

November 26, 2024

Mark Takahashi, Chair, PJM Board of Managers
Manu Asthana, PJM President and CEO
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19403

RE: Reliability Resource Initiative

Dear Mr. Takahashi and Mr. Asthana:

The Environmental Law & Policy Center (ELPC) writes to share our view that PJM’s proposed Reliability Resource Initiative (RRI) exceeds PJM’s authority under the Federal Power Act (FPA). As we explain in the attached comments to the Federal Energy Regulatory Commission (the Commission), the FPA provides the states—not the Commission—with jurisdiction over facilities used in the generation of electricity. The Commission has accordingly recognized that “integrated resource planning [and] the generation mix” are “matters reserved to states under FPA section 201.”¹

PJM’s proposal transgresses that jurisdictional boundary by claiming for PJM the authority to modify the mix of generation facilities connected to the grid. PJM’s proposal is not technology neutral; instead, it selects facilities based on criteria such as the Effective Load Carrying Capacity, which favor certain technologies over others. PJM’s proposal thus represents a significant and unprecedented expansion of PJM’s authority.

Numerous stakeholders have urged PJM to modify its proposal in order to provide states a central role in the process. In response to PJM’s assertion that it modeled the RRI on a recent interconnection reform in CAISO, stakeholders noted that the CAISO process provides an important role for state regulatory authorities and that PJM’s process should do the same.² Likewise, in a November 20, 2024, letter to PJM, Pennsylvania governor Josh Shapiro requested that PJM “rely upon willing member states” as part of the process. During stakeholder meetings, PJM has generally responded to such feedback by dismissing stakeholders’ concerns regarding the role of the states.

¹ *Bldg. for the Future Through Elec. Reg'l Transmission Plan. & Cost Allocation*, 187 FERC ¶ 61,068, at P 254 (2024) (Order No. 1920).

² See *California Independent System Operator*, 188 FERC ¶ 61,225, at PP 119-120 (2024) (explaining the role for state and local regulatory authorities under CAISO’s proposal) (*CAISO*).



PJM has repeatedly emphasized that the Reliability Resource Initiative is a time-sensitive response to an urgent problem. PJM should accordingly take care to submit a proposal that minimizes the likelihood of rejection at the Commission and the risk of subsequent litigation. Instead, PJM is racing forward to propose a process that does the very opposite by claiming a novel new power for PJM.

The good news is that time remains for PJM to advance an alternative proposal that does not conflict with federal law. In the November 21, 2024, Members Committee meeting, the Rocky Mountain Institute (RMI) recommended additional changes to the surplus interconnection process to allow new resources to quickly connect to the grid. RMI's proposal is technology neutral and fits comfortably within PJM's (and FERC's) existing authority.³ ELPC encourages PJM to pursue those reforms with the urgency it has devoted to the RRI.⁴ In the attached comments to FERC, ELPC suggests other reforms, including improvements to Energy Resource Interconnection Service, to accelerate the interconnection of new generation while avoiding interference with state authority over generation facilities. We urge PJM to consider adopting some version of these technology-neutral reforms in lieu of the RRI.

Lastly, we note that PJM's proposal is out of step with recent Commission orders. Most recently, in Order No. 1920-A, the Commission modified its Long-Term Regional Transmission Planning rule to provide a greater role for state regulatory authorities.⁵ In particular, the Commission required transmission providers like PJM to consult with the states on transmission planning and cost allocation and to include state proposals in filings pursuant to that rule. As Commissioner Christie noted in his concurrence to Order No. 1920-A, "these changes give the states a much bigger toolbox containing far more effective tools they can use to protect their consumers and the interests of their states."⁶

Order No. 1920-A concerns an area over which the Commission plainly has regulatory authority—regional transmission planning. In contrast, the RRI aims directly at an area of *state* authority under the Federal Power Act—the mix of generation facilities that connects to the grid. The RRI accordingly should do *more* than the long-term transmission planning process to incorporate state input. Instead it does far less.

In sum, we urge PJM to take the following steps:

1. Advance tariff changes to improve the surplus interconnection process in accordance with RMI's recommendations at the November 21, 2024 Members Committee meeting.

