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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Preventing Undue Discrimination and : Docket Nos. RM05-25-000  
Preference in Transmission Service : RM05-17-000

COORDINATED REPLY COMMENTS  
OF  
THE OHIO POWER SITING BOARD  
AMERICAN MUNICIPAL POWER-OHIO, INC.,  
AND  
BUCKEYE POWER, INC.

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**I. Introduction**

On May 19, 2006, the Federal Energy Regulatory Commission (FERC or the Commission) issued a Notice of Proposed Rulemaking (NOPR) in this Docket proposing to correct deficiencies in the regulations FERC adopted ten years ago in its Order Nos. 888 and 889 for open access to the interstate transmission system. On June 19, 2006, in response to a formal request by the Edison Electric Institute, FERC extended the time for filing reply comments in this proceeding until September 20, 2006.

The Ohio Power Siting Board, American Municipal Power-Ohio, Inc. (representing municipal electric systems in five states) and Buckeye Power, Inc. (representing Ohio's rural electric cooperatives) file these reply comments in the above-captioned proceeding. These reply comments are neither an endorsement nor a criticism of any particular energy project, investor-owned or non-investor-owned utility endeavor or wholesale market activity.

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While not responsible for statewide energy planning, the diverse, multi-agency Ohio Power Siting Board (OPSB)<sup>1</sup> has been responsible since its creation in 1972 for reviewing and approving plans for the construction, by both investor-owned and non-investor-owned utilities, of more than eight thousand megawatts of new major energy producing facilities in Ohio.<sup>2</sup> The Ohio Power Siting Board is unique in that Ohio laws allow the OPSB to consider regional and interstate impacts when siting major transmission facilities.

American Municipal Power-Ohio, Inc. (AMP-Ohio)<sup>3</sup> and Buckeye Power, Inc. (Buckeye Power)<sup>4</sup> are among the non-investor-owned utility parties whose siting applications in Ohio may come before the OPSB for review and approval. As of August 2006, AMP-Ohio membership

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<sup>1</sup> Before any company can build a major utility facility such as a generating plant of 50 megawatts (MW) or more, an electric transmission line of 125 kilovolts (kV) or more, or a gas line capable of transporting gas at more than 125 pounds per square inch of pressure, the OPSB assures that the project benefits Ohio's citizens, promotes the state's economic interests, and protects the environment and land use. Under the Ohio Revised Code (ORC) Section 4906.10(A)(4), an electric transmission line to be sited must be consistent with regional plans for expansion of the electric power grid serving Ohio and interconnected utility systems and must serve the interests of electric system economy and reliability. OPSB also has the authority under R.C. 4906.14 to hold joint hearings within or outside the State and issue joint or concurrent orders with any official or agency of any state or of the federal government. The OPSB is comprised of 11 members: seven voting, including Dr. Alan R. Schriber, chairman of the Public Utilities Commission of Ohio (PUCO) who serves as the chairman of the OPSB, as well as the directors of the Ohio Environmental Protection Agency; the Department of Agriculture, the Department of Development, the Department of Health, the Department of Natural Resources; and a public member who must be a licensed engineer and is appointed by the Governor from a list of nominees submitted by the Ohio Consumers' Counsel. Four non-voting members include two members of the Ohio House of Representatives and two from the Ohio Senate.

<sup>2</sup> Ohio Power Siting Board project construction records.

<sup>3</sup> American Municipal Power – Ohio (AMP-Ohio) is a nonprofit corporation organized in Ohio in 1971 for the purpose of owning and operating electric facilities or otherwise providing for the generation, transmission and distribution of electric power and energy, including coordinating, negotiating and developing power-supply options and interconnection agreements for the benefit of its members. AMP-Ohio purchases wholesale electric power and energy, and sells it to member municipal utilities at rates based on the purchase price and dispatch fees plus a small service fee.

