

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

**Transmission Planning and Cost Allocation by            )  
Transmission Owning and Operating Public Utilities ) Docket No. RM10-23-000**

**Reply Comments  
The New England States Committee on Electricity  
(November 12, 2010)**

**I. Introduction**

The New England States Committee on Electricity (NESCOE) submits these reply comments in the above captioned proceeding pursuant to the Commission's notice dated September 29, 2010 establishing a reply comment period through November 12, 2010. Consistent with the Commission's request, these reply comments do not raise new issues not directly connected to arguments in initial comments and do not repeat NESCOE's initial comments.

In sum, NESCOE objects to the request by several commenters that the Commission clarify that transmission plans - and the creation and allocation of transmission costs – may be based on speculative public policies that have not been adopted by state or federal governments. Doing so would result in serious confusion in the planning process, and in protracted debates and possible litigation over both process and substance. Next, NESCOE objects to the suggestion that the SPP cost allocation methodology be the default cost allocation methodology and strongly objects to the recommendation that the Commission shift the burden of proof on certain cost allocation matters. New England should not be forced to assume the litigation burden and/or to expend time and costs to participate in proceedings about distant transmission to reach

remote resources that New England consumers do not need to meet reliability standards or environmental objectives applicable to New England. Further, even if remote transmission might benefit New England, New England might achieve equal or greater benefits more cost effectively through local transmission or generation development. Finally, NESCOE objects to the suggestion that the Commission broaden interregional planning agreement requirements beyond neighboring regions.

**II. Any Changes to Transmission Planning and Cost Allocation to Consider Public Policy Must Reflect Public Policy as Represented in Law and Regulation; Recommendations to Consider Speculative Public Policy Should be Rejected.**

In its initial comments, NESCOE supported some changes to transmission planning set forth in the NOPR subject to important conditions and limitations to make sure that potential changes to planning: 1) respect and/or complement regional competitive markets and processes; 2) provide mechanisms to ensure that only the most cost-effective projects proposed to meet public policy objectives move forward; and 3) assign appropriate roles to entities in connection with public policy. NESCOE Initial Comments at pages 1-2, 14-15.

Several commenters urged the Commission to encourage, allow or require consideration of speculative public policy when performing transmission planning and cost allocation as follows:

- Iberdrola stated “[g]iven the long lead times for transmission projects, planners should also be encouraged to *anticipate foreseeable developments in government policy*, such as federal renewable electricity requirements and federal climate change regulations established by EPA or Congress.” Iberdrola at page 18. Emphasis Added.
- American Electric Power and others (AEP/Joint Commenters) would like to identify beneficiaries of transmission projects based on public policies someone believes might be adopted at some point in the future: “In identifying the beneficiaries of a transmission project, the Commission

should require consideration of public policy requirements – both those currently on the books *and those that are likely to arise over the life of the transmission assets.*” AEP/ Joint Commenters at page 4. Further, they ask the Commission to assign costs to consumers based on hypothetical public policy-related benefits: “If a person would receive benefits, *including public policy-related benefits*, from a transmission facility under *a likely future scenario*, it is appropriate to allocate costs of that facility to that person, even if those benefits are not related to public policy requirements reflected in statutes or regulations today, or reflected in the generation mix that is in place today.” AEP/Joint Commenters at page 18-19. Emphasis added.

- The American Wind Energy Association and others (AWEA) requested “that the Commission make it clear that the benefits of transmission to be taken into account in the transmission planning process should address *expected future* public policy requirements as well as existing ones on the book.” AWEA at page 19. Emphasis added. AWEA also encouraged speculation in transmission planning by asking the Commission to “require regional plans to address a planning horizon of at least 20 years, and to evaluate environmental and economic constraints and *public interest concerns*<sup>1</sup> over that planning horizon as a basis for development of such plans.” AWEA at page 19-20. Emphasis added.

NESCOE opposes consideration of hypothetical public policy in transmission planning and cost allocation. Speculative public policy is properly considered in scenario planning analysis intended to provide information about a range of possible futures but not in the context of transmission plans that result in costs to be paid by consumers.

The Commission should categorically reject requests to plan transmission systems and create and allocate costs to consumers based on speculative considerations that may or may not be adopted as public policy by state or federal governments at some future time. Factoring hypothetical public policy into transmission planning and cost recovery would bring confusion and contention to both the planning process and substantive

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<sup>1</sup> AWEA did not define what a “public interest concern” is, how to identify it, or explain whether or how it differs from potential public policy that someone believes may be adopted by some government at some future time.

outcomes. This could increase the likelihood of delay and potential litigation, which could impede the planning progress the NOPR seeks to advance.

