

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

Building for the Future Through Electric	)	
Regional Transmission Planning and	)	Docket No. RM21-17-000
Cost Allocation and Generator	)	
Interconnection	)	

**REPLY COMMENTS OF  
THE INDUSTRIAL CUSTOMER ORGANIZATIONS**

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**JOINT COMMENTS OF  
THE INDUSTRIAL CUSTOMER ORGANIZATIONS**

The Industrial Energy Consumers of America ("IECA"), the American Forest & Paper Association ("AF&PA"), the PJM Industrial Customer Coalition ("PJMICC"), the Coalition of MISO Transmission Customers ("CMTC"), and the American Chemistry Council ("ACC") (collectively, "the Industrial Customer Organizations") welcome the opportunity to submit these Reply Comments in response to the Federal Energy Regulatory Commission's ("FERC" or "Commission") April 21, 2022, Notice of Proposed Rulemaking ("NOPR") on transmission planning and cost allocation.<sup>1</sup> As noted in their Initial Comments, the Industrial Customer Organizations support reforming the Construction Work in Progress Incentive ("CWIP Incentive") and requiring Grid-Enhancing Technologies, but oppose proposals to reinstate federal rights of first refusal ("ROFRs") and to require an over-extension of the planning horizon for long-term regional transmission ("LTRT") planning processes.

**I. INTRODUCTION**

The Industrial Customer Organizations support reliability at the lowest reasonable cost. To this end, the Commission's NOPR is a mixed bag of proposals that would benefit consumers along with proposals that would result in rates that are unjust, unreasonable, unduly discriminatory and

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<sup>1</sup> *Notice of Proposed Rulemaking*, 179 FERC ¶ 61,028 (2022) ("NOPR").

preferential. Likewise, the Initial Comments in this proceeding are also a mixed bag, with consumer advocates consistent in their support for proposals that would maintain or reduce transmission rates, and utilities supporting proposals that would increase rates. However, “It is long-established that the ‘primary aim’ [of the Federal Power Act] is the protection of consumers from excessive rates and charges.”<sup>2</sup> Many of the proposals in the NOPR and the Comments filed in this case would cause the excessive rates and charges against which the FPA is designed to protect. The Commission should abandon its proposal to establish new ROFRs. Additionally, the Commission should give transmission planners discretion to utilize the most appropriate planning horizon for their use-case and region without mandating a 20+-year planning horizon for transmission projects. The Commission should require transmission planners and transmission utilities to incorporate Grid-Enhancing Technologies into their planning and construction, and be clear about the repercussions if planners and utilities fail to do so. These common-sense approaches to transmission planning and construction would help maintain reliability at just and reasonable rates.

## **II. THE COMMISSION SHOULD ABANDON ITS PROPOSAL TO ESTABLISH ANTICOMPETITIVE RIGHTS OF FIRST REFUSAL.**

The Industrial Customer Organizations support and adopt by reference the Comments and Reply Comments filed in this case by the Electricity Transmission Competition Coalition (“Competition Coalition”). The Industrial Customer Organizations oppose establishing new ROFRs. The Commission’s proposal to establish new ROFRs for jointly-owned facilities and right-sizing are unlawful and unjust, unreasonable, unduly discriminatory and preferential. The Commission has not met the standard under FPA Section 206 to demonstrate that current rates are

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<sup>2</sup> *Xcel Energy Services v. FERC*, 815 F.3d 947, 952-53 (D.C. Cir. 2016).

unjust and unreasonable without a ROFR, nor has the Commission demonstrated that the replacement rates (*i.e.* rates with a ROFR) would be just and reasonable. None of the Comments filed in this proceeding provide the evidentiary basis for the Commission to determine that substantial evidence exists for establishment of a ROFR or find that a change of circumstances exists from Order No. 1000. ROFRs are unjust and unreasonable, and the Commission already made this determination in Order No. 1000. There is no circumstance now that did not exist in 2011 when the Commission found that ROFRs were unjust and unreasonable. Similarly, there is not substantial evidence that ROFRs reduce rates to consumers. The Commission should reject calls and proposals to implement what the Commission has already found (and has been affirmed by appellate courts in finding) to be unjust, unreasonable, and severely harmful to the public.

