UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Interconnection of Large Loads to	**)**	
the Interstate Transmission System	**)**	**Docket No. RM26-4-000**

MOTION TO INTERVENE AND INITIAL COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

Pursuant to the Federal Energy Regulatory Commission's ("FERC") November 7, 2025 Notice Granting Extension of Time, and Rule 214 of FERC's Rules of Practice and Procedure, the National Association of State Utility Consumer Advocates ("NASUCA") respectfully submits these Initial Comments in response to October 27, 2025 Notice Inviting Comments regarding the Advanced Notice of Proposed Rulemaking ("ANOPR") proposed by the Secretary of Energy on October 23, 2025 pursuant to Section 403 of the Department of Energy Organization Act.[1]

NASUCA's Initial Comments focus on three components of the ANOPR. First, the ANOPR proposes an unprecedented expansion of FERC's jurisdiction. Even if FERC agrees that it has jurisdiction over interconnections of large loads, it is undisputed that FERC has never asserted such jurisdiction. Second, the ANOPR lacks key details, fails to precisely articulate the scope of principles that are critically important to all stakeholders, and relies on inaccurate claims and unsupported statements. Further, the ANOPR proposes no regulatory reforms. Instead, it leaves those details to FERC. Those details are critically important because, without them, there can be no guarantee that traditional retail customers will be protected from costs caused by the interconnection of large loads. Third, the ANOPR asks FERC to take final agency action by April

[1] 42 U.S.C. § 7173.

30, 2026. While NASUCA does not know how FERC will rule, NASUCA submits that it is patently unreasonable and would be bad public policy for FERC to use an expedited process to extend its jurisdiction in an unprecedented manner and attempt to develop the implementation regulations necessary to protect traditional retail loads from improper cost shifts.[2]

I. COMPLIANCE WITH RULE 203

The exact name of the movant is the National Association of State Utility Consumer Advocates. Its principal place of business is 8777-B Piney Orchard Pkwy, Suite 173, Odenton, Maryland, 21113. Correspondence, pleadings, and other papers relating to this proceeding should be addressed to the following representatives of the NASUCA:

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[2] NASUCA is particularly concerned that the deadline for action proposed in the ANOPR would create and expedited process that benefits proponents of ANOPR to the detriment of retail customers. *Cf* NASUCA Resolution 2022-01, ¶ 1 ("Any changes to policies and rules impacting transmission and distribution development should be made in an open and transparent manner that allows for ongoing public input."). NASUCA's position is consistent with Commissioner LaCerte's comments from FERC's November 20, 2025 open meeting, where he noted the need for FERC to consider the interests of ratepayers and not simply defer to stakeholders that are looking to curry favor for their parochial interests.

II. MOTION TO INTERVENE

NASUCA is a voluntary association of 62 state utility consumer advocate offices. NASUCA's members represent the interests of utility consumers in 45 states, the District of Columbia, Puerto Rico, Barbados and Jamaica. NASUCA's full members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal utility regulators and in the courts. NASUCA's associate and affiliate members are recognized utility consumer advocates in their respective jurisdictions.

The ANOPR does not propose specific regulatory reforms. Rather, it asks FERC to make a legal determination that would support federal regulation over large loads that interconnect to the FERC-regulated grid. The ANOPR also identifies "Principles for Reform" that should inform FERC's consideration of the regulatory reforms that would be necessary for FERC to effectively regulate the interconnection of large loads.[3] Though the open-ended nature of the ANOPR makes it difficult to identify with specificity all of the ways that NASUCA's interests are implicated by these proceedings, it is sufficiently clear that the ANOPR implicates NASUCA's interests in at least two material ways.

First, the ANOPR raises questions about the parameters of the jurisdictional divide between state and federal authority that Congress established when it passed the Federal Power Act.[4] NASUCA anticipates that FERC will be presented with competing arguments for and against federal regulation of large load interconnections. Though the differences of opinion on the

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[3] ANOPR at 10.

[4] *See, e.g.*, *FERC v. Elec. Power Supply Ass'n*, 136 S. Ct. 760, 764 (2016) (The Federal Power Act "divides regulatory power over electricity matters between FERC and the States."); *Miss. Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354, 374 (1988) ("Congress has drawn a bright line between state and federal authority in the setting of wholesale rates and in the regulation of agreements that affect wholesale rates."); *FPC v. S. Cal. Edison Co.*, 376 U.S. 205, 215–16 (1964) ("Congress meant to draw a bright line easily ascertained, between state and federal jurisdiction . . . .").

permissible scope of federal regulation are stark, it is undisputed that the ANOPR asks FERC to extend its jurisdiction into an area that FERC has never regulated—i.e., load.