<sup>4</sup> Buckeye Power, Inc. is an electricity generating and distribution cooperative that was formed and is owned by the 25 rural electric distribution cooperatives in Ohio. In November 1935, Ohioans were among the first to take advantage of the opportunities offered by the Rural Electrification Administration (REA), which a year later was made an independent agency inside the U.S. Department of Agriculture. Rural electric cooperatives average seven residential consumers per mile of line, in contrast to 31 for Ohio's eight investor-owned companies. The average revenue per mile of line for rural electric cooperatives in Ohio is about one-ninth that of the investor-owned companies.

includes 81 public power communities in Ohio, 25 in Pennsylvania, two in West Virginia, seven in Michigan and four in Virginia. AMP-Ohio also owns the Richard H. Gorsuch Generating Station, a 213 megawatt, coal-fired facility in Marietta, Ohio that provides power to 48 participating member communities.

Buckeye Power is a generating and distribution company with energy producing capability of over 1200 megawatts for 25 different electric cooperatives that serve more than 380,000 homes and businesses in 77 of Ohio's 88 counties. Their combined service areas cover about 40 percent of the state's land area, including most rural areas. All these cooperatives are linked together with more than 600 other electric cooperatives across the country in a national alliance called Touchstone Energy®.

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## **II. Summary of the Issues Discussed in OPSB, AMP-Ohio and Buckeye Power Coordinated Comments**

Since the interstate transmission planning issues that FERC wants to reform directly affect the intentions and effectiveness of our collective activities in the future with regard to new major electric facilities, the OPSB, AMP-Ohio and Buckeye Power have harmonized their reply responses to the NOPR in these coordinated reply comments. In summary, our responses are as follows:

### ***Coordinated, open and transparent transmission planning.***

*Regional transmission planning has taken on increasing importance since the inception of FERC Order 888 ten years ago.*

- *To achieve a competitive and efficient wholesale market, we recommend that FERC encourage an open and inclusive regional planning mechanism for the transmission delivery system over which it has regulatory authority.*

### ***Arrangements for planning at the seams of adjacent systems***

*FERC must also require joint planning between transmission providers and their wholesale market transmission customers or between providers in a given region.*

- *Large groups of municipal utilities and rural electric cooperatives, joined by investor-owned utility American Electric Power (AEP), support joint and regional planning particularly when adjacent transmission systems are affected.*
- *We agree that comparability of participation in the planning process is the key to success for an open and inclusive policy toward transmission planning especially among existing RTOs/ISOs.*
- *In addition, we support consideration of balanced alternatives at the local level, note the progress in regional planning at PJM, and encourage the Midwest ISO to consider models for regional planning that are being developed at the subregional level in the Midwest ISO footprint.*
- *We ask FERC to implement a proactive policy for an open and inclusive inter-RTO/ISO regional planning process particularly where transmission provider systems are immediately adjacent to each other, as is the case in Ohio.*

***Regional planning to attract new capital for investment in future transmission infrastructure***

*We believe regional planning and long-term commitments that include municipal utilities and rural electric cooperatives may aid in attracting new capital, joint ownership and joint venture investment in the transmission infrastructure to be sited and built in the future.*

- *We support the ability of non-transmission owning utilities such as Buckeye Power to exercise their option to be a full participant in the planning process.*
- *We support AMP-Ohio's recommendation that opportunities for joint ownership (particularly as a result of joint planning) can lead to better availability of transmission facilities at lower cost.*

***Reporting requirements***

*FERC proposes to require that transmission providers participate in a coordinated, open and transparent planning process to meet the Commission's eight planning principles set forth in the NOPR.*

- *We support these reporting requirements, with the addition of requiring annual congestion studies to be performed by the transmission providers and made available to the planning process participants. We further suggest adding one additional content requirement: review of operating performance and maintenance plans for existing facilities.*

**III. Background**

**A. FERC's Initial Attempts to End Undue Discrimination on the Multi-state Transmission Grid.**

FERC is directed by the Federal Power Act to assure that rates for interstate transmission services are just, reasonable, and not unduly discriminatory.<sup>5</sup> On April 24, 1996, FERC issued Order No. 888 in Docket Nos. RM95-8-000 and RM94-7-001 requiring public utilities that own, control or operate facilities used for transmitting electric energy to establish nondiscriminatory open access transmission tariffs (OATT) that contain minimum terms and conditions of service. FERC's intent in this initial Order 888 was to remove impediments to competition in the wholesale bulk power marketplace.

