



DOE Directs FERC To Initiate Large Load Interconnection Rulemaking

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On October 23, 2025, the Secretary of the U.S. Department of Energy (DOE) directed the Federal Energy Regulatory Commission (FERC) to conduct a rulemaking to assert jurisdiction over load interconnections to the bulk electric transmission system and establish standardized procedures for the interconnection of large loads.¹ The Directive included an advanced notice of proposed rulemaking (ANOPR) that sets forth the legal justification for asserting jurisdiction over transmission-level load interconnections and fourteen principles that should inform FERC's rulemaking process. The Secretary has directed FERC to take "final action" on the Directive no later than April 30, 2026.

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Citing "unprecedented and extraordinary" electricity demand driven by the rapid proliferation of data centers, onshoring of manufacturing, and trends in electrification, the Directive would have FERC address the lack of standardized rules governing how large loads—which it preliminarily defines as greater than 20 MW³—are interconnected at the transmission level. The Directive issued shortly after the Senate confirmation of two new Republican FERC commissioners, Chair Laura V. Swett and Commissioner David LaCerte. Swett and LaCerte are the first appointments of the second Trump Administration to the agency and provide Republicans with a majority for the first time since August 2021.⁴ The new makeup of the agency along the Directive's ambitious timeline suggest that FERC is likely to move quickly to

address the issue of large load interconnection. Commissioner David Rosner, the agency's prior Acting Chairman, has already expressed eagerness to work on the Secretary's proposal.⁵

The ANOPR provides FERC with a critical opportunity to clarify FERC policy on large load interconnections. Although FERC has held a technical conference on the co-location of large loads⁶ and instituted a Federal Power Act (FPA) Section 206 proceeding regarding co-locating large loads in PJM Interconnection, L.L.C.,⁷ FERC has not provided comprehensive guidance on the process, cost allocation requirements, or timeline that transmission providers must follow when addressing large load requests. Additionally, the limited orders that FERC issued under the leadership of former Chairman Mark Christie appeared skeptical of the ability of the grid to accommodate loads without impairing service to other customers, including certain well-publicized orders thwarting efforts to co-locate large loads with existing generation in PJM.⁸ The ANOPR provides FERC with an opportunity to articulate a coherent policy framework that creates a path for the interconnection of large loads that recognizes the strategic and economic importance of large loads while maintaining reliability and resource adequacy.

Section 403 Authority

The Directive is issued pursuant to Section 403 of the Department of Energy Organization Act, which allows the Secretary of Energy to “propose rules, regulations, and statements of policy of general applicability with respect to any function within the jurisdiction of the [FERC].”⁹ The legal impact of the Directive is, however, somewhat limited. FERC is not required to adopt any DOE proposal. It must only “consider” such proposal and take final action on the proposal in an “expeditious manner” and “in accordance with such reasonable time limits as may be set by the Secretary...”¹⁰

The directive marks the second time¹¹ that the current Secretary has invoked his Section 403 authority following his August 29, 2025 directive for FERC to terminate its long-running proceeding addressing proposed updates to its policy statement on the certification of new interstate natural gas facilities.¹² FERC followed the August 2025 Directive by issuing an order terminating its interstate natural gas facilities certificate proceeding just 14 days later.¹³ Prior to the August 2025 Directive, the DOE Secretary had not issued a Section 403 directive to FERC since former Secretary Rick Perry directed FERC to consider action to require transmission

providers to compensate generation resources with on-site fuel supplies.¹⁴ Following extensive and widespread opposition to the Secretary Perry's directive, FERC declined to adopt his proposed rule and terminated the proceeding.¹⁵

Jurisdiction Over Transmission-Level Interconnections

Parties are likely to contest whether FERC has jurisdiction over the interconnection of large loads to the transmission system. Historically, FERC has declined to assert jurisdiction over load interconnections in deference to the states' authority over retail sales. In anticipation of these arguments, the Secretary's Directive asserts that the interconnection of large loads to the transmission system falls "squarely within the [FERC's] jurisdiction."¹⁶ The ANOPR draws upon the U.S. Supreme Court's decision in *New York v. FERC*, in which the Court upheld FERC's decision to exercise jurisdiction over unbundled retail sales but declined jurisdiction over bundled retail sales.¹⁷ The Court explained that "[t]he unbundled retail transmissions targeted by FERC are indeed transmissions of 'electric energy in interstate commerce,'" subject to FERC jurisdiction and "[t]here is no language in the [FPA] limiting FERC's transmission jurisdiction to the wholesale market..."¹⁸ It found that FERC had "discretion to decline to assert such jurisdiction [over bundled retail transactions] ... in part because of the complicated nature of the jurisdictional issues."¹⁹ The ANOPR questions FERC's decision not to exercise jurisdiction over bundled retail sales, by citing to Justice Clarence Thomas's dissent in which he disagreed with the Court's conclusion that FERC could decline such jurisdiction since "FERC has jurisdiction over all interstate transmission, regardless of the type of transaction with which it is associated..."²⁰

The ANOPR also finds support for the Secretary's jurisdictional assertion in FERC's generator interconnection framework. The ANOPR explains that in Order No. 2003 FERC found that generator interconnection is a "critical component of open access transmission service" over which it has jurisdiction to establish a standardized set of non-discriminatory procedures that transmission providers are required to adopt.²¹ Although the ANOPR does not directly compare the pre-Order No. 2003 generator interconnection process in which generators faced an "inefficient," "case-by-case approach" to interconnect that "frequently result in complex, time consuming technical dispute about interconnection feasibility, cost, and cost responsibility,"²² the parallels between such process and current load interconnection processes are not difficult to draw.