Second, the ANOPR asks FERC to consider regulatory reforms that would impact the rates, terms, and conditions of service regarding interconnection of large, retail loads to the FERC-regulated transmission grid. At a minimum, these issues impact the ability of NASUCA and its members to effectively advocate on behalf of retail customers. Depending on the details of any reforms FERC may adopt, it is foreseeable that reforms adopted through this proceeding would threaten to materially undermine the ability of consumer advocate offices to fulfill the obligations with which they have been charged by state law.

Based on the foregoing, NASUCA has a direct interest in the outcome of this proceeding. NASUCA's interests cannot adequately be represented by any other party. NASUCA's participation in this proceeding will advance the public interest. Based on the foregoing, FERC should grant this motion and permit NASUCA to intervene in this proceeding for all purposes.

III. INITIAL COMMENTS

As noted in Section II, *supra*, the ANOPR asks FERC to decide, as a legal matter, that federal law governs the interconnection of large loads to the FERC-regulated grid. But the ANOPR does not propose any specific reforms that FERC should adopt if it agrees with the ANOPR's jurisdictional arguments. Rather, the ANOPR identifies 18 "Principles for Reform" that it contends should inform FERC's consideration of regulatory reforms.[5] Otherwise, it leaves FERC to decide those details, presumably as part of this proceeding.

[5] ANOPR at PP 17-32.

It is not clear that FERC can or will adopt the legal analysis on which the ANOPR's requested remedy is based, but the ANOPR puts the jurisdictional issue squarely at play.[6] In Section III.A below, NASUCA identifies key issues that the ANOPR fails to acknowledge or address. If FERC is inclined to consider the ANOPR, it should fully analyze these issues and avoid reliance on the ANOPR's incomplete legal analysis. In Section III.B, NASUCA identifies where the ANOPR relies on unsupported or inaccurate statements, creates unnecessary confusion and the potential for inadvertent consequences, and relies on speculation.[7] Given the material issues that would need to be addressed and the magnitude of the requested relief, NASUCA encourages FERC not to attempt to adopt any reforms pursuant to the expedited deadline proposed in the ANOPR. Rather, if FERC is inclined to consider any of the issues raised by the ANOPR, it must ensure that (i) all parties have a meaningful opportunity to be heard, and (ii) FERC has sufficient time to fulfill its obligations to meaningfully consider and respond to the arguments and evidence.

A. The ANOPR Fails to Identify or Analyze Issues that Materially Impact the ANOPR's Legal Conclusion About the Extent of FERC's Jurisdiction.

At this stage of the proceeding, NASUCA limits its comments to identifying discrete yet material defects in the ANOPR's reasoning. One of the ANOPR's major defects is that it speaks about large loads and hybrid facilities in generic terms. Specifically, the ANOPR seems to focus principally, if not exclusively, on states that have enacted retail choice. The ANOPR does not contain any meaningful discussion or analysis of the how the Principles for Reform would apply

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[6] NASUCA supports complementary actions by federal and state regulators, where appropriate. *See* NASUCA Policy 2022-01, ¶ 16 ("Federal transmission planning cost allocation and generator interconnection policies should be complementary to and not supplant state jurisdiction over regional resource planning decisions.").

[7] NASUCA's decision not to address any specific issues, or its silence on various aspects of the ANOPR, should not construed as agreement or disagreement. Likewise, it would be inappropriate to attribute substantive positions to NASUCA based on its decision not to address specific issues or arguments at this stage of the proceeding. NASUCA reserves the right to posit and address any additional issues that it or other stakeholders may identify or raise over the course of this proceeding.

in states that have certificated retail service territories. If this is not an explicit proposal, the ANOPR implies that large loads could bypass retail providers in states that do not have retail choice in order to take power directly from a wholesale market. Likewise, the ANOPR either explicitly proposes or implies that independent generators could be part of a hybrid facility that serves retail load in the certificated service territory of a distribution utility. Given the magnitude of the proposal, it would be patently arbitrary and capricious for FERC to adopt the ANOPR's legal reasoning and ignore these critical considerations. NASUCA policy encourages clear definitions of state and federal policies to avoid any regulatory gaps that could harm customers.[8] By failing to acknowledge or address the full scope of the jurisdictional issues implicated by its request, the ANOPR fails in that regard.