<sup>5</sup> Federal Power Act (16 U.S.C. §791a, *et seq.*).

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On September 16, 2005, FERC issued a new Notice of Inquiry (NOI) inviting comments on proposed reforms to its current 888 requirements. FERC had concluded that the Order 888 OATT rules and requirements adopted in 1996 do not prevent undue discrimination and preference in interstate transmission services. FERC invited comments on various aspects of OATT reform and restructuring issues including joint transmission planning and joint ownership in an effort to appeal to a broader base of support for eliminating undue discrimination.

On May 19, 2006, building on the comments and suggestions made in the NOI,<sup>6</sup> FERC issued the Notice of Proposed Rulemaking (NOPR). Entities filed initial comments on August 7, 2006 to which the OPSB, AMP-Ohio, and Buckeye Power are responding in these reply comments.

**B. Direction Given to FERC by Congress in the Energy Policy Act of 2005.**

FERC finds that the reforms it is proposing are consistent with Congress's emphasis on the development of transmission infrastructure, as expressed in the Energy Policy Act of 2005, signed into law in August of that year.<sup>7</sup> Congress directed FERC to exercise its authority to facilitate planning and expansion of transmission facilities in order to meet the reasonable needs of load-serving entities to satisfy their obligations.

**IV. The Purpose of the Proposed Rule Reform**

The purpose of revisiting Order 888, according to the NOPR, is to strengthen the pro forma OATT so that it achieves its original intent of remedying undue discrimination against

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<sup>6</sup> FERC. News Release "Proposed Changes to Open – Access Rules Aim To Improve Clarity, Transparency of Transmission Use & Planning," Docket Nos. RM05-25-000 & RM05-17-000 (May 18, 2006).

<sup>7</sup> Energy Policy Act of 2005, Pub. L. No. 109-58 §§ 1231, 1233 119 Stat. 594 (2005).

users of the transmission grid, to reduce opportunities to exercise undue discrimination, to make undue discrimination easier to detect, and to facilitate the Commission's application of the rule to all public utility transmission providers. This purpose also applies to regional transmission organizations (RTOs) and independent system operators (ISOs) such as the Midwest Independent Transmission System Operator (Midwest ISO) and PJM Interconnection, L.L.C. (PJM).

**A. FERC's New Proposals to Reduce the Opportunities for Undue Discrimination on the Transmission Grid.**

The U.S. has experienced a decline in transmission investment relative to growth of customer load since the original Order No. 888 was issued. The result is increased congestion on the wires systems, thereby reducing customer access to alternative sources of energy.

To get to the origins of what FERC sees as discrimination, the FERC NOPR relies heavily on the recommendations and suggestions made by parties responding to the September 16, 2005, NOI mentioned above. Based on those parties' responses and earlier rulemakings,<sup>8</sup> FERC specifically found that the original Order 888 lacked sufficient protections to guard against undue discrimination when improvements or new additions to the transmission system are being planned. Additionally, the original 1996 Order 888 does not require sufficient coordination, openness and transparency in transmission planning to ensure that new infrastructure would be constructed to meet the needs of all load-serving entities.

The way in which upgrades and expansion of the system are planned can affect the transmission customer's future ability to obtain transmission service and the price it must pay for that service. Without better coordination and open participation in planning, FERC claims market participants have little input or insight into whether a particular transmission plan treats all

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<sup>8</sup>

*See, e.g.,* Order No. 2000 at 31,015; Order No. 2003 at ¶ 11-12.

loads and generators in a comparable way.<sup>9</sup> Now FERC intends to ensure that truly comparable transmission service is provided by all public utility transmission providers, including RTOs and ISOs such as the Midwest ISO and PJM. To that end, FERC proposes to amend its pro forma OATT to require coordinated, open, and transparent planning on both regional and subregional transmission.<sup>10</sup>

#### **V. Discussion:**

The OPSB, AMP-Ohio and Buckeye Power believe that the transmission-dependent customers mentioned in the NOPR are the most likely to be excluded from the regional planning process. A coordinated, open, and transparent planning process is needed at the regional level to serve the needs of all loads, including those of transmission-dependent utilities in Ohio. This will improve the effectiveness of transmission siting by the Ohio Power Siting Board, and will provide economic, environmental and customer value in our state.

