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# New England Transmission Planning & Development


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# Jurisdictional Authority – FERC

# Transmission Rates

FERC has jurisdiction over transmission rates + the establishment of transmission planning and interconnection rules.

- The Federal Power Act (1935) gave FERC jurisdiction over the transmission of electricity, and the sale of electric energy at wholesale, in interstate commerce.
  - Exclusive authority over sales for resale of electricity that crosses state lines, as well the transmission of electricity across state lines.
  - FERC's actions in these areas may impact consumers bills, but it is the state public utility commissions that determine retail rates (i.e., the rates individual consumers pay each month in their electricity bills)
- States retained authority over sales of electricity to consumers within their state, as well as intra-state transmission of electricity.

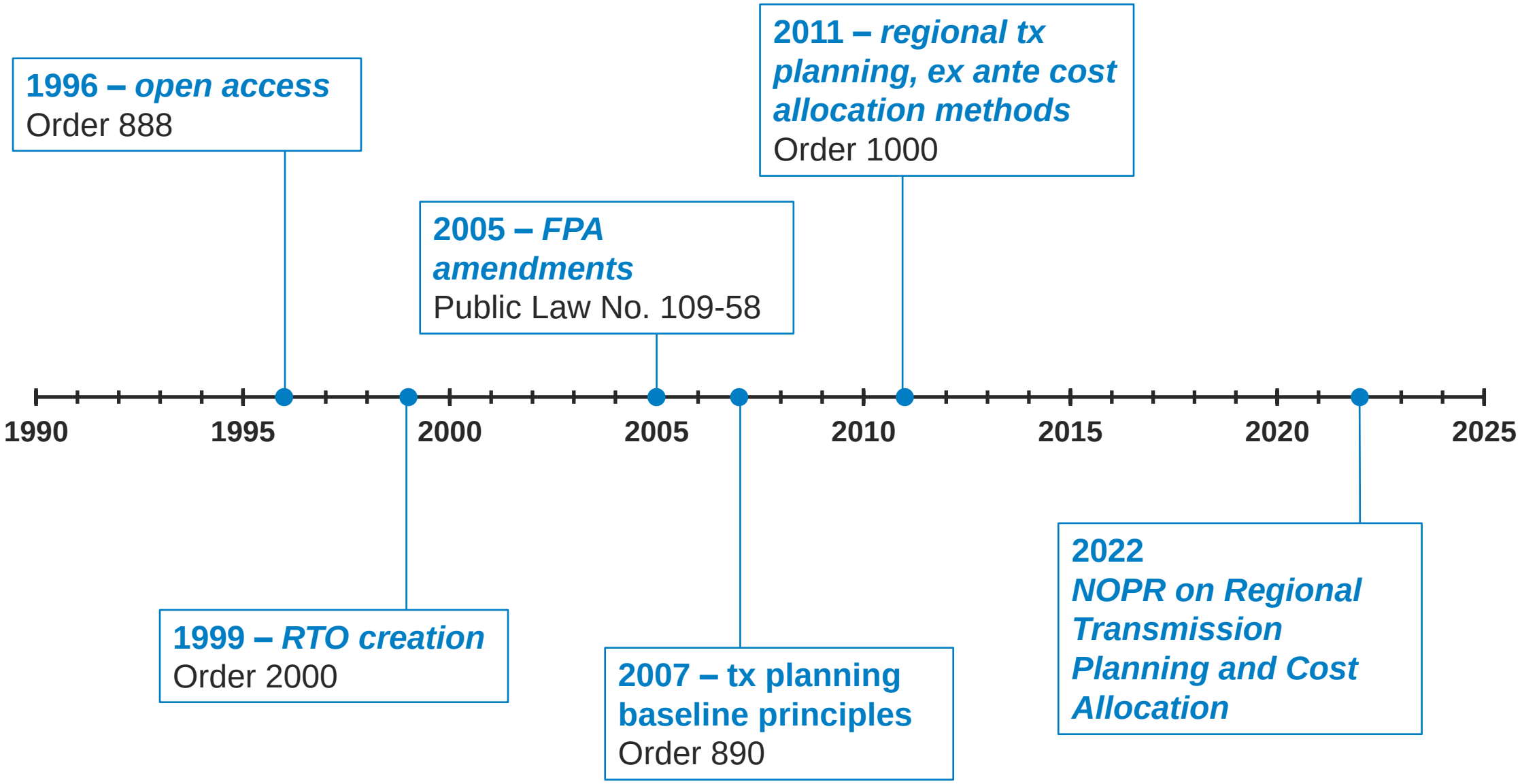
# Transmission Rates

*New York v. FERC*: the Supreme Court affirmed the FPA's "clear and specific grant of jurisdiction" to the Commission over the regulation of electric transmission in interstate commerce. 535 U.S. 1, 22 (2002).