The ANOPR also identifies several "legal justifications for [FERC's] jurisdiction over … interconnections" of large loads to the wholesale transmission system.[9] But these purported justifications do not necessarily support the ANOPR's legal conclusions. For example, the ANOPR contends that, "like generator interconnections, large load interconnections are a 'critical component of open access transmission service' that require minimum terms and conditions to ensure non-discriminatory transmission service."[10] Setting aside the fact that the ANONPR

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[8] *See* NASUCA Policy 2022-01, ¶ 16 ("Federal and state jurisdiction should be clearly defined so that there is no regulatory gap[.]"); *see also id*., ¶ 19 ("Because states are charged not only with regulating their share of the energy industry but also with looking after the safety, health, and welfare of their citizens, energy development is but one consideration in a larger set of considerations for the state. Federal policies that supplant state policies may lead to unintended consequences for other important areas of state responsibility.").

[9] ANOPR at ¶ 13.

[10] ANOPR at ¶ 13 (internal footnote omitted) (quoting *Standardization of Generator Interconnection Agreements & Procs*., Order No. 2003, 104 FERC ¶ 61,103 at PP 9, 11 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220 (2004), *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm's v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *Tenn. Power Co.*, 90 FERC ¶ 61,238 (2000)).

provides no detailed analysis to demonstrate the validity of its comparison or its conclusion, this "justification" seems to ignore that FERC's limited jurisdiction is conferred by Congress.[11]

The ANOPR contends that the "the proposal does not impinge on States' authority over retail electricity sales by asserting jurisdiction over the interconnection of large loads to the transmission system."[12] Nothing in the ANOPR supports that conclusion. As explained herein, the ANOPR seemingly ignores state laws that create certificated service territories. Instead, the ANOPR seems to focus exclusively on states that have retail choice. By failing to recognize or address this distinction, the plain language of the ANOPR would allow large loads in states without retail choice to bypass retail distribution utilities to take service directly from wholesale markets or from third-party generators that are located at a hybrid facility and directly impinge on States' authority over retail electricity sales.

The ANOPR asks FERC to exert its jurisdiction in a way that it never has. Rather than support that request with a level of analysis that matches the significance of the request, the ANOPR relies instead on unsupported assumptions or "stretch" arguments. Worse yet, the ANOPR does not seem to recognize that, to the extent its jurisdictional arguments have any merit, they would only apply in states with retail choice. If FERC is inclined to consider the ANOPR, it should not ignore material issues related to the operation of the retail electric system in differing jurisdictions across the country or afford those distinctions such short shrift.

B. Expedited Action is Particularly Inappropriate Given that the ANOPR Fails to Provide Important Details, Relies on Inaccurate Claims, and Creates

[11] Based on its review of the ANOPR, NASUCA is not convinced that the proposals would be consistent with NASUCA policy that supports complementary state/federal actions. *See, e.g.*, NASUCA Policy 2022-1, ¶ 19 ("regional transmission planning should incorporate and support, rather than supplant or undermine, state policies.").

[12] ANOPR at ¶ 15; *see also id*. ("Even if the large load seeking to interconnect to the transmission system is an end-use customer, the proposal does not exert jurisdiction over any retail sales to the large load.").

Confusion by Failing to Accurately Describe Key Principles It Asks FERC to Consider.

As explained herein, the ANOPR does not propose any specific reforms whose adoption are imperative to support the legal conclusion that FERC can or must assert jurisdiction over interconnections of large loads to the FERC-regulated grid. The scope, content, and detail of those reforms require careful crafting, and proposed reforms would need to be scrutinized to ensure that they effectively achieve their purposes. None of those details exist because the ANOPR does not propose any reforms. Nonetheless, several of the Principles for Reform that the ANOPR identifies to inform FERC's decisionmaking presuppose the existence of the non-existent reforms. For example, the thirteenth principle states that "there must be a plan to implement these proposed reforms."[13] While NASUCA agrees that reforms should not be implemented without a plan, it is not possible to develop a plan to implement reforms when the reforms themselves have not been developed.

