UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Interconnection of Large Loads to the Interstate Transmission System	))	Docket No. RM26-4-000

Initial Comments of R Street Institute

I. Background and Summary

Pursuant to the Secretary of Energy's October 23, 2025 proposed Advanced Notice of Proposed Rulemaking ("proposed ANOPR") for final action by the Federal Energy Regulatory Commission ("FERC") by April 30, 2026, FERC's October 27, 2025 Notice Inviting Comments on the proposed ANOPR, and FERC's November 7, 2025 Notice of Extension of Time, the R Street Institute ("RSI") respectfully submits these initial comments on the proposed ANOPR's proposal to federalize load interconnections of customers of 20 MW or more when connecting to FERC-jurisdictional transmission.[1]

RSI's initial comments explain why FERC should prioritize addressing the resource adequacy and inefficient network expansion aspects of the proposed ANOPR in this docket, while limiting the degree to which FERC further exerts its jurisdiction. RSI does not question whether FERC has the authority to exert its jurisdiction over load interconnections linked directly to the transmission system, but it does question whether FERC should exert that jurisdiction as envisioned by the proposed ANOPR. Although RSI supports expansion of wholesale and retail electricity competition, this docket is poorly suited to advancing such expansions.

Direct interconnection of large loads under FERC-jurisdictional processes in non-market areas may seem like a step in the right direction on retail market access, but this is an instance where incremental change is more damaging than helpful; if you cannot receive power, connecting to the grid is not helpful. Instead, FERC should narrowly address large load interconnections in ways that hew to the Commission's well-supported implementation of generation interconnection planning and that limit regulatory creep. FERC should further leverage the Commission's competencies and expertise, and prioritize litigation risk and implementation concerns. Given the limited time DOE has provided FERC to take final action, FERC should address the issue in a way that enhances its current processes, rather than materially expanding them, which will help the Commission ensure a legally durable and sustainable agency rule.

[1] October 23, 2025 Letter from Department of Energy Secretary Chris Wright to FERC Commissioners Rosner, Swett, See and Chang ("DOE Letter") and accompanying proposed Advanced Notice of Proposed Rulemaking ("proposed ANOPR"). https://www.energy.gov/sites/default/files/2025-10/403%20Large%20Loads%20Letter.pdf.

II. General Comments

The Commission Must Consider Timing

While the proposed ANOPR and the Secretary's directive provided FERC with more time to issue a final action than DOE's 2017 Notice of Proposed Rulemaking ("NOPR"), six months is not a "reasonable time" and is insufficient for FERC to consider, and for parties to meaningfully participate in, a rulemaking that expands the Commission's exertion of jurisdiction.[2] The speed of this action makes it difficult for anyone, especially the Commission, to fully consider and adequately address the proposed ANOPR's premise with a durable solution through sustainable FERC orders. Any FERC decision that creates new rules, such as those envisioned by the proposed ANOPR, must first find that existing tariffs are not just and reasonable. Currently, the proposed ANOPR sets forth principles to inform the Commission's rulemaking and implies that today's processes for load interconnection do not adhere to those principles. However, it does little in the way of supporting the proposition that current tariffs are not just and reasonable.

The proposed ANOPR does not provide FERC sufficient evidence or support to issue a NOPR and final rule in the way envisioned. Given the scant support in the proposed ANOPR and the limited time and process to collect and consider perspectives, if the ANOPR is adopted as proposed, a final agency action will likely require that significant issues be addressed during utilities' compliance filings.

Even if performed in a legally durable manner, deferring major decisions and contentious considerations to compliance filings does little in the foreseeable future to alleviate the resource adequacy and load interconnection issues that the proposed ANOPR seeks to address. In fact, absent a clear, workable transition mechanism for interconnecting loads in a NOPR and a final rule, rushing this undertaking could result in the opposite effect than intended: delaying customers from connecting to the grid due to unprecedented uncertainty over the legal and regulatory regime. The Commission should make no substantive decision by April 30, 2026, and instead seek more information in a separate proceeding, rather than issue a rule that makes the problems in the bulk electric system worse.

