

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Duke Energy Carolinas  
Progress Energy Carolinas

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Docket No. ER13-83-000

**MOTION TO INTERVENE AND PROTEST OF  
NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION**

Pursuant to Rules 211, 212 and 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, 385.212 and 385.214 (2012), and the Notice of Compliance Filings issued on October 15, 2012, North Carolina Electric Membership Corporation ("NCEMC") submits this Motion to Intervene and Protest in the above-captioned dockets. In support, NCEMC states as follows:

**I. SERVICE AND COMMUNICATIONS**

In this proceeding, service should be made upon and communications should be addressed to:

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**II. MOTION TO INTERVENE**

NCEMC is a generation and transmission cooperative responsible for the full or partial power supply requirements of its 25 members throughout the state of North Carolina. Those 25

distribution cooperatives, in turn, supply electricity to more than 850,000 homes, farms, and businesses in which more than 2.4 million North Carolinians live and work. NCEMC's distribution cooperative loads are located throughout the service areas of three investor-owned public utilities: Duke Energy Carolinas, LLC ("DEC"); Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc. ("PEC"); and Virginia Electric and Power Company, doing business as Dominion Virginia Power. NCEMC purchases wholesale power and transmission service from DEC and PEC to serve the loads of a number of its member cooperatives.

On October 11, 2012, DEC and PEC (collectively "NCTPC Filing Parties") submitted revisions to their Joint Open Access Transmission Tariff ("Joint OATT") in compliance with the regional transmission expansion planning and regional transmission cost allocation requirements of Order No. 1000.<sup>1</sup> DEC and PEC represent that together with Alcoa Power Generating Inc. ("Yadkin") they comprise the public utility transmission providers enrolled in the North Carolina Transmission Planning Collaborative ("NCTPC") process, and that the NCTPC as revised satisfies the Order No. 1000 obligations related to regional transmission planning. Transmittal Letter at 1, 4.

As a transmission and wholesale power customer of both DEC and PEC, and a participant in the NCTPC process, NCEMC has an interest that will be directly affected by the outcome of the above-captioned proceeding. This interest cannot be adequately represented by any other party, and NCEMC's participation would serve the public interest. NCEMC, therefore, should be permitted to intervene in the above-captioned proceeding.

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<sup>1</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, FERC Stats. & Regs. ¶ 31,323 (2011) ("Order No. 1000"), *order on reh'g and clarification*, 139 FERC ¶ 61,132 (2012) ("Order No. 1000-A"), *order on reh'g*, 141 FERC ¶ 61,044 (2012) ("Order No. 1000-B"), *appeal pending sub nom, South Carolina Public Service Authority, et al. v. FERC* (D.C. Cir. Case No. 12-1232, *et al.*).

### **III. PROTEST**

#### **A. Introduction**

In Order No. 1000, the Commission reformed the Order No. 890 regional transmission planning requirements to extend seven of the nine transmission planning principles adopted in Order No. 890 to the regional transmission planning process. Those principles require coordination, openness, transparency, information exchange, comparability, dispute resolution and economic planning studies.<sup>2</sup> Additionally, Order No. 1000 required public utility transmission providers to (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) revise their OATTs to describe the procedures for the development of that regional plan and to include consideration of transmission needs driven by public policy requirements; (3) remove from Commission-approved tariffs and agreements any language providing for a federal right of first refusal for certain new transmission facilities; and (4) provide for a regional cost allocation method for the costs of new transmission facilities selected in the regional transmission plan for cost allocation purposes.<sup>3</sup>

Order No. 1000 seeks to achieve two primary objectives: (1) ensure that the transmission planning process at the regional level considers and evaluates, on a non-discriminatory basis, possible transmission alternatives and produces a regional transmission plan that can meet the transmission needs of the region more efficiently and cost-effectively; and (2) ensure that the costs of transmission solutions chosen to meet regional transmission needs are allocated fairly to those who benefit from them. As a transmission-dependent utility that relies on the DEC and

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<sup>2</sup> Order No. 1000 at PP 146, 151.