While the purpose of the proposed Order 888 rule reform is not to redesign approved, fully-functional RTO or ISO markets, we note that the Commission has not excluded the RTOs/ISOs such as the Midwest ISO and PJM from the provisions of this rulemaking. The State of Ohio, municipal interests and rural cooperatives are almost evenly divided between the Midwest ISO and PJM, caught in the split between the adjacent transmission systems. This adds increasingly difficult organizational and electrical system conditions around which to plan and implement standardized or complementary systems to serve transmission-dependent utility customers. Although the Midwest ISO and PJM exchange data and operate a “virtual” joint and common market for such issues as locational marginal pricing (LMP) along the adjacent RTO

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<sup>9</sup> NOPR at ¶52.

<sup>10</sup> *Id.*



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border, greater inter-RTO coordination is needed if expanded regionalization of the wholesale electricity market and elimination of undue discrimination are to become a reality within Ohio.

**A. Coordinated, Open and Transparent Transmission Planning**

Regional transmission planning has taken on more importance since issuance of FERC Order 888 a decade ago. In a case involving the Transmission Access Policy Study Groups (TAPS) (*TAPS v. FERC*), the federal court noted the utilities “that own or control transmission facilities naturally wish to maximize profits...even if they do so at the expense of lower-cost generation companies and consumers.”<sup>11</sup> Since that federal court decision, we have witnessed significant changes created by recent control of the transmission facilities of Ohio’s investor-owned utilities by the Midwest ISO and PJM. For that reason, our coordinated reply comments must necessarily and more accurately focus on the application of FERC’s regional planning reforms at the RTO/ISO level where transmission planning for Ohio now takes place.

The January 2005 published findings of the Consumer Energy Council of America (CECA) disclosed that regional transmission planning with consumer input early in the process is needed to ensure the development of a robust transmission system capable of meeting consumer needs reliably and at reasonable cost over time. The CECA Report stressed that regional transmission planning must address inter-regional coordination, the need for both reliability and economic upgrades to the system, as well as critical infrastructure to support

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<sup>11</sup> *Transmission Access Policy Study Group v. F.E.R.C.*, 225 F.3<sup>rd</sup> 667, 684 (2000), as cited in NOPR at ¶208.

national security and environmental concerns.<sup>12</sup> Moreover, regionalized planning, especially inter-RTO planning, must recognize transaction levels on the grid that are realistic, including the importance of longer-term firm transactions on the part of transmission-dependent load serving entities such as municipal and rural electric cooperative utilities.

To achieve a competitive and efficient wholesale market, we encourage FERC to engage in a proactive policy for some form of open and inclusive regional planning mechanism for the transmission delivery system over which it has regulatory responsibility.<sup>13</sup>

## **B. Arrangements for Planning at the Seams of Adjacent Systems**

### **1. Should there be a Mandatory or a Voluntary Process?**

FERC has encouraged utilities to engage in joint planning with other utilities and customers, which is entirely appropriate. FERC must also require joint planning between transmission providers and their wholesale market transmission customers, as well as between transmission providers in a given region.

The FERC has invited inquiry on whether joint planning ought to be mandatory, particularly when transmission requests affect adjacent transmission systems. FERC also asks whether joint planning should be reported annually or in audits. Commenters generally all believe that joint and regional planning is necessary to ensure that transmission service is expanded in order

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<sup>12</sup> Cited in the NOPR at ¶207 and fn.197. The CECA Report, “Keeping the Power Flowing: Ensuring a Strong Transmission System to Support Consumer Needs for Cost-Effectiveness, Security and Reliability” (January 2005) was a product of the CECA Transmission Infrastructure Forum. The CECA Transmission Infrastructure Forum, conducted in early 2004, included representatives from investor-owned utilities, rural electric cooperatives, municipal power systems, federal power systems, independent power producers, equipment manufacturers, the U.S. Congress, the Federal Energy Regulatory Commission, the U.S. Department of Energy, state legislatures, state public utility commissions, state energy offices and consumer advocates, consumer and environmental organizations, independent consultants, and academic institutions.

