

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

<i>International Transmission Co. d/b/a</i>)	
<i>ITC Transmission, Michigan Electric</i>)	Docket No. EL26-58
<i>Transmission Co., LLC, et al.</i>)	
)	
<i>v.</i>)	
)	
<i>MISO and SPP</i>)	

Comment of the Harvard Electricity Law Initiative¹

Complainants’ evidence linking solicitation processes administered by MISO and SPP to development delays does not respond to the Commission’s findings and legal conclusions about rights of first refusal (ROFR). ROFRs, according to the Commission, cause unjust and unreasonable transmission rates by excluding potential transmission solutions from regional planning and are unduly discriminatory because they deny nonincumbent developers a comparable opportunity to propose and develop regionally cost-allocated transmission projects.

Those findings are rooted in the comparability principle that has anchored open-access transmission policy. Open-Access Transmission Tariffs, required by the Commission in Order No. 888, must offer transmission service to all users on terms comparable to those utilities provide for themselves. Order No. 890 extended the comparability principle to transmission planning by requiring transmission providers to evaluate potential solutions on a comparable basis. The Commission later determined that ROFRs undermined comparable treatment by restricting the universe of developers that have an incentive to offer transmission solutions. It then

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.

required comparable eligibility for incumbent and nonincumbent transmission developers for regional project selection and cost allocation processes.

The comparability principle applies equally to each transmission provider. Whether a region uses competitive solicitations, developer-sponsored proposals, or another model to select transmission solutions and developers, its processes must give nonincumbents a comparable opportunity to offer regional solutions. By eliminating any incentive for nonincumbent developers to participate in planning, the complainants' proposed remedies would undermine the comparable treatment of all developers and transmission solutions that the Commission requires.

Even if the complainants' evidence about solicitation timelines is accurate, it is insufficient to justify ROFR reinstatement. To the extent that MISO and SPP solicitation processes delay project in-service dates, the appropriate remedy would aim at streamlining those processes rather than replacing them with barriers to entry that the Commission has definitively rejected.

The Complaint Fails to Confront Commission Findings and Legal Conclusions about ROFRs

Complainants argue that MISO's and SPP's tariffs are unjust and unreasonable because their solicitation processes for regionally cost-allocated projects delay project in-service dates.² To replace the allegedly unjust and unreasonable tariff provisions that implement solicitations, complainants propose that MISO and SPP "immediately directly assign" projects to "the appropriate transmission owning utility."³ Complainants offer two versions of the same remedy.

² See, e.g., Complaint at p. 38.

³ *Id.* at p. 65.

Under one approach, the RTOs would directly assign all projects for five years to the “appropriate” TO, while under the other approach they would do so indefinitely.⁴

Although unstated in the complaint, the “appropriate transmission owning utility” refers to the incumbent transmission owner. The context is clear: the complaint is brought by incumbent transmission owners and seeks direct assignment to transmission-owning utilities in place of a process open to nonincumbent developers. The requested replacement rate would reinstate ROFRs in the RTOs’ tariffs for the benefit of the complainants, a policy goal that the complainants have sought to achieve through numerous Commission proceedings and at legislatures and courts.⁵

Fifteen years ago, the Commission ordered the removal of tariff provisions that grant incumbent transmission owners ROFRs based on two independent grounds. First, the Commission determined that ROFRs can produce unjust and unreasonable rates. By “restrict[ing] the universe of transmission developers offering potential solutions,” ROFRs “result in the failure to consider more efficient or cost-effective solutions to regional needs and, in turn, the inclusion of higher-cost

⁴ *Id.* at pp. 64–70. The latter option is ostensibly based on project-specific evaluations, but the criteria appear designed to sweep in virtually every project and would provide incumbent utilities with exclusive opportunities to influence which projects are directly assigned to an incumbent transmission owner. *Id.* at 64–65 (proposing that the process be informed by “relevant studies” performed by incumbent TOs and that the RTOs must consider incumbent TOs’ “attestations”).

