



441 G St. N.W.
Washington, DC 20548

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June 26, 2024

The Honorable Joe Manchin
Chairman
The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy, Federal Energy Regulatory Commission: Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Energy, Federal Energy Regulatory Commission (FERC) entitled “Building for the Future Through Electric Regional Transmission Planning and Cost Allocation” (Docket No. RM21-17-000). We received the rule on May 14, 2024. It was published in the *Federal Register* as a final order on June 11, 2024. 89 Fed. Reg. 49280. The effective date of the rule is August 12, 2024.

According to FERC, this final rule revises the *pro forma* Open Access Transmission Tariff to remedy deficiencies in FERC’s existing regional and local transmission planning and cost allocation requirements. FERC stated that it will require transmission providers to conduct Long-Term Regional Transmission Planning that will ensure the identification, evaluation, and selection, as well as the allocation of the costs, of more efficient or cost-effective regional transmission solutions to address Long-Term Transmission Needs. FERC also directed other reforms to improve coordination of regional transmission planning and generator interconnection processes, require consideration of certain alternative transmission technologies in regional transmission planning processes, and improve transparency of local transmission planning processes and coordination between regional and local transmission planning processes.

Enclosed is our assessment of FERC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large, stylized initial 'S'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Matthew Christiansen
General Counsel
Federal Energy Regulatory Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF ENERGY,
FEDERAL ENERGY REGULATORY COMMISSION
ENTITLED
“BUILDING FOR THE FUTURE THROUGH ELECTRIC REGIONAL
TRANSMISSION PLANNING AND COST ALLOCATION”
(DOCKET NO. RM21-17-000)

(i) Cost-benefit analysis

In its submission to us, the Department of Energy, Federal Energy Regulatory Commission (FERC) indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FERC certified that the reforms in this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FERC is not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

As an independent regulatory agency, FERC is not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On April 21, 2022, FERC issued a proposed rule. 87 Fed. Reg. 26504 (May 4, 2022). FERC received comments from 196 parties, including federal agencies, state regulatory commissions, state policy makers and other state representatives, ratepayer advocates, municipalities, and transmission providers among others. FERC addressed comments in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

In response to comments received on its proposed rule, FERC revised its collection of information estimates for FERC-917, Electric Transmission Facilities (OMB Control No. 1902-0233). FERC estimated the total burden associated with the revised information collection requirement to be 58,660 hours and \$5,460,939 on a “one time” basis and 250,180 hours and \$23,290,450 per year on an “ongoing” basis.

Statutory authorization for the rule

FERC promulgated this final rule pursuant to section 206 of the Federal Power Act, 16 U.S.C. § 824e.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FERC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FERC is not subject to the Order.