The Industrial Customer Organizations note that the Commission's proposal to establish new ROFRs is an abrupt about-face from the Commission's recent support for eliminating ROFRs. Just over a year ago, on May 29, 2021, the Commission filed an Initial Brief with the D.C. Circuit Court of Appeals arguing that "the [ROFR] severely harms the public interest" and "consistent with case law, barriers to competitive transmission development threaten the public interest."<sup>3</sup> The presumption that a contract provision *severely harms the public interest* is a heightened standard, though not insurmountable, and was met by the Commission.<sup>4</sup> The Commission should not now abandon course and adopt anticompetitive ROFRs.<sup>5</sup> To do otherwise, given the strength of prior Commission positions on the subject, would reach the pinnacle of arbitrary and capricious decision-making.

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<sup>3</sup> *Emera Maine*, Initial Brief of Respondent (May 29, 2021) at 54-68.

<sup>4</sup> See *Transmission Access*, 225 F.3d at 710-12 (affirming FERC's public interest findings to modify contracts in connection with the Order No. 888 open access rulemaking); *Ariz. Corp. Comm'n v. FERC*, 397 F.3d 952, 954-55 (D.C. Cir. 2005) (affirming FERC orders that modified contracts under public interest standard).

<sup>5</sup> *Emera Maine v. FERC*, 854 F.3d 662 (D.C. Cir. 2017)

### **III. COMMENTS IN SUPPORT OF A MANDATORY 20-YEAR PLANNING HORIZON FAIL TO RECOGNIZE REGIONAL DIFFERENCES OR CONSIDER THE COST IMPACTS TO CONSUMERS.**

Mandating a 20-year planning horizon<sup>6</sup> for projects or planning processes will create uncertainty, likely result in stranded transmission investment, and very likely unreasonably increase transmission rates to consumers. Many of the comments in support of a 20-year planning horizon assert that it will allow transmission planners to consider and prepare for long-term needs.<sup>7</sup> However, mandating a 20-year planning horizon will cause unnecessary uncertainty and speculation in future transmission development that will drive up costs to consumers. It is difficult, if not impossible, to forecast transmission needs and requirements 20 years into the future. Transmission needs in 2002 were very different than they are in 2022, and the needs of 2022 will not be the same in 2042. Further, regional differences in demand and the generation mix require different approaches to transmission planning.

The Commission should provide discretion to transmission planners to forecast transmission needs based upon known and measurable outcomes. As the National Association of Regulatory Utility Commissioners (“NARUC”) notes, the LTRT Process should be used as a planning tool and not as a construction requirement.<sup>8</sup> As a planning tool, some regions are already using a 20-year planning horizon.<sup>9</sup> Meanwhile, the most common planning horizon is 10 years. Planning horizons should be established based upon the time it takes to identify, plan, and obtain siting and permitting approval to construct regional transmission facilities. The amount of time it

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<sup>6</sup> While the proposal in the NOPR would actually result in a planning horizon significantly in excess of 20 years, because the 20-year clock does not start until the in-service date of multi-year transmission projects, for ease of discussion, these Reply Comments will refer to a “20-year planning horizon.”

<sup>7</sup> See AEBG Comments at 7; AEE Comments at 9; ACORE Comments at 10.

<sup>8</sup> See NARUC Comments at 5, 29, 39-42.

<sup>9</sup> See CAISO Comments at 13-20 (CAISO uses a 20-Year Transmission Outlook and supports long-term planning, but “is concerned that other long-term planning requirements proposed in the NOPR are too prescriptive, unnecessary, and/or unduly burdensome.”); see also, Industrial Customer Organization Comments at 17-18.

takes to identify, plan, and obtain approval for a transmission facility can vary dramatically by region. In some regions, this process can be accomplished quickly, while in other regions it cannot. For this reason, the Commission should provide discretion to transmission planners and operators on the appropriate planning horizon for their region and use-case. Requiring a 20-year planning horizon would be unjust and unreasonable.

**A. The Commission’s Proposal To Require A 20-Year Planning Horizon Is Ambiguous And Unclear.**

The Commission proposes a “20-year transmission planning horizon for Long-Term Scenarios” to “allow public utility transmission providers to identify transmission needs driven by changes in the resource mix and demand and to evaluate regional transmission facilities to more efficiently or cost-effectively meet such transmission needs.”<sup>10</sup> Comments on this issue come from different angles, with different interpretations of the Commission’s proposal. Some Commenters interpret the Commission’s proposal as requiring a 20-year planning horizon for project selection in a stand-alone LTRT process, while others see the Commission’s proposal as requiring that a 20-year planning horizon be incorporated into existing regional planning processes (even if a process currently uses a 10- or 15-year planning horizon).

