UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Industrial Energy Consumers of America, American Forest & Paper Association, R Street, Institute, Glass Packaging Institute, Public Citizen, PJM Industrial Customer Coalition, Coalition of MISO Transmission Customers, Association of Businesses Advocating for Tariff Equity, Carolina Utility Customers Association, Inc., Pennsylvania Energy Consumer Alliance, Resale Power Group of Iowa, Wisconsin Industrial Energy Group, Multiple Intervenors (NY), Arkansas Electric Energy Consumers, Inc., Public Power Association of New Jersey, Oklahoma Industrial Energy Consumers, Large Energy Group of Iowa, Industrial Energy Consumers Of Pennsylvania, Maryland Office of People's Counsel, Pennsylvania Office of Consumer Advocate, Consumer Advocate Division of Of the Public Service Commission of West Virginia, and Missouri Industrial Energy Consumers,	)	
Complainants	)	
	)	Docket No. EL25-44-000
v.	)	
Avista Corporation; Idaho Power Company MATL LLP; North Western Corporation; PacifiCorp; Portland General Electric Company; Puget Sound Energy, Inc.; Duke Energy Florida LLC; Florida Power & Light Company; Tampa Electric Company; Dominion Energy South Carolina, Inc.; Duke Energy Carolinas, LLC and Duke Energy Progress, Inc.; Louisville Gas and Electric Company and Kentucky Utilities Company; Southern Company Services, Inc., As agent for Alabama Power Company, Georgia Power Company, Georgia Power Company and Mississippi Power Company; Arizona Public Service Company; Black Hills Power, Inc.; Black Hills Colorado Electric Utility Company, LP; Cheyenne	)	

Light, Fuel & Power Company; El Paso Electric Company, NV Energy, Inc.; Public Service Company of Colorado; Public Service Company of New Mexico; Tucson Electric Power Company; UNS Electric, Inc. California Independent System Operator, Inc.; Southwest Power Pool, Inc.; PJM Interconnection, L.L.C., Midcontinent Independent System Operator, Inc.; New York Independent System Operator, Inc.; and Independent System Operator of New England, Inc.,	)
Respondents	)

COMMENTS OF THE
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY

Pursuant to the Combined Notice of Filings issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") on December 20, 2024[1] and the Notice of Extension of Time issued by FERC on January 7, 2025,[2] the New England States Committee on Electricity ("NESCOE") files comments on the complaint filed on December 19, 2024 by the above-captioned Complainants.[3]

NESCOE does not take a position regarding the rules and practices in regions outside of New England. However, for the reasons described herein, NESCOE agrees with the Complainants that transmission rates in New England are not just and reasonable due to the current lack of regional planning for, and oversight of, what are referred to as "asset condition

[1] Combined Notice of Filings #1, Docket No. EL25-44-000 (Dec. 20, 2024).

[2] Notice of Extension of Time, Docket No. EL25-44-000 (Jan. 7, 2025).

[3] Complaint of Consumers for Independent Regional Transmission Planning for all FERC-Jurisdictional Transmission Facilities at 100kV and Above, Docket No. EL25-44-000 (Dec. 19, 2024) ("Complaint").

projects"—projects accounting for billions of dollars in transmission investments in the regional grid that New England's regional transmission planner does not plan or monitor.

NESCOE proposes that the Commission provide the following relief.

First, NESCOE respectfully requests that the Commission direct ISO New England ("ISO-NE") and the New England Transmission Owners ("NETOs") to revise the applicable tariff provisions and any other relevant governing documents, rules, policies, or procedures to require that transmission investments recovered through the Regional Network Service rate be planned through an ISO-NE-administered regional transmission planning process. In directing these reforms, the Commission should provide flexibility for ISO-NE and the NETOs to exclude a narrowly tailored category of projects from regional planning procedures, such as emergency repairs, provided that there is regular, timely, and transparent reporting of these projects to ISO-NE, States, and stakeholders. In the alternative, if the Commission determines that the record in this proceeding is not sufficient to make a finding that New England's transmission rates are unjust and unreasonable, NESCOE requests that the Commission open a separate investigation pursuant to Section 206 of the Federal Power Act in order to further investigate the issues raised in the Complaint and NESCOE's comments here.

Second, the Commission should adopt, in the nearest term, NESCOE's long-standing request to implement an Independent Transmission Monitor ("ITM"). The specific duties and processes for an ITM, or some comparable independent entity, should be developed by the region to meet New England's current region-specific needs.

I. DESCRIPTION OF COMMENTER

NESCOE is the Regional State Committee for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New

Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO-NE administers.[4] NESCOE's mission is to represent the interests of the citizens of the New England region by advancing policies that will provide electricity at the lowest possible price over the long term, consistent with maintaining reliable service and environmental quality.[5] These comments represent the collective view of the six New England States.

II. INTRODUCTION

In their Complaint, the Consumers for Independent Regional Transmission Planning for all FERC-Jurisdictional Transmission Facilities at 100 kV and Above (the "Complainants") argue that the tariffs of the named public utilities and the regional transmission organizations and independent system operators ("RTOs/ISOs") inappropriately authorize individual transmission owners to plan FERC-jurisdictional transmission facilities at 100 kilovolts ("kV") and above ("Local Planning") without regard to whether such Local Planning approach is the more efficient or cost-effective transmission project for the interconnected grid and cost-effective for electric consumers.[6] The Complaint further alleges that Local Planning, coupled with the absence of an independent transmission system planner, has produced inefficient planning and projects that are not cost-effective, resulting in unjust and unreasonable rates for both individual projects and cumulative regional transmission plans and portfolios.[7] The Complaint does not challenge the rates for any specific Locally Planned project as unjust and unreasonable; rather, the Complaint

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4 *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

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

6 Complaint at 6.

7 *Id*.

alleges that the cumulative effect of tariff provisions allowing Local Planning of transmission projects 100kV and above results in unjust and unreasonable transmission rates.[8]

The Complaint provides a summary of the problem at hand, noting that in the last 15 years, hundreds of billions of dollars have been invested in electric transmission in the United States, with nearly half of the investments based on local utility criteria that does not subject the projects to regional planning.[9] As the Complainants point out, a significant percentage of these "Self-Planned Transmission" additions have been new transmission facilities built to replace existing transmission facilities that have reached the end of their operational life,[10] without any analysis of whether the transmission facilities from the grid of yesterday are actually needed for the grid of today or are the right projects to account for new resources creating new demands on the transmission system.[11] As the Commission has concluded, over reliance on Self-Planned Transmission results in, among other things, transmission customers paying more than is necessary or appropriate to meet their transmission needs, customers forgoing benefits that outweigh their costs, or some combination thereof, which results in less efficient or cost-effective transmission investments and, in turn, renders Commission-jurisdictional regional transmission planning and cost allocation processes unjust and unreasonable.[12]

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8 *Id.* at 11.

9 *Id.* at 27 (citing Brattle Group, *Annual U.S. Transmission Investments, 1996-2023*, (2023), available at https://www.brattle.com/wp-content/uploads/2023/07/Annual-US-Transmission-Investments-1996–2023.pdf).