³ Sarah Kotwis, et al., Rocky Mountain Institute, "Surplus Interconnection Service: The Scale of the Opportunity and the Needed Reforms," (Nov. 21, 2024), *available at* <https://www2.pjm.com/-/media/committees-groups/committees/mc/2024/20241121/20241121-item-04b---6-surplus-interconnection-service---presentation.ashx>

⁴ PJM has proposed limited changes to the surplus interconnection process. As RMI and other stakeholders have explained, those changes may not be sufficient to yield significant additions of capacity to the system. *See id.* at 4.

⁵ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, 189 FERC ¶ 61,126 (2024) (Order No. 1920-A).

⁶ *Id.* (Christie Comm'r, Concurring at P 4). *See also* CAISO, 188 FERC ¶ 61,225 at P 123 (finding CAISO's proposal to incorporate state regulatory authorities into interconnection process reasonable).

2. Modify the RRI so that the proposal does not interfere with state authority over generation facilities, either by providing state regulatory entities an equal say over the facilities eligible for the process or by eliminating any factors that are not technology neutral.

Respectfully,

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

Innovations and Efficiencies)	
In Generator Interconnection)	Docket No. AD24-9-000
Workshop Facilities)	

**POST-WORKSHOP COMMENTS
OF THE ENVIRONMENTAL LAW & POLICY CENTER**

The Environmental Law & Policy Center (ELPC) submits these comments in response to the Federal Energy Regulatory Commission’s (FERC or Commission) Notice Inviting Post-Workshop Comment (Comments Notice), issued following the September 10 and 11, 2024 workshop on Innovations and Efficiencies in Generator Interconnection (Workshop). ELPC is a regional sustainable energy and environmental organization with members, contributors, and offices throughout the Midwest. We appreciate the opportunity to add to the discussion on this important topic.

I. Introduction

The need for improvements to the interconnection process is clear. Across the country, interconnection queue backlogs are impeding the development of new resources, leading to higher costs for ratepayers and undermining reliability. In ELPC’s nine-state Midwestern footprint, spanning from the Dakotas to Ohio, interconnection delays have been particularly severe. Thousands of megawatts of new resources currently sit in interconnection queues in both the Midwest Independent System Operator (MISO) and PJM Interconnection (PJM), awaiting interconnection service agreements and a chance to connect to the grid.

Interconnection backlogs are also a major impediment to state-level energy policies. Legislatures and regulators across the country have established ambitious energy agendas,

seeking to reshape the generation mix in favor of renewable resources like wind and solar. Yet, in many places, long interconnection queues have stymied those policies by delaying the development of new resources by five or more years. Long interconnection wait times are one reason many states in the Midwest and elsewhere are not on track to meet their energy goals—even as thousands of megawatts of state-supported resources await interconnection service agreements.¹

In these comments, we urge the Commission to adopt interconnection reforms that (1) accelerate the interconnection of new resources and (2) do not conflict with state laws and regulations regarding the generation mix. We recommend three solutions that meet those two criteria, including reforms to the Energy Resource Interconnection Service (ERIS) process and an enhanced “first-ready, first served” process. At the same time, we urge the Commission to reject reform proposals that interfere with state authority over the generation mix.

II. Background

A. States have authority over the generation mix.

Section 201 of the Federal Power Act (FPA) establishes that states have jurisdiction over “facilities used for the generation of electric energy.”² The D.C. Circuit has explained that, pursuant to FPA section 201, states have the authority “to require retirement of existing generators, to limit new construction to more expensive, environmentally-friendly units, or to take any other action in their role as regulators of generation facilities without direct interference

¹ See, e.g., Nara Schoenberg, “Illinois Passed Ambitious Climate Act 3 Years Ago. But it’s Struggling to Meet Clean Energy Goals,” Chicago Tribune, October 20, 2024, <https://www.chicagotribune.com/2024/10/20/illinois-climate-goals/> (“In the PJM region, the median time a new energy project had to wait before being allowed to connect to the grid rose to more than five years in 2022 . . .”).