NARUC views 20 years as a reasonable planning horizon, but only subject to the understanding that the LTRT Process is a planning tool and not a construction requirement.<sup>11</sup> While NARUC supports a 20-year planning horizon for informational purposes, “NARUC recommends, however, that FERC not mandate 20 years as a fixed or minimum planning horizon.”<sup>12</sup> Likewise, CPUC highlights the difference in views about the 20-year planning

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<sup>10</sup> NOPR at P 100.

<sup>11</sup> NARUC Comments at 5.

<sup>12</sup> NARUC Comments at 5.

horizon, noting its support for a 20-year outlook that will not require any individual project or group of projects to be approved, but opposing a requirement for grid operators to be required to use no less than a 20-year planning horizon to support approval of specific projects.<sup>13</sup> Both interpretations of the Commission's NOPR will result in rates that are unjust and unreasonable, but one is inherently worse than the other. Requiring transmission planners to utilize a 20-year planning horizon as an informational tool is likely to produce rates that are unjust, unreasonable, and unduly discriminatory or preferential, but the likelihood increases significantly if a Final Rule requires a region to adopt a mandatory 20-year planning horizon to construction purposes. Requiring grid operators to use no less than a 20-year planning horizon to support approval of specific projects will directly result in overbuilding the transmission system for speculative and uncertain projects.

Requiring grid operators to use no less than 20 years as the planning horizon for selecting transmission facilities is unjust, unreasonable, unduly discriminatory and preferential. This will result in highly speculative and uncertain future scenarios, with transmission projects constructed based on vague notions about future generation that may not be needed and may not ever get built. In some situations, even for LTRT planning, shorter planning horizons with more granular and reliable data are necessary. As CPUC notes in its Initial Comments, "such longer-term outlook studies have certain inherent limitations and thus are not a substitute for more granular studies that use shorter study time horizons. Specifically, the assumptions underlying a 20-year out study necessarily involve far more uncertainty than information relied on for a 10-year out study."<sup>14</sup> This is from an organization that supports 20-year planning horizons for informational and long-term

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<sup>13</sup> CPUC Comments at 11.

<sup>14</sup> *Id.* at 14.



planning purposes. But CPUC notes “[a]lthough the CPUC can produce generation plans that forecast where each MW of resources will be on line 12 years from today, it would be extremely difficult to provide such information for a 20-year out time horizon with the same level of confidence.”<sup>15</sup> Not every region has even the ability to forecast generation 12 years out.

As another example, CAISO uses a 10 year planning horizon, but its tariff does not limit CAISO to just a 10-year horizon.<sup>16</sup> CAISO has explained that “[i]f a need has been identified within the 10-year planning horizon and additional needs are identified in the longer-term beyond the 10-year transmission planning horizon, such as the ISO’s 20-Year Transmission Outlook, the ISO currently takes those additional needs into consideration in assessing alternatives and recommending transmission expansion projects for approval by the ISO Board of Governors.”<sup>17</sup> To prevent uncertain and speculative transmission planning that results in unjust and unreasonable rates, the Commission should recognize that a 10-year planning horizon can be appropriate for many purposes and that requiring a 20-year planning horizon will unjustly increase costs without improving reliability. Finally, because of the ambiguity with the Commission’s proposal, no evidentiary foundation has been properly laid for a determination that its proposal is just and reasonable.

**B. A Mandatory 20-Year Planning Horizon Will Harm Consumers.**

As Dominion Energy Services notes, “[t]here are limits to the usefulness of looking too far into the future, and utilities should not be required to base concrete actions on such long-range speculation.”<sup>18</sup> Similarly, Monitoring Analytics, LLC (the PJM Independent Market Monitor)

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<sup>15</sup> CPUC Comments at 14 (emphasis in original).