10 The Complaint refers to individual transmission owner planning as "Local Planning" and resulting transmission projects as "Self-Planned Transmission." *See id.* at 6 n.5. These comments use those terms as they are memorialized in the Complaint. However, in New England, projects built by transmission owners to replace existing transmission projects that have reached the end of operational life are referred to as "asset condition projects" and will be referred to as such throughout these comments.

11 *Id.* at 28 (citing *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (July 15, 2021) at P 3 ("2021 Transmission ANOPR")).

12 *Id.* at 32 (citing *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, 187 FERC ¶ 61,068 (May 13, 2024) at P 112 ("Order No. 1920") (internal quotation marks omitted)).

Compounding these issues is the fact that, as the Complaint points out, investor self-interest leads to Self-Planned Transmission.[13] This is not to say that the transmission owners are acting in bad faith—on the contrary, the transmission owners have a duty to act in the best interests of their shareholders. Despite the Commission's emphasis on the importance of regional planning to achieve the Commission's statutory obligations to ensure just and reasonable transmission rates, transmission owners continue to thwart regional planning by both determining their individual transmission needs and fulfilling those needs virtually unchecked through Self-Planned Transmission.[14] At the same time, through the adoption of widespread formula rates, the Commission has shifted the burden to customers to prove that those self-serving planning decisions were imprudent.[15] This burden, along with the burden of overcoming the presumption of prudence, is nearly impossible to meet with planning hindsight.[16]

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13 *See id.* at 33.

14 *Id.* at 34 (citing 2021 Transmission ANOPR at P 17 ("Generally, the transmission facilities that transmission providers include in their individual local transmission plans are incorporated into regional transmission plans as inputs, with minimal opportunity for stakeholder review in the regional transmission planning process."); Post-Technical Conference Comments of the National Association of State Utility Consumer Advocates, Docket No. AD22-8-000 (filed March 23, 2023) (internal quotation omitted); Initial Comments of the New England States Committee on Electricity, Docket No. RM21-17-000 (filed Aug. 17, 2022) ("NESCOE Initial ANOPR Comments") at 79–80).

15 *See id.* (citing Pre-Conference Comments of the New England States Committee on Electricity, Comments of Maine Public Utilities Commission Chair Philip L. Bartlett II, Docket No. AD22-8-000, (filed Oct. 4, 2022) ("NESCOE Pre-Conference Comments") at 3 (noting that "the use of formula rates has effectively shifted the burden from transmission owners to demonstrate just and reasonable rates, as would happen in a state rate case, to states and consumer advocates to rebut the proposed rate through challenges.")).

16 *See id.* at 34–35 (citing NESCOE Pre-Conference Comments at 3 ("While it is true that states can review transmission costs when certificates of public convenience and necessity are required for transmission siting purposes, that is an isolated evaluation of a single project rather than a more comprehensive assessment of transmission investments by the utility or for the region as a whole. Moreover, asset condition projects—basically in-kind replacements due to age or deteriorating conditions—typically do not require any local siting review in Maine, and the costs are regionalized. This regulatory gap that exists where transmission project costs do not undergo any state-level review and only limited FERC review in a formula rate annual update proceeding is not insignificant. We have approximately $2.5 billion of installed asset condition projects in New England and another $3 billion of such projects in planning or construction."))

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Acknowledging that the Commission is obligated to determine the appropriate just and reasonable replacement rate, the Complaint proposes a replacement rate involving FERC-mandated revision of local planning tariffs to prohibit local transmission planning for FERC-jurisdictional transmission facilities at 100 kV or above and a reciprocal change to regional tariffs to require exclusively regional planning of 100 kV and above transmission facilities in the already required regional planning based on existing Order No. 1000 planning regions.[17] The Complaint's "proposed replacement rate also requires that regional planning be conducted by an independent transmission system planner to ensure that consumers benefit from the determination of the appropriate project and are not again stymied by the self-interest and undue influence of existing transmission providers and transmission-owning entities."[18]

III. COMMENTS

Electric system reliability is paramount. Aged and damaged infrastructure that risks reliable system operations and public safety should be addressed on a timeframe suited to the urgency of the need. However, unlike transmission projects in New England that ISO-NE selects to meet reliability needs through the regional planning process, the process to rebuild, refurbish, or replace aged and damaged transmission facilities is conducted by individual and investor-owned transmission companies on an *ad hoc* basis. The scale of these projects, to a substantial degree, go beyond mere "in kind replacements" and instead are leading to the massive reconstruction of the regional electric power grid. Yet, ISO-NE, the regional system planner, is largely shut out of this process. With the independent system planner relegated, transmission companies are exercising unilateral discretion on the complicated engineering, construction,

[17] *Id.* at 14 (citing *FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Md. Pub. Serv. Comm'n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011) (quotation omitted)).

[18] *Id*.

supply chain, timing, and other factors that determine the need for, and scope of, asset condition projects. The billions of dollars that consumers are investing in asset condition projects to keep the lights on in New England should be accompanied by the highest confidence that every dollar is being prudently expended.

NESCOE agrees with the Complaint that the lack of regional planning and cost scrutiny for certain types of projects has resulted in rates that are unjust and unreasonable in New England. In New England, so-called "asset condition projects" refer to projects where the NETOs replace aged and damaged infrastructure. Asset condition projects are self-planned by the NETOs, and spending on these projects now dwarfs spending on ISO-NE-planned reliability and market efficiency projects. Accordingly, there is no effective process to ensure that these individual asset condition projects are selected and designed to maximize important planning considerations, such as the transmission system's reliability and cost-effectiveness, rather than selected and designed in part to meet the NETOs' financial objectives. This lack of regional planning and oversight results in transmission rates in New England that are not just and reasonable.

To be clear, NESCOE recognizes that electric system reliability is paramount and that aged and damaged infrastructure that risks reliable system operations and public safety must be addressed. That said, for the reasons set forth in these comments, the Commission should take action to ensure that asset condition projects in New England are planned in a manner that results in just and reasonable rates for New England's ratepayers.

In the following sections, NESCOE (A) provides some relevant statistics regarding asset condition spending in New England and describes the planning process for asset condition projects in New England as compared to regionally planned projects; (B) provides some specific,

relevant examples of how the existing process for reviewing asset condition projects has fallen short; (C) describes how transmission spending trends justify an expansion of regional planning to include most asset condition projects, consistent with the Commission's response to similar investment trends in the past; and (D) describes how certain proposed alternatives to greater oversight through regional planning would not suffice. In Section IV, NESCOE discusses the various actions that the Commission should take to reform New England's asset condition procedures.

Although these comments focus on issues specific to FERC-jurisdictional asset condition projects, these are not necessarily the only category of NETO investments that may require additional planning and oversight in New England. In particular, local transmission service projects are transmission projects that do not have broader regional benefits but are required for local reliability. The costs of local transmission service projects are recovered through the Local Network Service rate rather than the Regional Network Service rate. Although the regulatory treatment of these projects differs from state-to-state, local transmission projects are often self-planned by the NETOs and thus often suffer from the same lack of oversight and planning that afflicts asset condition projects. In light of the similarities between asset condition projects and local transmission projects, NESCOE would support the Commission directing analogous reforms for local transmission projects in this docket or a future one, provided that such reforms account for and respect the differing treatment of these projects from state-to-state.