⁵ *See, e.g.*, Order No. 1000-A, 139 FERC ¶ 61,132 at PP 36, 39, 79, 383 (2012) (noting MISO TOs’ opposition to ROFR elimination in Order No. 1000); MISO Transmission Owners, et al. v. FERC, 819 F.3d 329 (7th Cir. 2016) (upholding Commission orders removing ROFRs in MISO); Oklahoma Gas and Electric Co. v. FERC, 827 F.3d 75 (D.C. Cir. 2016) (upholding Commission orders removing ROFRs in SPP); Brief of Xcel Energy and ITC Midwest, LSP Transmission v. Sieben, Eighth Circuit Case No. 18-2559, Jan. 4, 2019 (defending Minnesota’s ROFR law against a dormant Commerce Clause challenge); Brief of Southwestern Public Service Co., Fifth Circuit Case No. 20-50160, Apr. 22, 2020 (defending Texas’s incumbents-only law against a dormant Commerce Clause challenge); Jason Alatidd, Topeka Capital-Journal, [Evergy among Kansas energy companies seeking monopoly power over transmission projects](#), Feb. 12, 2023; Ethan Howland, UtilityDive, [In hit to Ameren, Illinois governor vetoes right of first refusal for MISO transmission](#), Aug. 18, 2023; Order No. 1920, 187 FERC ¶ 61,068 at P 1555 n.3318 (2024) (citing Xcel and ITC comments as supporting full and unconditional ROFR reinstatement).

solutions in the regional transmission plans.”⁶ Second, ROFRs “create opportunities for undue discrimination and preferential treatment against nonincumbent transmission developers.”⁷ Ending ROFRs would “eliminate barriers to competition” and would therefore accord with the Commission’s “duty to maintain competition.”⁸

On rehearing, the Commission affirmed that it had eliminated ROFRs for two independent reasons.⁹ The Commission reiterated that abolishing ROFRs is “consistent” with its “authority to eliminate and remedy practices [] found to be unduly discriminatory and anticompetitive.”¹⁰ The Commission also confirmed that it had “not based its decision solely on competition concerns because, in the alternative, the Commission acted to remedy the potential for unjust and unreasonable rates” for transmission service.¹¹

Having found two independent bases for action under section 206, the Commission required transmission providers to implement a non-discriminatory “framework for project identification and selection” that would “allow[] a nonincumbent transmission developer to have the same eligibility as an incumbent transmission provider” to develop a regional project.¹² The Commission accommodated “regional flexibility,”¹³ and ultimately approved two compliance

⁶ Order No. 1000 at P 284.

⁷ *Id.* at P 286.

⁸ *Id.*

⁹ Order No. 1000-A at P 361 (“In addition to affirming our decision to act to remedy unjust and unreasonable rates, we affirm, on an independent and alternative basis, the decision in Order No. 1000 that the elimination of any federal rights of first refusal from Commission-jurisdictional tariffs and agreements is necessary to address opportunities for undue discrimination and preferential treatment against nonincumbent transmission developers within regional transmission planning processes”) (emphasis added); *id.* at P 363 (“In any event, the Commission has not based its decision solely on competition concerns because, in the alternative, the Commission acted to remedy the potential for unjust and unreasonable rates for Commission-jurisdictional services in addition to promoting competition among potential transmission developers.”).

¹⁰ *Id.* at P 363.

¹¹ *Id.*

¹² Order No. 1000-A at P 431.

¹³ Order No. 1000 at P 321; Order No. 1000-B, 141 FERC ¶ 61,044 at PP 56, 59 (2012).

models. In MISO and SPP, the RTO Board approves a project prior to selecting a developer.¹⁴ PJM and other regions use solicitation processes that tie a proposed project to a sponsoring developer.¹⁵

Complainants attack the compliance approach implemented by MISO and SPP, arguing that the RTOs' solicitation processes delay project in-service dates. The Commission should reject both of their proposed remedies because they suffer from the same fatal flaws. The complaint provides no evidence that would allow the Commission to reverse its findings that ROFRs result in unjust and unreasonable rates and are unduly discriminatory.

A. ROFRs Cause Unjust and Unreasonable Rates by Limiting Potential Transmission Solutions and Stifling Innovation

The complainants dismiss any benefits of ROFR elimination, claiming that they would “not even apply in MISO and SPP because these RTOs first identify projects and then use solicitations to decide who builds them.”¹⁶ Complainants mischaracterize why the Commission eliminated ROFRs and overlook Commission findings about how ROFRs impede effective regional transmission planning.