<sup>16</sup> See ISO Transmission Planning Process Enhancements, Issue Paper, CAISO at 4 (July 15, 2022), <http://www.caiso.com/InitiativeDocuments/IssuePaper-TransmissionPlanningProcessEnhancements.pdf>

<sup>17</sup> *Id.*

<sup>18</sup> Dominion Comments at 18.

asserts that “[t]he planners must have the ability and the requirement to change plans as reality changes.”<sup>19</sup> If the Commission fails to provide transmission planners the flexibility and opportunity to change plans as reality changes, then customers will pay the cost. As Monitoring Analytics states:

For efficient and cost effective transmission planning, the planners must have both aggregate and very specific locational data about future demand and the future resource mix. This data is much less certain than it appears on an aggregate level and even less certain on the detailed locational level that is required in order to plan for and construct a specific transmission facility.<sup>20</sup>

It is not just that efficient and cost-effective transmission planning is better with locational data about future demand and the future resource mix, but that transmission rates will be unjust, unreasonable, and unduly discriminatory and preferential without it. As the planning process looks further into the future, the uncertainty increases exponentially. It is extremely difficult, if not impossible, to forecast generation resources and transmission needs 20 years into the future. While some long-distance and large-scale regional projects may take 20 years to construct, that is not true for the majority of transmission investments, and should not even be considered as an average or median for LTRT projects. Neither the Commission in the NOPR, nor comments in this case in response to the NOPR, have provided the evidentiary support for finding that a mandatory 20-year planning horizon is just and reasonable.

**C. Some Of The Comments In Support Of A 20-Year Planning Horizon Have No Evidentiary Value.**

Requiring a 20-year planning horizon will increase costs to consumers by requiring transmission planning and construction for generation that may never get built. AEE, AEBG, and ACORE support a 20-year planning horizon but provide no evidentiary foundation for their

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<sup>19</sup> Monitoring Analytics Comments at 3.

<sup>20</sup> *Id.* at 4.

support. The Commission should not rely upon baseless support with no underlying data or analysis regarding whether a proposal is just and reasonable.

#### **IV. COMMENTS IN OPPOSITION TO REFORMING THE CWIP INCENTIVE LACK MERIT AND SHOULD BE REJECTED.**

The Commission's proposal to reform the CWIP Incentive could benefit consumers under the right circumstances. Specifically, along with the reform to the CWIP Incentive, the Commission should also adopt consumer protections against recovery for abandoned plant costs. The Commission long required an Allowance For Funds Used During Construction ("AFUDC") approach to booking construction costs. However, in Order No. 679, the Commission adopted the CWIP Incentive to encourage incumbent utility transmission investment. To consumers, the difference between the AFUDC and CWIP approaches is primarily the time value of money. However, for whichever approach the Commission adopts, the Commission should adopt consumer safeguards for projects that are abandoned, including a more thorough review of whether costs were prudently incurred prior to abandonment. This is particularly important for LTRT projects because the risk that they will not become used and useful is higher than for projects for which a short-term reliability need has been identified.

The arguments by The Edison Electric Institute ("EEI") against reforming the CWIP Incentive are nothing more than conclusory statements without supporting data or analysis. EEI states that "the Commission has not supported its proposal to move away from long-standing precedent."<sup>21</sup> Other commenters likewise support the CWIP Incentive without supporting data or analysis, arguing that the CWIP Incentive benefits utilities by "enhancing the public utility's cash flow, reducing interest expense, assisting with financing, and reducing the risk of a downgrade in

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<sup>21</sup> EEI Comments at 44-45.

debt rating – which increases the cost of capital and, therefore, the costs ultimately borne by customers.”<sup>22</sup> The alleged benefits of the CWIP Incentive to consumers are tenuous at best; the CWIP Incentive is a benefit for utilities, not consumers, because it allows utilities to recover transmission facility construction costs as they are incurred, rather than at a future date after the facility goes into service. As Commission Christie explained, “CWIP is . . . passed through as a cost to consumers, making consumers effectively an involuntary lender to the developer.”<sup>23</sup>

The risk that LTRT facilities will not get built is higher than for other reliability-based projects. Accordingly, as noted by the Organization of MISO States, Inc. (“OMS”), “[g]iven the uncertainty that LTRT Facilities may not become ‘used and useful,’ . . . additional protections for ratepayers with respect to these projects may be necessary to balance consumers’ interest in just and reasonable rates against investors’ interest in earning a return on their investment.”<sup>24</sup> Similar to OMS, NARUC “requests that FERC review the current abandoned plant policy to ensure that ratepayer benefits from the adoption of the proposed rule with respect to CWIP do not disappear if those costs are still recovered from ratepayers as abandoned plant.”<sup>25</sup> To this end, abandoned plants costs should not be presumed prudent or recoverable. The transmission owner should be required to demonstrate that costs incurred for any abandoned plant were what a reasonable utility would have undertaken under like circumstances known at the time; the burden should not shift to consumers to demonstrate imprudence. Under either the CWIP Incentive or the AFUDC approach, the Commission must require the transmission owner to maintain the burden to demonstrate the prudence of all costs incurred. Recovery of abandoned plant costs should not be allowed to occur

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<sup>22</sup> EEI Comments at 44-45; PJM Comments at 119; New York Transmission Owners Comments at 23.

