



**The State of Play:  
Navigating State Roles in Transmission  
Cost Allocation  
Under FERC Order 1920**



# NARUC

National Association of  
Regulatory Utility Commissioners

MACRUC – Order No. 1920

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What Action is Regulated?	FERC Exclusive	State Exclusive	Other
Electricity Sales at Retail		FPA 201	
Electricity Sales at Wholesale	FPA 201, 205		
Transmit Retail Electricity, bundled		FPA 201	
Transmit Retail Electricity, unbundled	FPA 201, Order 888, NY v. FERC		“transmission of electric energy in interstate comm.”
“Local” Distribution of Electricity		FPA 201	
Siting transmission facilities			FPA 216
Siting generation facilities		FPA 201	



# Integrated Resource Plans



Utility IRPs seek an optimal combination of demand- and supply-side options—including *transmission*—to satisfy future energy service demands in an economic and reliable manner

Primarily in vertically integrated states, where utilities are responsible for meeting customers' energy and capacity needs

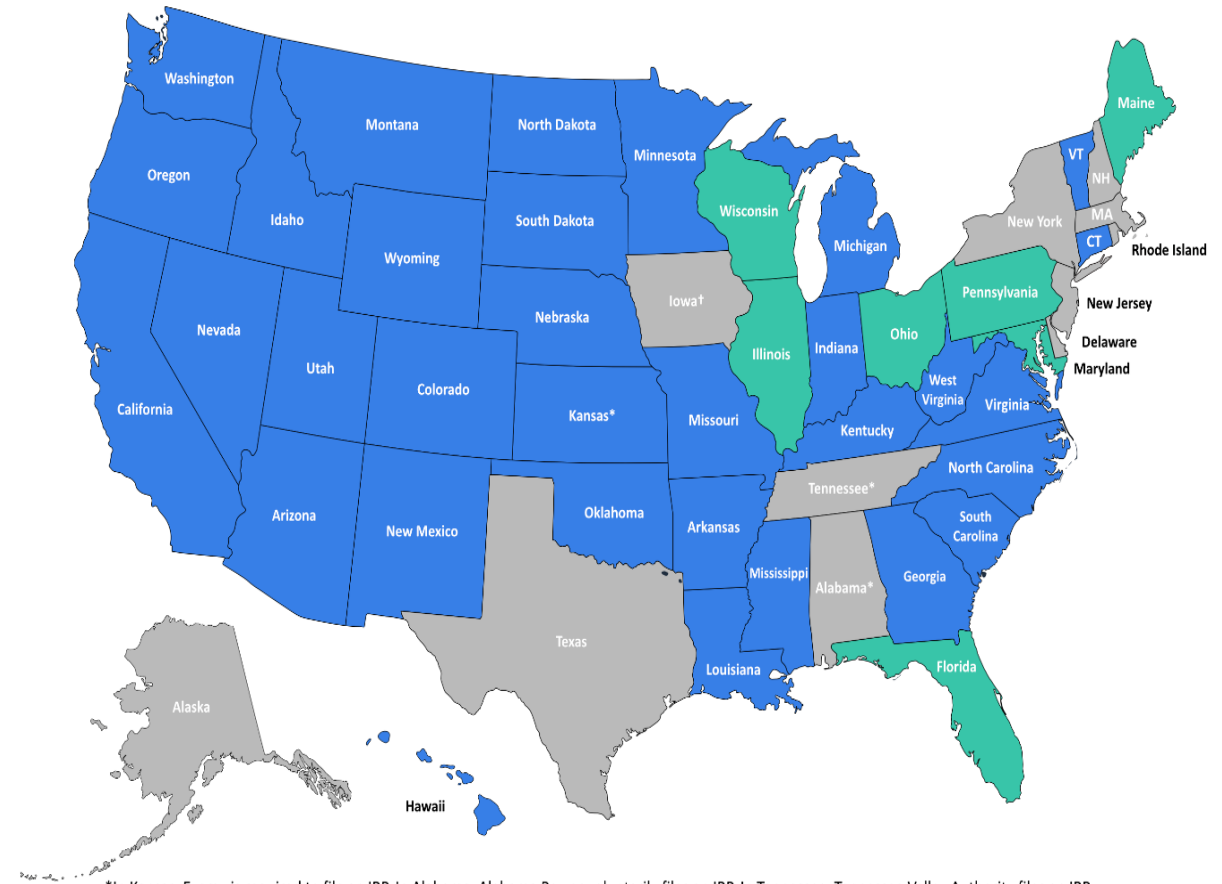
Some states with electric industry restructuring require some type of long-term BPS plan