The Commission found that ROFRs “may prevent the realization of more efficient or cost-effective transmission solutions to regional transmission needs.”¹⁷ Because ROFRs “may discourage new entrants from proposing new transmission projects in the regional transmission planning process,” they “effectively restrict the

¹⁴ See *MISO, et al.*, 147 FERC ¶ 61,127 at P 347 (2014) (“In its first Order No. 1000 compliance filing, MISO proposed a competitive bidding process that requires MISO to, collectively with stakeholders, identify transmission projects that are selected in the regional transmission plan for purposes of cost allocation prior to MISO selecting a transmission developer to build the transmission project.”); *SPP, et al.*, 149 FERC ¶ 61,048 at P 210 (2014) (“SPP further explains that, in its Integrated Transmission Plan process, transmission projects . . . are selected for inclusion in SPP’s transmission expansion plan by the SPP Board prior to any determination of the entity that will ultimately contract the project.”).

¹⁵ See *PJM Interconnection, et al.*, 142 FERC ¶ 61,214 at PP 193–94 (2013).

¹⁶ Complaint at pp. 9, 54.

¹⁷ Order No. 1920 Notice of Proposed Rulemaking, 179 FERC ¶ 61,028 (2022) (citing Order No. 1000, 136 FERC ¶ 61,051 at PP 5, 7, 226 (2011)).

universe of transmission developers offering potential solutions.”¹⁸ ROFR-protected regional planning is then dominated by incumbent transmission owners who have “less incentive to reduce cost and maximize benefits to the greatest extent possible” than developers participating in competitive processes.¹⁹ The result, according to the Commission is “the inclusion of higher-cost solutions in the regional transmission plans” and unjust and unreasonable transmission rates.²⁰

Complainants focus on the efficacy of RTO solicitation processes to claim that ROFR elimination has raised costs while providing no “systematic” benefits.²¹ But the Commission did not base ROFR elimination on any cost savings associated with competitive bidding. ROFR elimination targeted “disincentives that may be *impeding participation by nonincumbent transmission developers in the regional transmission planning process.*”²² The Commission’s findings on ROFRs focus on “the effect on rates of excluding entities whose ability even to become involved in the transmission planning process is being hindered from the outset.”²³

The Commission has not prescribed any particular approach for ensuring that nonincumbent developers have comparable opportunities in regional planning processes to incumbent transmission owners.²⁴ Instead, the Commission opted for

¹⁸ Order No. 1000 at PP 284, 289 (2011).

¹⁹ *MISO*, 180 FERC ¶ 61,040 (2022) (concurring statement by Chairman Glick and Commissioners Clements, Christie, and Phillips).

²⁰ Order No. 1000 at P 285.

²¹ *See, e.g.*, Complaint at p. 10 (“No publicly available study to date supports the proposition that solicitations systematically reduce construction costs or delays in MISO and SPP.”); *id.* at p. 54 (distinguishing between MISO and SPP solicitations and PJM’s sponsorship model and arguing that the former does not provide any benefits).

²² Order No. 1000 at P 320 (emphasis added).

²³ Order No. 1000-A at P 80.

²⁴ *See, e.g.*, Order No. 1000 at P 259 (“[T]he public utility transmission providers in a region may, but are not required to, use competitive solicitation to solicit projects or project developers to meet regional needs.”); *id.* at P 321 n. 302 (declining to require “competitive bidding”); Order No. 1000-B at P 56 (“The Commission also reiterated that there are many different approaches to transmission planning and that Order No. 1000 requires only that the transmission planning process adopted by a transmission planning region satisfy the transmission planning principles discussed in Order Nos. 1000 and 1000-A.”); *id.* at P 59 (“we reaffirm the flexibility that the Commission provided to the

regional flexibility, finding that “competitive forces can be harnessed in various ways.”²⁵ The Commission determined that the processes implemented by MISO and SPP could provide a foundation for a compliance and also endorsed “competitive solicitation” processes, akin to what PJM uses today.²⁶ The common ingredient in the two models was that planning processes allowed stakeholders to offer potential transmission solutions for consideration.²⁷ By eliminating ROFRs, the Commission intended to ensure that nonincumbent developers and then-existing transmission owners enjoyed the same incentives to participate in planning processes.