A. Asset Condition Spending Has Skyrocketed and Is Subject to Less Review Than Other Transmission Investment.

Asset condition project spending in New England has increased dramatically in recent years, increasing the region's need for regional planning that includes transparent and reliable processes and regulatory oversight. Although asset condition spending makes up the vast

majority of new transmission investment in New England, it is subject to a lower threshold of review than ISO-NE-planned reliability projects.

As Complainants note, and as the Commission is aware, asset condition projects in New England are an increasingly material component of the overall regional network service charge, having outpaced ISO-NE-led reliability upgrade costs.[19] In March 2016, when ISO-NE first began tracking asset condition projects and making them visible in a central location, there were $58 million in asset condition projects planned or under construction.[20] Since that time, $4.6 billion of asset condition projects have been placed in service, representing nearly half of transmission projects placed in service over that period. Another $5.8 billion are currently proposed, planned, or under construction.[21] Once these projects are placed in service, the NETOs will seek recovery from ratepayers of all of these costs, together with their Commission-approved return on equity. By way of comparison, ISO-NE-identified reliability projects currently proposed, planned, or under construction are estimated at $699 million.[22] Accordingly, based on these projections, approximately 87 percent of all transmission spending in New England will not be included in a regional planning process absent reforms by the Commission.

Reliability projects are subject to regional planning procedures that consider whether the investment is necessary and cost-effective. The regional transmission planning process that ISO-NE employs to develop reliability projects is set forth in Attachment K of the Open Access

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19 *See* NESCOE, Memo to New England Transmission Owners on Asset Condition Projects and Process Improvements ("February 2023 Asset Condition Memo") at 2, available at https://nescoe.com/wp-content/uploads/2023/02/Asset_Condition_Ltr_2-8-23.pdf.

20 *Id.* at 2 (citing March 2016 ISO-NE Asset Condition Update, available at https://www.iso-ne.com/system-planning/system-plans-studies/rsp/?load.more=1).

21 ISO NE. October 2024 Asset Condition Project List, available at https://www.iso-ne.com/system-planning/system-plans-studies/rsp.

22 ISO-NE. October 2024 RSP Project List, available at https://www.iso-ne.com/system-planning/system-plans-studies/rsp.

Transmission Tariff ("OATT").[23] This process requires that ISO-NE, NETOs, and the public collaborate on the need for, and design of, solutions through NEPOOL's Planning Advisory Committee ("PAC").[24] Notably, PAC is the only stakeholder body in New England open to the public. That transmission planning is required to happen at PAC reflects the intention for transmission planning to be visible to, and done in conjunction with, States, stakeholders and the public. From developing assumptions for transmission system needs and assessments to selecting solutions, ISO-NE is required to present its analysis and recommendations to the PAC and to consider the input and feedback that it receives.[25] Because ISO-NE's ratepayer-funded technical staff who conduct this reliability analysis and present recommendations do not have a fiduciary duty to NETO shareholders, States and stakeholders presume that their analysis will be both independent and reliable.

Asset condition projects, on the other hand, are not subject to these requirements. ISO-NE does not appear to provide any analysis of need for an asset condition project and NETOs generally do not solicit nor consider ISO-NE feedback in designing solutions—and to the extent that the NETOs do, it is not visible to the public. In fact, as a matter of practice, ISO-NE does not communicate to stakeholders its views about asset condition project proposals. Although the NETOs are obligated to present larger asset condition projects to stakeholders at the PAC,[26] the NETOs have no obligation to incorporate stakeholder feedback—and often there is little incentive for the NETOs to do so if that feedback conflicts with their own financial duties to

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23 ISO New England Open Access Transmission Tariff, Attachment K ("OATT Attachment K"), available at https://www.iso-ne.com/static-assets/documents/2021/07/sect_ii_att_k.pdf.

24 February 2023 Asset Condition Memo at 2.

25 *Id.*

26 *See* ISO New England Planning Procedure No. 4, available at https://www.iso-ne.com/static-assets/documents/2020/02/pp_4_rev9.pdf.

their shareholders and incentives. Because ISO-NE does not participate in asset condition planning or project proposal review, the NETOs' asset condition project proposals do not benefit from ISO-NE's technical expertise, and States and stakeholders likewise do not have the benefit of ISO-NE's planning expertise and perspective.[27] Despite the lack of regional planning for asset condition projects, asset condition project costs are allocated to consumers across New England in the same manner as the costs for reliability projects that ISO-NE selects, *i.e.*, on a *pro rata* basis across regional network load.

NESCOE has worked with—and continues to work with—the NETOs to improve asset condition project spending oversight in New England. NESCOE first reached out to the NETOs on February 8, 2023, to ask for enhancements to improve the transparency, predictability, and cost discipline of asset condition projects.[28] NESCOE's aim was, and continues to be, to seek planning process improvements to protect consumers from excessive costs and to maximize the use of all transmission assets by moving asset condition projects from the current, siloed, notice-based method into meaningful and holistic transmission system planning.[29] Since that time, NESCOE has worked with the NETOs to enact several positive asset condition transparency enhancements.[30] For example, the NETOs will now routinely include a base or targeted minimum solution for every project, will clearly identify the primary driver for the need, and will consider the costs and benefits of alternative solutions.[31] These improvements offer increased

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27 This process stands in stark contrast to New England's new competitive longer-term competitive planning process, which includes both an extensive ISO-NE review of proposals in connection with identified system needs to meet regional needs and a robust process to solicit and consider stakeholder feedback. *See* OATT, Attachment K, §§ 16.1–16.8.

28 February 2023 Asset Condition Memo at 1.

29 *Id*.

30 NESCOE, Memo to Eversource on New Hampshire Line X-178 Rebuild ("November NESCOE X-178 Memo") (Nov. 21, 2024), at 1, available at https://nescoe.com/wp-content/uploads/2024/11/X-178-and-Next-Steps.pdf.

31 *Id*.

transparency and potentially allow for improved stakeholder engagement. This is progress, but these transparency improvements are not a substitute for actual oversight or regional planning. Despite their best efforts, stakeholders lack the resources and expertise to do any detailed analysis on need or the design of the solution akin to what ISO-NE provides for reliability projects. The public funds transmission planning expertise through ISO-NE, and it is fundamentally unfair for the public to not have the benefit of ISO-NE's expertise on projects that currently represent half the transmission investment in New England and will represent the significant majority—87 percent—of going-forward transmission investment. Even if some stakeholders could provide this type of analysis, there is no obligation or incentive for the NETOs to implement that feedback if it conflicts with their financial incentives. Accordingly, consistent with the concerns raised in the Complaint, rates are not currently just and reasonable because New England lacks regional planning and oversight over asset condition project spending.

B. Recent and Current Asset Condition Projects Highlight the Need for Increased Regulatory Oversight.

There are several asset condition projects currently proposed in New England that highlight the need for regional planning and oversight. These projects illustrate the persistent information asymmetry between transmission owners and stakeholders and the seemingly inconsistent decision and design standards across transmission owners, which appear to result in notable cost disparities among asset condition projects.[32] These projects also demonstrate plainly the way in which the current process effectively shifts the burden away from federal

[32] *See id.* at 2.

regulators and onto states and stakeholders to establish whether such project proposals are a good use of consumer dollars.

