

***Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities***

***Order No. 1000***

Issued July 21, 2011

**Overview**

- Order No. 1000 requires that each public utility transmission provider:
  - Participate in a regional transmission planning process that produces a regional transmission plan
  - Amend its OATT to describe the procedures for consideration of transmission needs driven by public policy requirements in local and regional transmission planning processes
  - Remove from Commission-approved tariffs and agreements a federal right of first refusal (“ROFR”) to construct new transmission facilities, subject to certain limits
  - Amend its OATT to improve coordination between neighboring transmission planning regions for new interregional transmission facilities
  - Participate in a regional transmission planning process that has a regional cost allocation method or methods for the costs of new transmission facilities selected in a regional transmission plan for purposes of cost allocation
  - Participate in a regional transmission planning process that has an interregional cost allocation method for the costs of certain new transmission facilities that are located in two or more neighboring transmission planning regions and are jointly evaluated by the regions in their interregional coordination procedures
- Chairman Wellinghoff and Commissioners Spitzer, Norris, and LaFleur voted in favor of the rule. Commissioner Moeller supported parts of the rule but dissented with respect to ROFR issues.

**Compliance Deadlines**

- Each public utility transmission provider must submit a compliance filing **within 12 months** of the effective date of the Final Rule to address the regional planning and cost allocation requirements (including elimination of ROFR)
- Each public utility transmission provider must submit a compliance filing **within 18 months** of the effective date of the Final Rule to address the interregional planning and cost allocation requirements
- The effective date is 60 days after publication in the *Federal Register*
- RTOs and their members may make a compliance filing that demonstrates that some or all of the RTO’s existing transmission planning processes already comply with Order No. 1000, but must file all existing or proposed OATT provisions with an explanation of how they comply with the requirements
  - RTO members may demonstrate compliance through the RTO’s compliance filing and are not required to make separate filings
  - RTOs may engage in interregional coordination on behalf of their members rather than having each member engage in interregional coordination separately

### **Findings and Purpose**

- The purpose of the Final Rule is to remedy deficiencies in existing Order No. 890 transmission planning processes and to improve transmission planning processes and cost allocation mechanisms to ensure that rates, terms, and conditions of services provided by public utility transmission providers are just and reasonable and not unduly discriminatory or preferential
- The Final Rule seeks to address opportunities for undue discrimination by public utility transmission providers
- Order No. 1000 stresses “more efficient and cost-effective” transmission planning and cost allocation
- The Final Rule aims to ensure an opportunity for more transmission projects to be considered in the transmission planning process on an equitable basis and increase the likelihood that transmission facilities in the regional transmission plan will move forward to construction
- Order No. 1000 observes that recent increased focus on investment in new transmission projects makes it even more critical to implement these reforms to ensure that more efficient and cost-effective projects come to fruition
- The Commission has received many comments from parties alleging that they have experienced unjust and unreasonable, or unduly discriminatory or preferential practices in the transmission planning aspects of transmission services provided by public utility transmission providers, and the Commission is obligated under FPA section 206 to remedy these unjust and unreasonable, or unduly discriminatory or preferential rates, terms, and conditions and practices affecting rates
- Nothing in the final rule is intended to conflict with state law or jurisdiction

### **Terms used in the Order**

- A “*transmission facility selected in a regional transmission plan for purposes of cost allocation*” is a transmission facility that has been selected, pursuant to a Commission-approved regional transmission planning process, as a more efficient or cost-effective solution to regional transmission needs
  - Does not include facilities planned by local planning process that are “rolled-up” into regional plans
    - A “*local planning process*” is the process that a public utility transmission provider performs for its individual retail distribution service territory or footprint pursuant to the requirements of Order No. 890
    - A “*local transmission facility*” is a transmission facility located solely within a public utility provider’s retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation
  - Does not include facilities for which the sponsor does not intend to seek cost allocation under the regional cost allocation methodology (i.e., merchant transmission facilities)