Though it is not part of the section of the ANOPR that articulates the Principles for Reform, paragraph 15 contends that "nothing in the proposed reforms governs the siting, expansion, or modification of generation facilities." NASUCA agrees that FERC cannot and should not assert jurisdiction over siting, expansion, or modification of generation facilities because Congress afforded jurisdiction over those matters to the states. But FERC cannot reasonably conclude that any action it takes here through proposed reforms will not improperly invade state jurisdiction unless and until it actually develops those reforms and then provides the analysis that the ANOPR merely presumes. Likewise, paragraph 16 discusses the ANOPR's legal conclusion and contends that "any contrary view of the proposed reforms conflicts with the [Federal Power Act's] core

[13] ANOPR at ¶ 30.

purposes." Setting aside the merits or demerits of jurisdictional arguments, this statement could only be true after proposed reforms are developed and subjected to scrutiny.

In addition to relying on inaccurate claims, the ANOPR also creates material uncertainty by failing to precisely describe its scope and key aspects of the Principles for Reform. For example, the ANOPR's opening paragraph specifies that the scope of the proposal involves "interconnection of large loads to the transmission system." In footnote 1, the ANOPR explains that "large loads are defined as greater than 20 MW, consistent with how [FERC] has defined large generation resources." In explaining the need for reform, the ANOPR discusses "the unprecedented current and expected growth of large loads seeking to interconnect to the transmission system."[14] The ANOPR uses the term large loads on 19 separate occasions.

But confusingly several of the Principles of Reform simply use the term "load." The third principle, for example, states that "to the extent practicable, load and hybrid facilities should be studied together with generating facilities."[15] And the fourth principle states that, "like generating facilities, load and hybrid facilities should be subject to standardized study deposits, readiness requirements, and withdrawal penalties."[16] The inconsistent use of key terms is not an insignificant issue. Consider the eighth principle, which addresses an issue of upmost importance —i.e., cost responsibility for network upgrades. Presumably the ANOPR intended to propose that traditional retail customers should be shielded from the costs of network upgrades that are caused by interconnection of a large load. But rather than express that intent, the ANOPR creates confusion that goes to the heart of cost-causation issue. Specifically, the eighth principle omits

[14] ANOPR at ¶ 12.

[15] ANOPR at ¶ 20. That principle goes on to say that "[s]uch an approach will allow for efficient siting of loads and generating facilities and thereby minimize the need for costly network upgrades."

[16] ANOPR at ¶ 21.

any reference to "large" loads and simply says that "load and hybrid facilities should be responsible for 100% of the network upgrades that they are assigned through the interconnection studies."[17] Again, NASUCA understands that the ANOPR proposes assigning to "large loads" the responsibility for shouldering the cost of network upgrades necessary to interconnect those large loads to the transmission system. If that is the ANOPR's intent, the ANOPR did not choose the words necessary to articulate that intent. Rather, the rules of construction would dictate the opposite result. Specifically, the ANOPR clearly distinguishes "large loads" from other loads by defining the term "large load" and making reference to that term on 19 separate occasions. As such, the ANOPR would not have used the term "load" in the eighth principle if it intended to assign the costs of network upgrades to "large load." In evaluating this principle, FERC must be specific to avoid any uncertainty that could be used to justify burdening traditional retail load with responsibility for the network upgrade costs that would be incurred to interconnect the large load.

In sum, the ANOPR identifies an important issue that warrants discussion. But its conclusion that FERC has statutory authority to jurisdiction over interconnections of large loads to the FERC-regulated grid is based on an incomplete legal analysis, claims about the impact (or lack thereof) of non-existent reforms, and inaccurate or unsupported claims. The ANOPR also proposes no regulations to implement the massive expansion of jurisdiction. Instead, it identified principles that should inform FERC's development of the actual reforms. Setting aside the fact several of the principles actually create confusion on material issues, the ANOPR asks FERC to work through all of these issues and take final agency action by April 30, 2026. Given the magnitude of the request and the importance of the issues implicated by that request, it would be

[17] ANOPR at ¶ 25.

patently unreasonable and bad public policy for FERC to use an expedited process to expand its jurisdiction.

IV. CONCLUSION

WHEREFORE, the National Association of State Utility Consumer Advocates respectfully asks the Federal Energy Regulatory Commission to:

(1) Grant the Motion to Intervene and make the National Association of State Utility Consumer Advocates a party to this proceeding for all purposes;

(2) Consider the foregoing Initial Comments when considering what action, if any, is necessary in response to the Secretary of the Department of Energy's proposed Advanced Notice of Proposed Rulemaking; and

(3) Grant such other relief as may be necessary and appropriate.

Respectfully submitted,

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For the National Association of State Utility Consumer Advocates

Dated: November 21, 2025

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.

Dated at this 21st day of November, 2025

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