In initial comments, NESCOE stated conditional support for considering public policy in planning, with an important condition being the proper role of entities in relation to public policy identification. NESCOE Comments at pages 14-18. In short, NESCOE agreed that the Commission should not identify the public policy requirements established by state or federal law that should be considered in the regional transmission planning process. *Id.* Given different market structures and laws across the country, the NOPR correctly recognized the region's ability to implement such a framework mindful of the potential effects on competitive markets, processes and regional rules. *Id.* NESCOE further stated that planning authorities are not the proper entities to identify public policies appropriately considered in transmission analysis. The role of planning authorities in interconnection-wide planning illustrates this point: planning authorities conduct technical analysis and do not identify the public policy to consider in that analysis. *Id.*

Consistent with that discussion, the New England states oppose allowing ISO New England Inc. (ISO-NE), stakeholders or a federal agency to speculate as to what public policies the New England states may adopt at some point in the future, incorporating those into transmission plans for New England and making corresponding cost assignments. Similarly, the New England states have no special capacity to guess what policies some future Congress - or New England state legislature - may adopt.

NESCOE agrees with AEP/Joint Commenters that “[T]he most prescient transmission planner even ten years ago likely would not have planned for wind power to

provide 39% of all new electric generating capacity built in the United States in 2009...”

AEP/Joint Commenters at page 17. Accordingly, NESCOE objects to the recommendation that the Commission authorize “prescient transmission planners” or public officials to speculate about future public policies when the odds are strong that such speculation will be wrong.

If the Commission authorizes consideration of hypothetical public policy in transmission planning and cost allocation, an important threshold issue is the mechanism by which to reimburse consumers for costs allocated to them based on a finding of “public policy-related benefits” if such speculative public policy is not ultimately adopted by government. Simply, consumers should not be required to pay for costs created by someone’s notion of a “public policy-related benefit” when the notional public policy is not deemed to be public policy by policymakers. As AEP/Joint Commenters note, even “prescient transmission planners” are not likely to predict the future accurately, and consumers should not pay for errors in predictive powers.

In any final rule, the Commission should: 1) explicitly reject requests to base transmission plans and create and allocate transmission costs to consumers based on speculation about public policies, likely future scenarios, or public interest concerns; and 2) eliminate the following language that appeared in the NOPR:

After consulting with stakeholders, a public utility transmission provider may include in the transmission planning process additional public policy objectives not specifically required by state or federal laws or regulations.  
NOPR at Paragraph 64.

**III. The Commission Should Reject the Recommendation to Adopt the SPP Cost Allocation Methodology as the Default Cost Allocation Basis and the Recommendation to Shift the Burden of Proof on Certain Cost Allocation Matters.**

First, AEP urged the Commission to “indicate that the recently-approved SPP “Highway/Byway” approach will be the basis for FERC’s development of a regional cost allocation arrangement for any region that cannot reach a consensus.” AEP Comments at page 3. NESCOE urges the Commission to reject AEP’s recommendation.

NESCOE has no view on the merits of SPP cost allocation approach as it applies to SPP and presumes that the SPP approach represents an accommodation among stakeholders within the region that they believed would best serve their unique interests.<sup>2</sup>

The Commission has long respected that regional differences exist among the various Regional Transmission Operators. The Commission should continue to ensure that cost allocation methodologies are properly tailored to meet the different needs of consumers in various regions based on differences in market structures, geography, policy preferences and proximity of load centers to renewable resources. Furthermore, the record in this proceeding does not support a finding broadly applying the SPP allocation methodology in relation to New England. Accordingly, the Commission should reject AEP’s recommendation.

Second, AEP/Joint Commenters advocate that the Commission shift the burden of proof with respect to certain cost allocation matters such that “every approved cost allocation method should include a rebuttable presumption that the costs of EHV projects will be allocated widely.” AEP/Joint Commenters at page 11. They encourage the

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<sup>2</sup> See NESCOE Comments, *Southwest Power Pool, Inc.*, ER 10-1069, dated May 17, 2010.