² 16 U.S.C. § 824(b).

from the Commission.”³ Accordingly, this Commission has recognized that “integrated resource planning [and] the generation mix” are “matters reserved to states under FPA section 201.”⁴

Pursuant to that authority, recent years have seen “a proliferation of state policies to shape the resource mix.”⁵ In Michigan, for example, Public Act 235 requires the state’s utilities to obtain 80% of their electricity from clean energy sources by 2035 and requires that they file plans to meet that goal beginning in 2028.⁶ Similarly, Illinois has a goal of 100% clean energy by 2050, and renewable portfolio standard targets of 25% by 2026 and 50% by 2040.⁷ In fact, all nine states within ELPC’s footprint have some form of generation portfolio standard.⁸

Many states have paired those generation portfolio standards with policies that aim to ease the development and construction of certain generation resources. In Illinois, Public Act 102-1123 established uniform statewide permitting standards for wind and solar facilities and prohibited counties from barring such facilities.⁹ Wisconsin, Michigan, and Minnesota likewise have laws that establish uniform permitting standards for certain resources.¹⁰ States across the country have also enacted policies that seek to expand the workforce for building and operating

³ *Connecticut Dep’t of Pub. Util. Control v. FERC*, 569 F.3d 477, 481 (D.C. Cir. 2009). See also *Hughes v. Talen Energy Mktg., LLC*, 578 U.S. 150, 154 (2016) (explaining that the “need for new power facilities, their economic feasibility, and rates and services, are areas that have been characteristically governed by the States”) (quoting *Pacific Gas & Elec. Co. v. State Energy Resources Conservation and Development Comm’n*, 461 U.S. 190, 205 (1983)).

⁴ *Bldg. for the Future Through Elec. Reg’l Transmission Plan. & Cost Allocation*, 187 FERC ¶ 61,068, at P 254 (2024) (Order No. 1920). See also *PJM Interconnection, L.L.C.*, Docket No. 21-2582, Statement of Chairman Glick and Commissioner Clements, at P 17 (Oct. 19, 2021) (PJM MOPR Statement) (“The FPA is clear. The states, not the Commission, are responsible for shaping the generation mix.”).

⁵ *PJM Power Providers Grp. v. FERC*, 88 F.4th 250, 272 (3d Cir. 2023).

⁶ Michigan Public Act 235 of 2023 (codified at MCL 460.1051, 1191).

⁷ Climate and Equitable Jobs Act, 2021 Ill. Legis. Serv. Public Act 102-0662, § 1–5.

⁸ See Database of State Incentives for Renewables & Efficiency, Summary Map (Dec. 1, 2023), <https://ncsolarcenter-prod.s3.amazonaws.com/wp-content/uploads/2023/12/RPS-CES-Dec2023-1.pdf>.

⁹ 2022 Ill. Legis. Serv. P.A. 102-1123, § 5–12020.

¹⁰ Jon Davis, “Wind, Solar and Siting: A Look at Recent Laws and Legislative Trends in the Midwest,” CSG Midwest (Feb. 29, 2024), <https://csgmidwest.org/2024/02/29/wind-solar-and-siting/>.

certain resources.¹¹ All of these policies fall comfortably within the states’ authority over the generation mix.

B. The Commission traditionally avoids interfering with state policy.

As the Supreme Court has explained, state and federal areas of jurisdiction under the Federal Power Act “are not hermetically sealed from each other.”¹² Rather, the FPA establishes a “complementary administrative framework” that features a “congressionally designed interplay between state and federal regulation.”¹³ Grid reliability is an area in which the FPA’s regime of cooperative federalism is particularly important. State policies regarding generation facilities necessarily affect the reliability of the transmission system. By the same token, the Commission’s efforts to maintain a reliable transmission system affect state-regulated generation facilities.

In areas of overlapping authority, the Commission often shows “solicitude toward the states.”¹⁴ The Commission’s recent long-term transmission planning rule, Order No. 1920, provides a sterling example of that approach.¹⁵ In that order, the Commission required transmission providers to consider state and local laws and regulations affecting the resource mix as one factor in long-term scenario planning.¹⁶ The Commission explained that such policies are “key drivers of Long-Term Transmission Needs” and that failing to account for them could lead

¹¹ See, e.g., Illinois Department of Commerce & Economic Opportunity, “Climate and Equitable Jobs Act,” <https://dceo.illinois.gov/ceja.html> (“DCEO is charged with administering the workforce and economic development programs outlined in the Climate and Equitable Jobs Act, or CEJA. These programs will train Illinoisans for jobs in the clean energy industry and help clean energy businesses grow.”) (last visited Nov. 13, 2024).

