UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Industrial Energy Consumers of America, *et al.*	)	
	)	
Complainants	)	
	)	
v.	)	Docket No. EL25-44-000
	)	
Avista Corporation *et al.*,	)	
	)	
Respondents	)	

SUPPLEMENTAL COMMENTS
OF
THE INDUSTRIAL ENERGY CONSUMERS OF AMERICA
IN FURTHER SUPPORT OF COMPLAINT

Fourteen months ago, twenty-one Complainants, representing energy consumer interests across the country, filed a Complaint[1] with the Federal Energy Regulatory Commission ("FERC" or "Commission") asking that the Commission address electricity affordability concerns stemming from excessive jurisdictional rates due to inefficient individual transmission owner planning on the FERC-jurisdictional electric grid. Electricity affordability has even worsened since the filing of the Complaint. Although there are components of individual electricity rates that are outside the Commission's jurisdiction, the primary, hyperinflation in electricity rates has occurred in the component of electricity rates that is squarely within FERC's jurisdiction: rates tied to electric transmission.

A recent article in Utility Dive by Advanced Energy United stated "the majority of transmission investments flow from utility or local planning, avoiding regulatory scrutiny by

[1] *Industrial Energy Consumers of America, et al. v. Avista Corporation, et al.*, filed December 19, 2024 in Docket No. El25-44-000 ("Complaint").

falling through a regulatory gap that threatens energy affordability."[2] While the article, like RMI's "Mind the Regulatory Gap" analysis,[3] attributes the problem of inefficient transmission spending to a "regulatory gap" – the gap at issue is not in FERC's authority regulate, but a willingness to regulate. As the Complaint identified, the Commission has the jurisdiction and has recognized the problem. Now, American energy consumers and American competitiveness need the Commission to act.

On October 23, 2025, the Secretary of the Department of Energy sent the Commission a letter pursuant to section 403 of the Department of Energy Organization Act requesting that the Commission exercise its jurisdiction relating to large load interconnections to the interstate transmission grid.[4] The Secretary of Energy noted that the full exercise of the Commission's Congressionally-granted jurisdiction is essential to "ensure all Americans and domestic industries have access to affordable, reliable, and secure electricity."[5] The Complainants in this proceeding likewise have advocated for the Commission to fully exercise its jurisdiction to protect American energy consumers from utility practices that unduly benefit utility shareholders at the expense of consumers and manufacturers.

The Energy Secretary's letter and accompanying proposed Advance Notice of Proposed Rulemaking ("ANOPR") are focused on the interconnection of large loads (Docket No. RM26-4-

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[2] *See* "Improve transmission affordability by mending the regulatory gap," Alex Lawton, Advanced Energy United (Feb. 24, 2026), UTILITY DIVE, *available at* https://www.utilitydive.com/news/improve-transmission-affordability-by-mending-the-regulatory-gap-advanced-energy-united-Lawton/809296/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202026-02-19%20Utility%20Dive%20Newsletter%20%5Bissue:81913%5D&utm_term=Utility%20Dive (last accessed Feb. 24, 2026) (emphasis added).

[3] *See* https://rmi.org/insight/mind-the-regulatory-gap (last accessed Feb. 24, 2026).

[4] Secretary of Energy's Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal Regarding the Interconnection of Large Loads Pursuant to the Secretary s Authority Under Section 403 of the Department of Energy Organization Act, October 23, 2025 ("DOE Secretary Letter" or "ANOPR").

[5] DOE Secretary Letter at 1.

000). Both the ANOPR and the Complaint emphasize the Commission's exclusive jurisdiction to regulate transmission facilities in interstate commerce to protect consumers against paying unjust and unreasonable rates. As the Complainants identified, the transmission grid is an integrated whole that necessitates robust, holistic, regional planning. Like the Complaint, the proposed ANOPR focuses on the bulk power system.[6] Likewise, both the Complaint and the proposed ANOPR note the Commission's statutory obligation to exercise its jurisdiction over practices affecting jurisdictional transmission rates,[7] especially when individual owners of transmission in interstate commerce are permitted to dictate the transmission grid of tomorrow based on self-professed "local" needs without sufficient regulatory oversight. The interstate transmission grid is not local in nature. The ANOPR quoted Supreme Court Justice Thomas, who observed:

> [i]t is certainly possible, perhaps even likely, that the only way to remedy undue discrimination and ensure open access to transmission services is to regulate all utilities that operate transmission facilities, and not just those that use their own lines for the purpose of wholesale sales or in connection with unbundled retail transactions.[8]

The Complaint made this same point, quoting Justice Thomas' point that the Commission's consumer protection mandate is not subject to restraint in applying Commission jurisdiction:

> this decision may conflict with FERC's statutory mandate to regulate when it finds unjust, unreasonable, unduly discriminatory, or preferential treatment with respect to any transmission subject to its jurisdiction. . . . At a minimum, however, FERC should have determined whether regulating transmission used in connection

[6] Complaint at 40-41, 207-215; ANOPR at P 1.

