

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Interconnection of Large Loads to the)
Interstate Transmission System) Docket No. RM26-4
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Comment of the Harvard Electricity Law Initiative¹

On March 30, WIRES filed supplemental comments, including a report by Concentric Energy Advisors modeling transmission payments by a large-load customer. The report’s analysis depends on an assumption that Commission policy prohibits a utility from “simultaneously charging an interconnection customer both a rolled-in rate and an incremental rate (otherwise known as the prohibition against ‘and’ pricing).”²

We make three points in response:

- 1) WIRES’ analysis shows that ratepayers face increased costs and risks under either rolled-in pricing or direct assignment of network upgrade costs;
- 2) The prohibition against ‘and’ pricing aims at protecting wholesale market competition and should not prevent large-load customers from paying their full costs of service; and
- 3) To protect ratepayers, the Commission should clarify its pricing policy. We summarize four additional approaches to large-load transmission pricing and show how each fits with existing Commission policies.
 - 1) Require large-load customers to pay for network upgrades and credit those payments against payment of the standard transmission rate;
 - 2) Award “interconnection rights” to large-load customers in exchange for payment of network-upgrade costs and charge those customers the standard transmission rate for their use of the network;

¹ The Harvard Electricity Law Initiative is an independent organization based at Harvard Law School’s Environmental & Energy Law Program. These comments do not represent the views of Harvard University or Harvard Law School.

² Supplemental Comments of WIRES, Docket No. RM26-4, at 4 (Mar. 30, 2026).

- 3) Explore “disaggregated pricing” that would charge the standard rate for existing capacity available for the large-load customer and the incremental rate for additional capacity needed to deliver power to the customer’s remaining demand that cannot be met without upgrades; and
- 4) Clarify that the prohibition against ‘and’ pricing was never intended to apply to large-load customers and find rates unjust and unreasonable if they charge less than the cost of network upgrades and the standard transmission rate.

I. WIRES’ Analysis Shows That Ratepayers Face Increased Costs and Risks under Either Rolled-In Pricing or Direct Assignment of Network Upgrade Costs

The WIRES-filed report calculates transmission payments by a hypothetical 200-megawatt customer under two cost allocation approaches. Under the first approach, the large-load customer pays a standard transmission rate, like all other transmission customers, with the costs of network upgrades needed to serve the large-load customer rolled into the utility’s rate base and recovered from all ratepayers. Under the second approach, network upgrade costs are assigned directly to the large-load customer, which pays only those incremental expansion costs and is excused from paying the standard transmission rate, also called the NITS rate.³

The report finds that, given specified network upgrade costs,⁴ cumulative payments under direct assignment exceed cumulative payments under the NITS rate for approximately the first fifteen years.⁵ During that period, a large-load customer paying only the NITS rate would contribute less than the cost of the network upgrades built to serve it, a shortfall borne by other ratepayers. Because the NITS rate does not recover from the large-load customer the costs its interconnection directly imposes on other ratepayers, ratepayers initially subsidize

³ The report models two options: upfront payment or a cost-of-service recovery of network upgrade costs over several years.

⁴ *Id.* at 15, n.12 (explaining the \$1.16M per MW estimate for network upgrade costs); *id.* at 10 (analyzing when network upgrade costs are reduced by 50 percent).

⁵ See Figure 1 at 2, which is reproduced on the next page.

the large-load customer. The amount and duration of the subsidy depend on the cost of the network upgrades and the rate design.