- This statutory grant to FERC extends to:
  - review of public utility transmission owners' tariffs filed under FPA Section 205
  - the power under FPA Section 206 to fix any rate, charge, or classification demanded, observed, charged, or collected for transmission by such utilities (including the Commission's remedial authority over "any rule, regulation, practice, or contract affecting such rate, charge, or classification")
- FERC plays an essentially passive and reactive role under Section 205, as those filings are driven by the filing utility.
- By contrast, FERC can take on a proactive role under Section 206, which empowers it to modify existing rates either upon a complaint or upon its own initiative.

# Transmission Planning and Interconnection

- *From mid-90s to today*:
  - FERC has embarked on a series of historic rulemakings to carve out its authority over transmission planning & interconnection…


1996 – open access
Order 888
2011 – regional tx planning, ex ante cost allocation methods
Order 1000
2005 – FPA amendments
Public Law No. 109-58
1990
1995
2000
2005
2010
2015
2020
2025
1999 – RTO creation
Order 2000
2007 – tx planning baseline principles
Order 890
2022
NOPR on Regional Transmission Planning and Cost Allocation

# “Backstop” Siting of Transmission

- In 2021, Congress passed the Infrastructure Investment and Jobs Act, which amends the FPA to give FERC greater authority to step in and site certain transmission lines when state authorities deny approval or fail to act.
- FERC issued a NOPR in late 2022 on a proposed approach to implement that backstop authority; the final rule is pending.
  - The NOPR proposes to give states a 90-day comment period following a year of the “pre-filing” process at FERC.

# Transmission Reliability

- After the 2003 Northeast Blackout, Congress gave FERC broad authority over the reliability of the high voltage (99kV+) transmission system, also called the bulk power system.
- FPA Section 215 directs FERC to adopt and enforce mandatory reliability standards.
  - Under this regime, the North American Electricity Reliability Corporation (NERC) develops the standards and proposes them to FERC; FERC then gets to review and approve.
  - NERC, in turn, delegates authority to eight regional entities to monitor and enforce compliance of those reliability standards.
- The entity that covers New England, the Northeast Power Coordinating Council, is thus authorized within its region to enhance reliability by, among other things, engaging in assessments of reliability, creating region-specific standards, and monitoring the compliance of users, owners, and operators within the region.
  - State-led procurements can lead to more resources coming online, which can lead to the need for greater transmission and greater reliability impacts

# Regional – ISO-New England

# ISO-NE: Transmission Planning

- ISO-NE conducts regional transmission planning in New England pursuant to Attachment K of its tariff, and generally considers projects based on reliability, market efficiency, or public policy needs.
- ISO-NE's planning jurisdiction typically applies to network transmission facilities (115 kV or above), starting with an independent Needs Assessment report.
- Incumbent transmission owners plan local projects in New England, typically radial expansion of a network or lower voltage level transmission facilities. These do not require formal review or approval by ISO-NE.
  - TOs also develop "Asset Condition Project" proposals for maintaining or replacing aging or damaged transmission assets. For these projects with estimated cost greater than $5M, the TOs provide notice through presentations to ISO-NE's Planning Advisory Committee.
  - These projects are not subject to the regional planning process, but are allocated on a pro rata basis across the region

# ISO-NE: Transmission Planning

- For transmission planning driven by public policy-related needs, there are several mechanisms that ISO-NE can employ.
  - *Longer-Term Transmission Planning Process:*
    - Under a new process that FERC approved last year, the ISO's Regional System Planning Process authorizes the ISO to conduct longer-term transmission studies that may extend beyond a ten-year planning horizon.
    - While the ISO conducts the longer-term transmission studies, it relies on the States to determine the range of scenarios, including drivers, inputs, assumptions, and timeframes to be used in these studies.

# ISO-NE: Transmission Planning

- For transmission planning driven by public policy-related needs, there are several mechanisms that ISO-NE can employ.
  - *Order 1000 Process:*
    - Since 2017, ISO-NE has initiated a process every three-years required under its tariff that provides an opportunity for regional study and potential evaluation and selection of public policy-driven transmission.
    - This process, which covers the ten-year planning horizon, includes a role for the States in confirming that public policy requirements drive transmission needs and a role for ISO-NE is analyzing transmission needs and determining whether to select solutions.