DOE's Proposal Needs More Support

DOE has previously laid out good practices for load interconnection studies, especially with novel configurations, but there is no record in this docket about how utilities are conducting these studies today. While this docket lacks evidence of current utility processes, RSI's experience is that the details of utilities' processes and offerings are not transparent or obviously identifiable, and in some jurisdictions, draft pro forma electric service agreements are

[2] Section 403(b) of the Department of Energy Organization Act states that a rulemaking proposed by the Secretary "shall consider and take final action on any proposal made by the Secretary under such subsection in an expeditious manner in accordance with such reasonable time limits as may be set by the Secretary for the completion of action by the Commission on any such proposal."

not even accessible unless or until a customer contacts the utility for interconnection. As such, the degree to which utility companies are doing the "right thing" (or their planning and processes are consistent with the proposed ANOPR's principles) is unclear.

The opacity of planning and interconnection processes has led to some high-profile disputes, including those in Ohio and Oregon. In both of these instances, consumers are concerned with the utilities' inefficient processes and inconsistent treatment of customers.[3] It is incumbent on the Commission to gather evidence that demonstrates how current processes are able, or unable, to meet the principles laid out by DOE before issuing orders expanding its jurisdiction.[4] Gleaning such evidence will require state collaboration, and state public utilities commissions (PUCs) have already expressed major reservations about the ANOPR extending FERC jurisdiction in a manner that risks its durability and legality.[5]

Should the Commission feel compelled to try and exert jurisdiction over the interconnection of loads at the transmission level, it should seek to collect evidence of 1) what utilities are doing today in regards to interconnection of loads at that level, and 2) the degree to which PUCs understand and have dictated what utilities are doing. As noted earlier, the Commission must determine, as a threshold issue, whether current tariffs are just and reasonable. Without evidence of what utilities are doing today, or the degree to which PUCs have dictated those processes, such a threshold determination is difficult. While the Secretary's six-month deadline makes this fact-finding difficult in this docket, the Commission could initiate one or more joint boards under section 209 of the Federal Power Act. These joint boards could be broken out by market or planning region, and could resemble the joint boards of state and federal regulators created nearly 20 years ago on security-constrained economic dispatch, or SCED.[6] The primary purpose of these boards would be to gather evidence on how utilities connect customers today, and how those processes affect retail and wholesale rates, including the impact of these processes on the load forecasts used in transmission planning and resource adequacy constructs.

Generation Interconnection

While we are concerned about the timeline provided by the Secretary to consider the proposed ANOPR, RSI believes that relatively swift action by FERC is warranted. However, that action should be directed at accelerating the study, interconnection, and deliverability of generation. The ANOPR correctly identifies a number of instances where load and generation configurations, if studied correctly, can alleviate resource adequacy concerns and minimize

[3] See Nick Evans, "Ohio Manufacturers' Association challenges new utility billing for data centers," Nov. 13, 2025; Elaine Goodman, "Amazon Files Complaint Against PacifiCorp for Lack of Data Center Power," RTOInsider, Nov. 6, 2025. https://www.rtoinsider.com/119092-amazon-files-complaint-opuc-pacificorp.
[4] Fla. Mun. Power Agency v. FERC, 315 F.3d 362, 365 (D.C. Cir. 2003).
[5] "EL-1 Resolution Urging the Federal Energy Regulatory Commission to Preserve and Affirm State Retail Regulatory Jurisdiction in its Large Load Interconnection Proceeding," National Association of Regulatory Utility Commissioners, Nov. 11, 2025. https://pubs.naruc.org/pub/2C526A94-D533-BE0A-336A-178A366C7A91.
[6] Federal Energy Regulatory Commission, "Joint Boards." https://www.ferc.gov/joint-boards.

network upgrades, both of which materially affect customers other than the interconnecting large loads.

More can and should be done on the generation-only side of the equation, including a Commission determination of whether additional reforms are necessary in light of Order 2023 implementation. For instance, earlier this year, in a Commissioner-led technical conference, PJM CEO Manu Asthana expressed skepticism that his RTO could significantly reduce generation interconnection study times, noting the non-engineering focus on precisely identifying the cost-causation of projects that drive network upgrades.[7] RSI has previously conveyed its concern in this regard to the Commission, noting that "[t]he current system for generation interconnection is inefficient and misaligns cost allocation relative to the beneficiary pays principle."[8] The Commission should work to reduce non-technical barriers to planning and development, including a focus on forward-looking transmission development, rather than post-hoc network development accompanying generation interconnection requests. The Commission can do this as part of implementing Orders 2023 or 1920, or through a new proceeding altogether.