<sup>13</sup> See also American Electric Power System, “Comments of the AEP Companies” at 4, *Preventing Undue Discrimination and Preference in Transmission Services*, Docket No. RM05-25 (November 14, 2005) (hereinafter AEP November 2005 Comments).

for customers to have adequate service. For example, the National Rural Electric Cooperative Association (NRECA) of which Buckeye Power is a member, revealed in its comments the frustration consistently expressed to them by their members about not being included in the transmission providers' planning process.<sup>14</sup> The commenters, however, do not agree on whether transmission planning should continue to be voluntary or should be mandatory.<sup>15</sup>

## **2. Comments Received by FERC on Behalf of Mandatory Transmission Planning.**

Commenters such as Transmission Dependent Utility Systems (TDU Systems) and TAPS, of which AMP-Ohio is a member, ask FERC to mandate an open, regional transmission expansion planning process that provides opportunities for transmission customers to join and participate in the planning process. NRECA recommended that FERC make it an obligation for investor-owned public utility transmission providers to use an open transmission planning process that includes all the load-serving entities, network customers and long-term point-to-point customers. NRECA also believes this planning process should require coordination among adjoining transmission providers as many of their members have network customers in multiple control areas, as is the case in Ohio.<sup>16</sup>

Many commenters complain that transmission-owning utilities have not planned for other load-serving transmission-dependent utilities on a basis comparable to that used for their own native load customers. TDU Systems say that a joint and regional planning process must include

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<sup>14</sup> National Rural Electric Cooperative Association (NRECA), "Comments on Notice of Inquiry" at 14, *Preventing Undue Discrimination and Preference in Transmission Services*, Docket No. RM05-25 (November 22, 2005).

<sup>15</sup> NOPR at ¶200.

<sup>16</sup> NRECA at 15.

early input from transmission-dependent load serving entities before transmission plans have already been developed. Only then will comparable use of the transmission system be possible.<sup>17</sup>

APPA, NRECA, and other large groups of municipal utilities and rural electric cooperatives, joined by investor-owned utility American Electric Power (AEP), support joint and regional planning particularly when adjacent transmission systems are affected.<sup>18</sup> We note that AEP, in its comments in the NOI, addressed the acute need for transmission with a focus on building the infrastructure needed to power the economy into the twenty-first century. Sellers, buyers and consumers of electricity can benefit from the expansion of regional markets that allow them access to lower-cost power that result in savings even after paying the delivery charge for transmission.<sup>19</sup>

There is concern that discrimination against non-FERC jurisdictional entities, such as municipal and rural electric cooperative utilities, will go unanswered. NRECA reports that FERC declined to investigate the failure of the Midwest ISO to compensate an electric cooperative for use of that cooperative's transmission facilities, even though it had the authority to do so. NRECA asserts FERC should provide comparable treatment in a jurisdictional matter, whether or not one of the parties is itself FERC-jurisdictional.<sup>20</sup> We agree that comparability of participation in the planning process is critical to the success and effectiveness of an open and inclusive policy toward transmission planning especially among existing RTOs/ISOs.

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<sup>17</sup> NOPR at ¶196 – 197.

<sup>18</sup> *Id.* at ¶198 and as cited in fn. 187.

<sup>19</sup> AEP November 2005 Comments at 3, 6.

<sup>20</sup> NRECA at 33-34.