# ISO-NE: Transmission Planning

- For transmission planning driven by public policy-related needs, there are several mechanisms that ISO-NE can employ.
  - Elective Transmission Upgrades:
    - Opportunity to submit a request for ISO-NE to study a proposed transmission upgrade. The requestor pays for the ISO-NE study and is ultimately responsible for the cost of building the project and any identified system upgrades.
    - Once the ETU transmission project is built, it becomes part of the New England transmission network. This process is nearly identical to the interconnection process for new generation in ISO-NE.
    - New England Clean Energy Connect (NECEC) project is an example of a public policy project that was studied by the ISO as an ETU.

# Jurisdictional Authority – States

# States: Transmission Siting and Construction Authority

- State and local governments have authority over the siting and construction of transmission lines. (They also have authority over the rate regulation and siting of the electric distribution system.)
- Legislature
  - Directs statutory and regulatory changes, including to the distribution system, siting, and electric generation procurement
  - Drives need for transmission through legislative changes, such as decarbonization requirements leading to greater electrification that, in turn, increases load and potential need for new transmission and mandates to procure transmission

# States: Transmission Siting and Construction Authority

- Mass. Dept of Public Utilities (DPU)
  - As a state regulator, DPU can promulgate policies—including clean energy policies that impact the grid.
  - The Siting Division of the DPU has authority to, among other things, issue licenses to construct and operate transmission lines and permit the taking of land (or issuance of easements) for necessary energy facilities.
  - Separately, the Energy Facilities Siting Board (EFSB), an independent state board within the DPU, reviews proposed large energy facilities, including electric transmission lines.
    - EFSB approval is required prior to the commencement of construction of any EFSB-jurisdictional facility in the Commonwealth
    - No State agency may issue a construction permit for any such facility unless EFSB has approved the petition to construct the facility

# States: Transmission Siting and Construction Authority

- Mass. Dept of Energy Resources (DOER)
  - DOER develops and implements policies that include maximizing procurement and deployment of clean energy resources and improving the cost of such resources relative to fossil fuel generation.
  - For example, DOER plays a key role in supporting Massachusetts' procurement of offshore wind generation.
  - Massachusetts' current procurement goals target a total of 5,600 MW from clean energy and offshore wind. The original legislation, the 2016 Energy Diversity Act, required a total of 1,600MW of offshore wind by 2027. That target was increased several times in ensuing years.

# States: Transmission Siting and Construction Authority

- Mass. Dept of Energy Resources (DOER)
  - H. 5060, An Act Driving Clean Energy and Offshore Wind (enacted Aug. 2022), provides that the DOER may competitively solicit and procure proposals for offshore wind energy transmission to support wind energy generation projects.
  - Under the Act, DOER may coordinate with other state agencies and other New England states to develop a solicitation to best meet the needs of the growing offshore wind industry while maintaining reliability.
  - DOER must consider the total amount of transmission needed to maintain reliability, avoid unnecessary costs to upgrade the existing transmission grid, achieve the Commonwealth's offshore wind and decarbonization goals, and benefit consumers and the environment.
    - Proposals can include upgrades to the existing grid, extending the grid closer to offshore wind locations, and interconnecting offshore substations.

# Cost Allocation

# Overview of Transmission Costs & Benefits

- In Order No. 1000, FERC mandated the adoption of cost allocation methods in planning regions. It also directed that cost allocation methods focus on aligning costs with benefits by identifying the beneficiaries of proposed regional transmission facilities and imposing those costs on them.
  - However, FERC did not adopt a universal or comprehensive definition of "benefits" and "beneficiaries." Recognizing inherent difficulty and controversy of cost allocation decisions, FERC allowed regional planning entities flexibility if they complied with six regional cost allocation principles identified by FERC.
  - Principle 1: costs to be allocated in a manner *at least roughly commensurate* with estimated benefits.
  - Principle 6: a planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional plan.

# Overview of Transmission Costs & Benefits

- 2022 NOPR:
  - FERC has expressed a concern that regional transmission planning and cost allocation processes may not be sufficiently forward-looking to meet transmission needs driven by changes in the resource mix and demand.
  - FERC is concerned that planners and policy makers may not be considering the full range of benefits that transmission investments can provide, understating the expected value of such projects and how these values change over time.

# Overview of Transmission Costs & Benefits

- NOPR identifies many of the potential benefits of transmission:
  - ensuring and enhancing reliability;
  - ensuring affordable service;
  - enabling the identification and resolution of reliability problems and economic constraints before they affect the transmission system;
  - unlocking the forces of competition, eliminating barriers to entry, and mitigating market power;
  - benefiting customers through cost-savings from greater access to low-cost power and a wider range of resources.