<sup>3</sup> Order No. 1000 at PP 6, 7 and 9. Order No. 1000 also provided for improved interregional coordination between neighboring regional transmission planning processes and for the development of an interregional cost allocation method for the costs of certain new transmission facilities that are located in two or more neighboring transmission planning regions and that are jointly evaluated by the regions. Order No. 1000 at PP 8-9. The interregional planning compliance filings under Order No. 1000 are not due until April, 2013, and consequently are not addressed by DEC and PEC's compliance filing, nor in NCEMC's comments here.

PEC transmission systems to serve the needs of its member systems and their retail consumers, NCEMC supports these objectives, as well as the need for additional investment in efficient and cost-effective transmission infrastructure.

NCEMC participated actively in the stakeholder proceedings that led to the NCTPC Filing Parties' filing in this docket and supports many of the elements of this filing. While NCEMC believes that the proposed revisions to the NCTPC process contribute significantly to compliance with many of Order No. 1000's requirements, NCEMC is concerned that using only an avoided transmission cost methodology for regional project selection and the cost allocation methodology proposed in the filing will unreasonably narrow the types of transmission projects that could be considered eligible for selection as Regional Projects for regional cost allocation purposes. Consequently, NCEMC urges the Commission to require several modifications to the filing, including adoption of an alternative test for projects that do not satisfy the avoided transmission cost methodology, to consider whether the projects' additional regional benefits might justify their selection. NCEMC believes the proper way to determine the elements that should be considered in this alternative test is through the NCTPC stakeholder process. Finally, NCEMC requests that the Commission require the filing Parties to more explicitly clarify just how an ultimately successful project will be selected from among competing proposals.

**B. NCEMC Supports the Basic Structure of the NCTPC Process as a Regional Transmission Planning Process.**

At the outset, NCEMC strongly supports the basic open and collaborative nature of the NCTPC process, and supports many of the revisions to that process proposed in the compliance filing. The current NCTPC regional transmission planning process is a Commission-approved

Order No. 890-compliant process.<sup>4</sup> NCEMC is an active participant in this process, and serves on the Oversight Steering Committee (“OSC”) along with DEC, PEC and Electricities of North Carolina, Inc.. NCEMC strongly supports continuation of the NCTPC as the appropriate regional transmission planning process for implementing the Order No. 1000 compliance requirements in the DEC and PEC service territories. NCEMC’s experience in this collaborative process over the past five years has been very positive. The NCTPC’s open, inclusive and active participatory approach has facilitated more effective and integrated transmission planning and expansion in the portions of North Carolina and South Carolina encompassed by the NCTPC Filing Parties’ service areas.

1. The Scope and Size of NCTPC Comply with the Order No. 1000 Requirements.

NCEMC believes that the scope and size of the NCTPC region is compliant with the requirements of Order No. 1000. In the Final Rule, the Commission declined to establish criteria for determining the size or scope of a transmission planning region, but clarified certain guidelines to assist in evaluation of compliance filings on this issue. The Commission stated that “a planning region is one in which public utility transmission providers, in consultation with stakeholders and affected states, have agreed to participate in for purposes of regional transmission planning and development of a single-regional transmission plan.” Order No. 1000 at P 160. The Commission further clarified that the scope “should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions.” *Id.* NCEMC agrees with DEC and PEC that the NCTPC satisfies the scope and size requirements for a regional transmission planning process under Order No. 1000.

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<sup>4</sup> *Duke Energy Carolinas, et al.*, 124 FERC ¶ 61,267 (2008), *order on compliance filing*, 127 FERC ¶ 61,281 (2009); *order granting reh’g*, 130 FERC ¶ 61,181 (2012).

The Commission has already approved the scope of the NCTPC as an appropriately-sized regional transmission planning process under Order No. 890.<sup>5</sup> The Commission found that “Duke and Progress’ coordination with other transmission owners through the NCTPC and the SERC and SIRPP processes, as modified above, is sufficient to satisfy their regional planning obligations under Order No. 890.”<sup>6</sup> Although Order No. 890 required only that transmission providers coordinate with neighboring transmission providers for regional transmission planning, the Order No. 890-compliant NCTPC process extends beyond the coordination principle, and provides for the development of a regional transmission plan that addresses the needs of the region, including transmission customers on the DEC and PEC transmission systems. That fundamental transmission planning process for non-Order No. 1000 transmission projects, *i.e.*, transmission projects that are not being considered for regional cost allocation purposes, is working well and should not change as a result of this filing