Restoring ROFRs would harm both models. Regardless of how it implements competition, each transmission provider must consider transmission solutions proposed by all developers and stakeholders on a comparable basis. MISO and SPP have the same obligation to do so as PJM.²⁸ “Expanding the universe of transmission developers offering potential solutions,” and not any particular solicitation process, “can lead to the identification and evaluation of potential solutions to regional needs that are more efficient or cost-effective.”²⁹

public utility transmission providers in each transmission planning region to propose a process for selecting transmission developers . . .”).

²⁵ Order No. 1000-A at P 87.

²⁶ Order No. 1000 at P 321; Complaint at p. 70 (noting “the Order No. 1000 solicitation process in PJM requires submission of proposals to address an identified transmission need” and distinguishing it from MISO and SPP processes).

²⁷ *Id.* (“existing procedures that allow for stakeholders to offer potential solutions for consideration”); Order No. 1000-A at P 87 (noting that “competitive forces can be harnessed in various ways, including through the offering of competitive alternatives in a stakeholder process”).

²⁸ *See, e.g., SPP, et al.*, 149 FERC ¶ 61,048 at P 28 (2014) (explaining that “SPP’s process to analyze transmission alternatives for each assessment requires that SPP notify stakeholders of identified transmission needs and provide a transmission planning response window of 30 days during which any stakeholder may propose a detailed project proposal.”).

²⁹ *See, e.g.,* Order No. 1000-A at P 83 (“We also disagree . . . that our rationale for eliminating federal rights of first refusal has no applicability to the transmission owner members of PJM because they have relinquished all transmission planning decisions to PJM . . . the Commission’s rationale for requiring the elimination of federal rights of first refusal . . . is also based on the belief that expanding the universe of transmission developers offering potential solutions can lead to the identification and evaluation of potential solutions to regional needs that are more efficient or cost-effective.”).

Complainants allege that solicitations administered by MISO and SPP cause costly delays in transmission development and propose to reinstate ROFRs to accelerate in-service dates. While their evidence may suggest room for improvement in the RTOs' solicitation processes, the complainants do not respond to the Commission's findings that ROFRs cause unjust and unreasonable rates by hindering participation and limiting proposed transmission solutions.

ROFRs are "barriers to entry" that "discourage innovation."³⁰ The Commission has repeatedly tied new entry to innovative transmission projects,³¹ and has consistently recognized that competition spurs deployment of new technologies and more efficient solutions.³² Complainants provide no evidence that any costs attributable to solicitation timelines outweigh the benefits that the Commission sought to achieve when it eliminated ROFRs, including expanded developer participation, more cost-effective transmission solutions, and alternative approaches that challenge incumbent practices.

B. The Commission's Finding that ROFRs Are Unduly Discriminatory Stands Unrebutted

After sustaining its conclusion that eliminating ROFRs is necessary to remedy unjust and unreasonable rates, the Commission affirmed on rehearing, "on

³⁰ *Id.* at P 82.

³¹ See, e.g., *PJM Interconnection*, 102 FERC ¶ 61,296 at P 44 (2002) ("The Commission's policy has been to encourage innovative actions and investments by [Independent Transmission Companies]"); *Cross-Sound Cable Co.*, 109 FERC ¶ 61,223 at P 25 (2004) ("[T]he Commission has a policy of encouraging innovative proposals to provide an incentive for construction of new infrastructure . . ."); *Primary Power*, 131 FERC ¶ 61,015 at P 65, n. 56 (2010) ("PJM and the PJM Transmission Owners have not offered a justification for why PJM is precluded from assigning a project to "other entities," particularly since such an interpretation will reduce the incentive for parties to propose innovative transmission solutions").

³² See, e.g., Order No. 719, 125 FERC ¶ 61,071 at P 1 (2008) ("[E]ffective wholesale competition protects consumers by "providing more supply options, encouraging new entry and innovation, spurring deployment of new technologies, promoting demand response and energy efficiency, improving operating performance, exerting downward pressure on costs, and shifting risk away from consumers."); Order No. 2222, 172 FERC ¶ 61,247 at P 18 ("[E]ffective wholesale competition encourages entry and exit and promotes innovation, incents the efficient operation of resources, and allocates risk appropriately between consumers and producers.").

an independent and alternative basis,” that abolishing ROFRs “is necessary to address opportunities for undue discrimination and preferential treatment against nonincumbent transmission developers.”³³ The Commission explained that it has “a duty to consider anticompetitive practices and to eliminate barriers to competition consistent with the FPA.”³⁴

