on this front. In its most recent IRP proceeding, Georgia Power, Southern Company's affiliate, explained that SERTP's limited 10-year planning horizon prevented the utility from using that process to plan for its long-term North Georgia Reliability & Resilience Plan and its parallel goal to integrate 6,000 MW of renewable resources by 2035.⁹⁶ A 20-year planning horizon for LTRTP would take the associated transmission needs into account immediately, allowing Southern Company to better accommodate future coal retirements.⁹⁷ Further, Southern Company acknowledges that the IRP process typically identifies resource needs up to 20 years in the future,⁹⁸ which should help to facilitate LTRTP's planning horizon and better integrate regional planning with the state-level processes.

This longer planning horizon would not guarantee the construction of facilities that are not needed for 20 years, as some utilities claim. Instead, it will put foreseeable transmission needs on the planners' radar so they are not caught by surprise by emergent needs without enough time to address them. Projecting 20 years into the future will require forecasting, but LTRTP should be conducted frequently enough to allow planners to adapt to changing conditions. The NOPR specifically contemplates that facilities meant to address longer-term needs may be conditionally selected, subject to the results of subsequent LTRTP cycles.⁹⁹ As the National Rural Electric Cooperative Association (NRECA) explains, this gives transmission planners the flexibility to determine that a previously-identified facility is no longer needed or the most cost-effective

⁹⁵ See NOPR at P 49.

⁹⁶ See SPIG Initial Comments at 27-28.

⁹⁷ See *id.*

⁹⁸ See Southern Company Comments at 19.

⁹⁹ See NOPR at P 248.

alternative.¹⁰⁰ Regardless, the authority of state commissions over approving and permitting transmission facilities confirms that a project's selection in LTRTP does not guarantee its construction. States may determine that facilities based on farther-out, more speculative needs do not warrant immediate approval.

b. Update Frequency

LTRTP will fail as an informative resource for state regulators if it does not reflect the most up-to-date information available. Some commenters request less frequent Long-Term Scenario updates of every five years rather than every three years due to the burden of conducting LTRTP and the number of states and utilities involved.¹⁰¹ Heeding these requests would risk creating a process whose results become stale years before they are updated, especially where state IRP/RFP processes occur much more frequently. In the Southeast, most of these state processes occur every two or three years.¹⁰² If, as the region's utilities demand, state IRP/RFPs represent the primary inputs into LTRTP, they should occur with similar frequency. Maintaining the NOPR proposal of compulsory three-year updates would sync LTRTP with many of these state processes and also ensure that LTRTP remains an accurate resource for them.

c. Long-Term Scenario Factors

Southeast utilities oppose the mandatory Long-Term Scenario factors proposed in the NOPR because (1) public policy goals change,¹⁰³ (2) the factors exceed the scope of state IRP/RFP processes,¹⁰⁴ and (3) some factors would impose an undue burden to identify and incorporate.¹⁰⁵

¹⁰⁰ See NRECA Aug. 17, 2022 Comments at 26.

¹⁰¹ See, e.g., Duke Comments at 11-12.

¹⁰² See SPIG Initial Comments at 10.

¹⁰³ See Dominion Comments at 23-25.

¹⁰⁴ See Southern Company Comments at 18-19; SERTP Comments at 16.

¹⁰⁵ See Duke Comments at 13-14.

These concerns do not warrant changes to the NOPR proposal. First, while it is undoubtedly true that public policies change over time, the NOPR proposes to require updates to the Long-Term Scenarios every three years to account for any changes in the interim. These updates will reflect changes to public policies as well any of the other mandatory factors. Second, as discussed above, state IRP/RFP processes do not always present a comprehensive picture of the conditions driving transmission needs, especially where state commissions do not regularly assess and approve them. In some cases, relying entirely on IRPs/RFPs would amount to relying on the utilities' unexamined resource plans, which necessarily reflect their biases. A broader consideration of resource trends and other transmission drivers will provide the authorities tasked with approving facilities with comprehensive scenarios to inform their decision-making. Finally, utility concerns that compiling and incorporating all local laws and regulations affecting the resource mix and corporate decarbonization commitments will present an undue burden are misplaced at this stage. More granular aspects of these factors may take shape on compliance. Regardless, local regulations and corporate commitments that have a measurable effect on the resource mix, *e.g.*, major city ordinances and large industrial customer commitments, will undoubtedly affect resource trends and warrant consideration.

d. Selection Criteria

The NOPR proposes no specific requirements for LTRTP selection criteria except that they maximize benefits to customers over time and involve the states in their development.¹⁰⁶ Dominion opposes the latter mandate, claiming that states can already participate in the regional planning processes and that seeking their agreement would add unnecessary burden.¹⁰⁷ As

¹⁰⁶ See NOPR at P 241.

