

Sponsors: Ohio Municipal Electric Association; Municipal Electric Systems of Oklahoma; California Municipal Utilities Association; Blue Ridge Power Agency; American Municipal Power

On Promoting Reasonable Transmission Policies for Public Power Utilities

1 The American Public Power Association (APPA) supports legislative and regulatory policies that
2 promote prudent and cost-effective investment in the nation’s transmission infrastructure for the benefit
3 of consumers. APPA agrees that the nation needs new bulk transmission facilities. Transmission rates
4 paid by consumers, however, have been increasing substantially in some regions, and this trend is
5 expected to continue. Transmission cost increases can impose a significant burden on public power
6 utilities and the customers they serve.

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8 These rising costs are primarily attributable to a steady increase in transmission investment across the
9 United States. There are a number of legitimate drivers for the increase in transmission investment,
10 including replacement of aging infrastructure, system hardening and resilience, improvements to meet
11 evolving reliability and security requirements, and the integration of renewable resources. It is imperative,
12 however, that the Federal Energy Regulatory Commission (FERC) enforce planning procedures and cost
13 recovery rules for this transmission investment that ensures facilities are beneficial to customers and cost-
14 effective.

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16 Regional and inter-regional transmission planning processes must reflect the requirements of FERC Order
17 Nos. 890 and 1000 in a manner consistent with the purposes and goals of those orders. Public power
18 utilities in some regions have expressed strong concerns with the magnitude of transmission investment
19 being planned through “local” planning processes rather than through the full regional planning processes
20 implemented pursuant to FERC Order No. 1000, as well as with the adequacy of the procedures used in
21 the local planning processes. Order 890 provided guiding principles of openness, transparency, and
22 comparability to enable stakeholders to meaningfully participate in the transmission planning process.
23 Order 1000 further codified these principles to apply to both regional, as well as local planning, and
24 added a competitive process for projects in the regional plan.

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26 Further, some public power utilities have raised concerns that incumbent transmission providers do not
27 appropriately plan and construct their systems to accommodate the needs of network transmission
28 customers in the same way that they accommodate the needs of their retail native load customers.

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30 Even where beneficial transmission projects are appropriately planned, siting constraints can be a major
31 impediment to getting new beneficial transmission facilities built. States have a major role in siting new
32 transmission, and public opposition to the siting of new lines can be the most significant hurdle to getting

33 beneficial transmission built. The Infrastructure Investment and Jobs Act, signed into law in November
34 2021, modified the Federal Power Act (FPA) to strengthen federal backstop siting authority, giving FERC
35 enhanced siting authority for certain transmission facilities.

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37 Fair cost allocation for new transmission facilities is also essential. Allocating costs of transmission lines
38 to parties that do not meaningfully benefit from the facilities is unfair and has been rejected by the courts.
39 Allocating transmission facility costs to customers that do not meaningfully benefit can prompt objections
40 to the facilities. Moreover, in allocating regional transmission costs, FERC should be sensitive to
41 differences in state policies driving the need for new transmission.

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43 It is also essential that FERC implement and enforce transmission cost recovery and incentive policies
44 that ensure customers do not pay excessive transmission rates. The return on equity (ROE) that FERC
45 allows to be reflected in cost-based transmission rates is a significant component of the transmission costs
46 paid by customers. FERC's policies for setting transmission ROEs must reflect the consumer protection
47 objectives of the FPA and must ensure that authorized ROEs do not exceed the market cost of equity for
48 investments of similar risk.

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50 While section 219 of the FPA required FERC to develop appropriate rules for transmission rate
51 incentives, such rules remain subject to the overarching requirement that all rates, charges, terms, and
52 conditions be just and reasonable and not unduly discriminatory or preferential. Rate incentives may over-
53 compensate for business and financial risk. FERC should adopt and enforce policies that encourage
54 transmission development that benefits consumers or shifts risks to transmission developers, but not
55 reward or encourage overbuilding or poor cost controls.

