

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Industrial Energy Consumers of America; American)
Forest & Paper Association; R Street Institute; Glass)
Packaging Institute; Public Citizen; PJM Industrial)
Customer Coalition; Coalition of MISO)
Transmission Customers; Association of Businesses)
Advocating for Tariff Equity; Carolina Utility)
Customers Association, Inc.; Pennsylvania Energy)
Consumer Alliance; Resale Power Group of Iowa;)
Wisconsin Industrial Energy Group; Multiple)
Intervenors (NY); Arkansas Electric Energy)
Consumers, Inc.; Public Power Association of New)
Jersey; Oklahoma Industrial Energy Consumers;)
Large Energy Group of Iowa; Industrial Energy)
Consumers of Pennsylvania; Maryland Office of)
People’s Counsel; Pennsylvania Office of Consumer)
Advocate; Consumer Advocate Division of the)
Public Service Commission of West Virginia; and)
Missouri Industrial Energy Consumers,)

v.)

Docket No. EL25-44-000

Avista Corporation; Idaho Power Company; MATL)
LLP; NorthWestern Corporation; PacifiCorp;)
Portland General Electric Company; Puget Sound)
Energy, Inc.; Duke Energy Florida, LLC; Florida)
Power & Light Company; Tampa Electric Company;)
Dominion Energy South Carolina, Inc.; Duke)
Energy Carolinas, LLC and Duke Energy Progress,)
Inc.; Louisville Gas and Electric Company and)
Kentucky Utilities Company; Southern Company)
Services Inc., as agent for Alabama Power)
Company, Georgia Power Company, Georgia Power)
Company and Mississippi Power Company; Arizona)
Public Service Company; Black Hills Power, Inc.;)
Black Hills Colorado Electric Utility Company, LP;)
Cheyenne Light, Fuel & Power Company; El Paso)
Electric Company, NV Energy, Inc.; Public Service)
Company of Colorado; Public Service Company of)
New Mexico; Tucson Electric Power Company;)
UNS Electric, Inc.; California Independent System)
Operator, Inc.; Southwest Power Pool, Inc.; PJM)
Interconnection, L.L.C.; Midcontinent Independent)
System Operator)

**MOTION TO INTERVENE AND COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

Pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission (FERC or Commission) Rules of Practice and Procedure, the National Association of Regulatory Utility Commissioners (NARUC) submits this Motion to Intervene and Comments in response to the Complaint submitted in the above-captioned docket.

I. COMMUNICATIONS

All pleadings, correspondence, and other communications related to this proceeding should be addressed to the following persons:

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II. MOTION TO INTERVENE

NARUC is the national organization of the state commissions responsible for economic and safety regulation of the retail operations of utilities. NARUC's members have the obligation under state law to ensure the establishment and maintenance of such energy utility services as may be required by the public convenience and necessity, as well as ensuring that those services

are provided at just and reasonable rates. NARUC's members include the government agencies in the fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands charged with regulating the rates, terms, and conditions of service associated with the intrastate operations of electric, natural gas, water, and telephone utilities. Both Congress¹ and the federal courts² have long recognized NARUC as the proper party to represent the collective interests of state regulatory commissions. NARUC member state commissions and FERC have regulatory authority over and oversight of regional and local transmission facilities. Given the topics covered by the Complaint, this proceeding will have an impact on NARUC member state commissions and, thus, NARUC has a direct interest in it.

III. COMMENTS

While NARUC does not take a position on the Complaint or the specific relief requested, NARUC does wish the Commission to take note that on February 26, 2025, NARUC unanimously passed a **Resolution on Electricity Consumers' Need for Effective Oversight of Costs for Replacing Aging or Obsolete Transmission Infrastructure**, which is attached to this filing. In the resolution, NARUC urges the Commission to act swiftly to put in place effective and robust transmission cost management and oversight processes for “end of life” or “asset condition” transmission projects in RTO regions, when requested by states within the region, with recovery of associated costs borne by those regions.

¹ See 47 U.S.C. § 410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Boards to consider issues of concern to both the Federal Communications Commission and State regulators with respect to universal service, separations, and related concerns); Cf., 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). Cf. NARUC, et al. v. ICC, 41 F.3d 721 (D.C. Cir. 1994) (where the Court explains “[c]arriers, to get the cards, applied to . . . [NARUC], an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the ‘bingo card’ system”).

² See *United States v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), *aff'd* 672 F.2d 469 (5th Cir. 1982), *aff'd en banc on reh'g*, 702 F.2d 532 (5th Cir. 1983), *rev'd on other grounds*, 471 U.S. 48 (1985).

IV. CONCLUSION

NARUC respectfully requests that the Commission consider these comments regarding the resolution passed during NARUC's Winter Policy Summit in February 2025.