¹² *FERC v. Elec. Power Supply Ass’n*, 577 U.S. 260, 281, (2016) (*EPSA*).

¹³ *Coal. for Competitive Elec., Dynergy Inc. v. Zibelman*, 906 F.3d 41, 50 (2d Cir. 2018) (quoting *New York State Dept. of Social Servs. v. Dublino*, 413 U.S. 405, 421 (1973); *Hughes v. Talen Energy Mktg., LLC*, 136 S. Ct. 1288, 1300 (2016) (Sotomayor, J., concurring)).

¹⁴ *EPSA*, 577 U.S. at 287.

¹⁵ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (hereafter, “Order 1920”), *reh’g denied by operation of law*, 188 FERC ¶ 62, 025 (2024), *appeal pending sub nom, Appalachian Voices v. FERC*, Nos. 24-1650 (4th Cir. pet. consolidated Aug. 8, 2024).

¹⁶ Order No. 1920, at P 432.

to inefficient transmission planning.¹⁷ The Commission also stated that transmission providers “may *not* develop any Long-Term Scenarios that are inconsistent with” state laws regarding the generation mix.¹⁸ The Commission emphasized that, in requiring consideration of state policy, “this final rule does not regulate, aim at, or otherwise attempt to influence integrated resource planning, the generation mix, decisions related to the siting and construction of transmission facilities or generation resources, or any other matters reserved to states under FPA section 201.”¹⁹ In essence, the Commission directed transmission providers to harmonize transmission planning procedures with state policy regarding generation resources.

An earlier proceeding involving the PJM capacity market demonstrates the problems that can arise when the Commission does not defer to state policy. In 2019, the Commission ordered PJM to adopt a Minimum Offer Price Rule (MOPR) that would mitigate the effect of state subsidies for generation resources on capacity market prices (2019 MOPR). As the Third Circuit later explained, “[t]he 2019 MOPR prompted swift opposition,” including court challenges from numerous states.²⁰ Two years later, before the courts had resolved those challenges, PJM issued a revised MOPR that eliminated the provision mitigating state policies (2021 MOPR). The four commissioners considering that rule deadlocked, which meant the 2021 MOPR took effect by operation of law. The statement issued on behalf of the two Commissioners that supported the rule noted that the Commission’s earlier efforts to mitigate the effect of state policy on the capacity market “undermine the jurisdictional balance that is at the heart of the FPA.”²¹ Those Commissioners explained that the Commission should not “arrogat[e] to itself the role that

¹⁷ *Id.*

¹⁸ *Id.* P 513 (emphasis added).

¹⁹ *Id.* P 254.

²⁰ *PJM Power Providers Grp.*, 88 F.4th at 272.

²¹ *Id.* at 268-69 (explaining that the statement from the two Commissioners who supported the rule provided the rationale for the Commission’s approval of the rule).

Congress reserved for the states” by adopting a rule that would “block the effects of state policies.”²²

C. Proposals to allow certain resources to jump the queue interfere with state policy.

A recent proposal in PJM provides an example of an interconnection reform that transgresses the FPA’s jurisdictional divide. The proposal, which PJM calls the “Reliability Resource Initiative,” would “create a one-time opportunity to accommodate resources that support near-term reliability.”²³ PJM has proposed several different methods of determining which resources can enter this process. The initial version of the policy would have excluded resources that do not meet certain “effective load carrying capacity” (ELCC) thresholds that PJM itself established.²⁴ Under that approach, PJM would have excluded all solar resources from the process.

The most recent version of the Reliability Resource Initiative proposal would apply a formula based on a number of factors, including ELCC and the Unforced Capacity (UCAP) of the resource in megawatts.²⁵ These two factors are resource-specific, not technology neutral, as large thermal resources like nuclear, coal, and gas have higher ELCCs and, typically, higher UCAPs than resources like wind or solar-plus-storage.²⁶ These two resource-specific factors constitute 60% of the final score under PJM’s formula. The remaining 40% of the score comes

²² 2021 MOPR Statement at 19. *See also New York Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102, at P 42 (2022) (upholding a similar rule).