Commission to “approve plans that allocate the costs of a project to the beneficiaries of that [extra high voltage (EHV)] project, without limitations arising from service territory, RTO or other boundaries..... Those seeking to rebut the Commission findings underlying the presumption of broad cost sharing for EHV transmission should bear the burden of demonstrating that they receive no benefits from the EHV project.” AEP/Joint Commenters at page 14.

NESCOE strongly objects to the proposal to shift the burden of proof on cost allocation. As noted in initial comments, “NESCOE supports the proposal to require cost allocation agreements between neighboring regions, and appreciates the NOPR’s principle that prohibits involuntary assignment of costs of facilities located in other regions. This is critically important to New England’s ratepayers who do not need resources from distant markets to meet reliability or public policy objectives and therefore should not pay for transmission to access them.” NESCOE Comments at page 2. Moreover, simply because there may be public policy benefits from a specific transmission project does not mean there are not less expensive – and more cost-effective – means and/or projects that could achieve the same or similar benefits. As ISO-NE noted in its initial comments:

... the existence of some level of benefit stemming from a particular multiregional project does not mean that the same or greater benefits cannot be achieved through alternative transmission projects, or through a market solution. For example, a Midwestern extra high-voltage system upgrade to deliver Great Plains wind generation might benefit New England, but New England might achieve the same or greater benefits less expensively through development of transmission in the East as part of a carefully considered regional or interregional plan. ISO-NE Comments at pages 40-41.

Regions like New England should not be forced to assume the litigation burden and/or to

expend time and costs to participate in proceedings about distant transmission to reach remote resources that its consumers do not need to meet reliability standards or environmental objectives. NESCOE requests the Commission to reject AEP/Joint Commenters' cost allocation proposal.

#### **IV. Transmission Planning Agreements Between Neighboring Regions Are Appropriate and the Commission Should Reject Suggestions to Expand the Requirement.**

AWEA advises the Commission to “consider requiring transmission providers to enter into multilateral interregional transmission planning agreements among several, or even all, regions within an interconnection, recognizing the processes developed through the American Recovery and Reinvestment Act (“ARRA”)-funded transmission planning initiatives.” AWEA Comments at page 24-25.

In initial comments, NESCOE stated that it coordinated with its neighboring transmission planning region, New York, to address transmission planning issues and that it supported the NOPR's interregional coordination proposal provided that interregional projects will be identified and developed through the current approach that has as its basis each region's transmission plan and that interregional transmission projects sponsored by one region will not be imposed involuntarily on another region. NESCOE Comments at page 19-20. NESCOE also supports the analysis made possible by the ARRA-funded Eastern Interconnection Planning Collaborative (EIPC) as a means to identify objective data to take into consideration in current regional planning processes.

The ongoing interregional analysis does not, however, warrant requiring interregional planning agreements across the interconnection. After planning regions examine data and analysis gathered in the current interconnection-wide studies and assess



whether investing in remote transmission facilities across multiple planning regions make the most economic and environmental sense for consumers as compared to delivering renewable power located closer to customers, it may be appropriate to consider what, if any, incremental interregional planning agreements make sense and warrant time and resources.

For New England, renewable resources located in and proximate to New England obviate the need for New England to cross multiple Regional Transmission Organizations' boundaries to meet its clean energy objectives, provided adequate transmission is available within the region to access them. Importantly, analysis shows that in-region (New England) development of renewables and access to renewable energy from neighboring systems appears possible with significantly less capital investment for transmission infrastructure than would be required to import an equivalent quantity of power from more remote, out-of-region sources on new, high-voltage transmission lines. New England Governors' Renewable Energy Blueprint at page 7.<sup>3</sup> For New England, the idea of additional interregional agreements across the interconnection makes no practical sense. The Commission should reject AWEA's suggestion.

## **V. Conclusion**

NESCOE appreciates the opportunity to provide these Reply Comments and requests the Commission consider them as it deliberates resolution to the important issues set forth in the NOPR.

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<sup>3</sup> The Blueprint may be accessed at this link:  
[http://www.nescoe.com/uploads/September\\_Blueprint\\_9.14.09\\_for\\_release.pdf](http://www.nescoe.com/uploads/September_Blueprint_9.14.09_for_release.pdf)

Associated technical analysis may be accessed at this link:  
[http://www.nescoe.com/uploads/2009\\_Economic\\_Study\\_Final\\_Report.pdf](http://www.nescoe.com/uploads/2009_Economic_Study_Final_Report.pdf)

Respectfully Submitted,

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