The requirements of Order No. 1000, while extending the transmission planning principles of Order No. 890 to the regional transmission planning process, did not change the criteria governing the size and scope of a region for transmission planning purposes. As the compliance filing demonstrates, the NCTPC region comprises the service territories of DEC and PEC, covering all of North Carolina, and the portions of South Carolina served by DEC and PEC. Yadkin has now joined the NCTPC as a transmission provider as well; consequently, the NCTPC now encompasses three public utility transmission provider systems. NCEMC agrees with DEC and PEC that the scope and size of the NCTPC is widely supported by both the relevant states and stakeholders. Transmittal Letter at 5.

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<sup>5</sup> *Duke Energy Carolinas*, 124 FERC at P 60.

<sup>6</sup> *Id.*

Moreover, the DEC, PEC and Yadkin transmission systems are interconnected, are not subject to retail choice obligations, serve an area in which the utilities remain vertically-integrated, and are subject to the same reliability obligations imposed by the SERC Reliability Corporation. These systems serve all the load-serving entities (“LSEs”) taking transmission service in North Carolina, including approximately 85% of the retail loads served by NCEMC’s distribution member cooperatives in North Carolina.<sup>7</sup> NCEMC’s experience with the NCTPC has confirmed that the region is sufficiently sized and scoped to address the transmission needs of the entire North Carolina region, including the vast majority of the loads served by NCEMC.

However, should FERC disagree and not approve the NCTPC region as compliant with the Order No. 1000 requirements, NCEMC urges the Commission to retain approval of the current NCTPC process for purposes of transmission planning for projects not seeking Order No. 1000 regional cost allocation. The NCTPC process approved under Order No. 890 continues to provide significant benefits to transmission customers in the region, and should remain in place for purposes of planning for transmission needs not subject to Order No. 1000, even if the NCTPC Filing Parties are required to join a broader region for Order No. 1000 regional planning purposes.

2. The Definition of Regional Project Is Appropriate.

NCEMC supports the new definition of Regional Project proposed in the filing. Section 8.1 defines a Regional Project as one that encompasses multiple transmission provider footprints; however, a project within a single transmission provider’s footprint that provides regional benefits can also qualify. This provision is important because it is possible that a project constructed entirely in a single transmission provider’s footprint could provide benefits to

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<sup>7</sup> The remaining 15% of NCEMC’s member loads is served from the Virginia Electric & Power Company transmission system in the PJM Interconnection, L.L.C. and is covered by the PJM regional transmission planning process.

customers located in a neighboring transmission provider's footprint, especially where a proposed Regional Project may be located near the interface of the two systems. The

Commission in Order No. 1000 clarified:

Our decision today does not prevent an incumbent transmission provider from continuing to propose transmission projects for consideration in the regional transmission planning process and to receive regional cost allocation if those projects are selected in a regional transmission plan for such purposes, even if they are located entirely within its retail distribution service territory or footprint.

Order No. 1000 at P 262.

The proposed definition of Regional Projects retains the pre-existing NCTPC requirement that projects must cost at least \$10 million to be considered in the NCTPC Collaborative Transmission Plan, and adds a new requirement that projects must consist of facilities rated at 230 kV or above. (Sections 8.1.2 and 8.1.3) The definition also requires that Regional Projects be materially different than a project or projects currently in the Collaborative Transmission Plan. (Section 8.1.5) NCEMC agrees with DEC and PEC that these criteria ensure that multiple Local Projects of the public utility transmission providers already identified in the Collaborative Transmission Plan are not simply repackaged into a single project. Transmittal Letter at 20. Moreover, this requirement ensures cost-efficiency by eliminating the prospect of having to choose among multiple iterations of projects that are essentially identical to the local projects in the Collaborative Transmission Plan.