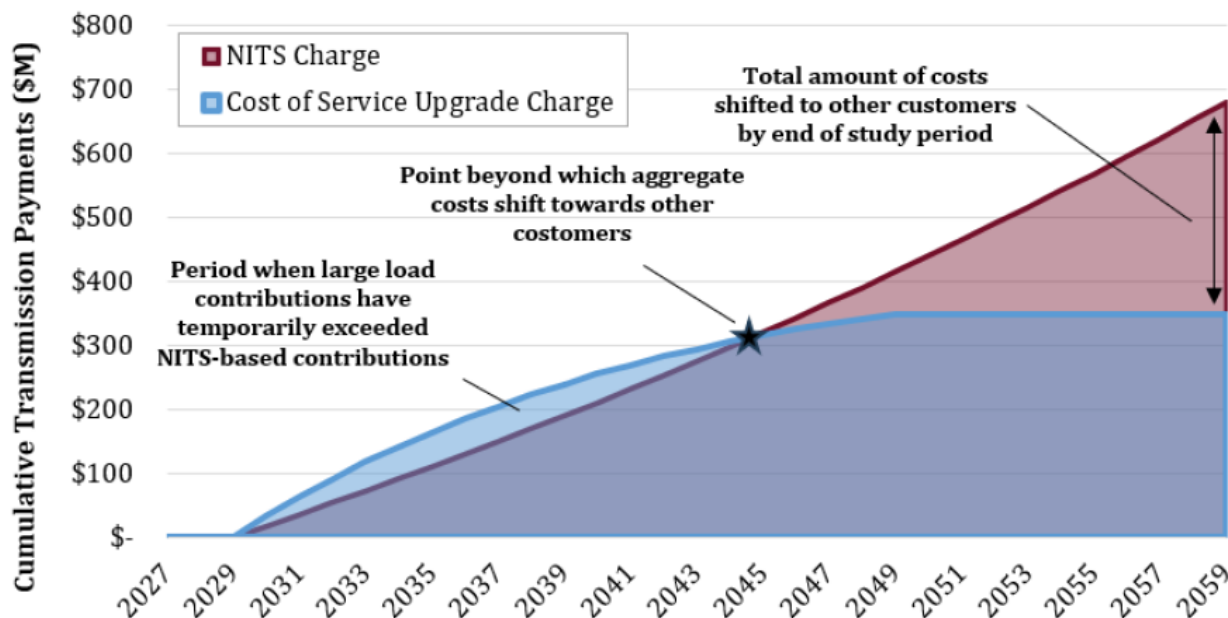


Figure 1 from the WIRES-filed report, which illustrates the short-term costs (to the left of the star) and long-term risks (to the right of the star) of the pricing approaches investigated in the report.

The study focuses on the period after the crossover point (the star on Figure 1), when cumulative payments under the NITS rate eventually surpass cumulative direct assignment payments. It labels this divergence a “cost shift” from the large-load customer to other ratepayers. But the study does not characterize the prior fifteen-year period as a cost shift in the opposite direction.

The study’s framing depends on a 30-year study period that may far exceed a large-load customer’s operational life.⁶ State-jurisdictional large-load tariffs and contracts between utilities and data centers include far shorter terms.⁷ If the large-load customer paying the NITS rate departs the system before the crossover point,

⁶ See, e.g., Table 1 at 2 (showing “cost shifts” over a 30-year period).

⁷ See Latitude Intelligence, [The Terms of Power: Inside the New Utility Rates for Data Centers](#) (Mar. 2026) (surveying state-jurisdictional contracts and tariffs between utilities and data centers and finding terms of 8 years (Ohio), 10 years (Oregon), 12 years (Missouri, Kansas), 15 years (Michigan, Pennsylvania), 19 years (Michigan), and 20 years (Florida)). Also, note that payments may be lower during early “ramp up” years.

the only cost shift that would have materialized runs from ratepayers to the large-load customer.

While the utility can prevent this cost shift by charging the large-load customer for upgrades, that solution introduces a longer-term risk for ratepayers. Under the report's understanding of Commission pricing policy, a large-load customer that pays only for network upgrades permanently avoids paying the NITS rate. Despite relying on the network, the large-load customer pays nothing for its ongoing development, replacement, maintenance, or operations.⁸ The report illustrates that the magnitude of this free-rider problem grows with each year the large-load customer remains on the system.

According to WIRES' comment accompanying the report, the Commission's current transmission pricing policy burdens ratepayers with these short-term costs and long-term risks. WIRES claims that the Commission prevents a utility from directly assigning network upgrade costs to a large-load customer *and* charging that customer the NITS rate.⁹ This prohibition against 'and' pricing, according to WIRES, forces the utility to charge either an incremental rate that reflects the network upgrade costs or the standard rate. As discussed below, the prohibition against 'and' pricing was developed in a fundamentally different industry context and does not compel the result illustrated by the WIRES report.

⁸ The WIRES report ignores a recent Commission order rejecting a transmission agreement in part because it charged only for network upgrades for the initial five-year contract term and nothing more, which the Commission concluded shifted costs to the utility's captive ratepayers. But the Commission did not require the utility to charge the standard rate after the initial contract term. *See Duke Energy Carolinas*, 193 FERC ¶ 61,237 at PP 18-20 (2025).