Since January 2024, transmission owners have brought forth more than $1.3 billion in asset condition projects.[33] While the information that stakeholders receive is now more transparent and consistent than it used to be due to the reforms discussed above, much more work is still needed. When states or stakeholders identify individual proposed asset condition projects that may be problematic in terms of unnecessary scope and cost, the process involved in garnering any information in order to make such a determination remains a Sisyphean task.

For example, in one instance, a NETO proposed to fully rebuild a transmission line for an estimated cost of $384.61 million, when its initial presentation suggested that only 43 of the 580 (or 7%) structures targeted for replacement on this line are actually deteriorated (the "X-178 Line Rebuild").[34] Despite being put forward as an asset condition project, the primary driver of the project seemed to be the NETO's interest in enhancing its communication system rather than replacing damaged infrastructure. NESCOE was troubled by the lack of compelling evidence to justify a project of this scale as well as a lack of any consideration or discussion of lower cost, targeted intervention alternatives.[35] Over the better part of a year, NESCOE and stakeholders provided several rounds of feedback, questions, objections, and requests for more information, while the NETO in turn provided responses, offered reports of new inspections showing new

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[33] NESCOE notes that this estimate is low as several projects were presented on a preliminary basis without cost estimates included. *See* ISO-NE. Transmission Owner Asset Management, available at https://www.iso-ne.com/system-planning/transmission-planning/transmission-owner-asset-management.

[34] NESCOE, Memo to Eversource on New Hampshire Line X-178 Rebuild ("March NESCOE X-178 Memo") (March 14, 2024), at 1, available at https://nescoe.com/wp-content/uploads/2024/03/Feedback-on-ES-X-178.pdf; November NESCOE X-178 Memo.

[35] March NESCOE X-178 Memo at 1.

degradation, and made two subsequent PAC presentations.[36] Ultimately, NESCOE remains skeptical as to whether communication needs are a proper primary driver for an asset condition project, particularly where installing new communication technology causes the need to replace a significant number of otherwise healthy assets.[37] It is entirely unreasonable for states and stakeholders to spend this level of time, effort, and resources to simply get complete project information for a single project, especially where any feedback provided after review of this complete information can so readily be ignored.[38]

A compounding challenge is the seemingly inconsistent decision and design standards across NETOs, which appear to result in notable cost disparities among asset condition projects. In regard to the project mentioned above, it appeared that the final design decisions—the installation of new communication technology—resulted in the need to replace a significant number of otherwise healthy assets—namely, transmission poles—significantly impacting overall project costs. Looking more broadly across the year, seemingly similar projects have yielded widely varying per unit costs to consumers. For example, the per structure cost to replace deteriorated overhead structures has ranged from approximately $290,000 per structure to over $1 million per structure.[39] It is not clear why the costs across NETOs vary so widely,

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36 November NESCOE X-178 Memo at 1.

37 *Id*.

38 *Id*.

39 A review of overhead transmission line upgrade asset condition projects presented to PAC in 2024 indicate a wide range of unitized per structure replacement costs. The per structure cost represents the total project cost divided by the number of structures replaced. For example, the N133 project replaced 19 structures for a total cost of ~$5.5 million, or $289,000 per structure, while the Line 3041 and 3754 project replaces 25 structures for a total cost of $39.6 million or ~$1.6 million per structure. It is difficult to tell from the information provided what is driving the difference in unitized costs. *See* Line N133 Structure Replacement Project, available at https://www.iso-ne.com/static-assets/documents/100012/a05_line_n133_structure_replacements.pdf; Line 3041 and Line 3754 Structure Replacements - Project Update, available at https://www.iso-ne.com/static-assets/documents/100013/a02_3041_3754_structure_replacement_update.pdf.

and there is no readily available mechanism under the *status quo* framework to better understand these cost differentials. Under the current process, States and stakeholders must not only assess individual projects but then must compare the different design decisions each transmission owner applies—decisions and standards that have a real impact on overall cost—and do so without the benefit of ISO-NE's transmission planning expertise for which consumers pay.

The exclusion of asset condition projects from regional planning processes can lead to instances where significant system design decisions are ultimately made by the transmission owner instead of the regional planner simply due to timing. Take, for example, a NETO's recent proposal to replace the vast majority of underground high-pressure fluid-filled ("HPFF") cables in and around Boston, Massachusetts, with cross-lined polyethylene ("XPLE") technology as part of a series of asset condition projects in the coming decades.[40] Boston is not only the biggest load center in ISO-NE, but a complex area of the grid where the costs of replacing transmission equipment are significant—six to eight times higher than rebuilding existing overheard transmission lines.[41] Indeed, for past projects, this NETO estimated costs in the range of $46 to $51 million per mile.[42] That translates to a possible minimum overall cost in the range of $8–$9 billion dollars[43]—all of which would be spent outside of any ISO-NE regional planning process and planned entirely by a transmission owner with a fiduciary duty to its shareholders.

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40 *See* Eversource. Eastern Massachusetts Underground Cable Modernization Program (Feb. 26, 2025), available at https://www.iso-ne.com/staticassets/documents/100020/a05_2025_02_26_pac_eastern_massachusetts_underground_cable_modernization_program.pdf.

41 ISO-NE. 2050 Transmission Study (Feb. 12, 2024) ("2050 Transmission Study") at 23, available at https://www.iso-ne.com/static-assets/documents/100008/2024_02_14_pac_2050_transmission_study_final.pdf.

42 *See* Eversource. Eastern Massachusetts Underground Cable Modernization Program at 2.

43 Eversource stated that it is evaluating 179 miles of cable for replacement. *See* Eversource. Eastern Massachusetts Underground Cable Modernization Program at 39.

The Boston 2033 Needs Assessment also provides an example of how asset condition projects have real implications for regional planning despite currently being excluded from regional planning processes. ISO-NE, as the regional transmission planner, is currently conducting the Boston 2033 Needs Assessment to identify reliability-based transmission needs in the Boston area for the year 2033. To date, ISO-NE has identified various time-sensitive needs and is continuing to explore possible non-time sensitive needs. In ISO-NE's longer-term transmission study, Boston was identified as an area of high-likelihood concern, with results indicating "that underground cables were the source of a significant percentage of observed overloads in Boston."[44] Although ISO-NE has identified possible reliability needs in the current 10-year planning window, the exclusion of asset condition projects from the regional planning process effectively gives the incumbent transmission owner a trump card—if timed correctly, its proposed asset condition projects can short-circuit the reliability process and potentially sidestep ISO-NE's planning processes and the competitive procurement of solutions to identified needs. This may be precisely the situation unfolding with respect to Boston. ISO-NE is finalizing solution development of time-sensitive reliability needs, which are assigned to the incumbent transmission owner. Solutions to non-time sensitive and any longer-term need identified by NESCOE would proceed through a competitive process with ISO-NE evaluation of potential solutions. However, the recently announced transmission owner asset condition projects now become part of the inputs to determining those needs and could materially change or even obviate the needs that ISO-NE previously identified. To be clear, NESCOE fully supports a holistic transmission solution that could resolve *all* identified needs—reliability, longer-term, and asset condition. However, that solution should be arrived at through ISO-NE's regional

[44] 2050 Transmission Study at 24.

planning process, not through unilateral utility planning that removes ISO-NE from the system planning driver's seat.