- The definition also applies to interregional transmission projects selected by two or more transmission planning regions to meet the transmission needs of both regions more efficiently or cost-effectively than individual regional solutions
- *“Public Policy Requirements”* include, at a minimum, policies established by enacted statutes (i.e. passed by the legislature and signed by the chief executive) and regulations promulgated by a relevant jurisdiction (either state or federal)
  - Utilities, in consultation with stakeholders, are free to propose OATT language to include other public policies and goals not expressly required by statutes or regulations
- A *“transmission planning region”* is a region in which public utility transmission providers, in consultation with stakeholders and affected states, have agreed to participate for purposes of regional transmission planning and development of a single regional transmission plan
  - Order No. 1000 notes that every public utility transmission provider has already included itself in a region for purposes of complying with Order No. 890
- A *“nonincumbent transmission developer”* includes two categories of developers:
  1. a transmission developer that does not have a retail distribution service territory or footprint; and
  2. a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the “incumbent” for purposes of the project
- An *“incumbent transmission developer/provider”* is an entity that develops a transmission project within its own retail distribution service territory or footprint

### **Applicability**

- The requirements of Order No. 1000 apply only to new transmission facilities, which are those transmission facilities that are subject to evaluation or reevaluation within a public utility transmission provider’s local or regional transmission planning process after the effective date of the public utility transmission provider’s compliance filing
- Each region is to determine at what point a previously-approved project is no longer subject to reevaluation and therefore whether it is subject to the requirements of the final rule
  - **Order No. 1000 directs each public utility transmission provider to explain in its compliance filings how it will determine which facilities evaluated in its local and regional planning processes will be subject to the requirements of the Final Rule**
- The Commission declined to require participation by non-jurisdictional utilities under section 211A of the FPA, but Order No. 1000 states that non-jurisdictional entities seeking to maintain a reciprocity/safe harbor OATT must ensure that the provisions of that tariff substantially conform, or are superior, to the *pro forma* OATT revisions adopted in Order No. 1000
  - However, the Commission declined to mandate that each non-jurisdictional entity with a safe harbor tariff submit modifications to the tariff to address the transmission planning and cost allocation requirements in the Final Rule

## Regional Planning

- **Each public utility transmission provider is required to participate in a regional transmission planning process that produces a regional plan and that complies with the following existing Order No. 890 transmission planning principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; and (7) economic planning**
- Each regional planning process must evaluate, in consultation with stakeholders, proposed alternative transmission solutions at the regional level that may resolve the region’s transmission needs more efficiently or cost-effectively than solutions identified in the local transmission plans of individual public utility transmission providers
  - Public utility transmission providers must continue to consider proposed non-transmission solutions on a comparable basis as required by Order No. 890
  - A regional planning process among public utility transmission providers in a planning region must produce a regional transmission plan that identifies transmission facilities that more efficiently or cost-effectively meet the region’s reliability, economic, and public policy needs
- Merchant developers that do not intend to seek regional cost allocation are not required to participate in the regional transmission planning process; however, such merchant developers are required to comply with all reliability requirements applicable to transmission facilities in the transmission planning region in which the project is located
  - Merchant developers are required to provide adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer’s proposed transmission facilities on other systems in the region
    - **Public utility transmission providers are permitted to propose, in consultation with stakeholders, what information should be required from merchant developers and include such proposed requirements in their compliance filings**
    - Merchant developers also may be required to fund any upgrades necessary on another transmission provider’s system to facilitate the merchant transmission facility’s interconnection
  - Nothing in the Final Rule prohibits merchant developer voluntary participation in regional transmission planning processes
- Some public utility transmission providers in some regions already meet some or all of the regional transmission planning requirements, and therefore may demonstrate such compliance in their compliance filings by referencing existing tariff language
- Public utility transmission providers, in consultation with their stakeholders, are required to develop the regional transmission planning framework that works for their transmission planning region
  - Regional planning processes can use a “top down” or “bottom up” approach or some other approach that complies with the requirements of the Final Rule

- The Final Rule does not contain any Commission-mandated obligation to build projects that are included in a regional transmission plan
- Findings and Justifications:
  - This requirement is necessary to ensure just and reasonable rates and to prevent undue discrimination by public utility transmission providers
  - Without this requirement, public utility transmission providers may not adequately assess alternative transmission solutions at the regional level that may meet the needs of the region more efficiently or cost-effectively than solutions identified by individual public utility transmission provider

