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PROPOSED FERC REFORMS TO REGIONAL TRANSMISSION PLANNING, COST ALLOCATION & GENERATOR INTERCONNECTION

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The Current State of Transmission Planning

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Current Policies on Regional Transmission Planning and Cost Allocation Process

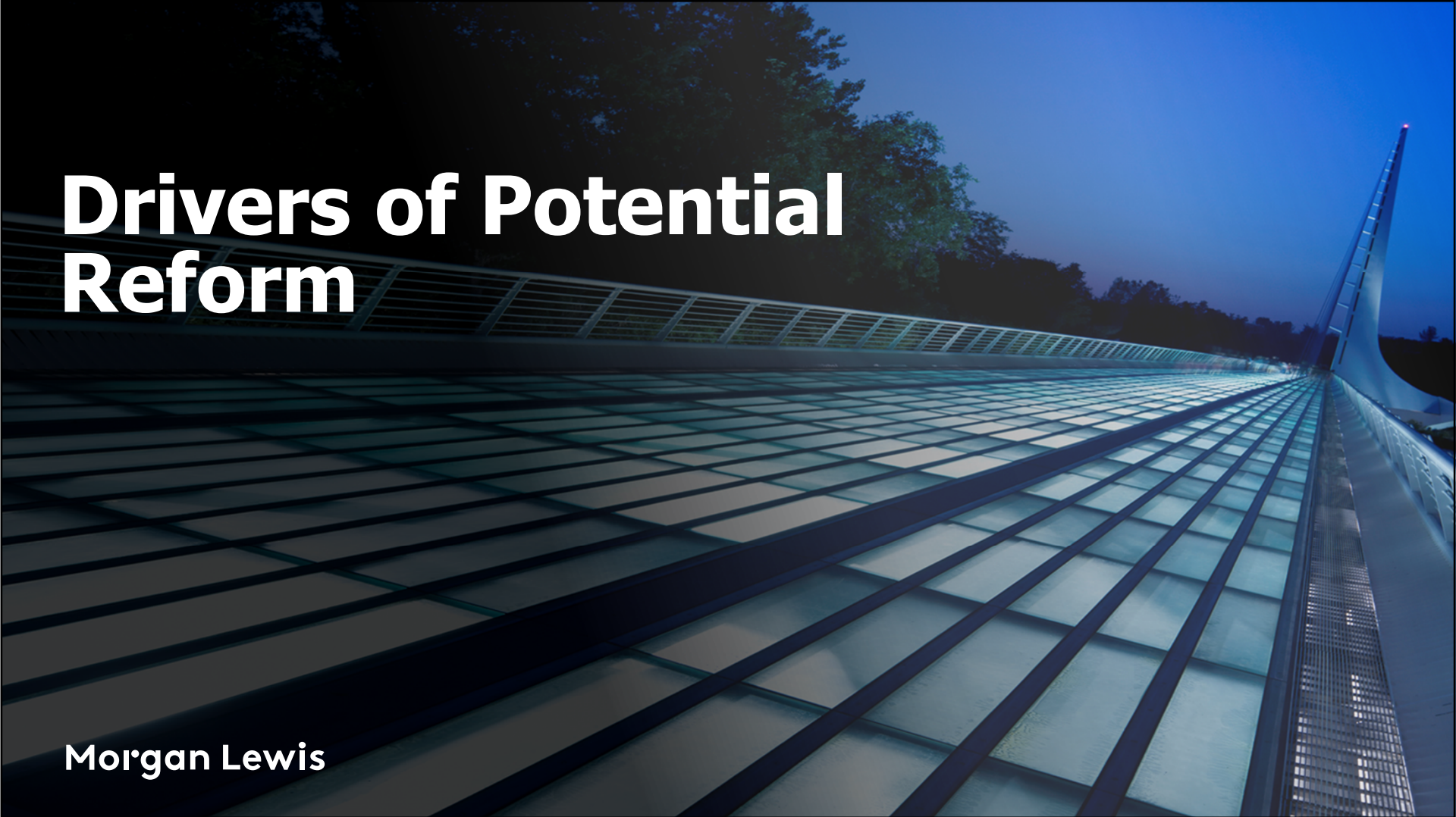
- Order No. 888 - FERC Stats. & Regs. ¶ 31,036 (1996)
  - Established *pro forma* Open Access Transmission Tariff (OATT) and required of all public utilities to have on file a non-discriminatory OATT.
- Order No. 1000 - 136 FERC ¶ 61,051 (2011)
  - Changes to transmission planning processes and cost allocation mechanisms of Order No. 888 (and prior reforms in Order No. 890).
  - Required participation in regional transmission planning and public utility coordination.
- Order No. 2003 - 104 FERC ¶ 61,103 (2003)
  - Established generator interconnection processes. Interconnection-related network upgrades paid through crediting policies to interconnection customer or participant funding.
- Current policies require RTOs/ISOs to have developed methods for allocating costs of new regional transmission facilities under six regional cost allocation principles and to develop interregional transmission coordination.

