

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

**Transmission Planning and Cost
Management**

Docket No. AD22-8-000

**Joint Federal-State Task Force on Electric
Transmission**

Docket No. AD21-15-000

**POST-TECHNICAL CONFERENCE COMMENTS OF
THE MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL**

Pursuant to the Federal Energy Regulatory Commission’s (“Commission”) Notice Inviting Post-Technical Conference Comments issued on December 23, 2022,¹ the Massachusetts Office of the Attorney General (“Massachusetts AGO”)² submits these comments regarding creation of an independent transmission monitor (“ITM”) and key reforms to the Commission’s formula rate process. Each of these improvements, as discussed below, represent critical and necessary reforms that will aid the Commission in fulfilling its statutory obligation under the Federal Power Act.³

¹ FERC Notice Inviting Post-Technical Conference Comments, Docket Nos. AD-22-8-000, AD21-15-000 (December 23, 2022) (“Notice”).

² The Massachusetts AGO is expressly authorized by statute to intervene in Commission proceedings on behalf of public utility ratepayers and has appeared frequently before the Commission. *See* Mass. Gen. Laws ch. 12, § 11E. In addition to representing ratepayer interests, as the chief law enforcement officer of the Commonwealth, the Massachusetts AGO upholds and supports Massachusetts’ climate change and clean energy laws and policies.

³ The MA AGO recognizes different needs and policies across regions and recommends that the Commission consider these differences in addressing the issues raised in the Notice.

Independent Transmission Monitor

In comments submitted in response to the Commission’s Advanced Notice of Proposed Rulemaking⁴ and Notice of Proposed Rulemaking⁵ in *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Docket RM21-17, the Massachusetts AGO maintained that ITMs were crucial to improving cost oversight and transparency in New England and that the Commission has the power to order the establishment of ITMs. Here, the Massachusetts AGO supports the New England States Committee on Electricity (“NESCOE”) vision for the roles, duties, and scope of authority of an ITM to monitor the planning and cost of transmission facilities in New England.⁶ As NESCOE points out, some of the vital roles of the ITM should include independent and unbiased information gathering and analysis and the issuance of reports and recommendations to the Commission. In order to ensure the greatest level of transparency and public confidence in the oversight of transmission planning and costs, the Commission should require the ITM to share its data, analysis, and recommendations with as diverse of a group of stakeholders as possible,

⁴ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 176 FERC ¶ 61,024 (2021), 86 Fed. Reg. 40,266 (July 27, 2021) (“ANOPR”). See Initial Comments of Massachusetts Attorney General Maura Healey Docket No. RM21-17, at 34–35. (Oct. 12, 2021) (“Massachusetts AGO ANOPR Comments”); see also Reply Comments of Massachusetts Attorney General Maura Healey, Docket No. RM21-17, at 10–17 (Nov. 30, 2021) (“Massachusetts AGO ANOPR Reply Comments”). The Massachusetts AGO ANOPR Comments and Reply Comments are fully incorporated and reiterated herein with respect to the ITM proposal.

⁵ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 179 FERC ¶ 61,028 (2022) (“NOPR”), 87 Fed. Reg. 26,504 (May 4, 2022). See Initial Comments of Massachusetts Attorney General Maura Healey, at 26–39 (Aug. 17, 2022) (“Massachusetts AGO NOPR Comments”). The Massachusetts AGO NOPR Comments are fully incorporated and reiterated herein with respect to the ITM proposal.

⁶ See Comments of New England States Committee on Electricity, Docket Nos. AD22-8 and AD21-15 (Mar. 23, 2023).

including state consumer advocates and, to the extent the disclosure of CEII is not an issue, the general public.

Formula Rates

The Massachusetts AGO has expressed significant concerns with the lack of scrutiny and oversight over transmission costs through the current formula rate process.⁷ The Massachusetts AGO agrees with NESCOE that the presumption of prudence applied to transmission formula rates coupled with the asymmetry of information and resources between transmission owners and those who may seek to challenge these costs, including consumer advocates, effectively operates as a bar to successful challenges. Thus, in addition to creating the ITM to aid in the oversight of transmission costs in the formula rate annual update process, it is also important that the Commission eliminate the presumption of prudence applied to formula rates through the annual update process.

⁷ See, e.g., Massachusetts AGO NOPR Comments, at 30 (“[T]he transmission owners effectively monitor themselves and include their costs in a formula rate that is presumed to be just and reasonable unless someone has the resources to challenge it in a Commission proceeding.”)

Conclusion

The Massachusetts AGO appreciates the opportunity to share these Post-Technical Conference Comments and looks forward to the ongoing discussions regarding these important issues.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 23rd day of March, 2023.

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