# ISO-New England Cost Allocation

# Reliability Projects & Market Efficiency Projects

- Pursuant to Schedule 12 of ISO-NE's tariff, costs for Regional Benefit Upgrades (which includes Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades) are shared by consumers across the region, on the principle that all consumers benefit when the reliability and efficiency of the regional network is improved.
- Costs for these projects are allocated on a load-ratio basis – i.e., based on the amount of electricity demand in each state.

# Public Policy Projects

- Default allocation:
  - 70% of the costs are shared by consumers throughout the region on a load-ratio basis;
  - 30% are allocated to each state in direct proportion of the state's share of the public policy planning need that gives rise to the projects.
- Elective Transmission Projects are merchant-funded and in many instances are aimed at fulfilling state policy goals.
  - For example, the New England Clean Energy Connect project, which was developed as a result of the 2016 Energy Diversity Act and allocates costs to Massachusetts ratepayers.

# Local Upgrade Cost Allocation

- As noted above, incumbent TOs plan local projects in New England, typically radial expansion of a network or lower voltage level transmission facilities.
- These do not require formal review or approval by ISO-NE. Attachment K, Appendix 1 of the ISO-NE tariff covers local projects.
- Costs of these projects are allocated locally, to the transmission customer causing the need for the upgrade.

# Cost Allocation: State Input & Other Approaches

# Overview of Transmission Cost & Benefits

- After Order No. 1000, public utility transmission providers in each planning region adopted varying cost allocation methods to comply with that rule's cost allocation principles.
- As noted in the 2022 NOPR on regional transmission planning and cost allocation, the most common methods to allocate costs have treated reliability needs, economic needs, and public policy requirements separately. But some have identified benefits across a portfolio of transmission facilities rather than on a facility-by-facility basis.
- NOPR proposed greater state involvement in determining cost allocation, while also preserving Order 1000 principles for any such allocation.
  - Cost allocation would either be negotiated in advance and applied to all or some set of transmission facilities that are identified as part of long-term regional transmission planning, or be negotiated on a case-by-case basis after transmission facilities are identified (the "State Agreement" approach), or a combination of these methods.
  - Under a State Agreement approach, the relevant state entities must voluntarily agree to a cost allocation method.

# Cost Allocation Measures in Other Jurisdictions

- Several RTOs utilize portfolio-based cost allocations instead of project-by-project.
  - SPP Highway-Byway – different allocation methods dependent on the size of the facility
  - MISO MVP – multi-value planning approach to evaluate a wider range of multiple possible benefits
    - MISO Long-Term Regional Transmission Plan – new portfolio-based approach to evaluate portfolios of networked facilities across MISO Midwest region.
  - PJM State Agreement Approach – states jointly or individually can agree to voluntarily share in cost allocation of a project to address state public policy requirements, as long as they agree to pay full cost

# ISO-NE Long-Term Transmission Planning Tariff Reforms & Status

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# ISO-NE Long-Term Tx Planning Reforms

- NESCOE's June 2021 Governor's Report recommended revisions to the ISO Tariff to "implement a state-led, proactive scenario-based planning process for longer-term analysis of state mandates and policies as a routine planning practice." The states also requested that cost allocation issues be set apart from this planning reform effort.
- In response, ISO-NE initiated a two-phased effort to revise its tariff.
  - Phase 1 comprises Longer-Term Planning Changes, which enable the ISO's performance of state-requested, scenario-based transmission analysis to meet the identified state requirements.
    - FERC accepted the Phase 1 tariff proposal in February 2022.
    - Commissioner Christie issued a short concurring statement, noting that ISO-NE's proposed study process "will not result in a mandatory-build directive for any individual project, nor initiate regional cost allocation for such project."
  - Phase 2 will address the rules to enable states to elect potential options for addressing issues identified during the transmission analysis phase and cost allocation for the associated transmission infrastructure. Phase 2 is anticipated to be completed in Q2 2024.

# ISO-NE Long-Term Tx Planning Reforms

- Under these reforms, the general transmission development process would be divided into the following three steps.
  - Step 1: RFP Determination – NESCOE, with ISO technical support, identifies system concerns to be addressed through one or more RFPs.
  - Step 2: RFP Issuance, Administration, Evaluation – ISO issues the RFP, evaluates the submittals, and selects preferred solution.
  - Step 3: NESCOE Response – Project(s) from the preferred solution included in RSP for cost regional allocation, unless NESCOE requests alternative cost treatment or terminates the process.