²³ PJM Inside Lines, “PJM Introduces Interconnection Process for Reliability” (Oct. 8, 2024), <https://insidelines.pjm.com/pjm-introduces-interim-interconnection-process-for-reliability/>.

²⁴ PJM Interconnection, L.L.C., “Reliability Resource Initiative Straw Proposal” (Oct. 18, 2024), <https://pjm.com/-/media/committees-groups/committees/pc/2024/20241018-special/item-02---reliability-resource-initiative-straw-proposal.ashx>.

²⁵ PJM Interconnection, L.L.C., “Reliability Resource Initiative MRC Update” (Nov. 7, 2024), <https://www.pjm.com/-/media/committees-groups/committees/mrc/2024/20241107-special/item-04---reliability-resource-initiative---presentation.ashx>.

²⁶ PJM itself establishes the ELCC for different classes of resources. Nuclear, Diesel, Coal, and Gas have the highest ELCC ratings. *Id.* at 19.

from three factors that are not resource specific: project viability, in-service date, and location.²⁷ Take as a whole, PJM's formula would favor large thermal generation over similarly-situated renewable resources or storage.

PJM's proposal, as it currently stands, would necessarily interfere with state control over the generation mix. As discussed above, numerous states in PJM's footprint have established policies to accelerate the development of renewable resources, including wind, solar, and storage. State policies in PJM also require reductions in electricity generation from fossil fuels.²⁸ PJM's Reliability Resource Initiative, in any of the forms PJM has proposed, would directly interfere with those state policies by prioritizing resources that meet other criteria. Projects eligible for PJM's queue-jumping process would occupy limited transmission capacity, further delaying interconnection of state-supported resources.

The Commission should clarify that interconnection reform proposals must defer to state authority over the generation mix. Transmission operators like PJM are not resource planners. At a minimum, procedures that prioritize certain generation facilities over others must do so in a way that is consistent with state laws and regulations. In the next section, we provide an example of interconnection reforms in the California ISO (CAISO) that do exactly that, accelerating interconnection while maintaining the Commission's traditional solicitude toward the states.

D. CAISO's interconnection enhancements incorporate state policy into scoring criterion.

CAISO's interconnection proposal, which this Commission approved in September, has much in common with PJM's Reliability Resource Initiative.²⁹ Like PJM's proposal, CAISO's

²⁷ *Id.*

²⁸ *See, e.g.,* New Jersey Board of Public Utilities, "Energy Master Plan," at 34 (2019) (establishing goal of 100% carbon-free electricity by 2050), https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

²⁹ In fact, PJM has explicitly modeled parts of its proposal on CAISO's reforms. *See* November RRI Update, at 14-15.

reforms aim to address reliability concerns by accelerating the interconnection of new generating capacity.³⁰ CAISO also applies a set of scoring criteria to identify new generation facilities that can enter an accelerated interconnection process. CAISO relies on the following three scoring criterion: (1) project viability, (2) system need, and (3) commercial interest.³¹ Two of the metrics (project viability and commercial interest) are technology neutral and adhere to the “first-ready, first-served” approach that the Commission adopted in Order 2023.³² The third metric, system need, is resource-specific and would favor resources that “provide reliability or resource adequacy benefits to consumers.”³³ Like PJM’s consideration of ELCC and UCAP, the objective of this metric is to select resources that will improve grid reliability.

Unlike PJM’s proposal, however, CAISO’s reforms carve out an important role for state authorities. In particular, the “system need” metric awards the maximum number of points to a generating facility “if the generating facility is designated by a local regulatory authority as a long lead-time resource, meets the requirements of the local regulatory authority resource portfolio” and meets certain criteria related to transmission system upgrades.³⁴ Defending that provision in an answer filed in that docket, CAISO explained that “[s]tates and local regulatory authorities, rather than this Commission, have jurisdiction over the procurement of resources by load-serving entities to meet the needs of end-use customers.”³⁵ The Commission accepted CAISO’s rationale, finding reasonable CAISO’s inclusion of “a mechanism for considering the

³⁰ *California Independent System Operator*, 188 FERC ¶ 61,225 (2024) (CAISO).

³¹ *Id.* P 100.