<sup>23</sup> NOPR, Concurrence of Commissioner Christie at P 15.

<sup>24</sup> OMS Comments at 14.

<sup>25</sup> NARUC Comments at 55.

automatically through transmission formula rates but instead through a determination of prudence in a stand-alone proceeding. When seeking to recover abandoned plant costs in rates, the Commission should require transmission utilities to demonstrate the prudence of such costs in their case-in-chief, along with the appropriate cost of capital at or below the “median of the lower half of the zone of reasonableness.”<sup>26</sup>

**V. COMMENTS IN OPPOSITION TO REQUIRING GRID-ENHANCING TECHNOLOGIES LACK MERIT AND SHOULD BE REJECTED.**

The Industrial Customer Organizations support the Commission’s proposal to incorporate dynamic line ratings (“DLRs”) and advanced power flow control devices (“APFC Devices”) directly into transmission planning.<sup>27</sup> Additionally, the Industrial Customer Organizations urge the Commission to require consideration of more Grid-Enhancing Technologies (“GETs”) than just DLRs and APFC Devices, and support requiring non-RTO/ISO transmission planning regions to update their energy management systems if GETs are identified as more efficient or cost-effective. The Industrial Customer Organizations also urge consideration of demand response, storage as a transmission asset, and other load-limiting devices as alternatives to new transmission investment. Optimizing the current transmission system is far less costly than expanding the current transmission system. However, some parties oppose these reasonable and sensible cost-savings technologies. The Comments filed in opposition to GETs lack merit and should be rejected.

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<sup>26</sup> *Potomac-Appalachian Transmission Highline, LLC*, 158 FERC P 61,050 at 61,313; citing, *New England Power Co.*, 31 FERC P 61,047, 61,084 (1985).

<sup>27</sup> NOPR at P 256-277.

**A. The Commission Should Reject Proposals For Flexibility And Instead Require Consideration And Implementation Of GETs.**

Some commenters have argued that the Commission should provide flexibility for incumbent utilities to implement GETs but not require them. For example, Dominion asserts that “[i]f it is appropriate for a given Transmission Provider to consider the selection of advanced technologies in its transmission planning, then it should have the flexibility to do so, but such consideration should not be mandated for all Transmission Providers.”<sup>28</sup> Similarly, the Large Public Power Council (“LPPC”) opposes the “Commission’s proposal to mandate that transmission providers consider incorporating DLR and advanced power follow technologies at this time, though it has no objection to any individual transmission provider experimenting with these technologies...”<sup>29</sup> The Commission should reject these comments, as incumbent transmission utilities already have flexibility to consider and implement GETs.

When implemented, GETs routinely result in savings to consumers. NARUC asserts that “an effective transmission planning process should maximize the use of existing transmission and allow for building of new transmission only where necessary or economic.”<sup>30</sup> This is precisely right, by maximizing the effectiveness of existing transmission infrastructure, more focus can be placed on transmission buildout where it is needed most. But because GETs are often a lower-cost solution to an identified transmission need, utilities disregard them in favor of more expensive transmission solutions with a higher overall return on investment to the utility. This drives up transmission costs to consumers for reliability improvements that could otherwise have been

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<sup>28</sup> Dominion Comments at 39.

<sup>29</sup> Large Public Power Council Comments at 31.

<sup>30</sup> NARUC Comments at 35.

obtained at less cost. The Commission should support GETs and full optimization of existing transmission infrastructure.