The lack of sufficient regional planning and regulatory oversight on the asset condition project pathway governing billions of dollars of spending per year is not adequately protecting New England consumers.[45] As a result, New England transmission rates are not just and reasonable, and the Commission should act swiftly to require regional planning for most asset condition projects.

C. The Commission Has Acknowledged That Changes in Investment Have Increased the Need for Additional Regional Planning and Oversight.

Complainants correctly identify that changes in the development of the grid have created a heightened need for regional planning of Self-Planned Transmission Projects. As discussed *supra*, the recent history and trends in asset condition spending in New England demonstrate that Complainants' claims have merit as to New England specifically—as the NETOs are unilaterally making significant investment decisions that impact regional planning and result in high costs to ratepayers. A Commission finding that these and similar projects should now be included in a regional planning process would not be unprecedented. Indeed, a review of Commission decisions on transmission planning cited in the Complaint shows that a change in the way that asset condition projects are planned and overseen would have precedent.

In their Complaint, Complainants provide a brief history of the U.S. grid.[46] While early power distribution systems were simple and localized, over time the grid became much more

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[45] *See* NESCOE, Memo to Eversource on New Hampshire Line X-178 Rebuild ("August NESCOE X-178 Memo") (Aug. 1, 2024), at 1, available at https://nescoe.com/wp-content/uploads/2024/08/NESCOE-Correspondence-re-X-178.pdf.

[46] Complaint at 43–47.

sophisticated and required increasing federal regulation due to its increasing interstate nature.[47] As the grid became more complex, the Commission encouraged joint planning between transmission providers and their customers and between transmission providers in a given region, but did not originally mandate such coordination.[48] Nearly a decade after issuing Order No. 888, the Commission found itself "compelled" to act through Order No. 890 to strengthen its transmission planning requirements with an emphasis on regional coordination because self-interested transmission owners were not planning the grid that was needed by all customers.[49] In determining the need to act, the Commission held that a nationally applicable rule was necessary to "promote efficient utilization of transmission by requiring an open, transparent, and coordinated transmission planning process."[50] The Commission subsequently found that the Order No. 890 transmission planning reforms were intended to address concerns regarding undue discrimination in *grid expansion* and that "asset management projects and activities" that do not expand the grid do not fall within the scope of those reforms.[51]

Although carving out asset condition projects from Order No. 890 transmission planning reforms made sense in 2008 when asset condition projects had a much smaller impact on the grid and ultimately on the costs passed on to consumers, the transmission planning landscape has changed dramatically in recent years.[52] The Commission's State of the Markets Report has acknowledged the need for new transmission, noting that the "drivers of these evolving infrastructure needs are diverse and include the changing resource mix, increases in actual and

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47 *See id*.

48 *See id.* at 53.

49 *Id.* (citing Order No. 890 at P 3).

50 *Id.* (citing Order No. 890 at P 3).

51 *See Cal. Pub. Utils. Comm'n v. Pac. Gas & Elec. Co.*, 164 FERC ¶ 61,161 (2018) at P 66.

52 *See*, *e.g.*, Complaint at 10–11 n.22; *id.* at 12 n.26.

forecasted demand for energy, and evolving reliability concerns that prompt the need for new and upgraded infrastructure to ensure reliable and cost-effective system operations."[53] These drivers are refocusing consumer investment in the transmission system to asset condition projects in New England and their analogues in other regions. These projects are now the most frequent drivers of transmission investment and will be the primary means by which the grid will be rebuilt to meet the country's future challenges. Indeed, the State of the Markets Report also recognizes that Self-Planned Transmission Projects account for a large percentage of transmission rate base and that many of those projects are rebuilding the grid of yesteryear, which is "a network of transmission infrastructure that was overwhelmingly built in the last century and in the face of a very different reality."[54] These trends make clear that additional regional planning to meet the challenges of Self-Planned Transmission Projects today are needed, just as additional regional planning was needed to meet the unique challenges of grid expansion that the Commission addressed at the time in Order 890.

As noted in the Complaint, the Commission has found repeatedly that self-interested transmission owners stand in the way of regional planning, which is essential to maintaining just and reasonable rates. The Commission made that finding in Order No. 890.[55] In Order No. 1000, the Commission found that Order No. 890 had been insufficient and that it was required to act because transmission owner self-interest had not resulted in the voluntary regional planning required to ensure just and reasonable rates.[56] The Commission made clear in Order No. 1000

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53 *Id.* at 29 (citing 2023 State of the Markets Report at 18, available at https://www.ferc.gov/media/2023-state-markets-report).

54 *Id.* at 29–30 (citing Joint Order No. 1920 Concurrence at P 34).

55 *Id.* at 192 (citing Order No. 890).

56 *Id.* (citing Order No. 1000).

that regional planning was essential to determining just and reasonable transmission rates.[57] Although the Commission mandated regional planning participation, the retention of tariff provisions allowing planning of transmission facilities by the individual transmission owner has thwarted the Order No. 1000 requirement for regional planning.[58] In Order No. 1920 the Commission again found that regional planning was not occurring because "local transmission planning processes—are generally designed to address discrete, shorter-term needs, and do not comprehensively assess either broader transmission needs or solutions to those needs, overreliance on those processes can result in relatively inefficient or less cost-effective transmission development for customers, which contributes to rates for transmission that are unjust and unreasonable."[59]

Since the regional planning requirements of Order No. 1000 were implemented, billions of dollars have been invested in Self-Planned Transmission.[60] Transmission owners have identified billions of dollars more in investment in Locally Planned projects in the next several years.[61] As discussed *supra*, this is true in New England specifically for asset condition projects. In New England, regional asset condition spending now far outpaces spending on reliability needs identified through ISO-NE-led, Order No. 890-compliant, and Order No. 1000-compliant processes.[62] As noted above, in March 2016, when ISO-NE first began tracking asset condition projects and making them visible in a central location, there were $58 million in asset condition

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57 *Id.* (citing Order No. 1000).

58 *Id.*

59 *Id.* (citing Order No. 1920 at PP 103, 110).

60 *Id.* at 226.

61 *Id.*

62 *See*, *e.g.*, Request for Clarification and Rehearing of the New England States Committee on Electricity, Docket No. RM21-17-000 (June 12, 2024) ("NESCOE Order No. 1920 Rehearing Request") at 27.

projects planned or under construction.[63] Since that time, more than $4.6 billion of asset condition projects have been placed in service, and another $5.8 billion are proposed, planned, or under construction.[64] By way of comparison, ISO-NE-identified reliability projects currently proposed, planned, or under construction are estimated at $699 million.[65]

Consistent with the Complainants' observations on a national level, trends have resulted in the bulk of transmission investment in New England now being made in self-planned asset condition projects. The continued exclusion of these projects from regional planning processes results in projects that have little to no regulatory oversight and a system that is not holistically planned. This result does not, and cannot, result in just and reasonable rates for New England consumers, and the Commission should take NESCOE's recommended corrective action in the nearest term.