### **3. Comments Received by FERC from Those Opposed to Mandatory Planning Requirements.**

To provide a balanced view of responses on this issue, we note that many investor-owned utilities and federal power authorities stress that joint and regional planning is laudable but should not be made mandatory. Some of these commenters did, however, call for a more formalized process for addressing base case and expansion plans.<sup>21</sup> Some also pointed out that collaborative planning already occurs in RTOs and ISOs regions. The Midwest ISO, for example, recognizes the existing regulatory paradigm has failed to ensure adequate transmission expansion.<sup>22</sup> Indeed, John Bear, Midwest ISO senior vice president and COO, claimed that while the Midwest ISO grid worked well during a recent record-breaking heat wave, lingering issues indicate more transmission lines are needed. “Power was trapped in the west,” Bear said, adding that the long-term solution calls for building new power lines.”<sup>23</sup> In spite of these admissions, however, the Midwest ISO claimed in its August 7, 2006 comments in the instant proceeding, that supplanting the RTOs’ planning processes, “even where imperfect,” will not serve FERC’s stated goals. “Instead,” the Midwest ISO stated, “the Commission’s reform effort should focus on non-RTO providers.”<sup>24</sup>

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<sup>21</sup> NOPR cited in fn. 192.

<sup>22</sup> The Midwest Independent Transmission System Operator, (hereinafter MISO, August 7, 2006) FERC Docket RM05-25, (Comments at 19) (August 7, 2006).

<sup>23</sup> “MISO grid performed well under record demand, but more transmission lines needed, official says,” Platts, *Energy Trader* at 1, 13 (Monday, August 21, 2006).

<sup>24</sup> MISO at 19, August 7, 2006.

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**4. Should RTOs and ISOs Such as the Midwest ISO and PJM  
Who Operate the Transmission Grid in Ohio Be Required to  
Do Transmission Planning?**

The “Draft Report to Congress on Competition in the Wholesale and Retail Market for Electric Energy” points out that municipal utilities and electric rural cooperatives are a significant presence in the wholesale market. Local, municipal, state and regional public power systems are overwhelmingly transmission- and wholesale-market dependent and must purchase power supplies from others, accounting for 16.7 percent of total electricity sales in 2004. Electric cooperatives operating in 47 states serving 12.2 percent of retail customers are often dependent on transmission facilities owned by others. Some regions of the country have voluntarily developed successful, inclusive joint planning processes for shared transmission systems, but these have been the exception, not the norm.<sup>25</sup> TDU Systems argued in the NOI that transmission planning was needed to avoid an RTO’s “rubber stamping” of transmission upgrades provided by utility transmission providers.<sup>26</sup> FERC discloses that inadequate expansion of the transmission grid has contributed to the widespread transmission constraints that plague most regions of the country.<sup>27</sup>

Consideration of Balanced Alternatives at the Local Level

The OPSB, AMP-Ohio, and Buckeye Power are concerned that the lack of an open, transparent transmission planning process on a regionalized basis also eliminates the opportunity to consider alternatives at the local level. An open planning process can afford the opportunity

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<sup>25</sup> TAPS at 26.

<sup>26</sup> NOPR at ¶202.

<sup>27</sup> FERC, “Fact Sheet” at 2, Docket Nos. RM05-25-000 and RM05-17-000 (May 18, 2006).

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to consider alternative means to address congestion and afford a balanced approach, especially as more permanent solutions may take much longer to construct and have available for operation. A balanced approach at the local level offered by an open, transparent and inclusive regional planning process can include distributed generation, demand response and new technology as part of the mix of available options for incremental or interim congestion relief until longer term solutions can be developed and constructed.<sup>28</sup> Input at the local level will further help to avoid the alleged practice by RTOs/ISOs of merely “rubber stamping” investor-owned utility plans.

#### Progress at PJM

We now note that PJM has expressed its intent, just in the past year, to improve the way it will design its Regional Transmission Expansion Planning Protocol (RTEPP). Although PJM has had a planning process in place since 1997, adjusted from time-to-time to accommodate FERC’s Orders regarding interconnection, PJM reports the incorporation of new and significant reforms, including “economic” planning to reduce transmission congestion and facilitate more robust competition as well as a more realistic 15-year planning horizon.<sup>29</sup> Designed with a new approach assisted by a stakeholder Regional Planning Process Working Group (RPPWG), these efforts have focused on transmission upgrades to resolve reliability issues as well as the use a new “market efficiency process” that allows the analysis of proposed transmission projects for their potential economic benefits.<sup>30</sup> In December 2005, the State regulator members of the

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<sup>28</sup> Local input into regional and subregional planning processes also can provide opportunities for the use of developing alternative fuels such as biomass, anaerobic digestion of food and farm waste, and waste industrial heat, to name a few.