Challenges Implementing Order No. 1000

- Imposed lengthy and complex compliance plans on regions
  - Necessitated multiple filings per region
  - Many compliance proceedings lasted for years, up through 2018
- Measuring tangible benefits under the Order 1000 framework
  - Planning processes already existed at the region, ISO/RTO, and state levels
- Pace of reforms did not keep up with changes to the grid
  - Shifts in generation mix changed appetite

Recent FERC Action

- Established Joint Federal-State Task Force with NARUC to evaluate barriers and solutions to transmission development
  - 175 FERC ¶ 61,224, Docket No. AD21-15-000 (2021)
- Issued a policy statement clarifying that voluntary agreements between states and/or utilities are not categorically precluded by the FPA or under FERC's rules and regulations
  - 175 FERC ¶ 61,225, Docket No. PL21-2-000 (2021)
- NOPR to codify practice of 50 basis point ROE incentive for utilities to join a transmission organization, and also to increase the basis points from 50 to 100
  - 175 FERC ¶ 61,035, Docket No. RM20-10-000 (2021)



Drivers of Potential Reform

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Future Transmission Needs

- Additional transmission capacity is still needed
  - Aging electric infrastructure will need updates and replacements
  - Changes in fuel mix and siting require new and longer transmission
- Drivers of demand
  - Closure of some fossil fuel generators that tend to be cited new load centers
  - Certain fuel types like coal becoming priced out of markets
  - Changes in consumer demands due to climate change concerns
  - Increase in large scale renewable generation that is sited further away from load centers

Industry and Regulator Viewpoints

- FERC increasingly focused on transmission planning and cost allocation
  - Chairman Glick has said transmission will be FERC's highest priority
  - Commissioners split on the approaches to these issues, but all have expressed interest in reviewing FERC's policies
- Former FERC Commissioners also calling for policy changes
  - 7 former FERC Commissioners signed 2021 Planning for the Future report on opportunities for a more cost-effective transmission infrastructure
- RTOs and ISOs considering reforming interconnection processes
  - 2020 MISO and SPP joint transmission study to identify transmission projects with comprehensive, cost effective, and efficient upgrades
- Recent transmission and cost allocation themed panels and webinars
  - CERA week, RTO meetings (e.g., PJM workshop series)

Generator Queue Concerns

- Backlog in interconnection queues, e.g., NYISO blacklog for renewable resources
  - More capacity within the queues than there is actual load, and queues are continuing to grow, especially with renewable energy projects
  - Increasingly difficult for Transmission Planners and RTOs/ISOs to process number of requests
- Current processes generally focus on single interconnection request or cluster of requests
  - Difficult to plan for long term needs/reliability with so many requests competing in queue
- Variability in interconnection network upgrade costs
  - Leads to speculative requests in an effort to limit upgrade costs and late-stage withdrawals, potentially complicating the job for the transmission provider