D. Potential Alternatives to Regional Planning and Oversight Are Not Sufficient.

1. The New England States Have Limited Authority to Review Asset Condition Projects

The New England States do not have sufficient authority under existing state laws to fill the gap created by a lack of regional planning and oversight. While the States do not have transmission planning authority over pool-transmission facilities under the Federal Power Act, they have the vast majority of transmission siting authority.[66] In New England, all six states have transmission siting laws that apply to new transmission lines over a certain voltage level, but only one state requires the review of siting of existing transmission lines where they are

63 February 2023 Asset Condition Memo at 2 (citing March 2016 ISO-NE Asset Condition Update).

64 ISO NE. October 2024 Asset Condition Project List.

65 ISO-NE. October 2024 RSP Project List.

66 Post-Technical Conference Comments of the New England States Committee on Electricity, Docket No. AD22-8-000 (filed March 23, 2023) ("NESCOE Post-Technical Conference Comments") at 16.

replaced with in-kind assets of 10 miles or more.[67] With the exception of certain transmission lines in that state, under current state laws, *all other existing transmission lines in New England can undergo asset replacement or refurbishment without state siting approval and without scrutiny by ISO-NE*.[68] Additionally, for the transmission facilities required to undergo siting review, the New England state siting laws do not assess prudency of costs.[69] Accordingly, transmission siting authority does not currently provide states with a means to provide effective oversight on asset condition projects.

Table 1. State Siting Review in New England[70]

	Connecticut	**Maine**	**Massachusetts**	**New Hampshire**	**Rhode Island**	**Vermont**
Siting Authority	Connecticut Siting Council Chapter 277a of the CT General Statutes	Maine Public Utilities Commission (PUC) 35-A M.R.S.A. §3132	Energy Facilities Siting Board (EFSB) M.G.L. Ch 164, Sec. 69 J [a]	New Hampshire Site Evaluation Committee (SEC) RSA 162-H:3	Energy Facility Siting Board R.I. Gen. Laws § 42-98-4	Vermont PUC 30 V.S.A. § 248.
Types of Projects Reviewed	New transmission lines ≥ 69 kV	New transmission lines ≥ 69 kV New lines < 69 kV with a projected cost greater than $5 million	New transmission lines ≥ 69 kV and longer than 1 mile Existing transmission lines ≥ 115 kV and longer than 10 miles, for in-kind asset replacement	New transmission lines ≥ 100 kV	New trans-mission lines ≥ 69 kV	Trans-mission lines ≥ 34.5 kV except for in-kind asset replacement
Transmission Cost Review	High level review of transmission	High level review of transmission	High level review of transmission	No	High level review of trans-mission	High level review of trans-mission

[67] *Id.*; *see also id*. at Table 1.

[68] *Id.* at 16–17 (emphasis in original); *see also id*. at Table 1.

[69] *Id.* at 17; *see also id*. at Table 1.

[70] *Id.* at Table 1.

	Connecticut	Maine	Massachusetts	New Hampshire	Rhode Island	Vermont
	costs and alternatives Review does not assess prudency of costs [b]	costs and alternatives Review does not assess prudency of costs [b]	costs and alternatives Review does not assess prudency of costs [b]		costs and altern-atives Review does not assess prudency of costs [b]	costs and alternatives Review does not assess prudency of costs [b]
Frequency of Cost Review	No formal requirement for continuing cost review or reporting [c]	No formal requirement for continuing cost review or reporting [d]	No formal requirement for continuing cost review or reporting	No formal requirement for continuing cost review or reporting [e]	No formal require-ment for continuing cost review or reporting	Costs are reported quarterly until construction complete If costs increase by 20%, reason for increase must be provided [f]

[a] Operating in parallel with EFSB jurisdiction is the Massachusetts Department of Public Utilities' ("MA DPU") jurisdiction under M.G.L. Ch 164, Sec. 72, which long predates the creation of the EFSB. MA DPU jurisdiction applies for all transmission lines that are EFSB jurisdictional, typically in a consolidated proceeding under the EFSB to streamline the dual regulatory authorities. In addition, the MA DPU reviews non-EFSB jurisdictional transmission lines as stand-alone projects. However, in practice, the MA DPU has rarely exercised stand-alone Section 72 jurisdiction for new or modified transmission lines under 69 kV or less than a half mile in length. Under a recently enacted statute, beginning next year, this section 72 authority will be limited to issues involving the exercise of eminent domain.

[b] State siting authority review typically weighs cost with public need and economic, reliability, and environmental impacts. *See, e.g.*, C.G.S. § 16-50p; MPUC Commission Rule Chapter 330; R.I. Gen. Laws § 42-98-9(d); R.I. Gen. Laws § 42-6.2-8; V.S.A. § 248(b)(2).

[c] R.C.S.A. § 16-50j-41 provides that the Siting Council "may at any time initiate investigations and enforcement actions[.]" These investigations have a broad scope and can include the review of costs.

[d] Reporting requirements may be established as a condition of certificate issuance.

[e] The New Hampshire SEC may include specific reporting requirements in the certificate of site and facility issued for a particular project approved under its authority.

[f] Vermont PUC Commission Rule 5.409 requires costs to be monitored, updated, and reported until construction of the project has been completed. This is usually done on a quarterly basis. When the estimated capital costs of a project increase by 20 percent from the cost estimated at approval of the permit, the petitioner is required to notify the Commission and parties of the new capital cost estimates for the project and the reasons for the increase.

2. The Formula Rate Protocols in New England Do Not Provide Adequate Oversight or Cost Management for Asset Condition Projects

Commission staff has previously suggested that NESCOE use the Formula Rate Protocols in New England as a means to achieve greater oversight and cost management of asset condition project spending. However, as discussed at greater length below, the Formula Rate Protocols cannot provide sufficient oversight and cost management over asset condition spending because they only allow for an after-the-fact review of asset condition project costs in rates. Moreover, reliance on the Formula Rate Protocols would also require overreliance on prudence challenges—which stakeholders are not well-equipped to make and which are not effective tools for proactive system planning in any event—to manage spending on asset condition projects.

Under the Formula Rate Protocols, the NETOs make annual filings to update their formula rates.[71] Importantly, the NETOs can only recover costs for transmission investments—including asset condition projects—that are placed in service.[72] The OATT creates a process for interested parties to review the NETOs' filing, to seek additional information, and to file informal and formal challenges.[73] The Formula Rate Protocols expressly allow for interested parties to challenge "[t]he prudence of actual costs and expenditures."[74]

The after-the-fact nature of the Formula Rate Protocols makes it a poor mechanism for oversight and management of asset condition project costs. By the time that the costs for asset

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71 OATT, Attachment F.

72 *See, e.g.*, *id*, Appendix A to Attachment F, Table of Contents; *Compare id.* at Attachment F (noting that "costs shall be recorded in accordance with FERC's Uniform System of Accounts") *with* 18 C.F.R. § 101, Appendix B, § 101(A) (noting that Accounts 301 to 399 includes only the costs of electric plant "owned and used by the utility in its electric utility operations").

73 *See id.*, Appendix C to Attachment F.