³² *See Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054 at P 16 (2023), *order on rehearing*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024) (explained that first-ready, first-served is a process “whereby interconnection requests are processed based on when interconnection customers meet certain project development milestones”).

³³ CAISO at P 119.

³⁴ CAISO at P 120.

³⁵ *Cal. Ind. Sys. Operator Corp.*, Docket No. ER24-2671-000, Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation to Comments and Protests, at 27 (filed Sept. 3, 2024), [Accession No. 20240903-5162](#).

needs of state and local regulatory authorities and using that information to improve the efficiency of its interconnection process.”³⁶

In sum, in contrast to PJM’s proposal, CAISO’s reforms do not interfere with state policy regarding the generation mix. Instead, CAISO defers to the resource decisions of state authorities. CAISO’s approach represents one of several methods to accelerate interconnection while deferring to state policy. Below, we outline three interconnection enhancements that accomplish that goal.

III. Comments

A. Response to Innovations Panel 2: The Commission should direct transmission providers to improve Energy Resource Interconnection Service.

The Rocky Mountain Institute’s (RMI) post-workshop comments propose improvements to Energy Resource Interconnection Service (ERIS). In theory, pursuant to Commission Order No. 2003, ERIS should allow new generation resources to connect on an energy-only basis, meaning they can provide electricity as long as the transmission system has excess capacity.³⁷ In contrast, Network Resource Interconnection Service (NRIS) provides new resources the ability to supply their full capacity at any time.³⁸ Resources applying for ERIS service should be responsible for fewer network upgrades, while NRIS service requires any upgrades necessary to ensure the system can always serve the resource.³⁹

In practice, however, ERIS has not served as a meaningful alternative to NRIS in much of the country. Hence, RMI’s proposal would require clearer distinctions between ERIS and NRIS and would ensure that generators applying to interconnect for ERIS are responsible for no

³⁶ CAISO 188 FERC ¶ 61,225, at P 123.

³⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31, (2003) (Order No. 2003); Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004) (Order No. 2003-A).

³⁸ Order No. 2003-A at PP 499-500.

³⁹ *Id.* P 534.

or limited network upgrades. RMI’s proposal would also establish a transparent, economics-informed screening process to differentiate between ERIS applicants based on the level of curtailment they would face. Projects facing a higher level of curtailment could enter a parallel, interconnection-informed transmission planning process that would spread transmission upgrade costs across large numbers of projects. ELPC supports RMI’s proposal.

We further note that RMI’s proposal does not conflict with state authority over the generation mix. RMI’s proposal is technology neutral. All resource types would have equal opportunity to access the improved ERIS interconnection process. The curtailment threshold that RMI proposes for ERIS resources turns on the point of interconnection and the available transmission capacity on the system—matters unrelated to the specifics of the generation facility seeking to interconnect. None of these proposed procedures would directly favor any particular resource type or put transmission operators in the position of modifying or planning the generation mix.

B. Response to Innovations Panel 3: The Commission should consider enhanced first-ready, first-served procedures.

In Order No. 2023, the Commission directed transmission providers to move from a “first-come, first-served” approach to studying interconnection requests to a “first-ready, first-served” approach.⁴⁰ As the Commission explained, the first-ready, first-served approach discourages speculative interconnection requests by imposing readiness requirements on interconnection customers before they enter the interconnection queue.⁴¹ The first-ready, first served method “ensure[s] that ready, more viable proposed generating facilities can proceed through the [interconnection] study process.”⁴² The first-ready, first-served method is also

⁴⁰ Order No. 2023 at P 165.

⁴¹ *Id.* P 177.

⁴² *Id.*

technology-neutral, as it turns on a particular applicant's development progress rather than the specifics of the generation facility the applicant hopes to build.

As discussed above, CAISO's interconnection reforms built on the first-ready, first-served approach. In approving CAISO's proposal, the Commission explained that CAISO's scoring criteria "give greater weight to projects that are further along in their technical planning and design."⁴³ CAISO's scoring mechanism accordingly favored projects that are "more likely to reach commercial operation."⁴⁴ In essence, CAISO's proposal amounts to an enhanced first-ready, first-served approach because it accelerates the existing interconnection requests of projects that show a high level of readiness.