FERC Advance NOPR
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FERC Mulling Action

- FERC considering potential need for reforms to existing electric transmission regulations
  - Regional transmission planning
  - Cost allocation
  - Generator interconnection
- Would be first major transmission-related reforms in a decade
  - FERC issued Order No. 1000 in 2011, hoping to promote efficient and cost-effective transmission development through open competition and nonincumbent developer reforms

Advance NOPR

- Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, 176 FERC ¶ 61,024 (July 15, 2021)
- FERC seeks comment on the potential need for reform of Commission regulations necessary to improve regional transmission planning and cost allocation and generator interconnection processes
  - Commission noted trend of siting renewables further from load and the impact on the interconnection process and transmission planning

Role of Cost Savings in ANOPR

- ANOPR contains section dedicated to the "potential need for reform" in order to ensure just and reasonable rates
  - Echoes recent comments of the Commission to focus on rates/protect customers
- Frequently references goal of "cost effective transmission facilities"
- But, no meaningful consideration of cost savings for transmission
  - No request for comments on approaches specific to reducing overall transmission costs
  - Such savings would mean lower costs for transmission interconnections and upgrades, and ultimately savings for end-use customers
- ANOPR mainly focused on determining who pays rather than reducing total costs

Regional Transmission Planning

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Identification of Cost and Responsibility for Regional Transmission Facilities and Network Upgrades

- FERC seeks to examine whether it should require public utilities and RTOs/ISOs to look at longer time horizons for transmission planning, rather than focusing just on immediate requests.
- If transmission planning should be more farsighted, then what are the correct inputs to consider? For example, considering consumer demand changes, technology changes, future generation needs, probable new laws, and climate change.

Cost Causation Precedent

- Current policy is that rates must reflect to some degree the costs actually caused by the customers, and benefits should be at least roughly commensurate with the allocation of the costs. However, benefits need not be calculated with exacting precision.
- FERC questions whether the current processes allocate costs in a manner roughly commensurate with benefits.
  - If not, how can processes better align with policy?

Cost Allocation for Transmission Facilities Planned Through the Regional Transmission Planning Process

- Assuming that the current transmission planning processes does need to be reformed to have a longer planning horizon, should cost allocation principles be reconsidered in light of broader benefits derived from new transmission?
- E.g., reforms to calculate benefits provided to more customers than those directly served by new transmission, such as zone-wide or even system-wide benefits.
  - Reconsider how costs for such transmission are allocated?

Variations in Transmission Funding Approaches

- E.g., MISO's Multi-Value Project Allocation Methodology
  - Long development history involving Supreme Court denial of cert. and rehearing requests.
  - Eligible projects must:
    - be above 100 kV,
    - cost $20 million or more,
    - have a combined benefit-to-cost ratio greater than 1, and
    - be evaluated as part of a portfolio of transmission projects.
  - MVPs must meet goals: (1) Reliably and economically enable regional public policy needs; (2) Provide multiple types of regional economic value; and/or (3) Provide a combination of regional reliability and economic value.
    - Examples - meeting state renewable goals and provide economic benefits in multiple pricing zones.
- E.g., *SPP*, 175 FERC ¶ 61,198, Docket No. ER21-1676
  - SPP filed to add a waiver provision to its highway/byway cost allocation model
  - Permit allocation of 100% of certain facility costs to be allocated to the SPP region rather than spread within zone
  - Rejected due to insufficient transparency

Limitation on Recovery of Costs for Abandoned Projects

- Risks inherent in project development for approved regional projects
  - Failure to obtain state certifications (i.e., certificate authority)
  - Activism
  - Siting requirements
- Projects may be abandoned before going into service
  - Current FERC policy: allow recovery of the costs of an abandoned plant under FPA Section 205 and recovery of and return on 50% of the prudently incurred investment costs incurred in connection with the abandoned plant.
- FERC seeks to better protect consumers
  - Should FERC limit the recovery of costs through abandonment by allowing only the recovery of some portion of actual development or pre-commercial costs, and/or no recovery of a return on equity on such costs prior to the project receiving all necessary regulatory approvals?