### **Public Policy Requirements**

- **Order No. 1000 requires each public utility transmission provider to amend its OATT to explicitly provide for the consideration of transmission needs driven by public policy requirements in both local and regional transmission planning processes and to establish the procedures for identifying transmission needs driven by public policy requirements for which potential transmission solutions will be evaluated**
  - This requirement is intended to enhance, rather than replace, existing transmission planning obligations under Order No. 890 and therefore some public utility transmission providers and transmission planning regions may already consider public policy requirements in transmission planning
- Requirements:
  - **Adopt procedures to identify transmission needs driven by public policy requirements**
    - These procedures must allow stakeholders to provide input and offer proposals regarding the transmission needs that they believe are driven by public policy requirements
    - These procedures must establish a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of the larger set of needs, those needs for which transmission solutions will be evaluated
      - Public utility transmission providers are required to post on their websites an explanation of which transmission needs driven by public policy requirements will be evaluated for potential solutions in the local or regional transmission planning process, as well as an explanation of why other suggested transmission needs will not be evaluated
    - The Commission is not mandating what specific public policy requirements must be considered
  - **Adopt procedures governing the evaluation of potential solutions to meet those needs**
    - Public utility transmission providers, in consultation with stakeholders, must establish the procedures for how such evaluations will take place
    - The evaluation of potential solutions must be designed with the objective of meeting identified transmission needs more efficiently or cost-effectively

- Public utility transmission providers are not required to consider public policy needs beyond those required by state or federal enacted statutes or promulgated regulations; however, Order No. 1000 does not preclude public utility transmission providers from considering other public policy objectives not specifically required by state or federal laws or regulations
- The requirement to consider public policy needs in local and regional transmission planning does not mean that the Commission is mandating fulfillment of those requirements
- To the extent consideration of public policy requirements results in new transmission costs, allocation of such costs must comply with the Commission’s cost causation principle and the six cost allocation principles set forth in Order No. 1000
  - Public utility transmission providers are permitted but not required to establish a separate class of transmission facilities or separate cost allocation specific to public policy requirements
- The Commission declined to adopt bright-line metrics for public policy requirements, allowing instead for flexible planning criteria

**Right of First Refusal (“ROFR”)**

- Requirements:
  - **Eliminate provisions in Commission-jurisdictional tariffs and contracts that establish a federal right of first refusal for an incumbent transmission provider with respect to facilities selected in a regional transmission plan for cost allocation purposes**
    - Order No. 1000 leaves to public utility transmission providers and their stakeholders the issue of how best to remove the federal right of first refusal from Commission-jurisdictional tariffs and agreements, subject to Commission review of compliance filings
  - **Develop qualification criteria for project proponents and protocols for the submission and evaluation of transmission proposals**
    - **Public utility transmission providers are required to revise their OATTs to demonstrate that the regional transmission planning process in which they participate has established appropriate qualification criteria for determining an entity’s eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation whether the entity is an incumbent or nonincumbent developer**
      - Criteria must be non-discriminatory and must permit the developer to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities
      - Stakeholders that are not transmission developers and have no intention to become transmission developers that participate in the regional transmission planning process and propose projects are not subject to the qualification requirements

- **Public utility transmission providers are required to amend their OATTs to identify (1) the information that must be submitted by a prospective transmission developer in support of a transmission project it proposes for inclusion in the regional plan for cost allocation (i.e. relevant engineering studies and cost analyses); and (2) the date by which such information must be considered in the planning cycle**
- **Public utility transmission providers are required to amend their OATTs to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for cost allocation**
  - Process must comply with Order No. 890 principles including transparency and the opportunity for stakeholder participation
  - Process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected
  - The Commission encourages public utilities to build on existing Order No. 890-compliant processes for evaluating the relative economics and effectiveness of performance of alternative solutions offered during the planning process
- **Amend OATTs to define procedures for public utility transmission providers in the regional transmission planning process to reevaluate the regional transmission plan to determine if delays in the development of a transmission facility require evaluation of alternative solutions to ensure that the incumbent can meet its reliability needs or service obligations**
  - If assessment of alternatives is required due to delays, an incumbent must have the ability to propose solutions that it would implement within its retail distribution service territory or footprint that will enable it to meet its reliability needs or service obligations; if the solution is a transmission facility, the regional planning process should evaluate the proposed solution for possible selection in the regional plan for cost allocation
- **Each public utility transmission provider must demonstrate that it participates in a regional planning process that provides nonincumbents a comparable opportunity to allocate the costs of transmission facilities selected in the regional plan through the regional cost allocation method(s)**
- Limitations on ROFR prohibition:
  1. Does not apply to the right of an incumbent transmission provider to build, own, and recover costs for upgrades to its own transmission facilities (i.e., tower change outs and reconductoring), regardless of whether the upgrade has been selected in the regional transmission plan for cost allocation
    - ROFR elimination is not intended to alter an incumbent transmission provider's use and control of existing rights-of-way, even if transmission facilities

associated with existing rights-of-way are selected in the regional plan for cost allocation