Most generator interconnection reforms beyond Order 2023 are achieved through bottom-up, incremental proposals via regional stakeholder processes. These have varied substantially in quality. There is extensive learning-by-doing occurring, and best practices are not always clear. All this indicates the high value of ongoing research, forums, reporting, and building FERC records to compare generator interconnection practices and a community for best practices. This can translate into various options for incremental improvements, such as voluntary regional improvements or complaints and investigations.

Concerns with Current Proposal

The proposed ANOPR is focused on the interconnection of large loads, but that is inconsistent with Secretary Wright's accompanying letter, in which he notes that "we must ensure all Americans and domestic industries have access to affordable, reliable, and secure electricity."[9] Very little of the proposed ANOPR touches on ensuring adequate generation and transmission to serve load. Rather, it primarily discusses generation in the context of certain load and generation configurations applicable to the proposed ANOPR. In this regard, the proposed ANOPR presents the Commission with two faulty threshold problems to address: 1)

[7] George Weykamp, "US grid operators stress reliability challenges amid generator retirements, demand growth," June 4, 2025. https://www.spglobal.com/commodity-insights/en/news-research/latest-news/natural-gas/060425-us-grid-operators-stress-reliability-challenges-amid-generator-retirements-demand-growth.

[8] Comments of R Street Institute, Federal Energy Regulatory Commission, RM21-17, Advanced Notice of Proposed Rulemaking, October 12, 2021. https://www.rstreet.org/outreach/r-street-comments-on-electric-regional-transmission-planning-and-cost-allocation-and-generator-interconnection-before-the-federal-energy-regulatory-commission.

[9] *See* DOE Letter. https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20251027-4001&optimized=false&sid=28d8feda-8831-4bd9-b853-4ca40a827480.

the arbitrary 20 MW threshold, and 2) that moving one process (the study and interconnection of load) from state jurisdiction to federal jurisdiction only gets you so far.

While loads above 20 MWs generally have the sophistication to engage at FERC in furtherance of advancing concerns with utilities' interconnection issues, this presumes that loads that connect at transmission that are smaller than 20 MWs do not have that same sophistication. Further, it implies that loads at or above 20 MWs that do not take power at the transmission level should be treated completely differently than those that do. There is no evidence to support either presumption, and the latter is only relevant because of the Commission's narrow jurisdiction over transmission facilities. Very sophisticated and well-resourced consumers could have peak demands in excess of 20 MW but they might receive power at primary or secondary distribution voltage, while those same, highly sophisticated loads could also have low peak demands but take service from transmission. The proposed ANOPR's entire basis for selecting the 20 MW threshold is that 20 MW is the threshold for the Commission's large generation interconnection process (LGIP) and agreement (LGIA). DOE did not provide support for why the MW threshold for generation should also be applied to load, and sought comments on alternative thresholds. As explained below in RSI's proposal, the MW threshold adds an unnecessary complication in working toward DOE's purported goal, and a MW threshold should not determine the Commission's conclusion in this matter if it accepts RSI's proposal.

Furthermore, comparison of large loads connecting at the transmission level to large generators connecting to transmission is incongruent. Relevant to RSI's proposal, below, generation seeks to connect to the transmission grid to participate in wholesale, not retail markets. Load, however, seeks to interconnect to the transmission system to take end-use, state jurisdictional, service. Getting FERC involved in the interconnection of customers that only seek to take a state-jurisdictional end-use service, simply because they are connecting to the bulk electric system, is nonsensical in the context of DOE's proposed ANOPR. Many of the principles in the proposed ANOPR do not apply to connecting only load, rather, they are largely related to connecting load that intends to provide or take services beyond end-use electricity, and that expresses an interest in timely and cost-effective integration of those novel configurations. Connecting only large load customers to transmission is not novel.