⁹ WIRES Comment at 4 ("The analysis was performed under a framework that assumes application of the Commission's longstanding pricing policy, which prohibits simultaneously charging an interconnection customer both a rolled-in rate and an incremental rate (otherwise known as the prohibition against "and" pricing).¹³ Under the ANOPR's proposed direct assignment recovery framework - and hypothesizing that the Commission's "and" pricing prohibition applies - the analysis presumes that large load customers would be exempt from NITS charges that fund ongoing development, maintenance, and operation of the overall transmission system.")

II. The Prohibition Against ‘and’ Pricing Protects Wholesale Market Competition and Should not Prevent Large-Load Customers from Paying Their Full Costs of Service

The Commission issued its Transmission Pricing Policy Statement “in light of the significant competitive changes occurring in wholesale generation markets [in 1994], and in light of [its] expanded wheeling authority under the Energy Policy Act of 1992.”¹⁰ The “basic premise” underlying the Policy Statement was “that comparable access to efficiently priced transmission services is critical to the continued development of a competitive wholesale power market.”¹¹

The Policy Statement was rooted in principles that the Commission derived from Federal Power Act sections 205, 206, 211, and 212.¹² That the Commission looked to two sections about wheeling underscores that the Policy Statement was aimed at facilitating wholesale market competition and not at assigning transmission costs to large-load customers. The history of the Commission’s prohibition in the Policy Statement against ‘and’ pricing reinforces that the policy was not designed for large-load customers.

The critical proceeding about ‘and’ pricing was initiated by Pennsylvania Electric Company (Penelec) in 1991.¹³ Penelec filed a transmission service agreement to provide wheeling service for a 60-megawatt cogenerator that had contracted to sell energy to Niagara Mohawk, a neighboring utility. Penelec claimed

¹⁰ *Inquiry Concerning the Commission’s Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act; Policy Statement*, 59 Fed. Reg. 55031 (Nov. 3, 1994) [Hereinafter Transmission Pricing Policy Statement]; see also *SPP*, 131 FERC ¶ 61,252 at P 64 (summarizing that the “increased reliance on market forces to meet power supply needs; new market entrants such as exempt wholesale generators; a significant number of utility mergers and combinations; more highly integrated operation of various power pools; and substantial bulk power trading among electric systems,” led the Commission to adopt the Transmission Pricing Policy Statement (quoting *Notice of Technical Conference and Request for Comments in Inquiry Concerning the Commission’s Pricing Policy for Transmission Services Provided by Public Utilities under the Federal Power Act*, 58 Fed. Reg. 36,400, 36,401 (1993))).

¹¹ *Transmission Pricing Policy Statement* at 55033-34.

¹² *Id.* at 55033.

¹³ *Pennsylvania Electric Co.*, 58 FERC ¶ 61,278, at p. 61,869 (1992).

that transmitting the cogenerator’s power would use transmission capacity that would otherwise import lower-cost energy for Penelec’s captive ratepayers and reduce their cost of service.¹⁴

Penelec therefore proposed to charge the cogenerator both an embedded-cost rate that would recover Penelec’s investment in the existing transmission network and an opportunity-cost rate that would reflect the lost savings due to the energy it could no longer import. That combined rate, Penelec claimed, would allocate a fair share of transmission costs to the generator and protect Penelec’s ratepayers against any cost increases.¹⁵

The Commission rejected Penelec’s proposal, finding that the proposed rate “conflicts” with the Commission’s “goal of charging the lowest reasonable rate for firm, third-party transmission service.”¹⁶ Quoting a prior order in another proceeding, the Commission concluded that Penelec’s proposal

in effect . . . would be charging twice for the same transmission capacity, i.e., charging the basic non-firm rate it would receive if it used the capacity to serve the third party *and* charging the foregone benefits it would receive if it used that same capacity for a different purpose. Since the utility cannot use the same capacity at the same time for two different purposes, it would be unreasonable to allow it to charge rates reflecting dual use of the same capacity.¹⁷

The Commission allowed Penelec to charge the *higher of*: 1) the embedded cost rate paid by Penelec’s captive ratepayers; *or* 2) opportunity costs, “capped at Penelec’s incremental cost of expanding its system in order to alleviate any

¹⁴ *Id.* at 61,870 (“Penelec concludes that some portion of Penntech’s generation transmitted to Niagara Mohawk ‘will flow over the limiting west to east transmission lines and thereby reduce the amount of lower cost western power’ available to native load customers on the GPU system” (quoting Penelec’s filing)); *Pennsylvania Electric Co., reh’g order*, 60 FERC ¶ 61,034, at p. 61,126 (1992).