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57 When considering incentive rates, particularly ROE incentive adders, FERC should adhere to previously
58 recognized incentive rate principles that ensure consistency with just and reasonable rate requirements.
59 Applicants for rate incentives must justify incentives on a case-by-case basis, and there must be a
60 demonstrated connection between the incentive and the conduct the incentive is supposed to encourage.
61 Requests for project-specific incentive ROEs must demonstrate that an incentive is justified by the risks
62 and challenges of the project that are not already accounted-for in the base ROE or by other incentives.
63 Applicants must demonstrate efforts to minimize project risk, including appropriate consideration of joint
64 ownership arrangements. Incentive returns should not be applied to cost overruns, and incentives should
65 not be used to motivate past conduct or actions that utilities are otherwise legally compelled to undertake.

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67 FERC Order No. 1000 proposed an expanded role for competitive transmission development, but to date,
68 the number of projects selected through a regional competitive process has been limited. Competition to
69 develop transmission projects can be an effective way to restrain transmission costs. At the same time,
70 relatively few competitive transmission projects have been developed in most regions, and some
71 policymakers and industry participants have raised concerns that elimination of federal rights-of-first-
72 refusal in Order No. 1000 (subject to a number of exceptions) may have encouraged incumbent public
73 utility transmission owners to focus on transmission projects that will not be subject to competition, with
74 the result that potentially more efficient or cost-effective facilities are not considered.

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76 **NOW, THEREFORE, BE IT RESOLVED:** That the American Public Power Association (APPA)
77 believes that substantial new transmission facilities will be required in some regions to replace aging
78 infrastructure, promote reliability and security, and accommodate an evolving generation resource mix;
79 and

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81 **BE IT FURTHER RESOLVED:** That APPA urges the Federal Energy Regulatory Commission
82 (FERC), in the face of increased transmission investment and rising transmission costs, to implement and
83 enforce transmission planning, cost recovery, and incentive policies that ensure customers do not pay
84 excessive transmission rates; and

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86 **BE IT FURTHER RESOLVED:** That APPA urges FERC to enforce the transmission planning process
87 requirements of FERC Order Nos. 890 and 1000 in a manner consistent with the purposes and goals of
88 those orders; and

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90 **BE IT FURTHER RESOLVED:** That APPA urges the public, states, FERC, and Congress to balance
91 the concerns of specific states, landowners, and other groups opposing specific transmission projects
92 against the larger public good benefiting the reliability and affordability of an entire region; and

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94 **BE IT FURTHER RESOLVED:** That APPA urges FERC to enforce the obligation of a transmission
95 provider to plan and construct its system to accommodate the needs of network transmission customers on
96 a par with the needs of its retail native load customers; and

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98 **BE IT FURTHER RESOLVED:** That APPA urges FERC, in addressing cost allocation for new
99 transmission facilities, to ensure that costs allocated to customers are roughly commensurate with the
100 benefits customers receive; and

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102 **BE IT FURTHER RESOLVED:** That APPA believes that in allocating costs in accordance with
103 Federal Power Act (FPA) requirements, FERC should be sensitive to differences in state policies. If a
104 project is being promoted to meet a public policy objective, the specific objective and its source (e.g.,
105 state statute or regulatory requirement) must be specifically identified. Such identification, as well as
106 differences among state policies, is appropriate to consider in determining whether an allocation of costs is
107 roughly commensurate with the benefits received; and

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109 **BE IT FURTHER RESOLVED:** That APPA urges FERC, in establishing policies for setting the
110 allowed return on equity (ROE) for cost-based transmission rates, to adhere to the consumer protection
111 objectives of the FPA and ensure that authorized ROEs do not exceed the market cost of equity for
112 investments of similar risk; and

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114 **BE IT FURTHER RESOLVED:** That APPA urges FERC to adhere to recognized requirements for
115 transmission incentives to ensure just and reasonable rates, including: (i) a demonstrated connection
116 between the incentive and the conduct the incentive is supposed to encourage; (ii) a showing that project-
117 specific incentives are justified by project risks and challenges; (iii) demonstrated efforts to minimize
118 project risks, including appropriate consideration of joint ownership arrangements; (iv) incentive returns
119 should not be applied to cost overruns; and (v) incentives should not be granted to motivate past conduct
120 or actions that public utilities are otherwise legally compelled to undertake; and

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122 **BE IT FURTHER RESOLVED:** That APPA recommends that FERC continue its efforts to weigh the
123 status of competitive transmission development under Order No. 1000, including an assessment of the
124 potential for increased transmission competition to moderate transmission cost increases in some or all
125 planning regions.

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