74 *See id.* at § V(1)(h).

condition projects are included in the NETOs' annual update filing, it is too late to plan or execute those projects differently because the infrastructure has already been built and placed in service. Moreover, because there are several years of lag between when an asset condition project is planned and constructed, by the time any less than ideally planned investment is successfully challenged under the Formula Rate Protocols, similar projects suffering the same or similar flaws may be too far along to cancel or replan. Notably, to date, stakeholders have brought two formal challenges under the Formula Rate Protocols—one in 2023 and 2024—neither of which the Commission has adjudicated yet.[75] This delay between formal challenge and adjudication is far too long for the Formula Rate Protocols to effectively manage asset condition project spending.

The burden for prudence challenges also makes them poor tools for managing asset condition project spending. As a matter of practice, the challenger bears the burden of challenging the prudence of transmission investment. FERC has stated that "[i]n performing our duty to determine the prudence of specific costs, the appropriate test to be used is whether they are costs which a reasonable utility management (or that of another jurisdictional entity) would have made, in good faith, under the same circumstances, and at the relevant point in time."[76] "[A]s a matter of practice," the utility does not need "to show that its costs were prudent unless serious doubts are raised regarding the prudence of those costs."[77] If the petitioner creates "serious doubts," the utility has the burden of presenting evidence sufficient to dispel those

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75 *See* Docket No. ER20-2054-000, Formal Challenge of Maine Office of Public Advocate to July 31, 2023, Annual Informational Filing by New England Transmission Owners under Docket No. ER20-2054-000 (Jan. 31, 2024); Docket No. ER20-2054-000, Formal Challenge of RENEW Northeast, Inc. to July 29, 2022 Annual Informational Filing by ISO New England Participating Transmission Owners and Protest under Docket No. RT04-2-000 et.al (Jan. 31, 2023).

76 *New England Power Co.*, 31 F.E.R.C. ¶ 61,047 at 61,048 (April 11, 1985).

77 *E.g., Iroquois Gas Transmission Sys., L.P.*, 87 F.E.R.C. ¶ 61,295, 62166 (June 16, 1999).

doubts.[78] As discussed in the Complaint, this burden on the asset condition challenger "is nearly impossible to meet with planning hindsight, particularly when the **only** planning analysis available was done by the transmission owner implementing the project in question."[79]

NESCOE's own experience conducting an investigation under the Formula Rate Protocols is consistent with the prudence challenge limitations that the Complainants point out in their Complaint. Consistent with Commission staff's suggestion, NESCOE hired a consultant experienced in formula rates and increased its scrutiny of the NETOs' 2024 annual filing under the Formula Rate Protocols. NESCOE's review of the NETOs' filing would not have been possible without this specific type of technical assistance. Other stakeholders, whose voices should also be heard, may not have access to the same technical expertise, either due to lack of resources or the lack of available, non-conflicted transmission rate experts. Moreover, although NESCOE found its review of the filing to be worthwhile, it found the process ill-equipped to manage asset condition spending. The information exchange period under the Formula Rate Protocols is only three months.[80] This time period is short even for a stakeholder with help from a technical consultant, and it is certainly too short to create any sort of meaningful alternatives analysis that would be needed for most successful prudence challenges. Even if NESCOE or other stakeholders could identify any issues with NETO asset condition projects during this short time period, those issues would not necessarily suffice to meet the standard of a prudence challenge.

Finally, even if NESCOE and other stakeholders could regularly bring successful

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78 *Indiana Mun. Power Agency v. FERC*, 56 F.3d 247, 253 (1995), *citing Minnesota Power & Light Co.*, 11 F.E.R.C. at 61,645.

79 Complaint, at 34–35 (emphasis in original).

80 *See* OATT, Attachment 1 to Appendix C to Attachment F.

prudence challenges under the Formula Rate Protocols, there could be deleterious side effects. Specifically, overuse of findings of imprudence could chill needed investment because the consequence of an imprudence finding is harsh—the complete denial of the transmission owner's recovery of costs. Although not necessarily so limited, the Formula Rate Protocols are best used to provide transparency into the NETOs' update to their formula rates by providing interested parties an opportunity to investigate whether the NETOs' inputs and calculations are consistent with the requirements of the Tariff and to file a challenge when they are not. The Formula Rate Protocols are not a planning alternative.

Thus, for these reasons, the Formula Rate Protocols in New England are simply not adequate to provide the necessary oversight over the NETOs' asset condition spending. Rather, the Commission should direct the use of a planning process that allows for a more proactive review of asset condition projects before they are placed in service, consistent with NESCOE's recommendations in § IV below.

IV. REQUESTED RELIEF

While NESCOE agrees with Complainants as to the scope and magnitude of the issues underlying this Complaint, the ways in which those issues manifest varies significantly by region. Consequently, remedies should be designed to satisfy current, region-specific needs. For New England, NESCOE recommends that the Commission take the following actions that would greatly increase oversight and regional planning for asset condition projects.

First, NESCOE respectfully requests that the Commission direct ISO-NE and the NETOs to revise the applicable tariff provisions and any other relevant governing documents, rules, policies, or procedures to require that transmission investments recovered through the Regional Network Service rate be planned through an ISO-NE-administered regional transmission

planning process. In the alternative, if the Commission determines that the record in this proceeding is not sufficient to make a finding that New England's transmission rates are unjust and unreasonable, NESCOE requests that the Commission open a separate investigation pursuant to Section 206 of the Federal Power Act in order to further investigate the issues raised in the Complaint and NESCOE's comments here.

Second, in addition to NESCOE's recommendations above, the Commission should adopt, in the nearest term, NESCOE's long-standing request to implement an ITM, with the ITM's specific functions developed by the region to meet New England's current region-specific needs.

A. FERC Should Require Regional Planning for Most New England Asset Condition Projects.

As described above, the Commission should direct ISO-NE and the NETOs to revise the applicable tariff provisions and any other relevant governing documents, rules, policies, or procedures to require regional planning for most asset condition projects whose costs will be recovered in the Regional Network Service rate.

To be clear, NESCOE recognizes that there is a narrow category of projects that should be exempted from regional planning—namely, those projects for emergency replacement of, or repairs to, existing assets. NETOs have an obligation to maintain their systems, which will sometimes require them to replace or repair certain assets in real time, and they should not have to proceed through an intervening stakeholder or regional planning process as a prerequisite for performing work to resolve urgent reliability needs. For these projects, the tariff and any applicable governing documents should provide for regular, timely, and transparent reporting of these projects to ISO-NE, States, and stakeholders.

The need for the NETOs to act quickly in some circumstances is not a reason to forego regional planning for investments amounting to hundreds of millions or billions of dollars that are tantamount to an entire rebuild of significant sections of a NETO's system. As described *supra* in § III.B, recently proposed projects such as the X-178 Line Rebuild and the HPFF cable replacement project in Boston should be subject to a regional planning process. These projects, unlike an emergency asset replacement,[81] result in extremely significant investments that can impact the regional planning process and could be regionally planned without putting reliability at risk. Of course, implementing regional planning for asset condition projects will require "line drawing" discussions to develop criteria for determining what is an emergency project and what is not. New England's PAC process is well-equipped to have precisely those discussions in developing a compliance filing with the benefit of ISO-NE's transmission planning experts. Similarly, on compliance, the NETOs, ISO-NE, States, and stakeholders can collaborate on revising the relevant tariff provisions and any other relevant documents to implement regional planning for those asset condition projects that should receive it.