In compliance proceedings, the Commission expanded on the anti-competitive intent behind ROFRs. In response to filings from each multi-state RTO, the Commission concluded that incumbent transmission owners included ROFRs in foundational RTO contracts to “protect[] themselves from competition in transmission development.”³⁵ In subsequent litigation about SPP’s ROFR, the D.C. Circuit summarized that ROFRs were “arrived at by horizontal competitors with a common interest to exclude any future competition.”³⁶ The Seventh Circuit similarly found that incumbent utilities in MISO were “seeking to protect themselves from competition from third parties” and likened a ROFR-protected region to a “cartel.”³⁷

To replace unduly discriminatory ROFRs, the Commission requires transmission providers to: 1) adopt non-discriminatory criteria for determining an entity’s eligibility to propose a regional project,³⁸ and 2) provide nonincumbent developers with the same opportunity as incumbent transmission owners to allocate

³³ Order No. 1000-A at P 361; *id.* at P 363 (“In any event, the Commission has not based its decision solely on competition concerns because, in the alternative, the Commission acted to remedy the potential for unjust and unreasonable rates for Commission-jurisdictional services in addition to promoting competition among potential transmission developers.”).

³⁴ *Id.* at P 361 (citing *Otter Tail v. U.S.*, 410 U.S. at 374 (“the history of Part II of the Federal Power Act indicates an overriding policy of maintaining competition to the maximum extent possible consistent with the public interest.”)).

³⁵ *PJM Interconnection, et al.*, 142 FERC ¶ 61,214 at P 189 (2013); *MISO, et al.*, 142 ¶ FERC 61,215 at P 183 (2013); *ISO-New England*, 143 FERC ¶ 61,150, at P 169 (2013); *SPP, et al.*, 144 FERC ¶ 61,059, at P 133 (2013).

³⁶ *Oklahoma Gas and Electric Co. v. FERC*, 827 F.3d 75, 80 (D.C. Cir. 2016).

³⁷ *MISO Transmission Owners, et al. v. FERC*, 819 F.3d 329, 335 (7th Cir. 2016).

³⁸ *See* Order No. 1000 at PP 323–324.

the cost of a regional project through a regional cost allocation method.³⁹ The complaint asks the Commission to overlook these safeguards against undue discrimination and instead order MISO and SPP to directly assign projects to incumbent transmission owners, precisely the approach that the Commission found was unduly discriminatory.

The Commission's findings and remedies about ROFRs followed from landmark open access transmission orders.⁴⁰ In Order No. 888, the Commission determined that utility tariffs must "offer third parties access on the same or comparable basis, and under the same or *comparable* terms and conditions, as the transmission provider's uses of its system."⁴¹ The Commission imposed this comparability principle as an industrywide remedy for unduly discriminatory transmission practices that "drive up the price of electricity and hurt consumers."⁴² Order No. 888 summarizes how the Commission applied a comparability analysis to market-based rate authorizations, transmission pricing proposals, and other

³⁹ See *id.* at PP 332–37.

⁴⁰ See, e.g., Order No. 2000, 89 FERC ¶ 61,285 at pg. 210 (1999) (stating that in Order No. 888 the Commission's "primary focus, both in terms of access and pricing was comparability; that is, all transmission users should receive access under rates, terms and conditions comparable to those the transmitting utility applies to itself to serve its own customers"); Order No. 888, 61 Fed. Reg. 21,540, at pp. 21,547–21,549 (May 10, 1996) (discussing the Commission's "Comparability Standard").

⁴¹ Order No. 888, at p. 21,548 (May 10, 1996) (quoting *American Electric Power Services Corp.*, 67 FERC ¶ 61,168, at p. 61,490 (1994) (emphasis added)).

⁴² Order No. 888 at p. 21,566:

We have identified a fundamental generic problem in the electric industry: owners, controllers and operators of monopoly transmission facilities that also own power generation facilities have the incentive to engage, and have engaged, in unduly discriminatory practices in the provision of transmission services by denying to third parties transmission services that are comparable to the transmission services that they are providing, or are capable of providing, for their own power sales and purchases. These practices drive up the price of electricity and hurt consumers. Furthermore, the incentive to engage in such practices is increasing significantly as competitive pressures grow in the industry. It is within our discretion to conclude that a generic rulemaking, not case-by-case adjudications, is the most efficient approach to take to resolve the industry-wide problem facing us.