**C. The Regional Project Selection Criteria and Regional Cost Allocation Method Do Not Comport with the Requirements of Order No. 1000.**

1. The Proposed Tariff Language Narrows Rather Than Expands Regional Project Options.

NCEMC's primary concern about the compliance filing is the proposal to use a single bright-line metric – the Avoided Transmission Cost – for Regional Project selection and regional



cost allocation. Use of a single methodology to select Regional Projects and allocate their costs may well narrow the pool of potential solutions to reliability, economic or public policy problems identified on DEC's and PEC's transmission systems. Potentially efficient and cost-effective regional projects that provide benefits other than the avoidance of the cost of a transmission project already included in the Collaborative Transmission Plan will not be considered for regional cost allocation under the NCTPC Filing Parties' compliance filing, as explained further below. NCEMC urges the Commission to require the NCTPC Filing Parties to adopt an alternative test for project selection and regional cost allocation that considers other factors, such as public policy, economic impact or reliability benefits in addition to avoided transmission costs. This test would be used for projects that do not pass the 1.25 Benefit-to-Cost threshold screen, or do not avoid another project already in the Collaborative Transmission Plan. The Commission should require that the tariff language for this alternative test be developed through the NCTPC process.

Section 8 of the NCTPC Filing Parties' compliance filing contains language that limits Regional Project selection criteria and regional cost allocation to consideration of only the benefits associated with the cost of avoided transmission alternatives as summarized below:

- Sections 8.2.3.6 (Potential impacts to other transmission projects in the prior year's plan): Project information to be submitted with a Regional Project proposal must include identification of the proposed transmission project(s) that would be avoided if the Regional Project is selected, as well as an impact analysis that accounts for the status of the proposed transmission projects that would be avoided.
- Section 8.2.3.10 (Projected cost of avoided transmission project): Project information to be submitted by the Regional Project Developer must also include the projected costs of the transmission project(s) being avoided.
- Section 8.3.3 (Benefits Analysis Screen): The Benefits Screen Analysis must consider whether the proposed Regional Project satisfies a 1.25 Benefit/Cost ratio. The intent of this provision, as indicated by the provisions of Section 9.3

discussed below, is to ensure that the proposed Regional Project costs 25% less than the existing transmission projects in the Collaborative Transmission Plan being replaced.

Although the compliance filing includes language that describes other factors that will be considered in the selection of regional projects for the purposes of cost allocation, this language ensures only that the proposed facility will be electrically comparable to the displaced transmission facilities:

- Section 8.3.2.1(f) (Technical Analysis Screen): The Technical Analysis Screen conducted by the PWG [Planning Working Group] of the proposed Regional Project must consider a variety of factors, including whether the proposed Regional Project solves the same issues as the transmission projects being avoided.

The ability to consider benefits other than Avoided Transmission Cost is further impeded by the Cost Allocation language in Section 9.3:

- Section 9.3 (Cost Allocation for Regional Projects): The regional cost allocation method proposed is based on an “avoided transmission cost benefits” approach, which will only be used if the Regional Project has demonstrated a benefit to cost ratio greater than 1.25. Relative benefits are measured by comparing the costs of the proposed Regional Project to the costs of the Transmission Providers’ transmission projects already identified in the Collaborative Transmission Plan. This provision further states that if “a Transmission Provider does not avoid any transmission costs, it is not a beneficiary and is not allocated any costs.”

The import of these provisions is that if a proposed Regional Project does not replace a transmission project already identified in the Collaborative Transmission Plan, then it cannot be considered for selection as a Regional Project for regional cost allocation purposes. Moreover, under Section 9.3, if a proposed Regional Project does not replace a project already identified in the Collaborative Transmission Plan, then DEC and PEC are deemed not to be beneficiaries of the proposed Regional Project, and the costs of that project could not be allocated regionally to DEC or PEC.

The prospect that a proposed Regional Project might stem from a need to address reliability, economic impact or Public Policy concerns not yet identified in the NCTPC process, and for which a proposed solution has not yet been identified in the Collaborative Transmission Plan, is not beyond reason or plausibility. A proposed Regional Project could likely provide a significant improvement in the efficiency or the cost-effectiveness of the transmission system without replacing a project already identified in the Collaborative Transmission Plan. Such a project might provide a new approach to solving a reliability problem or an economic opportunity, or may meet a Public Policy objective that had not been previously considered by the NCTPC process. For example, an economic transmission project that reduces congestion or transmission losses is a project that may provide regional benefits, but that may not necessarily replace a project already identified in the Collaborative Transmission Plan. Such projects may well produce benefits that cannot be captured in the Avoided Transmission Cost bright line metric proposed by DEC and PEC for Regional Project selection and cost allocation, and are vital to transmission-dependent utilities such as NCEMC, which serve loads located on multiple transmission provider systems within a region. The qualification criteria for selection of a project for regional cost allocation should not ignore these potential benefits.