Like Dominion, Exelon argues that requiring GETs will cause delays without commensurate benefits. “Exelon is concerned that making a list of technologies to evaluate will result in a time-consuming check-the-box exercise. Transmission planning processes should, and do, regularly evaluate potential options to address needs in the most efficient and cost-effective way possible, including considering new technologies.”<sup>31</sup> However, as noted above, if GETs are not required, then transmission utilities will favor more expensive transmission upgrades even where GETs would have achieved the same reliability benefits at lower cost. Exelon’s comments betray its motives – to create a check-the-box exercise instead of fully considering the benefits of GETs. GETs lower costs to consumers by relieving congestion in a cost-efficient manner. Potomac Economics, which is the Independent Market Monitor for MISO, asserts that “Incorporating GETs in the planning process will help ensure that transmission owners do not incur inefficient transmission upgrade costs to mitigate congestion that can be reduced much more cost-effectively by GETs.”<sup>32</sup> This is precisely why the Commission should reject calls for flexibility and, instead, require consideration and implementation of GETs.

Requiring DLRs, APFC Devices, and other GETs will require transmission utilities to deploy capital where it is needed most to maintain reliability. This will reduce transmission costs to consumers. DLRs extend the useful life of existing transmission infrastructure and optimize existing grid capabilities by setting a line rating based upon dynamic factors. Meanwhile, APFC Devices are technologies that quickly push or pull power from overloaded transmission lines and

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<sup>31</sup> Exelon Comments at 23.

<sup>32</sup> Potomac Economics Comments at 5.

onto underutilized corridors within the existing transmission network. For example, APFC Devices can be used to reroute power around locations where a line fault occurs so that a utility can minimize the number of customers without power. Outside of blackout/brownout scenarios, APFC Devices are instrumental in having transmission lines fully utilized to their safest and most efficient potential. APFC Devices, in tandem with DLRs, can be used to better utilize existing transmission infrastructure. For this reason, the Commission should compel their use. As noted above, by requiring GETs to be used, transmission utilities can deploy capital where it is needed most.

When utilized, DLRs have demonstrated real savings. Take, for example, PPL Electric Utilities' ("PPL") implementation of DLRs in PJM.<sup>33</sup> PPL had two 230 kW transmission lines: the Susquehanna-Harwood Line and Juniata-Cumberland Line.<sup>34</sup> Each line was in the 2020 Top 10 Congested Facilities in PJM (#8 and #10).<sup>35</sup> Together, the two lines were responsible for approximately \$30 million in congestion costs. But after implementing DLRs, PPL expects an average capacity increase of almost 30% on the transmission lines.<sup>36</sup> Similarly, with simulated impacts of DLRs, PJM recognized more than 65% decreases in congestion in simulated years 2025-2028.<sup>37</sup> Additionally, the United States Department of Energy's 2022 "Grid-Enhancing Technologies: A Case Study on Ratepayer Impact" provides that "GETs can help or manage or even alleviate grid congestion as additional infrastructure is built. Further, the study provides that

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<sup>33</sup> Industrial Customer Organization Initial Comments at 31.

<sup>34</sup> See "Dynamic Line Ratings – Impacts to PJM", PJM, Slide 4, available at 20201113-item-03c-dlr-impacts.ashx (pjm.com) (last accessed Sept. 22, 2021).

<sup>35</sup> See "Dynamic Line Ratings Strategy," PPL Electric Utilities, available at 20210113-item-12-ppl-dynamic-line-ratings.ashx (pjm.com) (last accessed Sept. 22, 2021).

<sup>36</sup> 2020 Top 10 Congested Facilities – PJM Presentation: Markets Report, Slide 52, PJM Members Committee Webinar, January 2021, available at 20210125-item-07a-markets-report.ashx (pjm.com) (last accessed Sept. 22, 2021). The \$30 million is an approximate amount based on the chart on Slide 52.

<sup>37</sup> *Id.*



GETs “enable transmission operates to maintain system reliability in the 1-to-5-year horizon.”<sup>38</sup>

Numerous commenters and industry studies demonstrate the savings that GETs can provide to transmission consumers. As technology advances, so should the transmission system.

**B. The Commission Should Press Forward With Additional Requirements for GETs.**

The Commission proposes to require public utility transmission providers to consider DLRs and APFC Devices.<sup>39</sup> The American Public Power Association (“APPA”) and the Large Public Power Council (“LPPC”) comment that the “Commission should not adopt the proposed requirement to evaluate DLRs or [APFC] devices in the regional transmission planning process until the industry has further experience with AAR deployment under Order No. 881, or at least until the issues identified by commenters in the NOI proceeding are more fully addressed.”<sup>40</sup> Further, the APPA Comments that “[p]ursuing broad deployment of DLRs ... may not be cost-effective given that the technology is most likely to be beneficial on congested transmission facilities.”<sup>41</sup> While the Industrial Customer Organizations certainly appreciate APPA’s and LPPC’s concerns about transmission costs, the evidence supports a conclusion that requiring GET deployment will lower costs, particularly if the alternative is costly transmission additions.