¹⁵ *Id.* (summarizing Penelec’s claims that the embedded cost rate would compensate for “the benefits of the entire Penelec transmission system” and that “an additional charge is justified to compensate native load customers for the incremental costs of serving Penntech”).

¹⁶ *Id.* at p. 61,873.

¹⁷ *Id.* (quoting *Re Northeast Utilities Service Co.*, 58 FERC ¶ 61,069, at p. 61,180 (1992)).

transmission constraints that may occur during the 20-year contract period as a result of providing the [generator with] service.”¹⁸ The cap would “provide an incentive for the utility to expand its system when it is efficient to do so” and “ensure that opportunity cost pricing will not be a vehicle for the utility to artificially restrict the supply of transmission in order to collect monopoly rents.”¹⁹

On rehearing, the Commission reiterated it was rejecting Penelec’s proposal because it would “result in it charging twice for the same transmission capacity.”²⁰ The Commission believed that its “challenge” was “to reach a pricing decision that ensures that the third-party transmission rate is just and reasonable,”²¹ and that “rates reflecting dual use of the same capacity are unreasonable.”²² Reviewing the evidence, the Commission concluded that “in Penelec’s case, the numbers show that . . . application of the Commission’s ‘or’ condition . . . will benefit Penelec’s native load.”²³ Finally, in rejecting the utility industry’s argument that ‘or’ pricing was inefficient, the Commission summed up that “under the ‘or’ approach, wheeling prices promote efficiency by allowing the best use to be made of existing transmission facilities. The ‘and’ approach, on the other hand, distorts price signals, discourages efficient trades, and results in unreasonable subsidies.”²⁴

Two years after the *Penelec* proceeding, the Commission issued its Transmission Pricing Policy Statement. With little discussion, the Policy Statement forbids “so-called ‘and’ pricing, which would add an embedded cost rate to an incremental cost rate for the same service over the same facilities.”²⁵ To support the

¹⁸ *Id.*

¹⁹ *Id.* at p. 61,874.

²⁰ *Pennsylvania Electric Co.*, 60 FERC ¶ 61,034, at p. 61,122 (1992) (emphasis added).

²¹ *Id.* at p. 61,123.

²² *Id.* at p. 61,122 (emphasis added).

²³ *Id.* at p. 61,126 (emphasis added).

²⁴ *Id.* at p. 61,129.

²⁵ Transmission Pricing Policy Statement at 55037 (emphasis added).

prohibition against ‘and’ pricing, the Policy Statement cites only the *Penelec* orders. As the Commission made clear in that proceeding, its aim was to prevent utilities from exercising market power. The ‘and’ pricing prohibition promoted competition by preventing utilities from “charging twice for the same transmission capacity” in order to raise their competitors’ costs. The Commission’s alternative, so-called ‘higher-of’ or ‘or’ pricing capped at the incremental rate, would ensure the utility did not “artificially restrict the supply of transmission.”²⁶

With good reason, the Policy Statement does not discuss transmission pricing for large-load customers. The industry was then dominated by vertically integrated utilities with captive retail customers who paid a single rate for generation and delivery. New large loads were retail customers of vertically integrated utilities, and their rates were set by state commissions, not FERC. The entire framework the Policy Statement addressed — wheeling, third-party transmission service, wholesale competition — had nothing to do with how end-use customers then paid for transmission.

The Policy Statement relates to another Commission policy, which is to generally prohibit direct assignment of transmission facilities to specific customers. The Commission has reasoned that “even if a customer can be said to have caused the addition of a grid facility, the addition represents a *system* expansion used by and benefitting *all* users due to the integrated nature of the grid.”²⁷ Under this approach, the “higher of” pricing policy provides utilities with two pricing options for “only one service—service over the *entire* grid.” The Commission has strictly applied this policy to contracts with load-serving entities, such as municipal or cooperatively owned utilities.²⁸ Yet the Commission has also created a sweeping

²⁶ *Pennsylvania Electric Co.*, 58 FERC ¶ 61,278, at p. 61,874 (1992).