Generator Interconnection

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Participant Funding and Crediting Policy for Funding Interconnection-Related Network Upgrades

- Under Order No. 2003, while generally an interconnection customer may be required to initially fund the full cost of network upgrades, non-independent transmission providers must credit the interconnection customer against transmission delivery service.
  - This process assumed that network upgrades benefit the entire network.
- Participant funding - costs assigned directly to the interconnection customer, transmission service credits are not awarded, and interconnection customers may receive capacity rights created by the interconnection-related network upgrades
  - RTOs/ISOs have adopted their own variations of this approach.
- FERC to consider:
  - Are participant funding costs increasing?
  - Does approach unjustly neglect the benefits provided to other customers for network upgrades and/or lead to a "free rider" problem?

Coordinating Generator Interconnection Processes

- Most common existing practice is new interconnection customers pay for costs to construct large, high-voltage transmission facilities
- Regional transmission planning processes and generator interconnection processes tend to work independently
  - FERC suggests this construct may result in inefficient investment in transmission infrastructure and unjust and unreasonable or unduly discriminatory or preferential rates
- FERC is considering the need for coordination between regional transmission planning and generator interconnection processes
  - Some limited coordination exists today, such as between PJM and MISO for interconnection studies
- FERC sees a gap with no process to jointly assess benefits and allocate costs of transmission facilities that provide benefits to both system loads and new generation

Transmission Oversight

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Enhanced Transmission Oversight

- FERC seeks to balance enhanced oversight with just and reasonable rates
  - Insulate ratepayers from extraneous or imprudent spending
- Should there be reforms to enhance oversight of transmission planning and transmission providers' spending on transmission facilities to ensure that transmission rates remain just and reasonable?
- Should FERC require that transmission providers in each RTO/ISO, or more broadly, in non-RTO/ISO transmission planning regions, establish an independent entity to monitor the planning and cost of transmission facilities in the regions?

State Oversight

- Different oversight approach could be to involve state commissions in the transmission planning processes.
  - E.g., SPP's Regional State Committee provides collective state regulatory agency input in areas under the RSC's primary responsibilities and on matters of regional importance related to the development and operation of the bulk electric transmission system.
- FERC seeking comment on whether state-driven model could be expanded to other regions or combined with other oversight mechanisms.

Additional Oversight Approaches

- FERC considering other oversight tools (e.g., performance-based regulation)
- Goals
  - Ensure rates are just and reasonable;
  - Ensure reliability of the transmission system;
  - Promote regional expansion of transmission facilities for a sufficiently wide range of future scenarios, including anticipated future generation; and
  - Encourage transmission provider participation.

Other Federal Developments and Next Steps

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Biden Administration

- Electric grid identified as a priority for the Biden administration
  - Passing a national Clean Energy Standard remains a key goal
- Under the American Jobs Plan, intends to invest $100 billion for grid and transmission systems
- National Climate Advisor Gina McCarthy: building new transmission is essential, especially considering recent winter outages

Infrastructure Bill

- Grid investments
  - $65 billion for power infrastructure, but only a portion dedicated to transmission investment
- Establishment of Grid Deployment Authority
  - New federal entity to finance and encourage high-voltage transmission development
- Revisions to FERC backstop siting authority
  - Clarifications on FERC's ability to authorize transmission line permitting, even if denied by state regulators
- Transmission Facilitation Fund
  - $2.5 billion in federal borrowing authority
  - Provides for DOE to enter into capacity contracts for up to 50% of new project capacity
  - Intent is to encourage other entities to enter into contracts

Next Steps

- Resolving cost questions
  - Who will pay? Unclear how costs will be covered for new infrastructure or the potential impact on retail transmission rates
  - Will cost efficiency be a factor?
- Developing transition plans
  - Reforms may require lengthy implementation periods
  - May require development of new interconnection pricing, and transmission planning and cost allocation processes
- ANOPR Rulemaking Process
  - Comments due October 12
  - Reply Comments due November 9