Moreover, the compliance filing's proposal that a Regional Project must satisfy a 1.25 Benefit-to-Cost ratio screen, in addition to avoiding a transmission project already identified in the Collaborative Transmission Plan, means that a proposed Regional Project that provides only a 1.1 or even an 1.2 Benefit-to-Cost ratio would be excluded from consideration as a Regional Project for regional cost allocation purposes, even though it might provide valuable efficiency and cost-effectiveness benefits to the regional transmission system, such as reduced congestion or reduced transmission losses. Refusing to consider potential benefits other than avoiding a

more costly project already identified in the Collaborative Transmission Plan effectively narrows the types of regional transmission solutions that could be considered. This would defeat one of the prime objectives of Order No. 1000, *i.e.*, to expand the pool of transmission solutions to be considered in the regional transmission planning process.

As the Commission explained, the reforms adopted in Order No. 1000 were designed to work together “to ensure an opportunity for *more* transmission projects to be considered in the transmission planning process on an equitable basis and increase the likelihood that those transmission facilities selected in a regional transmission plan for purposes of costs allocation are the more efficient or cost-effective solutions available.” *Id.* at P 11 (emphasis added). In Order No. 1000-A, the Commission clarified that “such transmission planning will *expand* opportunities for more efficient and cost-effective transmission solutions for public utility transmission providers and stakeholders, which, in turn, will help ensure that the rates, terms, and conditions of Commission-jurisdictional services are just and reasonable and not unduly discriminatory or preferential.” Order No. 1000-A at P 263 (emphasis added).

Order No. 1000 sought to reform the Order No. 890 regional transmission planning process because “the existing requirements of Order No. 890 do not necessarily result in the development of a regional transmission plan that reflects the identification by the transmission planning region of the set of transmission facilities that are more efficient or cost effective solution for the transmission planning region.” Order No. 1000 at P 78. In imposing an affirmative obligation<sup>8</sup> to develop a regional plan that considers a broad array of regional solutions, the Commission reasoned that “proactive cooperation among public utility transmission providers within a transmission planning region could better identify transmission

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<sup>8</sup> See Order No. 1000 at P 80 “We conclude that it is necessary to have an affirmative obligation ... to evaluate alternatives that may meet the needs of the region more efficiently or cost-effectively.”

solutions to more efficiently or cost-effectively meet the reliability needs of public utility transmission providers in the region.” *Id.* at P 81.

It is important to recognize that Order No. 1000 did not limit the definition of regional projects to those that avoid projects already identified in local or regional transmission plans. *Id.* In requiring that regional transmission planning processes consider regional projects that might more efficiently or cost-effectively meet the needs of the region, the Commission stated that such projects “could include transmission facilities needed to meet reliability requirements, address economic considerations, and /or meet transmission needs driven by Public Policy requirements.” Order No. 1000 at P 148. The Commission recognized that “[a]lternative solutions to the identified needs may prove better from cost, siting, or other perspectives” (Order No. 1000 at P 216), clearly recognizing that a wide variety of benefits associated with proposed projects could be considered. The Commission further recognized that “there is merit in allowing for flexible planning criteria to mitigate the possibility that bright line metrics may exclude certain transmission projects from long-term transmission planning” (*Id.* at P 223), and obligated public utility transmission providers to develop procedures that ensure that:

public utility transmission providers in a region establish, in consultation with stakeholders, procedures to ensure that all projects are eligible to be considered for selection in the regional transmission plan for purposes of cost allocation. To arbitrarily disallow certain projects from eligibility to the regional plan is not responsive to the Commission’s orders.

Order 1000 at P 336.