See also Order No. 888-A, 62 Fed. Reg. 12,274, at p. 12,296 ("The Commission has determined that undue discrimination in the provision of transmission services . . . turns on whether the utility is providing comparable service, that is, service that it is reasonably capable of providing to other users of the interstate transmission system.").

matters.⁴³ A few years later, the Commission demanded comparable treatment in generator interconnection processes.⁴⁴

In Order No. 890, the Commission expanded the comparability principle to transmission planning by requiring transmission providers to “provide for comparative evaluation of competing transmission solutions.”⁴⁵ Four years later, in Order No. 1000, the Commission found that ROFRs were an obstacle to comparable evaluation of transmission solutions.⁴⁶ By eliminating ROFRs, the Commission acted to “ensure that nonincumbent transmission developers *have a comparable opportunity* to incumbent transmission developers/providers *to submit transmission projects for evaluation and potential selection.*”⁴⁷

ROFRs remain anti-competitive, unduly discriminatory, inconsistent with the comparability principle, and obstacles to the Commission’s duty to promote competition.⁴⁸ The complainants do not even attempt to argue that their proposed remedies would not be unduly discriminatory. The complaint blames MISO and SPP processes, and not any distinction between incumbent and nonincumbent developers, for project delays. Incumbent developers and nonincumbent developers

⁴³ Order No. 888 at pp. 21,548–49.

⁴⁴ See Order No. 2003, 104 FERC ¶ 61,103 at P 9 (2003) (“[I]nterconnection is a critical component of open access transmission service and thus is subject to the requirement that utilities offer comparable service under the OATT”) (citing *Tennessee Power Co.*, 90 FERC ¶ 61,238 (2002)).

⁴⁵ Order No. 1000 at P 316 (“The reforms adopted in this Final Rule build upon the requirements of Order No. 890 with respect to transmission planning. Public utility transmission providers already have put in place mechanisms to provide for comparative evaluation of competing solutions.”); *id.* at P 315 (citing Order No. 890, 118 FERC ¶ 61,119 at P 494 (2007), Order No. 890-A 121 FERC ¶ 61,297 at PP 215-16 (2007)).

⁴⁶ *Id.* at P 315.

⁴⁷ *Id.* at P 320 (emphasis added); Order No. 1000-A at P 417 (eliminating ROFRs “further the Commission’s goal in Order No. 1000 of ensuring that all transmission developers have a comparable opportunity to incumbent transmission developers/providers to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation”).

⁴⁸ See, e.g., *Gulf States Utilities Co. v. FPC*, 411 U.S. 747, 758 (1973) (stating the Commission’s power under the FPA “clearly carries with it the responsibility to consider, in appropriate circumstances, the anticompetitive effects of regulated aspects of interstate utility operations . . .”); *Xcel Energy Services v. FERC*, 41 F.4th 548, 558 (“Decades of precedent support the Commission’s decision to prevent undue discrimination and promote competition.”).

therefore remain “similarly situated” for purposes of regional transmission planning and cost allocation, and the complaint offers no basis for overturning the Commission’s conclusion.⁴⁹

The complaint’s evidence about solicitation delays does not respond to the Commission’s findings and conclusions about undue discrimination. The urgency of transmission investment does not make incumbent and nonincumbent developers any less similarly situated, does not grant incumbents a non-discriminatory claim to project assignment, and does not relieve the Commission of its obligation under Section 206 to ensure that any replacement rate is not unduly discriminatory.⁵⁰

⁴⁹ *See, e.g.*, Order No. 1000-A at P 365 (rejecting arguments that incumbent transmission owners and nonincumbent developers are not “similarly situated”).

⁵⁰ When the Commission eliminated ROFRs, it observed that it was at “the beginning of a longer-term period of investment in new transmission facilities,” which made “it even more critical to implement [] reforms to ensure that the more efficient or cost-effective projects come to fruition”). Order No. 1000-A at P 5.

CONCLUSION

The complaint threatens MISO's and SPP's regional planning processes. Restoring ROFRs would deny ratepayers the benefits of cost-effective transmission solutions proposed by nonincumbent developers and would unduly discriminate against those entities. The complaint does not provide a basis for overturning Commission findings that ROFRs violate the Federal Power Act.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

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