2. Does not apply to transmission facilities not selected in the regional plan for cost allocation
  3. Allows but does not require the use of competitive bidding
  4. Does not affect state or local laws or regulations affecting construction or siting of facilities
- The ROFR prohibition applies to transmission facilities that are selected in a regional transmission plan for purposes of cost allocation
    - Public utility transmission providers can continue to choose to meet their service obligations by constructing facilities that are located solely within their retail distribution service territory or footprint and that are not submitted for regional cost allocation or may rely on transmission facilities selected in the regional transmission plan for cost allocation to satisfy their obligations
    - Projects selected for regional cost allocation can be located entirely within the service territory of a single public utility transmission provider; however, that transmission provider would not enjoy ROFR for that project
    - Not all projects planned by an incumbent are considered “sponsored” by the incumbent – only projects that are submitted to the regional planning process to be considered for cost allocation purposes are considered “sponsored” – projects that are not “sponsored” by the incumbent for cost allocation purposes but instead are planned by the incumbent outside of the regional planning process are not subject to ROFR elimination
  - Order No. 1000 indicates that an incumbent transmission provider would not be subject to penalties or enforcement proceedings for violations of reliability standards that result from a nonincumbent abandoning a project that the incumbent was required to rely upon to satisfy its reliability standard obligations, provided that the incumbent identifies the specific NERC reliability standard(s) that will be violated, submits a NERC mitigation plan, and follows the NERC-approved mitigation plan
  - The Commission declined to adopt the NOPR proposal to allow a transmission project proponent to retain the right to build a project in successive transmission planning cycles
  - Nonincumbent developers must comply with all applicable NERC standards and reliability requirements
  - Findings and justifications for eliminating federal ROFR:
    - Nonincumbent transmission developers seeking to invest in transmission can be discouraged from doing so as a result of federal rights of first refusal in tariffs and agreements subject to the Commission’s jurisdiction
    - Leaving in place federal rights of first refusal would allow practices that have the potential to undermine the identification and evaluation of a more efficient or cost-effective solution to regional transmission needs, which in turn can result in rates for



Commission-jurisdictional services that are unjust and unreasonable or otherwise result in undue discrimination by public utility transmission providers

- It is unjust and unreasonable to restrict the universe of qualified transmission developers offering potential solutions in the planning process
- The Commission is “compelled” to act to eliminate ROFR under section 206 of the FPA to eliminate unjust, unreasonable, unduly discriminatory and preferential rates, terms and conditions of service and practices affecting rates
- The Commission is eliminating ROFR “in accordance with our duty to maintain competition”
- The Commission rejected arguments that:
  - ROFR is linked to the obligation to build under RTO/ISO tariffs and stated that the need for reform outweighs any impact on the “package of bargains and burdens” of RTO membership
  - ROFR elimination will result in discrimination to incumbent utilities that have obligations to build and obligations to serve that nonincumbents do not have
    - The Commission acknowledged that there may be circumstances where an incumbent transmission provider may be required to build a project that it did not sponsor in the planning process that a nonincumbent developer abandoned or a project for which there was no sponsor in the planning process
  - Eliminating ROFR will fundamentally transform the collaborative planning process into a competitive, sponsorship-driven process that is unmanageable

### **Interregional Coordination**

- Order No. 1000 requires each public utility transmission provider, through its regional transmission planning process, to enhance existing regional transmission planning processes in the following ways:
  - Develop and implement procedures for sharing information regarding the respective needs of each neighboring transmission planning region and the results of respective regional transmission plans
    - Order No. 1000 requires the exchange of planning data and information *at least* annually
  - Adopt procedures for the identification and joint evaluation by neighboring transmission planning regions of interregional transmission facilities to determine if there is a more efficient or cost-effective interregional transmission solution than regional solutions identified in the neighboring transmission planning regions
    - Each public utility’s compliance filing must include a description of the type of transmission studies that will be conducted to evaluate conditions on neighboring systems for the purpose of determining whether interregional transmission facilities are more efficient or cost-effective than regional facilities
    - The developer of a proposed interregional transmission project must first propose the transmission project in the regional transmission planning