²⁷ *Re Public Service Co. of Colorado*, 62 FERC ¶ 61,013, at p. 61,061 (1993).

²⁸ *See, e.g., Northeast Texas Electric Cooperative, Inc., et al.*, 108 FERC ¶ 61,084 (2004).

exception that is difficult to justify based on the rule’s rationale. Interconnecting generators must pay for network upgrades that would not be needed “but for” the interconnection.²⁹

In the next section, we summarize how the Commission uses pricing policy to reconcile the distinction between interconnecting generators and other transmission customers and argue that the pricing policy for interconnecting generators provides a model for large-load customers.

III. To Protect Ratepayers, the Commission Should Clarify Its Pricing Policy

Commission pricing policy should address both the short-term costs and long-term risks to ratepayers that the WIRES report highlights and that are discussed above in Part I. Requiring large-load customers to pay directly-assigned network upgrade costs ensures that the specific costs imposed on the system by their interconnection are recovered from them, regardless of how long the customer remains on the system. Requiring those same customers to also pay the NITS rate ensures that they contribute to the embedded costs of the network they use for as long as they use it.

We discuss four options:

- 1) Require large-load customers to pay for network upgrades and credit those payments against charges under the NITS rate;
- 2) Issue “interconnection rights” to large-load customers in exchange for payment of network-upgrade costs and charge those customers the NITS rate for their use of the network;
- 3) Explore “disaggregated pricing” that would charge the NITS rate for existing capacity available for the large-load customer and the incremental rate for additional capacity needed to deliver power to the customer’s remaining demand that cannot be met without upgrades; and
- 4) Clarify that the prohibition against “and” pricing was never intended to apply to large-load customers and find that any rate charged to a large-

²⁹ Order No. 2003, 104 FERC ¶ 61,103 at P 694 (2003).

load customer that is less than the NITS rate and the costs of network upgrades is unjust and unreasonable.

We explain that the first three options are consistent with existing Commission policies. The final option requires two clarifications. First, the Commission should reiterate that the prohibition against ‘and’ pricing bars stacking two cost measures for the same service over the same facilities but does allow separate charges for separate facilities or services. Second, building off of statements about generator interconnections, the Commission could conclude that requiring large-load customers to pay for network upgrades and the NITS rate ensures just and reasonable rates.

1, 2: Charge the Large-Load Customer for Network Upgrades and Credit those Payments Against Transmission Charges under the NITS Rate or Issue “Interconnection Rights” in Exchange for Network Upgrade Payments

We cover the first two options together because both are discussed in Order No. 2003, which standardized generator interconnection processes. As noted, the Commission requires interconnecting generators to pay for network upgrades that would not be needed “but for” the interconnection.³⁰ Once the generator commences operation, the utility may charge the generator for transmission service. To avoid the prohibition against ‘and’ pricing, the Commission requires the interconnecting utility to credit the cost of the network upgrades that are paid by the generator against the generator’s transmission rate.³¹

This crediting policy, according to the Commission, would foster wholesale competition.³² Vertically integrated utilities had traditionally rolled in network upgrade costs for their own generators into their NITS rates. Providing transmission bill credits to non-utility generators would put them on equal footing

³⁰ *Id.*

³¹ *Id.* In practice, this approach is implemented outside of RTO/ISOs.

³² *Id.*

with utility-owned generators, consistent with the “comparability” principle that is at the heart of Open Access transmission.³³ Relatedly, the Commission hoped that the crediting policy would mitigate utilities’ incentives to inflate network upgrade costs in order to block new market entrants.³⁴

The Commission allowed RTOs to develop their own pricing policies because an RTO’s independence from transmission owners reduced the likelihood of unduly discriminatory charges.³⁵ The Commission therefore permitted RTOs to directly assign network-upgrade costs without providing bill credits.³⁶ In Order No. 2003, the Commission also pointed to PJM’s policy of awarding interconnecting generators “capacity rights that are created by the upgrades” in exchange for network-upgrade payments and determined that PJM would not be violating the prohibition against ‘and’ pricing if it also charged generators the NITS rate.³⁷ Payments for network upgrades and the NITS rate, the Commission concluded, were two “separate charges for separate services.”³⁸