<sup>29</sup> *Preventing Undue Discrimination and Preference in Transmission Services*, Docket No. RM05-25 (Comments of PJM Interconnection, L.L.C. at 44 – 48) (August 7, 2006).

<sup>30</sup> Transmission Expansion Advisory Committee (TEAC) Meeting, PJM “Next Steps” Powerpoint presentation at 220 (May 23, 2006).

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Organization of PJM States, Inc., (OPSI) passed a resolution supporting the need for additional transmission within PJM.

Anyone with a sense of history may appreciate the merits of this more cooperative PJM stakeholder effort for regional planning by comparing it to the considerably more torturous five-year struggle by Old Dominion Electric Cooperative (ODEC) that finally resulted in a procedural agreement between ODEC and PJM. In that agreement PJM agreed to a program for stakeholder review that would incent transmission owners to conduct their planning related to all transmission outages in a way that minimized the impact of congestion on the Delmarva Peninsula.<sup>31</sup>

#### Models for the Midwest ISO to Consider

For the Midwest ISO, who admits to an “imperfect” planning process, there also could be progress. Although the transmission owners agreement with the Midwest ISO gives preference to transmission owners for new construction, the Midwest ISO process need not to be closed and secretive. For example, the Organization of Midwest ISO States (OMS), a body of state Commissioners and Staff representing each state in the Midwest ISO footprint as well as the Canadian Province of Manitoba, have organized a Transmission Planning and Siting Working Group. The OMS Working Group is organized to work with plans proposed by Midwest ISO utility transmission owners’ plans for inclusion in the Midwest ISO Transmission Expansion Plan (MTEP).

The Midwest ISO could do well to learn by example from CAPX2020 and the other cooperative and inclusive subregional efforts being conducted among Midwest ISO members and non-members elsewhere in the Mid-American Power Pool (MAPP) area of its footprint. A

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<sup>31</sup> FERC, *Transmission Congestion on the Delamarva Peninsula* at 1, 3, Docket No. PA03-12-000 (November 6, 2003).



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case in point is the CAPX2020 effort spanning sections of Minnesota, North Dakota, South Dakota and Wisconsin in the Northwest subregion of Midwest ISO foot print. CAPX2020 is a well-designed, innovative joint transmission planning initiative among cooperatives, municipal systems and investor-owned utilities that is assessing customer need for electricity through the year 2020.<sup>32</sup> CAPX2020 is one of the more publicized “subregional” planning processes in the MISO footprint.

**5. As an part of a Proactive Policy on “Regional Planning,”  
OPSB, AMP-Ohio, and Buckeye Power Recommend FERC  
Require Open and Inclusive Transmission Planning Particu-  
larly Where Transmission Provider Systems Are Adjacent**

Unfortunately, neither rural electric cooperatives nor municipal power system representatives, of which there are a large number in the Midwest ISO footprint, are invited to actively participate in the initial stages of the planning itself at the RTO level. Transmission-dependent utilities are not invited to be involved in RTO-level planning by the vertically-integrated transmission owners (VITOs) that make up the overwhelming membership in the Midwest ISO. We support encouraging transmission customers such as municipal utilities and rural electric cooperatives to participate in regularly scheduled joint planning meetings with the utility transmission owners and the RTOs/ISOs, particularly where adjacent transmission systems are affected. To that end, we ask FERC to implement a coordinated, open and transparent planning process at the regional level to serve the needs of all loads affected by the areas where the Midwest ISO and PJM systems are immediately adjacent to each other.

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<sup>32</sup>

<http://www.capx2020.com>

#### **D. Regional Planning To Attract New Capital for Investment in Future Transmission Infrastructure**

Ohio prides itself in the efficient and “one-stop siting” process employed by the Ohio Power Siting Board. This efficient process can be frustrated by the inability to attract capital investment. We believe regional planning and long-term commitments that include municipal utilities and rural electric cooperatives may aid in attracting new capital for investment in the transmission infrastructure to be sited and built for the future.