- processes of each of the neighboring regions in which the transmission facility is proposed to be located
- Joint evaluation of interregional projects must occur within “the same general timeframe” rather than subsequently in each individual transmission planning region
  - Maintain a website or email list (either individually by each public utility transmission provider or through their transmission planning region) for the communication of information related to interregional coordination
  - Each public utility transmission provider, through its transmission planning region, must develop and file procedures by which differences in planning data, models, assumptions, horizons, criteria, etc. are to be harmonized between two neighboring transmission planning regions
  - **Working through their regional transmission planning process, each public utility transmission provider in each pair of neighboring transmission planning regions must develop the same language to be included in each public utility transmission provider’s OATT that describes the procedures that the pair of transmission planning regions will use to satisfy these requirements**
    - Public utility transmission providers may choose to reflect these procedures in an interregional transmission planning agreement among the public utility transmission providers within the neighboring transmission planning regions that is filed with the Commission
- Interregional transmission facilities must be selected in both of the relevant regional transmission plans for purposes of cost allocation in order to be eligible for interregional cost allocation methods
    - A transmission planning region is not required to accept cost allocation for an interregional project that was not selected in its regional plan for cost allocation
  - Order No. 1000 requires interregional coordination among each pair of neighboring transmission planning regions within the region’s interconnection, but does not prohibit interregional coordination on a multi-region basis
  - Order No. 1000 does not require:
    - Interconnection-wide planning
    - Stakeholder participation in interregional planning efforts (because stakeholders will have input when transmission planning regions develop their interregional coordination policies and when transmission planning regions evaluate potential interregional transmission facilities in their regional planning processes)
      - However, public utilities are required to allow stakeholders to provide input into the development of interregional transmission coordination procedures and the commonly agreed-to language to be included in each transmission provider’s OATT
    - Interregional coordination with neighbors in other interconnections or other countries

- Joint evaluation of transmission facilities to be located solely within a single transmission planning region
- Adoption of out-of-cycle review for interregional projects
- Neighboring transmission planning regions to align their transmission planning process timelines
- The Commission declined to require the negotiation and submission of interregional agreements as proposed in the NOPR; instead, Order No. 1000 requires each public utility transmission provider in a transmission planning region to include the same language in its tariff describing how the regional planning process in which it participates engages in interregional coordination
  - Public utility transmission providers are not precluded from negotiating and filing interregional agreements, but must include in their OATTs sufficient detail on interregional coordination including links to the actual agreement where the details can be found
  - The Commission also declined to adopt a *pro forma* interregional coordination agreement or default interregional coordination procedures
- Public utility transmission providers seeking to rely on existing seams agreements to satisfy compliance with Order No. 1000 must include in their compliance filings an explanation of how the existing seams agreement satisfies all of the requirements set forth in Order No. 1000
- The requirement to engage in interregional coordination with neighboring regions applies to public utility transmission providers within a region as a group, not members of an RTO acting individually

**Cost Allocation:**

- REGIONAL COST ALLOCATION
  - **Public utility transmission providers are required to have in their OATTs a method or set of methods for allocating the costs of new transmission facilities selected in a regional plan for cost allocation purposes**
    - All of the public utility transmission providers in a transmission planning region must have the same regional cost allocation method(s) in their OATTs
    - If the public utility transmission provider is an RTO, then the cost allocation method(s) must be set forth in the RTO OATT
    - Method(s) must be consistent with the Order No. 1000 regional cost allocation principles
    - If the region adopts different methods based on facility type (reliability, economic, public policy, etc.), such methods must apply to all facilities of the type in question
    - A postage stamp methodology may be appropriate where all customers within a specific transmission planning region are found to benefit from the use or availability of a transmission facility or class or group of transmission facilities, especially where the distribution of benefits is likely to vary considerably over the long depreciation life of the facilities

