UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Joint Federal-State Task Force on Electric Transmission Docket No. AD21-15

**Comments of Public Citizen, Inc.**

The Commission invited comments[[1]](#footnote-1) on ways to improve state and stakeholder involvement in transmission planning, including:

* Whether there is “sufficient transparency in the existing regional transmission planning process and are state perspectives sufficiently considered and incorporated.”
* And “should FERC reform the regional transmission planning process to increase consideration and incorporation of state perspectives and energy-related goals”?[[2]](#footnote-2)

In order to ensure that any transmission buildout results in equitable treatment for communities of color and just and reasonable rates for consumers, the Commission should establish federal advisory committees featuring environmental justice (EJ) and consumer voices to guide the Commission and RTOs on transmission planning. In addition, the Commission should coordinate with the Department of Energy on its new authorities to designate national interest transmission corridors to safeguard that EJ and consumer perspectives are included in such determinations.

**About Public Citizen**

Established in 1971, Public Citizen is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers. Public Citizen is active before FERC promoting just and reasonable rates, and supporting efforts for utilities to be accountable to the public interest. Financial details of our operations are located at our website.[[3]](#footnote-3)

**The Commission Should Establish Federal Advisory Committees**

If the Commission thinks (rightfully so!) that states face barriers to participate in transmission planning at the RTOs, imagine the hurdles faced by EJ communities and household consumer advocates. Inadequacies for transmission planning, cost allocation and interconnection procedures inherent in RTO/ISO tariffs stem, in part, from their failure to engage with all stakeholders in an equitable manner. When combined with nontransparent internal RTO operations, transmission owners are able to wield outsized influence over RTOs behind closed doors, facilitating collusive opportunities that harm the development of equitable transmission planning. The origins of RTOs governance failures began in December 1999 when FERC Order 2000 encouraged their voluntary creation to “facilitate lighter handed regulation” to “reduce the need for Commission oversight and scrutiny.”[[4]](#footnote-4) When private corporations are empowered to conduct federal law enforcement functions in order to promote “lighter handed regulation” and reduce regulatory “oversight and scrutiny”, it should not come as a surprise when those private corporations do a poor job prioritizing the public interest.

Just as the Federal Power Act authorizes the Joint Federal-State Task Force to assist the Commission with obtaining guidance and coordination with state regulators,[[5]](#footnote-5) federal law also provides a path for the Commission to help EJ and consumer interests meaningfully participate, through the use of federal advisory committees. FERC is literally the only major federal agency that fails to utilize advisory committees to assist with obtaining input and harmonization with public interest stakeholders.[[6]](#footnote-6) Instead, the Commission outsources this important task to the RTOs/ISOs. The RTOs do a uniformly terrible job at managing inclusive and equitable stakeholder engagement, including denying public interest groups the right to vote or witness crucial meetings (PJM), or bans the general public altogether from attendance (ISO-NE’s NEPOOL).

In contrast, FERC advisory committees would be governed by the Federal Advisory Committee Act,[[7]](#footnote-7) which requires meetings to be open to the public and journalists; provides freely available recordings and transcripts of all meetings, thereby preserving detailed archival information; and all participants have equal voting rights (instead of the discriminatory and discredited weighted-sector voting nonsense enshrined in RTOs).

The Commission could, for example, establish a MISO EJ Transmission Planning Advisory Committee that would feature environmental justice representatives from throughout the ISOs footprint, and an additional MISO Just and Reasonable Transmission Planning Advisory Committee that would include household consumer advocates from the region. Advisory committee members could help establish and steer the agenda, with active coordination and participation from the Commission. Such a Commission-administrated deliberative process would not only enshrine superior transparency and governance standards compared to whatever it is the RTOs are doing, but it will allow the Commission—not the RTOs—to facilitate the discussions. These advisory committees could help shape transmission planning procedures and evaluation tools to help ensure that planned transmission capacity reflects priorities of EJ communities and consumer advocates.[[8]](#footnote-8)

**Need for Commission to Consult On DOE National Interest Corridors**

On November 15, 2021, President Joe Biden signed into law H.R.3684, the *Infrastructure Investment and Jobs Act*.[[9]](#footnote-9) Section 40105 amends the Federal Power Act to allow the Department of Energy to designate National Interest Electric Transmission Corridors. It will be essential as part of the Commission’s transmission planning oversight to coordinate with the Department of Energy on ensuring that EJ communities and consumer advocates are able to meaningfully participate in the designation of such Transmission Corridors. In addition, consultation on the Department of Energy’s new Transmission Facilitation Program (Section 40106 of the *Infrastructure Investment and Jobs Act*) and the $5 billion in grants authorized for transmission upgrades (Section 40103) will also be important.

Respectfully submitted,

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1. Posted in the November 29, 2021 *Federal Register* www.govinfo.gov/content/pkg/FR-2021-11-29/html/2021-25939.htm [↑](#footnote-ref-1)
2. October 27, 2021 *Notice of Meeting*. [↑](#footnote-ref-2)
3. www.citizen.org/about/annual-report/ [↑](#footnote-ref-3)
4. At pages 3 and 96, www.ferc.gov/sites/default/files/2020-06/RM99-2-00K\_0.pdf [↑](#footnote-ref-4)
5. A proposal we made to President Biden’s transition team in November 2020: www.citizen.org/wp-content/uploads/FERC2021.pdf [↑](#footnote-ref-5)
6. Fifty-six other federal agencies have active advisory committees: www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation [↑](#footnote-ref-6)
7. www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/legislation-and-regulations/the-federal-advisory-committee-act [↑](#footnote-ref-7)
8. Establishment of advisory committees is in addition to the important role of the new Office of Public Participation. [↑](#footnote-ref-8)
9. Public Law No: 117-58, www.congress.gov/bill/117th-congress/house-bill/3684/ [↑](#footnote-ref-9)