The U.S. Department of Energy’s (“DOE”) study, submitted with its Comments to the NOPR, demonstrate the usefulness of GETs. The DOE study demonstrates that implementation

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<sup>38</sup> Grid-Enhancing Technologies: A Case Study on Ratepayer Impact, Dept. of Energy (2022) (DOE GETs Report) (stating that “GETs could prove cost-effective across the country in avoiding renewable generation curtailment in the short-term and remain useful to facilitate the interconnection of future generation resources, while also providing situational awareness and flexibility in the long-term”), <https://www.energy.gov/sites/default/files/2022-04/Grid%20Enhancing%20Technologies%20-%20A%20Case%20Study%20on%20Ratepayer%20Impact%20-%20February%202022%20CLEAN%20as%20of%20032322.pdf>.

<sup>39</sup> NOPR at 272.

<sup>40</sup> American Public Power Association Comments at 36-37.

<sup>41</sup> *Id.* at 38.

of DLRs alone would (1) “increase situational awareness of transmission conductors and safely increase their ampacity”, (2) allow for more accurate “thermal ratings”, and (3) permit “real-time monitoring of line behavior.”<sup>42</sup> As previously mentioned, GETs have demonstrated their consumer benefits, with PPL saving consumers 30% in congestion costs. The Comments filed by APPA and LPPC proposing to delay deployment of these cost-saving technologies will result in continued capital investment on transmission upgrades for reliability that could have been achieved for much less cost. The Industrial Customer Organizations agree with DOE that GETs “should be considered for full scale implementation as optimization and refinements continue,” not just in NYISO but in all Commission-jurisdictional regions.<sup>43</sup> The DOE study demonstrates the potential usefulness of DLRs throughout the entirety of the United States. The Commission should reject arguments to delay the cost-savings to consumers that can be achieved with GETs.

Likewise, the National Rural Electric Cooperative Association (“NRECA”) Comments that DLRs should only be used for the “operating horizon but not in the planning horizon because DLRs are not a substitute for an upgraded or new transmission facility.”<sup>44</sup> NRECA cites its Comments in FERC Docket No. AD22-5-000 where it explained that “if a line is not at risk of exceeding its design capability, then there is no need for additional capability and no value (consumer benefit) to using DLRs.”<sup>45</sup> GETs should be considered in all cases where additional transmission investment is the alternative. In nearly all of these cases, the cost of installing GETs will be nominal in comparison to the benefits of reduced congestion, lower energy and capacity costs, and reduced need for increases in transmission system capability. NRECA’s overarching

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<sup>42</sup> The U.S. Department of Energy Comments in Docket No. AD22-5-000 at 5-6.

<sup>43</sup> The U.S. Department of Energy Comments in Docket No. AD22-5-000 at xi.

<sup>44</sup> National Rural Electric Cooperative Association Comments at 52.

<sup>45</sup> *Id.* at 53 (quoting National Rural Electric Cooperative Association Comments in FERC Docket No. AD22-5-000).

aim of minimizing unnecessary capital expenditures if laudable, but the Commission is better to err on the side of caution of requiring consideration of GETs as an alternative for all new transmission investment, and not rely on arbitrary determinations of what does and does not constitute excess congestion on transmission lines. Limiting the deployment of GETs would miss the prophylactic ability for GETs to prevent future transmission congestion.

**C. Exelon And Duke Energy Services Improperly Minimize The Benefits That GETs Could Provide To Consumers, Transmission Planners, And Grid Operators.**