Provides for stakeholder engagement  
Properly executed process results in transparent report and clear short-term action plan

Regulatory approval varies

Litigated docket that may result in plan approval

Informal process—formal acknowledgment of action plan or only accepting that plan met filing requirements



\*In Kansas, Evers is required to file an IRP. In Alabama, Alabama Power voluntarily files an IRP. In Tennessee, Tennessee Valley Authority files an IRP.

†In Iowa, no IRP is required, but the major public utilities have agreed to one-off planning exercises as a condition of several settlement agreements.

State has an IRP and filing requirement

State does not have a filing requirement for long-term plans

State has a filing requirement for long-term plans

# FERC History on Transmission Planning



1996	Order No. 888	Established Non-Discriminatory Open Access	Required all transmission owners/operators to file tariffs with FERC, called an <b>Open Access Transmission Tariff</b> (OATT), to ensure that transmission providers plan and upgrade their systems in order to provide open access transmission service to their transmission customers that is comparable to the service they provide themselves or in other words universal access to the transmission grid for all qualified users on a <b>non-discriminatory, open access basis</b> .
2007	Order No. 890	Transparency and Coordination	Required transmission owners/operators to provide a <b>more open, transparent inclusive</b> transmission planning process not covered by the OATT regime and to develop their own cost allocation method for new projects considering <b>cost causation and beneficiaries</b> .
2011	Order No. 1000	Plan Regionally with Cost Allocation	Directed transmission owners/operators to participate in a regional transmission planning process and <b>develop regional transmission</b> plans and ensure that the costs must be roughly commiserate with the benefits. Required <b>ex ante cost allocation methodology</b> .
2024	Order No. 1920	Plan For Future Needs	Requires transmission providers to conduct <b>long-term regional transmission planning</b> at least every five years, which includes the consideration of forward-looking factors over a 20-year transmission planning horizon.

# Role for States in Order No. 1920



**What is a Relevant State Entity?** Any state entity responsible for electric utility regulation or siting electric transmission facilities within the state or portion of a state located in the transmission planning region, including any state entity as may be designated for that purpose by the law of such state. e.g. State Commissions, State Siting Boards, Transmission Authorities

**FERC states that Order No. 1920 established a role for Relevant State Entities to inform the planning, evaluation and selection, and cost allocation methods adopted by Transmission Providers.**

**Planning Stage:** TPs must provide Relevant State Entities a meaningful opportunity to engage in planning scenarios and inputs.

**Evaluation & Selection Stage:** TPs must make a good faith effort to consult with and seek support from Relevant State Entities for evaluation and selection of projects.

**Cost Allocation Stage:** TPs must provide a 6-month period for states to agree on cost allocation before compliance, and **must file** any state-agreed upon *ex ante* method(s) and State Agreement Process.

# Cost Allocation



Required: *Ex-ante* cost allocation method(s)

Transmission providers must file *ex ante* cost allocation method or methods Can be multiple *ex ante* methods.

Allowed to have different *ex ante* methods for based on facility size or sub-regions.

Meet cost causation, costs must be allocated roughly commensurate with estimated benefits.

State entities can develop preferred *ex ante* cost allocation method or methods.

Transmission providers must file any method that states agree upon and FERC makes the decision between the two provided (1920-A).

State Agreement Process (SAP)

Transmission providers may also file a State Agreement Process but it must be agreed to by the states to be considered compliant.

State Agreement Process can be for initial cost allocation as well as it gives states a “second bite” to re-do cost allocation after a facility is selected, effectively custom cost allocation.

States have 6 months after a project is selected to agree on alternative/custom cost allocation method.

If future negotiations fail, the applicable *ex ante* method serves as a backstop.