The NCTPC Filing Parties note in their Transmittal Letter (at 14, 32-33) that early on in the NCTPC Order No. 1000 stakeholder process, they and the NCTPC stakeholders considered other approaches to selecting and allocating the costs associated with Regional Projects. One proposal, the production cost savings approach, would have provided the NCTPC standing

committees lee-way to adjust the evaluation process to consider benefits in addition to Avoided Transmission Costs, based on the individual proposals received and the Regional Project Developer's documentation of the alleged additional benefits.

As the NCTPC Filing Parties state in the transmittal letter, they received feedback from stakeholders and FERC Staff that “any project selection/cost allocation approach that was not very well-defined or easily replicable would be likely to garner protests and unlikely to pass muster with the Commission” (Transmittal Letter at 33). Evidently, it was for this reason that the NCTPC Filing Parties decided to incorporate a method that, while well-defined, considers only one type of benefit – Avoided Transmission Cost. To the extent that a proposed Regional Project can provide benefits not encompassed within the Avoided Transmission Cost method, the NCTPC Filing Parties recommend that Developers try to “sell” such projects on a “participant-funded basis.” Transmittal Letter at 33-34.

The NCTPC Filing Parties' recommendation that additional benefits be considered and captured through a participant-funded approach does not comport with Order No. 1000's prohibition of the use of participant funding as an Order No. 1000 Regional Project cost allocation approach. Order No. 1000 at P 723. A participant-funding approach is fraught with free-rider concerns, and may discourage consideration and construction of potentially more efficient and cost-effective transmission solutions. In banning the use of participant funding as an Order No. 1000 cost allocation method, the Commission recognized these perils, reasoning that “reliance on participant funding as a regional or interregional cost allocation method increases the incentive of any individual beneficiary to defer investment in the hopes that other beneficiaries will value a transmission project enough to fund its development” and that as a result, “it is likely that some transmission facilities identified as needed in the regional

transmission planning process would not be constructed in a timely manner, adversely affecting ratepayers.” Order No. 1000 at P 723.

While the Commission did not prohibit participant-funded projects altogether, it clearly recognized that participant funding used as a method for regional cost allocation would inhibit the development of the more efficient and cost-effective transmission solutions anticipated in an Order No. 1000 regional transmission planning process. The NCTPC Filing Parties’ proposal that benefits other than Avoided Transmission Cost can be considered only through a participant-funded approach to transmission project development falls far short of the Commission’s vision in Order No. 1000 for promoting a more efficient and cost-effective transmission grid.

2. The NCTPC Filing Parties’ Compliance Filing Should Be Amended to Expand the Types of Benefits That Can Be Considered in the Order No. 1000 Regional Planning Process.

The Commission should direct DEC and PEC to amend their Joint OATT, after consultation with stakeholders, to expand the criteria for Regional Project selection and cost allocation to include consideration of benefits in addition to avoidance of a transmission project already identified in the Collaborative Transmission Plan. Because it is not possible for NCEMC today to predict all of the different types of Regional Projects that might be proposed in the future and the benefits such Regional Projects might provide, NCEMC urges that NCTPC stakeholders be accorded the opportunity to address this question and develop a Regional Project selection and cost allocation method that will accommodate different types of projects. NCEMC offers the following language as an example of the type of tariff provision that could allow consideration of benefits beyond avoided transmission costs in the project selection process:

8.4.3.4 For those projects that do not meet the 1.25 avoided transmission cost threshold, or that do not replace a transmission project already identified in the Collaborative Transmission Plan, at the Developer’s request additional benefits may be

considered in meeting that threshold. Such additional benefits include, but are not limited to:

- Improvements in system reliability that could delay or eliminate other projects in the plan;
- Improvements in operational performance of the transmission system;
- Improvements that result in economic efficiency, including reductions in production costs, losses, capacity costs, ancillary services costs, etc.; and
- Improvements that meet public policy requirements.