- The Commission declined a request from the Illinois Commerce Commission to prohibit postage stamp cost allocation, finding that the stakeholders of a region could determine that postage stamp is appropriate for certain regional projects and may support such a methodology with a demonstration of the distribution of benefits
- PRINCIPLES:
  1. The cost of transmission facilities must be allocated to those within the planning region that benefit from the facilities in a manner that is at least roughly commensurate with benefits (including benefits such as maintaining reliability, reserve sharing, production cost savings/congestion relief, meeting public policy requirements)
    - Benefits must be “identifiable” and the costs must be allocated roughly commensurate with such benefits
  2. Entities that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any costs
    - This principle does not require a specific showing of benefits for every individual transmission facility in a group of facilities; however, the aggregate cost of the facilities must be roughly commensurate with aggregated benefits
  3. If a benefit-cost ratio threshold is used, it must be no higher than 1.25 unless the transmission provider(s) justify a higher ratio
    - Benefit-cost ratio thresholds are not required
  4. The regional cost allocation method(s) must allocate costs solely within the region unless another entity outside the region has voluntarily agreed to assume a portion of the costs
    - Transmission planning processes must identify the consequences for other transmission planning regions, such as upgrades that may be required
      - A region that has selected a transmission facility in its regional plan that may impact a neighboring region may voluntarily assume the costs of any upgrades that are needed in the neighboring region to address the impact
    - In the case of a transmission facility located entirely within one transmission planning region that is intended to export to another region, the public utility transmission providers in the exporting region may not have a regional cost allocation method that assigns some or all of the costs to beneficiaries in another region without reaching agreement with those beneficiaries
  5. The cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with

- adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility
- The Commission declined to rule on whether any current RTO/ISO cost allocation mechanism provides sufficient transparency to satisfy this principle
6. A transmission planning region may use different cost allocation for different types of facilities (i.e., reliability, congestion relief, public policy), but each method must be set out clearly and explained in detail in the compliance filing
- This rule permits but does not require the designation of different types of facilities
  - There can be only one cost allocation method for each type of facility
- INTERREGIONAL COST ALLOCATION
    - **Public utility transmission providers in each transmission planning region are required to develop, together with public utility transmission providers in a neighboring transmission planning region, a common method, or set of methods, for allocating the costs of new interregional transmission facilities that are jointly evaluated by the two or more planning regions in their interregional transmission coordination procedures**
      - Cost allocation for interregional facilities can differ from each region’s regional cost allocation method(s)
      - Transmission planning regions can have different interregional cost allocation method(s) with different neighboring regions
      - RTOs/ISO’s must set forth all interregional cost allocation method(s) in their OATTs; in non-RTO/ISO areas, each public utility transmission provider must include all applicable interregional cost allocation method(s) in its OATT
      - Order No. 1000 requires cost allocation methods for neighboring pairs of transmission planning regions and does not require (but does permit) multi-regional cost allocation procedures
      - Transmission projects must be selected in both transmission planning regions’ regional plans to be eligible for interregional cost allocation
      - Within an RTO, the RTO would develop the interregional cost allocation method or methods with its neighbors on behalf of its public utility transmission owning members
    - PRINCIPLES
      1. The cost of transmission facilities must be allocated to each transmission planning region in which the facility will be located in a manner that is at least roughly commensurate with benefits (including benefits such as maintaining reliability, reserve sharing, production cost savings/congestion relief, meeting public policy requirements)
        - Benefits must be “identifiable” and the costs must be allocated roughly commensurate with such benefits

2. A transmission planning region that receives no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any costs
    - This principle does not require a specific showing of benefits for every individual transmission facility in a group of facilities; however, the aggregate cost of the facilities must be roughly commensurate with aggregated benefits
  3. If a benefit-cost ratio threshold is used, it must be no higher than 1.25 unless the transmission provider(s) justify a higher ratio
    - Benefit-cost ratio thresholds are not required
  4. The interregional cost allocation method(s) must allocate costs solely within the neighboring regions where the facility is to be located unless another entity outside the neighboring regions has voluntarily agreed to assume a portion of the costs
    - Interregional transmission coordination processes must identify the consequences for third-party transmission planning regions, such as upgrades that may be required
      - The neighboring regions may voluntarily assume the costs of upgrades needed in a third-party region due to upgrades in the original neighboring regions
    - The Commission expressly found that the MISO-PJM cross-border allocation does not need to be modified because it was developed in response to the Commission's specific directives regarding the two RTOs' intertwined configuration
  5. The cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility
    - The Commission declined to rule on whether any current RTO/ISO cost allocation mechanism provides sufficient transparency to satisfy this principle
  6. The public utility transmission providers in neighboring transmission planning regions may use different cost allocation for different types of facilities (i.e., reliability, congestion relief, public policy), but each method must be set out clearly and explained in detail in the compliance filing
    - This rule permits but does not require the designation of different types of facilities
    - There can be only one cost allocation method for each type of facility
- Cost allocation reforms apply only to new transmission facilities that are selected in a regional plan for cost allocation purposes, and do not apply to existing facilities