Relevant to the second threshold issue FERC has to grapple with in considering in implementation is that the "success" of the proposed ANOPR depends on the states. For instance, in vertically-integrated states, the details of how customers participate in state-jurisdictional flexibility programs are left up to state PUCs and utilities. If no flexibility programs exist, it is hard to "commit" to them and have them reflected in an interconnection planning process. The same goes for the generation portion of hybrid facilities. Siting and building generation siting is state-, not FERC-jurisdictional. Even if a load wants to interconnect under a hybrid configuration (as described in the proposed ANOPR), getting the generation sited and built is under the purview of the relevant state.[10]

[10] Testimony on behalf of the R Street Institute by Travis Kavulla, Director, Energy & Environmental Policy, before the United States Senate Committee on Energy & Natural Resources hearing entitled

It is vital that FERC and state PUCs work in conjunction to meet this moment of unprecedented uncertainty, whereas implementing the ANOPR would put FERC and states at odds. As RSI has previously conveyed to the Commission, "[c]ooperative federalism harmonizes state and federal policies and avoids working at cross-purposes."[11] Merely moving the oversight of study processes from PUCs to FERC does not address the number of items that have to align to establish the resource adequacy and network upgrade mitigation envisioned. As most of those items are state-jurisdictional, and state regulators are not convinced of the necessity of the proposed ANOPR, moving large load transmission interconnections under FERC's oversight may exacerbate, rather than address, the many issues facing the bulk electric system today.[12]

If the Commission moves forward with a version of the ANOPR, RSI suggests emphasizing those elements most compatible with existing jurisdictional considerations and reforms that will age well. For example, it may be worth borrowing concepts for large loads (e.g., threshold determinations) that fall under current federal oversight, such as NERC-registered entities. In particular, "NERC will register those distribution providers or Load-Serving Entities that have a peak load of 25 MW or greater and are directly connected to the bulk electric system or are designated as a responsible entity as part of a required underfrequency load shedding program or a required undervoltage load shedding program."[13] A distinction between total peak load and net peak load may have a great bearing on the threshold consideration, which may put more weight on validating one of the ANOPR's principles to expedite interconnection for large flexible loads. RSI strongly suggests finding alternative mechanisms to address the more contentious elements of the ANOPR.

RSI Proposal

Rather than focusing its efforts on load interconnection and the associated expansion of FERC jurisdiction, the Commission should consider making only certain configurations of load interconnections at the transmission level FERC-jurisdictional. In particular, FERC should conduct a rulemaking permitting Commission-jurisdictional interconnection processes for load, but only where the interconnection is necessary to offer or receive an otherwise wholesale

"Outlook for Energy and Minerals Markets in the 116th Congress," Feb. 5, 2019, stating, "the Federal Power Act and subsequent energy laws largely reserve the authority over electricity generation to the province of state policymaking."

[11] Devin Hartman, "An Open Letter on FERC's New Policy and Procedural Agenda," R Street Institute Analysis, Mar. 28, 2018. https://www.rstreet.org/commentary/an-open-letter-on-fercs-new-policy-and-procedural-agenda/.

[12] National Association of Regulatory Utility Commissioners Resolution Urging the Federal Energy Regulatory Commission to Preserve and Affirm State Retail Regulatory Jurisdiction in its Large Load Interconnection Proceeding, Adopted Nov. 11, 2025. https://pubs.naruc.org/pub/2C526A94-D533-BE0A-336A-178A366C7A91.

[13] "Small Entity Compliance Guide Mandatory Reliability Standards," Federal Energy Regulatory Commission, p. 3. https://www.ferc.gov/sites/default/files/2020-04/sm-entity-compliance.pdf#:~:text=Generally%2C%20NERC%20will%20register%20those%20distribution%20providers,or%20a%20required%20undervoltage%20load%20shedding%20program.

market service. The configurations that include load, and that would be able to connect to FERC-jurisdictional transmission through a single federally-regulated agreement could include: hybrid configurations, as described in the proposed ANOPR; load with behind-the-meter (BTM) generation, where the customer plans to sell any output of that generation into FERC-jurisdictional markets; load that plans to provide end-use demand flexibility and plans to directly or indirectly sell that flexibility into wholesale markets (i.e., demand response or price-responsive demand); or, in instances where customers seek to receive flexible wholesale transmission service, where that type of service may be provided and end-use customers are permitted by state law to take that service.

Said differently, FERC should expand the application of interconnections, such as the ones used for large generators, only to include interconnections that also cover customers seeking to provide or receive FERC-jurisdictional wholesale service while also seeking to connect for purposes of receiving end-use service for their load. This proposed rulemaking could be supported by:

1) Evidence of deficiencies in utilities' current processes with respect to the ANOPR's principles. This assumes the Commission is able to create a record of those deficiencies and the opportunities that accepting the principles would provide; and
2) A finding that current processes limit the ability of customers to participate in wholesale markets, which squarely fall under FERC jurisdiction.