These two interconnection pricing policies for generators could be adapted for large-load customers. Under either approach, the utility would directly assign network upgrade costs to the large-load customer and charge the NITS rate. Under the first approach, the utility would credit payments for network upgrades against the NITS charges. This approach would address the timing problem described in Part I. Requiring the large-load customer to pay for network upgrades upfront would ensure that ratepayers do not subsidize the customer’s interconnection. The

³³ *Id.* See Order No. 888-A, 62 Fed. Reg. 12774, 12776 (Mar. 14, 1997) (summarizing that one of the two “central components” of Order No. 888 is that it “requires non-discriminatory (comparable) treatment for all eligible users of the monopolists’ transmission facilities”).

³⁴ *Id.* at P 696.

³⁵ *Id.* at PP 701, 827.

³⁶ *Id.* at P 700.

³⁷ *Id.* at P 700.

³⁸ *Id.*

upgrade payments would then offset NITS charges for some period of time, after which the customer would pay the full NITS rate and contribute to the embedded system costs for as long as it stays on the system.

The second approach would not provide any bill credits but instead award the large-load customer “rights” to withdraw energy from the network beyond what paying the standard rate already provides to a transmission customer.³⁹ In Order No. 2003, the Commission observed that these rights were “well-defined, long-term and tradeable,”⁴⁰ but did not require that the injection rights have any of these features to constitute a “separate service.”

This option may raise jurisdictional issues that are already front-and-center in this proceeding. While the ANOPR proposes that the Commission regulate large-load interconnections to the transmission system, many utilities and state regulators have urged the Commission not to exercise this authority. To the extent that the Commission asserts jurisdiction over transmission-level interconnection, as the ANOPR anticipates, the Commission could consider creating “interconnection rights” that would effectuate this pricing approach.

3: Explore “Disaggregated Pricing” that Would Charge the NITS Rate for Existing Capacity Available for the Large-Load Customer and the Incremental Rate for Additional Capacity Needed to Deliver Power to the Customer’s Remaining Demand that Cannot Be Met without Upgrades

As discussed, the Commission’s prohibition against ‘and’ pricing prevents utilities from stacking two cost measures for the same facility. But the policy does not prevent cost recovery of different facilities using distinct cost measures. A footnote in the Policy Statement immediately following the ‘and’ pricing prohibition

³⁹ The Commission recently explained that in PJM a transmission customer paying the standard rate “gains the right to be served from the transmission system at any time.” *PJM Interconnection, et al.*, 193 FERC ¶ 61,217 at P 195 (2025).

⁴⁰ *Id.* at P 700.

invited utilities to propose “embedded costs for some lines . . . and incremental cost for other lines.”⁴¹ The Commission distinguished such “disaggregated” pricing from the forbidden practice of collecting “two measures of a single cost.”⁴²

In 2014, the Commission approved contracts that applied this disaggregated framework. In that proceeding, the utility separated a wind farm’s transmission service request into three tranches, priced differently to reflect the utility’s available transmission capacity and costs of needed upgrades.⁴³ The utility priced the first tranche at the embedded cost of its existing network because there was sufficient capacity available to transmit that tranche of energy. The other two tranches reflected the “higher of” embedded costs or the costs of upgrades needed to transmit the additional energy.⁴⁴

Disaggregated pricing for large-load customers could be worth exploring. Under this pricing approach, the utility would charge the embedded cost rate for the portion of the customer’s demand that can be accommodated by the existing network. For the customer’s remaining demand, the utility would charge a rate that reflects the higher of the incremental expansion costs or the embedded cost rate.

Rather than merely allowing the utility to charge the ‘higher of’ rate for each tranche, the Commission could require utilities to charge the higher rate. The Commission could also require utilities to disclose such disaggregated rates. Transparency would reveal to the public the costs of delivering power to large loads.

⁴¹ Transmission Pricing Policy Statement at 55037, n.34.

⁴² *Id.*; see also *Pacific Gas and Electric Co.*, 178 FERC ¶ 61,068 at P 80 (2022) (summarizing that an Initial Decision concluded that Commission policy allows “entities to account for costs on a disaggregated basis, such as separate pricing for separate facilities”).