- The six cost allocation principles also do not apply to projects for which regional or interregional cost allocation is not sought
- Participant funding continues to be permitted, but cannot be the regional or interregional cost allocation methodology
- The cost allocation method for allocating a region's share of an interregional transmission facility may differ from the regional cost allocation methods within that region
  - The Commission found that, in fact, it may not be appropriate to allocate the costs of a transmission planning region's share of an interregional facility on the same basis as a regional facility because benefits of the interregional facility may be more concentrated along the regional border than the benefits of a regional facility
- Cost allocation must be aligned with transmission planning and must seek to address potential opportunities for free ridership
- Findings and justification:
  - The Commission concluded that, without the cost allocation reforms, cost allocation methods currently in use by public utility transmission providers may fail to account for the benefits associated with new transmission facilities and thus, result in rates that are not just and reasonable or are unduly discriminatory or preferential
  - The Commission indicated that, within RTOs, allocation of transmission costs is often contentious and prone to litigation because of the difficulty of reaching consensus on what is a fair allocation of costs; outside RTOs, there are few rate structures in place that reflect an analysis of the beneficiaries of a transmission facility
  - The Commission indicated that, in the absence of clear cost allocation rules for regional transmission facilities, there is a greater potential that public utility transmission providers and nonincumbents may be unable to develop transmission facilities that are determined by the region to meet regional needs
  - The Commission declined to prejudge whether existing regional (i.e., RTO) or interregional (i.e., existing seams agreement) cost allocation methods are consistent with the Final Rule
- In the event that the public utility transmission providers in a region or pair of regions cannot agree on a method or set of methods, the Commission will develop the method(s) to be used

**In issuing Order No. 1000, the Commission declined to:**

- Require public utility transmission providers to include a funding mechanism to provide resources to stakeholder groups that lack resources to participate in regional planning processes
- Require that transmission planning regions establish third-party entities to oversee the regional planning process or select among competing proposed solutions
- Establish a cost allocation principle related to cost containment
- Adopt a rebuttable presumption that the costs of extra high voltage facilities (i.e., 345 kV and above) should be allocated widely
  - Regions may adopt such bright-line cost allocation by consensus, provided that they support this conclusion with evidence in their compliance filings

- Require reforms to generator interconnection processes and interconnection cost recovery
- Make new findings with respect to rate pancaking
- Revisit issues pending in other rulemaking proceedings such as transmission rate incentives or issues associated with variable resource integration
- Make findings with respect to or require joint ownership of transmission facilities
- Require regional or interregional cost allocation methods for non-transmission alternatives

#### **Dissent of Commissioner Moeller**

- Supports most of the rule but cites limitations to the rule, including that the rule does not address: (1) siting of transmission facilities on federal lands by other federal agencies; (2) state law issues that delay transmission development; and (3) the ability of incumbent transmission owners to refuse to upgrade their systems to thwart competitive options
- The Final Rule should have permitted owners of facilities the limited right to build facilities located solely in their service territories to maintain reliability regardless of whether the costs are allocated under the regional cost allocation method
  - This requirement would have eliminated the need for the blanket waiver from NERC standard violations that the majority adopted, which could put the Commission in a difficult position if there is a blackout or other reliability issue
  - As written, the Final Rule discourages incumbent utilities from proposing their local projects for regional cost allocation because they would not possess the right to build
- Rather than prohibit ROFR, the Final Rule should have expressly indicated that it is limited
  - Most projects in current regional plans are upgrades and/or facilities along existing rights of way, neither of which are subject to the ROFR elimination
    - Under the Final Rule, transmission providers with such projects can unduly delay their completion because the ROFR elimination does not apply, which frustrates the intent of the rule to ensure that projects get built
  - The record in this proceeding supports a time-limited ROFR like SPP's 90-day ROFR or some other limited period developed by stakeholders in a transmission planning region