¹⁰⁷ See Dominion Comments at 36-37.

discussed above, state input into the selection criteria is essential to smoothing the process between identifying regional projects and developing them. Given the states' essential role in the latter, their priorities should inform the selection criteria, or else cost-effective transmission facilities may die on the vine.

On the other end of the spectrum, Duke seeks Commission clarification that a qualitative assessment of whether states and consumer interests support a project may be a permissible LTRTP selection criterion.¹⁰⁸ Southeast Public Interest Groups do not oppose factoring state and consumer support for a project into the selection process but would oppose any requirement that official state approval be secured prior to selection. Such a prerequisite would risk indefinitely delaying the LTRTP process and project selection as the potential projects work through the state process.

e. Benefits

As discussed above and in their initial comments,¹⁰⁹ Southeast Public Interest Groups urge the Commission to establish a minimum list of benefits that all public utility transmission providers must factor into their respective LTRTP processes. Otherwise, LTRTP will devolve into an empty box-checking exercise like the existing regional planning processes. Southeast Public Interest Groups will not reiterate that discussion here but will address certain comments regarding the claimed unsuitability of certain proposed benefits to the Southeast.

The SERTP Sponsors and Southern Company contend that some of the proposed benefits are “generation-focused considerations”¹¹⁰ whose incorporation “would intrude into IRP/RFP

¹⁰⁸ See Duke Comments at 27.

¹⁰⁹ See SPIG Initial Comments at section III.A.2.

¹¹⁰ SERTP Comments at 30.

planning.”¹¹¹ These include production cost savings, capacity cost benefits, reduced planning reserve margins, and reduced peak energy losses.¹¹² By quantifying and considering these benefits, LTRTP would not make any generation resource decisions; it would merely use the information and forecasts embodied in the Long-Term Scenarios to derive a benefit calculation that reflects the value proposition of alternative regional transmission facilities. As Southern Company notes, the production cost savings metric described in the NOPR mirrors the “type of analysis . . . already performed in Southern Companies’ state-regulated IRP/RFP.”¹¹³ LTRTP could incorporate this state-level data into its benefit calculation, which would inform the transmission planners in selecting projects for inclusion in the regional plan and state commissions in approving the necessary facilities. At no point would LTRTP dictate the resources utilities must build. Regional facilities that result from LTRTP may create transmission cost savings that render some generation resources more economic than others, but any such effect would be incidental to its primary purpose of achieving just and reasonable transmission rates. At all times, state regulators would retain the authority to approve and permit new facilities.

The utilities also contest the inclusion of market-related benefits like increased market liquidity as inapplicable to non-RTO/ISO regions. However, utilities and independent power producers in the region currently engage in a bilateral wholesale market, whose liquidity could increase due to expanded regional facilities. Moreover, Southeast utilities have sought to augment the bilateral market through the proposed creation of SEEM, which would introduce some aspects of an organized (though not independent) market. To the extent an organized wholesale market commences operations in the region, these benefits will become even more relevant.

¹¹¹ Southern Company Comments at 25-26.

¹¹² See SERTP Comments at 30.

¹¹³ Southern Company Comments at 26.

C. Support for Additional Commenter Suggestions.

1. The Commission Should Adopt a Comprehensive Independent Transmission Monitor Proposal.

As Southeast Public Interest Groups noted in their initial comments,¹¹⁴ the NOPR did not propose creation of an Independent Transmission Monitor (ITM), a concept referenced in the Advanced Notice of Proposed Rulemaking.¹¹⁵ Southeast Public Interest Groups expressed support for the concept, which could have an outsized impact in the Southeast, but did not articulate a specific vision for the role.

