# Biden administration and FERC spur transmission development to support clean energy transition

*By Colette D. Honorable and Debra A. Palmer*

## *Takeaways*

- Biden administration and FERC strive to upgrade U.S. electric transmission grid
- DOE and DOT finance and streamline construction of transmission lines
- FERC proposals aim to speed up the process of generator interconnection to the transmission grid

In keeping with the Biden administration's efforts to modernize the U.S. transmission grid and to support efforts to fight climate change, in August 2021, the Department of Energy (DOE) announced efforts to support transmission development in the West and on federally owned land in native communities.

To facilitate the construction of high-voltage transmission lines, DOE is offering two financing mechanisms:

- A $3.25 billion fund through the Western Area Power Administration Transmission Infrastructure Program to support project development and provide access to low-cost capital for transmission projects
- $5 billion in loan guarantees through DOE's Loan Programs Office to support innovative transmission projects along with transmission projects owned by federally recognized tribal nations or Alaska Native Corporations

The second offer focuses on high-voltage direct current systems, transmission lines to connect offshore wind, and facilities sited along rail and highway routes.

At the same time, the Department of Transportation (DOT) announced that it would develop guidance to facilitate the use of public highways and public rights-of-way that will assist in the development of transmission infrastructure and renewable energy projects and will also aid in the deployment of broadband and electric vehicle charging stations. This opportunity would ultimately spur interstate transmission project siting and permitting, which has been challenging at times. In April 2021, DOT issued guidance to provide clarity to state transportation departments in furtherance of supporting infrastructure development to spur clean energy development, among other national policy goals.

## Interconnection reform

On June 17, 2022, the Federal Energy Regulatory Commission (FERC) issued a proposed rule on interconnection reform in Docket No. RM22-14 that follows up on a July 2021 advance notice of proposed rulemaking (ANOPR). This is the second proposed rule to result from the ANOPR, as FERC issued another proposed rule on transmission planning and cost allocation earlier this year in Docket No RM21-17. FERC approved the interconnection proposed rule in a unanimous vote.

By December 2021, there were more than 1,400 gigawatts of electric generation and storage pending in interconnection queues nationwide. On average, it takes more than three years for a project to become operational in most regions. To help address this backlog, FERC has proposed a series of reforms under Federal Power Act section 206, including the following.

**Implementing a "first-ready, first-served" cluster study process**. Current interconnection procedures employ a first-come, first-served serial study process in which a project is studied individually based on the order in which it submits a completed interconnection request. Under the proposed reforms, a transmission provider would enact a cluster study approach whereby the transmission providers would conduct larger interconnection studies covering multiple projects. Furthermore, the notice of proposed rulemaking would require interconnection customers to provide additional financial commitments and readiness requirements (such as increased study deposit amounts, site control demonstrations, and required commercial readiness milestones) to enter the interconnection queues. The proposed rule also suggests the imposition of withdrawal penalties to exit the interconnection queue process.

**Expediting interconnection queue processing**. Currently, interconnection procedures only require transmission providers to use reasonable efforts to meet the interconnection study time frames. Under the proposed reforms, the transmission providers would be subject to firm deadlines for the completion interconnection studies, and could face penalties for missing the deadlines (except in cases of force majeure). FERC also proposes establishing a standardized and transparent affected system agreement and specific modeling standards.

**Interconnection sharing and colocation**. FERC proposes to use standardized processes to allow multiple resources to share one interconnection request, and to allow colocation on a shared site behind one interconnection point. In addition, an interconnection customer would, in certain circumstances, be allowed to add a project to an existing interconnection request without losing its interconnection queue position. Currently, some transmission providers allow co-tenancy arrangements with a shared interconnection agreement, and some transmission providers do not.

The proposed reforms would also require a transmission provider to evaluate alternative solutions upon the request of an interconnection customer (to avoid network upgrades where possible), and also suggest updated modeling and performance requirements for nonsynchronous generation projects (for example, wind and solar). In particular, the proposed rule contemplates that these projects continue to provide power and voltage support during grid disturbances.

Comments on the June 17 proposed rule will be due 100 days after the proposed rule is published in the Federal Register, and reply comments will be due 130 days after its publication in the Federal Register.

## Joint Federal–State Task Force on Electric Transmission

A number of FERC's interconnection queue reforms were highlighted during joint meetings of FERC and the National Association of Regulatory Utility Commissioners (NARUC). This unprecedented effort was undertaken to ensure cooperation between federal and state regulators, via a partnership between FERC and NARUC on electric transmission-related issues. The Task Force has focused on topics related to transmission planning and cost allocation, including transmission to facilitate generator interconnection, as well as high-voltage direct current transmission line development.

The Task Force was established in June 2021 in FERC Docket No. AD21-15-000. It is composed of all FERC commissioners and 10 state commissioner representatives, nominated by NARUC and affirmed by FERC. The Task Force has convened on three occasions in 2022, with all meetings open to the public and treated as formal proceedings

## Authors

### Colette D. Honorable

Colette leads the firm's Energy Regulatory group and is a member of the firm's executive committee. She is also a member of the firm's ESG group and is resident in the Washington, D.C., office. Colette is a highly regarded thought leader and strategist in domestic and international energy sectors. Colette recently served as Commissioner at the Federal Energy Regulatory Commission (FERC). She was nominated by President Barack Obama in August 2014, and unanimously confirmed by the U.S. Senate, serving from January 2015 until her term expired in June 2017. At the firm, Colette is a trusted advisor and counselor to several Fortune 500 energy companies, investor-owned utilities, renewable energy and technology companies. In this capacity, she provides strategic advice and counsel in a number of areas, including ratemaking matters, clean energy integration, performance-based ratemaking, achieving ESG goals and environmental justice issues. In her work, Colette supports clients working to mitigate the impacts of climate change, and also advises clients on the development and execution of inclusion strategies.

### Debra A. Palmer

Debra is based in the Washington, D.C., office. Her practice focuses on energy regulatory matters, with an emphasis on matters involving the Federal Energy Regulatory Commission (FERC), state public utility commissions, and the federal courts. She has more 30 years of experience with federal regulatory issues facing the energy industry, and has assisted her clients in pursuing their goals before FERC, state regulatory agencies, and the federal appellate courts. Debra advises clients with varied interests in the energy & natural resources sector, including natural gas companies, local distribution companies, oil and gas pipeline companies, and electric utilities. Her ability to understand regulators' goals and present her clients' interests accordingly has helped her become a leading advocate for energy firms across the United States. Deb understands the interrelationship between operational, business, and regulatory concerns faced by the energy industry. She has cultivated a deep knowledge in these areas, earning a reputation as a trusted advisor in the planning, operating, financial, regulatory and reliability issues facing the rapidly changing natural gas and electric industries.