NESCOE's request here is not inconsistent with Commission precedent on regional planning for replacement projects. The Commission has determined that Order No. 890's local planning requirements do not apply to the replacement of aging infrastructure unless the replacement will "expand" the grid, effectively incentivizing existing owners to rebuild the grid of yesterday to the exclusion of regionally planning what is needed for today's integrated grid.[82] Like the Complainants, NESCOE does not intend to challenge the Commission's prior

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[81] NESCOE understands that in performing inspections in connection with the X-178 Line Rebuild, the transmission owner did perform some limited emergency replacement of certain assets. The transmission owner could and should not have to go through a regional planning process for similar emergency replacements in the future. However, the fact that only a few assets were replaced on an emergency basis reflects that the larger project of rebuilding the line was not an emergency and could have been put through a regional planning process.

[82] Complaint at 226–27.

interpretation of Order No. 890.[83] Current rates are unjust and unreasonable without regional planning for asset condition projects based on the extensive evidence referenced throughout the Complaint regarding the interconnected nature of the transmission grid, the changes in that grid since existing facilities were built, and trends that have caused increased transmission spending on projects that include the replacement of aging infrastructure in New England and elsewhere.[84] The Commission has, in the past, expanded regional planning when appropriate to address changed circumstances and the changed circumstances here—which have caused asset condition project costs to skyrocket—justify a similar expansion of regional planning now.

Notwithstanding the foregoing, in the event that the Commission determines that insufficient evidence exists to find that transmission rates in New England are not just and reasonable, the Commission should at minimum open a separate Section 206 proceeding to further consider the question. As described *supra*, asset condition spending has increased substantially and now represents the bulk of transmission investment in New England. Despite the high costs to consumers and the significant impact that these asset condition projects have on ongoing regional planning, NETOs self-plan all asset condition projects in New England. The Commission, consistent with its duties to ensure just and reasonable rates under the Federal Power Act, should at minimum have further process to consider whether this current *status quo* results in just and reasonable rates for New England consumers. If the Commission does conduct further process, speed is important given the scale of many proposed asset condition

[83] *Id.* at 227.

[84] *See id.*

initiatives in New England, such as the $8–$9 billion that may be spent to install HPFF in Boston.

Accordingly, for the reasons discussed here, the Commission should direct ISO-NE and the NETOs to revise the applicable tariff provisions and any other relevant governing documents, rules, policies, or procedures to require regional planning for most asset condition projects whose costs will be recovered in the Regional Network Service rate. In the alternative, if the Commission finds that the record in this proceeding is not sufficient to find that rates in New England are unjust and unreasonable, the Commission should open its own investigation concerning the lack of regional planning for asset condition projects pursuant to Section 206 of the Federal Power Act.

B. The Commission Should Adopt NESCOE's Recommendation to Create an Independent Transmission Monitor

As Complainants note, in its Docket No. RM21-17-000 ANOPR, the Commission posed extensive questions regarding the role of an ITM and sought comments expressly on the need for "appropriate oversight over how new regional transmission facilities are identified and paid for."[85] The Commission envisioned that such an entity "could review transmission provider spending on transmission facilities and identify instances of potentially excessive transmission facility costs, including through inefficiencies between local and regional transmission planning **processes**."[86]

[85] *Id.* at 232 (citing 2021 Transmission ANOPR at P 163).

[86] *Id.* at 232–33 (citing 2021 Transmission ANOPR at P 164) (emphasis in Complaint).

As NESCOE has previously argued, an ITM would promote public confidence in transmission development and planning generally and specifically through review of and reporting on transmission costs.[87]

NESCOE has strongly supported the concept of an independent expert transmission monitor as a means of ensuring transmission costs are transparent and closely scrutinized.[88] As NESCOE has noted, while an independent expert transmission monitor with a well-defined role suited to each region will support the efficacy and efficiency of transmission planning and cost transparency, such a reviewer should be implemented in the nearest term and considered among a suite of other necessary enhancements given the escalating amount of transmission investment taking place in New England.[89] Indeed, even if asset condition projects are regionally planned in the future—as NESCOE recommends in § IV.A *supra*—an ITM would still meet an urgent need and provide significant value. For example, an ITM would greatly assist States and stakeholders—who often lack the resources or are unable to find the non-conflicted transmission experts necessary to fully evaluate proposed asset condition projects—by providing expertise and an independent voice which could inform States, stakeholders, and the Commission's views. In addition, for any future proposed asset condition projects that may be exempted from regional planning as emergency replacements, but are still significant, the ITM would be invaluable in providing some oversight to ensure that they are appropriately designed and a cost-effective

87 *See* NESCOE Initial ANOPR Comments, at 32.

88 Initial Comments of the New England States Committee on Electricity, Docket No. RM21-17-000 (filed Aug. 17, 2022) at 4 (citing NESCOE Initial ANOPR Comments at 32–35; Reply Comments of the New England States Committee on Electricity, 2021 Transmission ANOPR (filed Nov. 30, 2021), at 1–21.

89 *See* NESCOE Post-Technical Conference Comments at 4.

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solution. Accordingly, the Commission should adopt NESCOE's recommendations to create an ITM in the nearest term.

V. CONCLUSION

NESCOE agrees with Complainants that current transmission rates in New England are unjust and unreasonable. Accordingly, the Commission should act swiftly to move towards incorporating regional planning and other measures for asset condition projects. NESCOE therefore requests that the Commission direct ISO-NE and the NETOs to revise the applicable tariff provisions and any other relevant governing documents, rules, policies, or procedures to require that transmission investments recovered through the Regional Network Service rate be planned through an ISO-NE-administered regional transmission planning process. In directing these reforms, the Commission should provide flexibility for ISO-NE and the NETOs to exclude a narrowly tailored category of projects from regional planning procedures, such as emergency repairs, provided that there is regular, timely, and transparent reporting of these projects to ISO-NE, States, and stakeholders. In the alternative, if the Commission determines that the record in this proceeding is not sufficient to make a finding that New England's transmission rates are unjust and unreasonable, NESCOE requests that the Commission open a separate investigation pursuant to Section 206 of the Federal Power Act in order to further investigate the issues raised in the Complaint and NESCOE's comments here. In addition to these planning reforms, NESCOE requests that the Commission adopt NESCOE's long-standing recommendation to create an ITM in New England in the nearest term, with the ITM's specific functions developed by each region to meet current, region-specific needs.[90]

[90] As noted previously, although these comments focus on issues related to FERC-jurisdictional asset condition projects, local transmission service projects recovered through the Local Network Service rate often suffer from the

For the reasons stated herein, NESCOE respectfully requests that the Commission afford due consideration to these Comments.

Respectfully Submitted,

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same lack of oversight and planning that afflicts asset condition projects, though the regulatory treatment of these projects differs from state to state. NESCOE submits that the relief requested by the Complaint is broad enough to encompass and could similarly apply to local transmission service projects in New England. Therefore, the Commission would be justified in directing that the requested reforms herein, including both planning through the ISO-NE-administered regional transmission planning process and an ITM, apply to both asset condition recovered through the Regional Network Service rate and local transmission service projects recovered through the Local Network Service rate in the region.

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CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served by electronic mail a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Osterville, Massachusetts this 20th day of March, 2025.

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