- 8.4.3.4.1 Should such benefits be proposed for consideration, the NCTPC Technical Advisory Group (TAG) would determine how such benefits would be calculated.
- 8.4.3.4.2 This calculation could include production cost modeling, in which case the TAG would develop and agree upon the assumptions to be used in the modeling.
- 8.4.3.4.3 Should agreement not be reached within the TAG on specific modeling assumptions, the OSC would hire an outside consultant who would use industry-wide available data to the maximum extent practicable.
- 8.4.3.4.4 The cost of the outside consultant fees will be paid by the Developer requesting consideration of additional benefits. The NCTPC may agree, on a not unduly discriminatory basis, to share in the cost of this expense upon consensus vote of the OSC.
- 8.4.3.4.5 The OSC will provide a written report of the results of any modeling and analysis of the claimed additional benefits, explaining with supporting details the model used, the assumptions and input data used and the results reached.
- 8.4.3.4.6 If the project passes the three screens referenced in section 8.3 considering the additional claimed benefits in the benefit-to-cost ratio analysis, the project will be selected in the NCTPC plan for regional cost allocation.
- 8.4.3.4.7 Because of the time needed to reach agreement on modeling assumptions and method, such projects will be evaluated over a 24 month time period.
- 8.4.3.4.8 The benefits calculation developed for purposes of project selection under this section also will determine cost allocations between the Duke and Progress zones in accordance with section 9.4.



NCEMC provides this language solely as basis to begin discussions that would involve all NCTPC stakeholders in the development of a Regional Project selection and cost allocation method that considers benefits in addition to Avoided Transmission Costs. NCEMC also urges the Commission to direct DEC and PEC to modify Section 9.3 of the tariff language to allow for consideration of benefits in addition to Avoided Transmission Costs in the method used to allocate the costs of Regional Projects selected for regional cost allocation purposes. Notably, the language at the end of Section 9.3 that states that if a Transmission Provider “does not avoid any transmission costs, it is not a beneficiary and is not allocated any costs” should be deleted and language that builds on proposed section 8.4.3.4.8 above should be developed.

Having a dual-test system with the Avoided Transmission Cost test as the primary test and an alternative test for transmission projects that do not avoid a transmission project already identified in the Collaborative Transmission Plan or that do not meet the Benefit-to-Cost threshold satisfies the Commission’s and stakeholder’s needs for certainty while at the same time allowing for flexibility in the selection of transmission projects. The Avoided Transmission Cost methodology will provide certainty that an alternative transmission project will be chosen if its costs are 25% less than the proposed transmission project(s) it will replace, while the alternative test will provide flexibility to consider economic or reliability factors as well as public policy concerns.

3. The Proposed Selection Criteria Should Be Made More Explicit.

While Section 8.4.3 indicates that the OSC will determine which Regional Projects will result in a more efficient and cost-effective transmission system, it does not explain how the OSC is to make that determination. This section provides that the NCTPC will verify that a Regional Project Developer is “adequately capable” of designing, constructing, operating and

maintaining a Regional Project but does not state what happens if a proposed Regional Project satisfies the qualification criteria, or what happens if multiple proposed Regional Projects satisfy the qualification criteria. It is possible that the proposal contemplates that a Regional Project will be selected as part of the Collaborative Transmission Plan for regional cost allocation purposes if all qualification criteria and the 1.25 benefits to cost ratio are satisfied. However, nowhere does the proposed tariff language make this explicit. Nor does the proposed tariff language indicate how the OSC is to select among proposals if multiple proposals satisfy all criteria. NCEMC submits that the Order No. 1000 compliance filing should state explicitly how a Regional Project proposal will be selected over an existing transmission project in the current Collaborative Transmission Plan, and how the OSC will select among competing proposals. Factors that should be included in such an evaluation include whether or not the proposed projects provides other potential efficiency benefits, such as lowering the cost of congestion or transmission losses.

#### IV. CONCLUSION

WHEREFORE, NCEMC respectfully requests that the Commission grant it intervener status in each of the above-captioned dockets, with all rights appurtenant to that status, and direct DEC and PEC to meet with NCTPC stakeholders to develop amendments to the Order No. 1000 tariff language that would allow consideration of benefits beyond Avoided Transmission Cost, as well as to develop tariff language that explicitly indicates how selection of the Regional Project for cost allocations purposes is to be undertaken.

Respectfully submitted,

By: /s/ Denise C. Goulet

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November 26, 2012

**CERTIFICATE OF SERVICE**

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon the parties identified on the Commission's official service list in each above-captioned docket by electronic means.

Dated at Washington, D.C. this 26<sup>th</sup> day of November, 2012.

By: /s/ Denise C. Goulet

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