Resolution 22-02

Sponsors: Braintree Electric Light Department; California Municipal Utilities Association; Municipal Energy Agency of Nebraska; Missouri Joint Municipal Electric Utility Commission; Missouri Association of Municipal Utilities; American Municipal Power; Ohio Municipal Electric Association

In Support of Transmission Policies That Deliver Reliable and Affordable Electricity for Public Power Customers

Electric transmission issues remain a focus for Congress, the Federal Energy Regulatory Commission (FERC), U.S. Department of Energy (DOE), and other federal authorities. Much of policymakers' activity is aimed at promoting the deployment of new transmission infrastructure to support system reliability or to accommodate an evolving resource mix, particularly the anticipated growth in renewable resources. Congress, FERC, and DOE have also pursued measures intended to enhance cybersecurity or increase the efficiency of the existing grid.

In November 2021, President Joseph R. Biden signed into law the Infrastructure Investment and Jobs Act, an infrastructure bill that included several transmission-related provisions. The law amends and strengthens federal backstop siting authority under section 216 of the Federal Power Act (FPA). The law also authorizes DOE to enter contracts, or issue loans for, certain transmission projects through the creation of a "Transmission Facilitation Program." In addition, the law includes amendments to section 219 of the FPA requiring FERC to establish rate incentives to encourage public utility investments in advanced cybersecurity technology and participation in cybersecurity threat information sharing programs.

Congress has also considered legislation that would, among other things, implement an investment tax credit for certain transmission projects, and that would require all public utilities to join a regional transmission organization or independent system operator.

FERC is also currently considering significant changes to its rules and policies governing electric transmission. In July 2021, FERC issued an advance notice of proposed rulemaking through which the Commission sought public feedback on numerous issues relating to transmission planning, cost allocation, and generator interconnection policies. FERC is also exploring policies – including rate incentives – designed to promote cybersecurity investments and deployment of technologies that may improve the efficiency of the existing transmission grid.

The American Public Power Association (APPA) supports legislative and regulatory policies that promote prudent and cost-effective investment in our nation's transmission infrastructure. A focus on cost-effectiveness is essential because, in many regions, transmission costs have significantly increased in

recent years and those costs are ultimately borne by consumers. While there are legitimate reasons for some of these costs, APPA members have expressed concerns that regional and interregional transmission planning and generator interconnection processes regulated by FERC have not consistently resulted in the most efficient transmission projects. Unreasonable allocations of the cost of transmission investment, moreover, can result in an unfair burden on public power utilities. Consistent with well-established court precedent, a plausible reason should exist to believe that the benefits received by a customer from a regionally allocated transmission project will be roughly commensurate with the costs to be assigned to the customer. Use of rate incentives to promote transmission investment – including investments in cybersecurity and grid technologies – must conform to recognized requirements to ensure just and reasonable rates.

Policymakers should not lose sight of the ultimate purpose of transmission investment: ensuring the delivery of reliable and affordable power to the ultimate consumer for decades to come. FERC-regulated transmission planning processes should be structured, therefore, to prioritize reliably meeting the needs of public power utilities and other load-serving entities, consistent with Congress' direction in FPA section 217(b)(4). Planning should be informed by load-serving entity (LSE) resource plans as part of an open, coordinated, and transparent process to identify the most efficient and cost-effective transmission facilities to meet the needs of LSEs; it should be forward-looking, but avoid overly speculative assumptions about the siting of new generation.

In considering changes to current rules and policies, Congress and FERC should also minimize "one-size-fits-all" approaches to transmission planning, generator interconnection, and cost allocation given the highly regional nature of these issues for APPA members.

The opportunity for public power utilities to have ownership interests in new transmission facilities can serve as a valuable tool in promoting new cost-effective transmission development. FERC has consistently recognized the benefits of the participation of non-public utilities in jointly owned transmission projects. While some public power utilities have access to joint ownership opportunities, this is not the case everywhere. Joint ownership opportunities for public power utilities in new transmission projects can help ensure projects are in the best interest of consumers, can help keep cost affordable, and can bolster state and local support for projects.

Even with effective planning, generator interconnection, and cost allocation policies in place, planning, siting, permitting, and building new transmission remains a costly and lengthy process filled with

regulatory and political hurdles. Even with strengthened federal backstop authority included in the Infrastructure Investment and Jobs Act, major challenges will persist to building new transmission, which could hinder the availability or reliability of generating resources, including zero-emission resources. State and local support for projects is expected to be important even for projects approved under backstop siting authority.

NOW, THEREFORE, BE IT RESOLVED: That the American Public Power Association (APPA) strongly believes that any federal policies designed to promote new transmission development must focus on ensuring the delivery of reliable and affordable power to consumers for decades to come. To that end, transmission planning processes: (1) should prioritize reliably meeting the needs of public power utilities and other load-serving entities (LSEs), consistent with Congress' direction in Federal Power Act (FPA) section 217(b)(4), as planning grounded in LSE service obligations will accommodate an evolving resource mix, including increased renewable generation; (2) should be informed by LSE resource plans in identifying transmission needs; (3) should be forward-looking, based on available and future resources, load, and meeting unique regional needs, while avoiding overly speculative assumptions about the siting of new generation; and (4) should be open and transparent for all stakeholders. Policies should emphasize transparency in the evaluation and approval of new transmission and promote cost control for consumers for all aspects of construction, development, rate design, and returns on equity.

BE IT FURTHER RESOLVED: That APPA reiterates that, in considering policies to promote transmission development, Congress, the Department of Energy (DOE), and Federal Energy Regulatory Commission (FERC) should ensure that customers do not pay excessive transmission rates. Transmission investment costs allocated to customers must be roughly commensurate with the benefits customers receive, and any use of rate incentives to promote transmission investment – including investments in cybersecurity and grid technologies – must conform to recognized incentive rate restrictions and requirements to ensure just and reasonable rates under the FPA;

BE IT FURTHER RESOLVED: That new legislative and regulatory policies relating to transmission planning, generator interconnection, and cost allocation should appropriately account for regional differences, including diverse resource mixes, market structures, geographic siting constraints, and weather;

BE IT FURTHER RESOLVED: That APPA reiterates its support for FERC to use its FPA authority to implement policies that encourage and promote the joint ownership of transmission systems in regional

transmission organization (RTO) and non-RTO regions; transmission owners developing new transmission projects should be encouraged to include public power utilities in the ownership and financing of transmission projects whose low-cost debt financing would help minimize the ultimate cost of such projects borne by ratepayers, among other benefits of joint ownership arrangements;

BE IT FURTHER RESOLVED: That APPA opposes legislative or regulatory mandates that would require all public utilities (or all public utilities in a particular region) to join an RTO or independent system operator;

BE IT FURTHER RESOLVED: Any federal incentives for transmission must be available to public power. In the case of an investment tax credit (ITC) for transmission, the benefit of the ITC must be passed through to consumers and it must be provided to public power as a refundable tax credit; and

BE IT FURTHER RESOLVED: To encourage the development of new transmission facilities, Congress and the federal agencies should take actions to streamline the federal permitting and siting process, eliminate excessive regulatory barriers, and ensure more timely decisions from relevant federal agencies.

Adopted at the Legislative & Resolutions Committee Meeting
March 1, 2022
Sunsets in March 2030