# Order No. 1920-B Additional Points

The states in a region can ask the TP to run *additional* long-term planning scenarios beyond the three required in Order Nos. 1920-A and 1920-B.

Importantly, the states can ask the TP to run a baseline scenario that excludes project costs driven by state laws and policies. This will enable states to see the cost difference between that baseline scenario and the larger costs of the scenarios that include projects driven by an individual state's policies.

Under this option, TPs *must* identify the state policy causers of the added costs above the baseline scenario cost and then *must* allocate those added costs solely to the states that are the causers of the policy-driven costs. Benefits are re-defined in Order Nos. 1920-A and 1920-B to include public policy benefits, to match costs with the policy benefits of policy-caused projects and allocate those costs directly to the state drivers of policy-driven projects.



# Order No. 1920-B Additional Points

If a multi-state TP already has in place a state agreement approach for cost allocation of regional transmission projects, such as PJM's State Agreement Approach, that cost allocation formula does *not* require re-approval from FERC. It is explicitly allowed to remain in effect and can be used as a voluntary future option, on a case-by-case basis. For example, it can be used for state-driven public policy projects, such as offshore wind projects driven by state policies, in which all the costs are allocated to the state or states sponsoring the public policy projects.

In the future, if the TP wants to change the cost allocation formula, the TP *must* consult with the states in the region in advance of any such proposed change and its subsequent Federal Power Act Section 205 filing.

# Compliance deadlines (except interregional planning)



Transmission Planning Region	First compliance filing deadline
CAISO	<a href="#">12/12/2025</a>
FRCC	<a href="#">6/12/2026</a>
ISO-NE	<a href="#">6/14/2027</a>
MISO	<a href="#">6/12/2026</a>
NorthernGrid	<a href="#">12/12/2025</a>
NYISO	<a href="#">4/30/2026</a>
PJM	<a href="#">12/12/2025</a>
SCRTP	<a href="#">12/12/26</a>
SERTP	<a href="#">12/12/26</a>
SPP	<a href="#">6/12/2026</a>
WestConnect	<a href="#">12/12/2025</a>

# State Views on Order No. 1920 – Request for Rehearing



**19 states** joined together and filed a Request for Rehearing at FERC contending:

- The Rule **intrudes upon the primary jurisdiction** of the states over the selection and approval of generation resources.
- The Rule **violates the major questions doctrine** that reserves major changes in public policy to Congressional action and does not allow administrative agencies, like FERC, to make by a rulemaking a major change as to the generation types that should be favored over others in transmission decision making.
- The Rule exceeds the Commission’s authority under the FPA. **FERC has not identified sufficient evidence to demonstrate** that the current long term and other transmission planning processes for all RTOs/ISOs and other transmission providers are **unjust and unreasonable**.
- The Rule erroneously and unlawfully **mandates transmission planning criteria** that marginalize the input from Relevant Electric Retail Regulatory Authority (“RERRA” or “RERRAs”) in transmission planning, instead favoring selected generation.
- The Rule will result in **unjust and unreasonable rates by adopting seven required factors** and seven benefit metrics to evaluate the proposed long-term transmission facilities.
- The Rule erroneously and **unlawfully adopts a cost allocation process** that is unjust, unreasonable, and arbitrary and capricious.



# Order No. 1920 Appeal – States View

On Appeal to the 4<sup>th</sup> Circuit the 8 states or PUCs (TX, GA, AZ, KY, MS, UT, OH, LA) argued:

1. Order 1920 exceeds FERC's statutory authority and intrudes into States' authority over generation under the FPA.
2. The major questions doctrine, non-delegation doctrine, and the equal sovereignty doctrine bar Order 1920.
3. Order 1920 fails under both prongs of the FPA Section 206.
4. Order 1920 violates the APAs notice and comment requirement.

# Order No. 1920 Appeal – States View



Michigan PSC and Pennsylvania PUC Argument:

1. The state role in transmission planning and cost allocation under Order No. 1920 is essential to timely, efficient development and for just and reasonable rates.
2. The Inclusion Requirement does not unlawfully encumber public utility FPA Section 205 filing rights.
3. FERC possesses statutory authority to adopt the Consultation Requirement.
4. The Inclusion and Consultation requirements do not violate the first amendment rights of transmission owners.



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