⁴³ *Northwestern Corp.*, 147 FERC ¶ 61,171 at P 53 (2014).

⁴⁴ *Id.*

4: Clarify that the Prohibition Against ‘and’ Pricing Was Never Intended to Apply to Large-Load Customers and Find that Any Rate Charged to a Large-Load Customer that Is Less than the NITS Rate and the Costs of Network Upgrades is Unjust and Unreasonable

The Policy Statement’s prohibition against ‘and’ pricing was part of the Commission’s strategy, quickly supplanted by Open Access requirements, to improve transmission access for new wholesale market entrants. By preventing utilities from overcharging for transmission service, the prohibition against ‘and’ pricing, like other policies at the time, was “a useful prophylactic to deter and prevent anticompetitive abuse.”⁴⁵ When issued, the Policy Statement had no bearing on how utilities could charge retail consumers.

Charging retail customers for both the network and the new facilities needed to reliably deliver power to them does not introduce any competitive distortion in wholesale markets. Large-load customers are not competing with a utility in any way, and utilities have no incentive to “artificially restrict the supply of transmission” to large-load customers.⁴⁶ To the contrary, they are lucrative retail customers who need both a utility’s transmission network and incremental expansion to reliably receive power.

The Commission could recognize that directly assigning network upgrade costs to a large-load customer and charging that customer the NITS rate would impose “separate charges for separate services.”⁴⁷ Unlike the cogenerator in the *Penelec* proceeding, a large-load customer is not at risk of being charged “twice for

⁴⁵ *Tenneco Gas v. FERC*, 969 F.2d 1187, 1196 (D.C. Cir. 1992) (upholding Commission-imposed standards of conduct on interstate pipeline operators that attempted to eliminate special preferences pipelines might offer their marketing affiliates).

⁴⁶ *Pennsylvania Electric Co.*, 58 FERC ¶ 61,278, at p. 61,874 (1992).

⁴⁷ Order No. 2003 at P 700.

the same transmission capacity.”⁴⁸ Instead, the large-load customer is paying for reliable network access *and* ongoing service.

The Commission’s preference not to assign network-upgrade costs to transmission customers (except for interconnecting generators) is based on an idealized view of transmission expansion that the Commission itself shattered in Order No. 2003. “Entire-grid” pricing does not reflect Open Access requirements that the Commission imposed after it issued the pricing policy, including generator interconnection processes and local and regional planning processes. As the Commission now understands, utilities expand transmission in a “piecemeal” fashion in response to needs identified through separate jurisdictional processes.⁴⁹ Directly assigning network-upgrade costs and charging a large-load customer a NITS rate would reflect actual transmission development practice.

After the Commission modifies its transmission pricing policy to exempt large-load customers from the prohibition against ‘and’ pricing, the Commission could find that any transmission rate charging a large-load customer less than the cost of network upgrades and the NITS rate is unjust and unreasonable. As demonstrated in Part I, a customer paying only the NITS rate shifts the cost of network upgrades to other ratepayers, perhaps permanently if the large-load customer ceases to operate after its state-jurisdictional contract concludes. A customer paying only for network upgrades avoids contributing to the embedded costs of the system. Either result is inconsistent with cost-causation principles and burdens ratepayers with increased costs or risk.

The Commission has already found rates unjust and unreasonable when they charged a large-load customer only for network upgrades during an initial contract

⁴⁸ *Pennsylvania Electric Co.*, 60 FERC ¶ 61,034, at p. 61,122 (1992).

⁴⁹ Order No. 1920, 187 FERC ¶ 61,068 at PP 85, 100, 104, 109, 128 (2024).

term.⁵⁰ The Commission should extend that reasoning and clarify that just and reasonable rates for large-load customers must recover both the customer-specific interconnection costs and the customer's share of the embedded system.

CONCLUSION

WIRES' March 30 filing illustrates that ratepayers face higher transmission costs and long-term risks from a large-load customer. The Commission should look beyond the narrow pricing options offered by WIRES. To protect ratepayers, the Commission should consider finding that its pricing policy was never intended to prevent utilities from charging a large-load customer for its full costs of service.

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⁵⁰ See *Duke Energy Carolinas*, 193 FERC ¶ 61,237 at PP 18-20 (2025).