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Stephen M. Spina represents electric utilities and other electric industry participants before the Federal Energy Regulatory Commission (FERC) in restructuring, market investigations, and Federal Power Act regulatory matters. He advises electric utilities on issues relating to market pricing, transmission, reliability standards compliance (including cybersecurity standards), rate matters, and participation in regional transmission organizations, including capacity and energy market issues. In connection with cybersecurity, Stephen is an active member in the firm's crisis management practice. His work also extends to audits and investigations before FERC's Office of Enforcement, as well as enforcement and audit proceedings involving the North American Electric Reliability Corporation.

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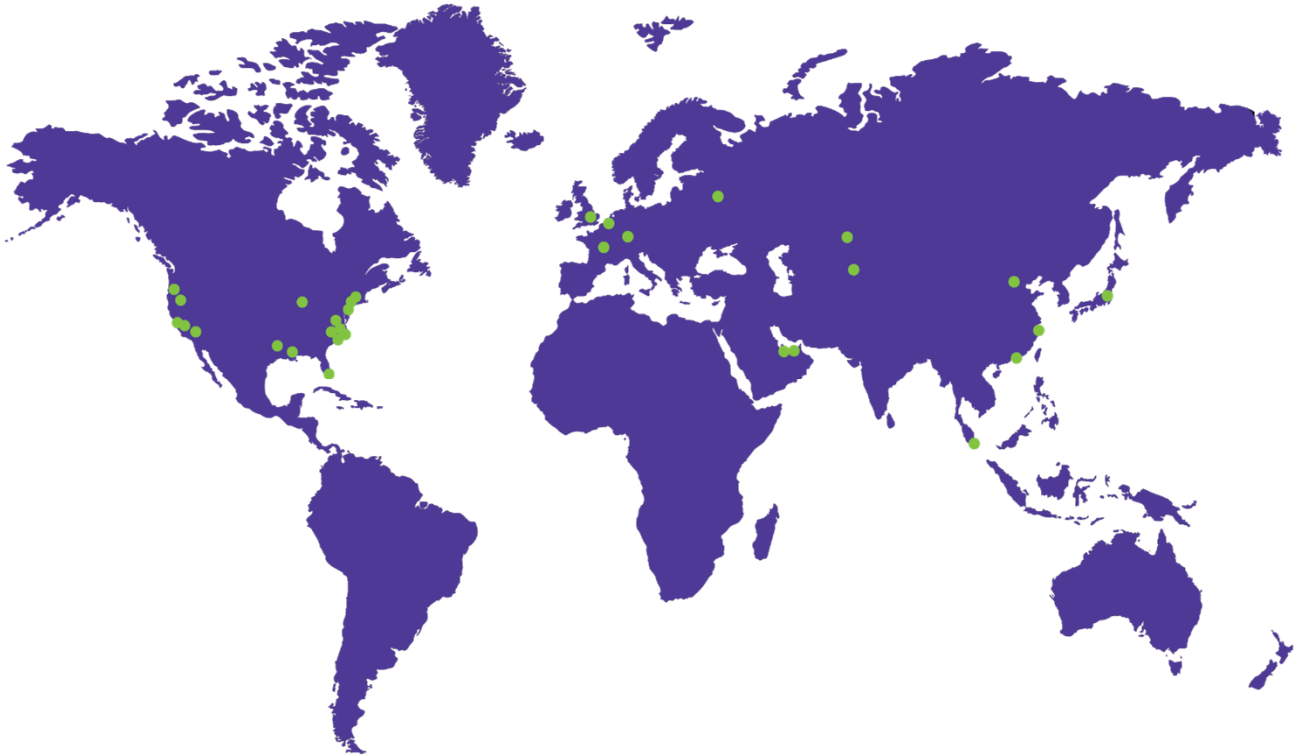

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