Respectfully submitted,

/s/ Kimberly W. Duffley

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Dated: March 20, 2025

CERTIFICATE OF SERVICE

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 at Washington, DC: March 20, 2025

Respectfully submitted,

/s/ Kimberly W. Duffley

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Resolution on Electricity Consumers’ Need for Effective Oversight of Costs for Replacing Aging or Obsolete Transmission Infrastructure

Whereas when transmission infrastructure is damaged, aging or obsolete, transmission operators may act to replace or repair this transmission infrastructure, referred to as “end of life” or “asset condition” projects;

Whereas “end of life” or “asset condition” projects are not subject to the same transmission planning process requirements as other Federal Energy Regulatory Commission (“FERC”)-jurisdictional transmission projects;³

Whereas transmission operators may seek a return of and on their costs for “asset condition” projects through their transmission rates, with very limited stakeholder or state review;

Whereas the cost of “end of life” or “asset condition” projects is a significant and growing component of electricity consumers’ bills, and in some regions is increasing at a rapid rate, which dwarfs consumer spending on transmission needed for emerging reliability issues, with an estimated 50% of the \$25 billion invested in transmission nationwide in 2023 attributable to local projects not subject to regional planning processes;⁴

Whereas by one estimate, regional investment in these types of projects grew in the PJM Interconnection region from 9% of total spending between 2005-2013 to 73% of total spending between 2014-2023; increased in the ISO-NE region eightfold from 2016-2023; increased in the MISO region from 54% of total spending in 2017 to 78% in 2022; and represented 63% of the spending in the CA-ISO region;⁵

Whereas electricity consumers who pay for transmission infrastructure deserve meaningful oversight of such spending to enable confidence that their investment is both needed and cost-effective;

³ See *PJM Interconnection L.L.C.*, 173 FERC ¶ 61,242 (2020) at P 56; *So. Cal. Edison Co.*, 164 FERC ¶ 61,160 (2018) at P 33; *Cal. Pub. Util. Comm’n.*, 164 FERC ¶ 61,161 (2018) at P 68.

⁴ See, e.g., *Annual U.S. Transmission Investments, 1996-2023*, Brattle Group, 2023, <https://www.brattle.com/wp-content/uploads/2023/07/Annual-US-Transmission-Investments-1996-2023.pdf>.

⁵ See *Mind the Regulatory Gap*, Rocky Mountain Institute, 2024, <https://rmi.org/insight/mind-the-regulatory-gap/>

Whereas regulators and consumers often lack visibility into why a particular “end of life” or “asset condition” project is needed, the reasons why the transmission owner chose the solution that it did to address that need, or sufficient advanced notice of transmission owner replacement plans to have a voice in the process;

Whereas FERC nonetheless places the burden of oversight on consumers and other stakeholders by assuming that all “end of life” or “asset condition” project spending is reasonable absent a time-consuming, complicated, and costly federal regulatory “challenge” that states, consumers and other stakeholders often lack the resources and expertise to make;⁶ *and*

Whereas, robust transmission cost management and oversight could be improved by creating a transparent process overseen by the RTO similar to that which is used for reliability projects, putting resources toward an active regulatory role, creating an impartial expert entity that would closely review proposed transmission projects and cost recovery and provide relevant information to stakeholders who might be interested in challenging those costs, or creating some other vehicle to ensure effective oversight of these currently unreviewed consumer costs; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2025 NARUC Winter Policy Summit in Washington, D.C., urges the Federal Energy Regulatory Commission to act swiftly to put in place effective and robust transmission cost management and oversight processes for “end of life” or “asset condition” transmission projects in RTO regions when requested by states within the region, with recovery of associated costs borne by those regions.

Passed by the Committee on Energy Resources and the Environment on February 24, and the Committee on Electricity on February 25, 2025.

Adopted by the NARUC Board of Directors on February 26, 2025.

⁶ See, e.g., *Missouri ex rel. Southwestern Bell Telephone Co. v. Missouri Pub. Serv. Comm.*, 262 U.S. 276, 289 n. 1 (1923) (finding that a utility’s costs are presumed to be prudently incurred); *Minnesota Power & Light Co.*, 11 FERC ¶ 61,312, at pp. 61,644–45 (1980) (“As a matter of practice, utilities seeking a rate increase are not required to demonstrate in their cases-in-chief that all expenditures were prudent unless the Commission’s filing requirements, policy or precedent otherwise require.”). A challenger can shift the burden of proof back to the utility by raising “serious doubt” about the prudence of the expenditure. Even where a challenger brings specific evidence of imprudence, the Commission rarely shifts the burden back to the utility. See, e.g., *Pacific Gas and Electric Co.*, 173 FERC ¶ 61,045 at PP 165–181 (2020).