##### Long-term Commitments

Many market participants and financial observers have asserted that long-term arrangements can provide stability and financial certainty for the investor. Transmission ownership need not be the price of admission at the regional planning table. As exemplified by the ODEC vs. PJM case, understanding the consequences of congestion and its impact on consumers requires the experience of all parties involved to reach a successful resolution. Transmission-dependent utilities may be able to bring those sensitivities to the table in an open, transparent and inclusive planning process. We support the participation of non-transmission-owning utilities such as Buckeye Power to be able to exercise their option to be a full participant in the planning process.

##### Joint Ownership and Joint Venture Investment

TAPS would like to see increased opportunities for joint ownership or other inclusive transmission investment models, citing a “consortium approach” being explored by PJM, which would allow public entities to share ownership of certain transmission projects.<sup>33</sup> We note that

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<sup>33</sup> Transmission Access Policy Study group (TAPS), “Reply Comments,” *Preventing Undue Discrimination and Preference in Transmission Services*, Docket No. RM05-25 (January 23, 2006) at 34.

locally, AMP-Ohio would welcome joint ownership on a load-ratio share basis with FERC-jurisdictional entities, but has been rebuffed on more than one occasion. The most recent such incident involved the Cincinnati Gas and Electric (now operating as Duke Energy Ohio, Inc. under Duke Energy Holding Corp).<sup>34</sup> We support AMP-Ohio's recommendation that opportunities for joint ownership (particularly as a result of joint planning) can lead to better availability of transmission facilities at lower cost. While being mindful to avoid any unintended consequences that could result in loss of not-for-profit status, opportunities for joint ownership as a result of joint planning should be explored.

#### **E. Reporting requirements**

To ensure that transmission providers take joint planning with their network customers and neighboring systems more seriously, FERC should require annual reports and audits as required on a case-by-case basis.<sup>35</sup> FERC proposes to require that transmission providers participate in a coordinated, open and transparent planning process to meet the Commission's eight planning principles set forth in the NOPR. We support these principles with two additions:

- Coordination (regular meetings),
- Openness,
- Transparency,
- Information exchange (including review of draft plans, input on data assumptions, access to results of power flow and other system engineering analyses, etc. Provide feedback on the need for additional studies, modeling assumptions, etc.),
- Comparability (plan must meet service requests and treat customers comparably),
- Dispute resolution,

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<sup>34</sup> *Preventing Undue Discrimination and Preference in Transmission Services*, Docket No. RM05-25 (American Municipal Power-Ohio (AMP-Ohio) Supplemental Comments at unnumbered page 7) (November 22, 2005).

<sup>35</sup> NOPR at ¶199.

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- Regional coordination,
  - Congestion studies prepared by each transmission provider annually, and
  - Review of operating performance and maintenance plans for existing facilities.

We support these reporting requirements as representing a fair and appropriate outline of the content necessary for a FERC proactive policy for regional planning. Each transmission provider must describe its planning process in its tariff. The Commission should allow regional differences in planning processes. For inter-RTO/ISO regional planning where the systems are adjacent, we note that these regional planning processes need not be identical but must be open, transparent, inclusive and compatible.

## VI. Conclusion

The Ohio Power Siting Board, American Municipal Power-Ohio and Buckeye Power, Inc., are interested in bringing more certainty, stability and deliverability to the wholesale electricity market. To that end, we appreciate the opportunity to coordinate on the preparation and submission of these reply comments on the issues surrounding coordinated, open and transparent transmission planning and we request that the FERC require mandatory regional planning for subregions where inter-RTO/ISO systems are adjacent.

Respectfully submitted,

/s/ William L. Wright

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CERTIFICATE OF SERVICE

We hereby certify that the foregoing have been served in accordance with 18 C.F.R. §385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ William L. Wright  
**William L. Wright**

Dated at Columbus, Ohio this September 12, 2006.