Thankfully, the Non-RTO NASUCA States took on that task, sketching the outlines of an ITM designed to “fill in the gaps in the regulatory process caused by a lack of oversight and information imbalances” and “improve transparency and control costs.”¹¹⁶ Southeast Public Interest Groups support many of the ITM attributes proposed by the Non-RTO NASUCA States. These include:

- A primary focus on improving transparency in the planning process, making all opinions and reports public and “bridging the gap between highly technical reports and less complex regulatory principles;”¹¹⁷
- A responsibility to review the reasonableness of data, modeling, and cost projections, and verify the base assumptions provided by each utility;¹¹⁸
- An aim to control costs by ensuring that only quantifiable benefits factor into cost allocation and verifying the identification of adequate transmission and non-transmission alternatives such that LTRTP produces the lowest cost alternative;¹¹⁹

¹¹⁴ See SPIG Initial Comments at section III.D.

¹¹⁵ *Building for the Future Through Electric Regional Transmission Planning & Cost Allocation & Generator Interconnection*, 86 FR 40266 (July 15, 2021), 176 FERC ¶ 61,024, at P 163 (2021).

¹¹⁶ Non-RTO NASUCA Comments at 5-6.

¹¹⁷ *Id.* at 6.

¹¹⁸ *See id.* at 9.

¹¹⁹ *See id.* at 6.

- An ITM for each regional planning authority, funded by the utilities, but which is completely independent and does not answer to any planning authority;¹²⁰
- A primary function to provide opinions and reports on the soundness of the planning authority's process.¹²¹

Southeast Public Interest Groups do not believe that the ITM can be contracted on an *ad hoc* basis for individual transmission projects or portfolios.¹²² Instead, a full-time position responsible for monitoring the regional planning authority but independent from it would provide the most value to the transmission planning process.

These characteristics provide an essential starting point for a viable ITM role. An ITM with these features and responsibilities would bridge information gaps and bring transparency to a notoriously opaque process. It would also inject a measure of independence into a process run entirely by utilities whose incentives dictate that they avoid regional coordination. Most importantly, it would ensure that the process uses verifiable inputs to produce the most efficient, cost-effective outcomes. Southeast Public Interest Groups urge the Commission to implement this proposal in a final rule.

2. The Commission May Consider Requiring Cost Mitigation Measures.

The Large Public Power Council (LPPC) expresses significant concerns with the potential for LTRTP to result in excessive transmission facility costs.¹²³ To address them, LPPC proposes that the Commission require each public utility transmission provider to “develop and implement protocols providing for cost management and critical decision-making throughout the period

¹²⁰ See *id.* at 6-8.

¹²¹ See *id.* at 9.

¹²² See *id.* at 7.

¹²³ See LPPC Aug. 17, 2022 Comments at 6-14.

leading to a project's in-service date meeting specified minimal criteria.”¹²⁴ LPPC's proposed protocols would include periodic reporting requirements on anticipated project costs, opportunities for remedial action if costs exceed an identified threshold, and required mitigation plans to protect stakeholders.¹²⁵ Southeast Public Interest Groups appreciate LPPC's concerns and would not oppose the Commission requiring periodic cost reporting with some mitigation responsibility. However, any such requirement should take into account the unique attributes of large-scale regional projects and not erect an impediment to significant transmission investment.

II. CONCLUSION

The Commission has compiled a voluminous record in this proceeding. As it regards the Southeast, that record supports a finding that the existing transmission planning processes systematically fail to account for efficient and cost-effective facilities and may lead to unjust and unreasonable rates as a result. Having made this finding, the Commission must impose a replacement process capable of identifying efficient transmission solutions to address ongoing changes to the resource mix and demand. In crafting this rule, the Commission must avoid affording too much flexibility to utilities, whose natural inclinations will guarantee a new planning process that resembles the old, designed to avoid regional coordination and optimized expansion. A firm final rule with substantial minimum requirements would ensure that state regulators have a full picture of the transmission alternatives available to them as transmission expansion becomes inevitable in the face of oncoming change. The region's overburdened ratepayers deserve a process that meets the moment in the most cost-effective manner possible.

¹²⁴ *Id.* at 11.

¹²⁵ *See id.* at 11-12.

Respectfully submitted,

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