[7] Complaint at 8, n. 14; ANOPR at PP 2, 5.

[8] ANOPR at P 5 (*quoting New York v. FERC*, 535 U.S. 1, 36 (2002)).

> with bundled retail sales was in fact 'necessary to eliminate undue discrimination and protect electricity customers.[9]

Finally, as the Complaint and proposed ANOPR both recognize, for those lower voltage facilities that are indeed local or qualify as distribution, the Commission has appropriately excluded them from its jurisdictional reach.[10]

Although the proposed ANOPR is singularly focused on the interconnection of large loads to the transmission system, the Complaint would also address the Department of Energy's objective that the Commission "must ensure all Americans and domestic industries have access to affordable, reliable, and secure electricity."[11] This objective cannot be achieved while individual transmission owners plan transmission facilities over 100 kV, whether those facilities are planned for a large load interconnection, aging infrastructure, or simply the utility's capital spending planning to meet shareholder demands. Recent analysis from the Independent Market Monitor for PJM (Monitoring Analytics) further shows the continuation of "local project" or Supplemental Project spending in PJM. Monitoring Analytics explained:

> The average cost of supplemental projects in each expected in service year increased by 3,156.0 percent, from $64.5 million for years 1998 through 2007 (pre-Order No. 890) to $2.1 billion for years 2008 through 2025 (post Order No. 890). As of September 30, 2025, the 1,878 supplemental projects with expected in service dates between January 1, 2025 and December 31, 2029, have a total cost estimate of $25.3 billion.[12]

The Commission must exercise its jurisdiction over the planning of the bulk electric system as "[a] reliable, resilient, and secure electric grid is vital for national security, economic

[9] Complaint at 36 (*quoting New York v. FERC*, 535 U.S. 1, 30-35, J. Thomas concurring in part and dissenting in part).

[10] Complaint at 216-221; ANOPR at P 18.

[11] DOE Secretary letter at 1.

[12] Quarter 3 State of the Market Report for PJM: January through September 2025, Monitoring Analytics (Nov. 13, 2025) at 884, Table 12-83, *available at* https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2025/2025q3-som-pjm.pdf (last accessed Feb. 24, 2026).

security, and the growing number of services that Americans rely upon every day."[13] And at a time where more infrastructure is needed to meet growing demand, "America must make smart energy infrastructure decisions to protect the consumers who depend on reliable power and who foot the bill for it."[14] In granting the Complaint, the Commission can fully meet its statutory obligation to protect America's electricity consumers from self-interested transmission owner planning that has burdened America's electricity consumers with hundreds of billions in incurred and planned electric transmission costs.

In its recent Brief to the United States Court of Appeals for the Fourth Circuit, the Commission itself recognized the problem of individualized transmission owner planning, stating:

> existing transmission processes were failing to produce new transmission infrastructure to meet long-term transmission needs in a cost-effective manner. The upshot was **an aging electric grid that transmission providers have updated in a piecemeal, siloed fashion, resulting in inefficient and costly transmission investments and rates that fail to meet the Federal Power Act's "just and reasonable" standard**.[15]

FERC further noted that "so-called 'local' transmission planning" "tend[s] to produce 'localized or piecemeal transmission solutions' that address issues on an 'incremental' basis, an approach that would miss potentially more efficient or cost-effective broader regional solutions."[16] These points are precisely the points that the Complaint made and which Order No. 1920 does not

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[13] Electric Grids, U.S. Dep't of Energy, *available at* https://www.energy.gov/topics/electric-grids (last accessed Feb. 24, 2026).

[14] *Invenergy Transmission LLC v. Midcontinent Independent System Operator, Inc.*, 193 FERC ¶ 61,033 (Oct. 16, 2025), Linsday See, Commissioner, concurring at P 1.

[15] Brief of Respondent Federal Energy Regulatory Commission, filed January 5, 2026, in 4th Cir. Case Nos. 24-1650, 24-1748, 24-1756, 24-1758, 24-1760, 24-1765, 24-1770, 24-1785, 24-1804, 24-1857, 24-1862, 24-1867, 24-1876, 24-1885, 24-1887, 24-1979, 24-1991, 24-2162, 24-2163, 25-1073, 25-1080, 25-1197, 25-1349 before the United States Court of Appeals for the Fourth Circuit at 59 (emphasis added).

[16] *Id*. at 226.

effectively address, as it continues to allow “so-called local transmission planning” notwithstanding that the Bulk Electric System and the interstate transmission grid have no “local” transmission.

CONCLUSION

WHEREFORE, the Industrial Energy Consumers of America respectfully request that the Commission consider these Supplemental Comments, grant the Complaint, and issue all necessary and proper relief.

Respectfully submitted,

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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 this 24th day of February 2025.

/s/*Kenneth R. Stark* ___________