The premise of the final rule would be that current state-jurisdictional processes inhibit the open and non-discriminatory access of customers to the transmission system to participate in wholesale markets. Limiting the applicability of a rulemaking to those processes that are already FERC-jurisdictional (i.e. expanding the LGIA concept to others seeking to connect to the transmission grid to participate in wholesale markets) reduces the novelty of an ultimate rule, maintains the current balance between state and federal oversight, reduces litigation risk, and ensures that resource adequacy concerns with the rule (that load will take power before generation can catch up) are mitigated in that only hybrid or flexible customers are able to "accelerate" their interconnection through a federalized process.

FERC should continue to allow states to oversee load interconnections that do not seek to participate in wholesale markets unless or until Congress acts or evidence is found that current practices result in unjust and unreasonable wholesale rates. Under such a regime, utilities will have standardized federal and state processes on file with their respective regulators. Should a customer seek a load interconnection that would fall under the FERC-approved tariff and process and want to otherwise take service under the retail rules, they should be permitted to. However, utilities should not be able to discriminate by providing better offerings to prospective customers under retail proceedings as a way to keep them from seeking interconnection at the wholesale level.

Given the Commission's time and resource constraints, trying to effectuate DOE's intended result in the way RSI proposes has an additional benefit relative to creating a novel

pro-forma large load transmission interconnection process and agreement. Notably, the Commission has a significant amount of evidence it has gathered on novel interconnection configurations that include both generation and load, without a Commission determination on the subject to-date. Specifically, the Commission should use the expertise and evidence it has accumulated in Docket Nos. EL25-49, AD24-11 and EL25-20 to effectuate RSI's proposal. FERC also has decades of experience and expertise overseeing generation interconnection planning and agreements. Instead of starting anew and expanding FERC's jurisdiction to load interconnection, the Commission should instead utilize the progress it has already made in addressing generation interconnection and the co-location of load and FERC-jurisdictional offerings, such as generation.

Furthermore, instead of distinguishing the application of these new agreements and processes based on MW thresholds as provided in the proposed ANOPR, delineating the applicability of a federalized agreement and process based on the interaction with wholesale markets keeps the Commission from having to make arbitrary determinations. As such, RSI's proposal would be available to any size load, as long as they meet the other criteria for its applicability (i.e., load that is seeking to connect to FERC-jurisdictional facilities to participate, directly or indirectly, in wholesale markets); therefore, no MW threshold is necessary.

Hewing an amendment of LGIA/LGIPs to merely include other FERC-jurisdictional services instead of expanding FERC's jurisdiction into a new space will certainly limit RSI's proposal to fewer load interconnections than the proposed ANOPR would. While not all load interconnections to transmission will be able to use the FERC-jurisdictional process RSI lays out, having a limited number of loads that are able to use it should mitigate queue backlogs.[14] This should help ensure these novel configurations get online faster than they would under state-jurisdictional processes.

Finally, accelerating the interconnection of these load-and-FERC-jurisdictional-service configurations is warranted, given their outsized contribution to resource adequacy and limiting the impact on the broader transmission network. For instance, a 500 MW load interconnecting at the same point of interconnection as a 600 MW generator affects system resource adequacy differently than a 500 MW load interconnecting by itself. The same applies to load with BTM generation that plans to occasionally either curtail power demands from the grid and serve its loads with the BTM generation, or sell net excess BTM generation production onto the grid. If these occasional, contractual wholesale market interactions are appropriately planned for at interconnection, those operational expectations can help reduce the need for more capacity or network transmission to serve that customer. Load-only customers don't provide the same resource adequacy contributions or network transmission upgrade mitigation. Given DOE's interest in "ensur[ing] all Americans and domestic industries have access to affordable, reliable, and secure electricity," these types of interconnection configurations should be accelerated relative to demand-only interconnections.[15]

[14] See FERC Order 2023, Improvements to Generator Interconnection Procedures and Agreements, July 28, 2023, 184 FERC ¶ 61,054.
[15] DOE Letter.

III. Conclusion

Based on the foregoing, RSI requests that the Commission not adopt the proposed ANOPR as conveyed by the DOE, but instead consider whether amendments to the current LGIA and LGIP are necessary to ensure just and reasonable rates.

Respectfully submitted,

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Document Content(s)