We encourage the Commission to consider broader adoption of enhanced first-ready, first-served processes. In areas that have long interconnection queues and looming capacity crunches, queue projects that can demonstrate a high level of viability and readiness should have an opportunity to enter into an accelerated process. Moreover, like CAISO's model, enhanced first-ready, first-served procedures can defer to state policy by awarding additional points to projects designated by state authorities or which are eligible for some other form of state support, such as a Renewable Energy Credit Program. Participation in such programs is another indicator that a project is likely to be built, which reinforces the first-ready, first-served model.

C. Response to Innovations Panel 3: The Commission should require approval of Relevant State Entities for any process that departs from "first-ready, first-served."

Alternatively, should the Commission adopt a policy that is not technology neutral and directly favors certain types generation facilities for interconnection, the Commission should require the agreement of the Relevant State Entities in the state of interconnection for each

⁴³ *CAISO*, 188 FERC ¶ 61,225 at P 114.

⁴⁴ *Id.*

specific facility. Relevant State Entities should include any state entity responsible for electric utility regulation or for the procurement or planning of generation resources within the state or portion of a state located in a transmission provider region. Specific examples of Relevant State Entities would include state authorities responsible for issuing a Certificate of Public Convenience and Necessity for new generation,⁴⁵ for conducting integrated resource planning,⁴⁶ for conducting electricity procurements,⁴⁷ or for overseeing implementation of a renewable portfolio standard program.⁴⁸ No specific generation facility should advance through a resource- or project-specific queue-jumping process without the agreement of at least one Relevant State Entity.⁴⁹

The Commission adopted a similar—albeit less stringent—provision regarding state participation in the selection of regional transmission facilities in Order No. 1920.⁵⁰ In that order, the Commission “require[d] transmission providers in each transmission planning region to consult with and seek support from Relevant State Entities regarding the evaluation process.”⁵¹ But the Commission stopped short of requiring *agreement* from Relevant State Entities, noting that such a requirement would amount to “veto authority.”⁵² The Commission explained that

⁴⁵ The Indiana Utility Regulatory Commission, the Maryland Public Service Commission, and the Ohio Power Siting Board are examples of state regulators that provide CPCNs (or similar permits) for new generation.

⁴⁶ The Michigan Public Service Commission, the Indiana Utility Regulatory Commission, and the Minnesota Public Utilities Commission are examples of state regulators that conduct integrated resource planning for electric generation.

⁴⁷ The Illinois Power Agency and the New York State Energy Research and Development Authority are examples of state agencies that conduct electricity procurements.

⁴⁸ The Pennsylvania Public Utilities Commission and the Public Utilities Commission of Ohio are examples of state regulators that are responsible for overseeing implementation of renewable portfolio standards.

⁴⁹ In states with multiple Relevant State Entities, transmission operators should coordinate with Relevant State Entities to determine which entity or entities are best situated to participate in the interconnection process. For example, in Illinois, both the Illinois Commerce Commission and the Illinois Power Agency have legal authority relevant to the generation mix.

⁵⁰ Order No. 1920 at P 996.

⁵¹ *Id.* P 994.

⁵² *Id.* P 996.

“transmission planning is the tariff obligation of each transmission provider and transmission providers retain ultimate responsibility for regional transmission planning.”⁵³

In the context of a queue-jumping process for new generation, the same reasoning favors a requirement that Relevant State Entities actually agree to each generation facility. In contrast to transmission planning, RTOs (and this Commission) have no authority over resource planning. Rather, as explained above, the states have ultimate responsibility for resource planning and the generation mix. For that reason, state authorities should have a final say over the selection of specific resources eligible for queue-jumping procedures. Such an approach would conform to the FPA’s system of cooperative federalism and the Commission’s traditional solicitude toward the states.⁵⁴

IV. Conclusion

In Order No. 2023, the Commission took an important step toward improving the interconnection process. We encourage the Commission to continue that momentum by adopting additional interconnection enhancements that accelerate the interconnection of new resources without intruding on state authority over resource planning and the generation mix. We appreciate the Commission’s continued attention to this important topic.

Respectfully submitted,

Dated: November 14, 2024

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⁵³ *Id.*

⁵⁴ See *EPSCA*, 577 U.S. at 287-88 (discussing “cooperative federalism” approach under Order No. 745).