Exelon Comments that “making a list of technologies to evaluate will result in a time-consuming check-the-box exercise” for future transmission planning.<sup>46</sup> Nothing could be further from the truth. Transmission planning with required consideration of GETs will help ensure that transmission infrastructure is being optimized. GETs, properly utilized, can provide important data to RTOs/ISOs about the real-time conditions on existing transmission infrastructure. Currently, in many places, transmission planners and engineers utilize assumptions about the likely conditions for transmission lines. Additionally, utilities enjoy some discretion under their line rating methodologies to rate their lines or infrastructure lower than what they can or will actually perform. That discretion, combined with incentives to understate existing capability in order to justify transmission investment, enhances the risk that consumers will be burdened with the costs of unnecessary transmission investment. Because DLRs provide real-time data about a line’s real-time performance, transmission utilities can deploy capital where it is most beneficial and cost-effective for reliability, giving consumers the benefit of both increased reliability and lower costs. GETs, according to DOE’s GET Report, “could prove cost-effective across the country in avoiding renewable generation curtailment in the short-term and remain useful to facilitate the

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<sup>46</sup> Exelon Comments at 24.

interconnection of future generation resources, while also providing situational awareness and flexibility in the long-term.”<sup>47</sup> The Commission should require GETs to be considered in transmission planning and utilized in all regions. The Commission compelling consideration of GETs will ensure that GETs are fully considered.

**D. MISO’s Comments Reinforce The Need For GETs.**

MISO opposes the Commission’s proposal to require that GETs be considered in transmission planning and construction. The essence of MISO’s opposition is that DLRs are not able to be planned out five to twenty years in the future because of the inability to predict real-time conditions like “ambient temperatures, wind speeds, wind directions [,] and/or monitored sag and tension data.”<sup>48</sup> MISO’s Comments lack merit. The National Renewable Energy Laboratory (“NREL”) along with the National Oceanic and Atmospheric Administration (“NOAA”) maintain and collect voluminous data on wind direction, wind speed, and temperature across the nation and in separate regions. Despite the availability of NREL and NOAA’s weather data, DLRs would provide the most accurate data on the status of new transmission lines. As transmission lines are built to mitigate existing congested transmission lines, meet load growth, and integrate renewable energy resources in RTO/ISO’s interconnection queues to the electric grid, having DLRs already integrated into the new transmission lines would provide the real-time data that grid-operators need to best manage the grid. While the previously mentioned data from government entities, like NREL and NOAA is useful to predict what the general weather conditions will be in an area, the

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<sup>47</sup> Grid-Enhancing Technologies: A Case Study on Ratepayer Impact, Dept. of Energy (2022) (DOE GETs Report) (stating that “GETs could prove cost-effective across the country in avoiding renewable generation curtailment in the short-term and remain useful to facilitate the interconnection of future generation resources, while also providing situational awareness and flexibility in the long-term”),<https://www.energy.gov/sites/default/files/2022-04/Grid%20Enhancing%20Technologies%20-%20A%20Case%20Study%20on%20Ratepayer%20Impact%20-%20February%202022%20CLEAN%20as%20of%20032322.pdf>.

<sup>48</sup> MISO Comments at 57-58.

use of DLRs in the transmission system itself will provide the most precise data possible on the given wind conditions the transmission line is facing in real-time. Additionally, the use of APFC Devices will allow for the optimization of transmission lines under various weather conditions. The current alternative is that weather conditions' effects on transmission lines are modeled based on estimates on static line ratings developed by engineers that do not account for the current technological ability to alter the amount of electricity through a transmission line.<sup>49</sup>

**VI. THE COMMENTS IN THIS CASE DEMONSTRATE THE VALUE AND NEED FOR AN INDEPENDENT TRANSMISSION PLANNER (“ITP”) AND INDEPENDENT TRANSMISSION MONITORS (“ITMs”).**

The Commission should implement an ITP in all regions to conduct transmission planning and cost allocation, generator interconnection studies, competitive solicitations, and coordination with other regions. Alongside this requirement, the Commission should establish ITMs to oversee the ITPs. The Comments in this case demonstrate the need for both ITPs and ITMs. For example, Exelon notes in its Comments that if the Commission requires consideration and implementation of GETs, it would become a time-consuming check-the-box exercise.<sup>50</sup> This is precisely the type of utility obstructionism that ITPs and ITMs would work to prevent. Even if the Commission does not create ITMs, it should at least clarify that existing independent market monitors may consider transmission planning and development within their existing scope of authority.

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<sup>49</sup> PPL Comments in AD22-5-000 at 3.

<sup>50</sup> Exelon Comments at 24.

## VII. CONCLUSION

WHEREFORE, the Industrial Customer Organizations respectfully request that the Commission afford due consideration to these Reply Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: September 19, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 19<sup>th</sup> day of September, 2022.

*/s/ Robert A. Weishaar, Jr.*

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