From this background, the ANOPR identifies four legal justifications for FERC to assert jurisdiction over large load interconnections:

1. Load interconnection are, like generator interconnections, a “critical component of open access transmission service” over which FERC has jurisdiction.²³ FERC’s exclusive jurisdiction over interstate transmission service would appear, based upon the discussion of *New York* and FERC’s generator interconnection framework, to be the primary basis that DOE believes FERC has jurisdiction over large load interconnections.
2. Load interconnections directly affect FERC-jurisdictional wholesale electricity rates, for which courts have found FERC has jurisdiction.²⁴ Although the ANOPR does not elaborate on how FERC’s “affecting” jurisdiction extends to large load interconnections, courts have approved FERC’s assertion of jurisdiction over other entities that were engaged in activities that touched on state jurisdiction. For example, courts have found FERC has jurisdiction to establish rates for demand response participating in wholesale markets and to require states to allow energy storage resources to participate in wholesale markets, including by interconnecting at the distribution level.²⁵
3. FERC’s assertion of jurisdiction over large load interconnections will not infringe on states’ authority over retail electricity sales or the siting of generating facilities.²⁶ The ANOPR explains that while states have authority over retail sales and the siting, expansion, and modification of generating facilities, FERC’s adoption of processes governing large load interconnections will not impinge on this authority since the ANOPR does not address retail sales or the siting, expansion, and modification of generation facilities.
4. Finally, “[a]ny contrary view of the proposed reforms conflicts with the FPA’s core purposes.”²⁷ The ANOPR’s point appears to be that that a core purpose of the FPA is that FERC shall be vested with exclusive jurisdiction to oversee the rates, terms, and conditions of transmission service and large loads interconnecting to the transmission system intend to obtain such service and its associated benefits. The interconnection of large loads thus falls within FERC’s jurisdiction.

Principles for Large Load Interconnection Processes

The ANOPR sets forth 14 broad principles that “should inform [FERC’s] rulemaking procedures.”²⁸ Some of these principles may be relatively uncontroversial (e.g., utilities serving

large loads must meet all applicable North American Electric Reliability Corporation (NERC) reliability standards and transmission provider tariff requirements).²⁹ But many other principles are likely to generate significant comment from utilities, large loads, generators, and consumers.

The 14 principles that the ANOPR instructs should inform FERC's rulemaking are as follows:³⁰

1. Limit FERC's jurisdiction to interconnections directly to transmission facilities, consistent with FERC's seven-factor test, to avoid infringing on state regulation of distribution facilities.³¹ FERC historically has applied the seven-factor test to evaluate whether facilities constitute transmission facilities subject to FERC's jurisdiction or local distribution facilities subject to the exclusive authority of the states.
2. Apply the load interconnection process to new loads greater than 20 MW (and hybrid facilities with greater than 20 MW load).
3. Study large loads jointly with generation to promote efficient siting and minimize costly network upgrades.
4. Adopt standardized deposits, readiness criteria, and withdrawal penalties to deter speculative large loads and improve queue management.
5. Study hybrid facilities (*i.e.*, facilities consisting of both load and generation) based on their net injection/withdrawal rights to encourage co-location and efficient grid use.
6. Require system-protection equipment for hybrid projects to prevent unauthorized injections or withdrawals, with potential penalties for violations.
7. Expedite studies (potentially as fast as 60-days) for large loads that agree to be curtailable.
8. Assign full responsibility for network-upgrade costs to interconnecting loads, with potential crediting or recovery mechanisms.
9. Provide large loads the option-to-build interconnection facilities and certain network upgrades, consistent with the generator option-to-build.
10. Require SSR/RMR-type studies when generators partially suspend operations to serve new load, ensuring reliability before suspension.
11. Charge for transmission service based on withdrawal rights to reflect the capacity and energy transmitted to serve such load.

12. Utilities serving large loads should be responsible for ancillary services based on peak demand without any consideration of co-located generation; however, any co-located generation should be fully compensated for the provision of ancillary services.
13. Establish transition plans for pending large load interconnections under study.
14. Require compliance with NERC standards, including possible new registration categories or modified standards to protect the bulk-power system.

The 14 principles set forth in the ANOPR appear designed to push FERC in the direction of resolving certain issues related to the interconnection and integration of large loads that already are being hotly contested before the FERC. For instance, the principle that facilities be studied and charged for transmission based on a net basis appears to put DOE's weight behind parties that have argued that large loads should be permitted to serve a portion of their demand behind the meter without being subjected to transmission charges. At the same time, the ANOPR appears to make a concession to those parties that have argued that certain charges—such as ancillary services—should be allocated based on the gross capacity of a large load even if a portion may be served by onsite generation, although the ANOPR also confirms that onsite generation should have the opportunity to supply and be compensated for these services.

The ANOPR seeks comment on many of the 14 principles, including how to define large loads,³² what financial commitments or withdrawal penalties should apply to large load interconnections processes,³³ and whether expedited study processes should be available for curtailable large loads.³⁴ If FERC moves forward with a large load interconnection rulemaking, interested parties will have the opportunity to comment on other principles and present alternatives for FERC's consideration.

It will now be on FERC to take up the ANOPR. While FERC has discretion regarding the substance of any orders that it issues in response to DOE's directive, FERC will need to move quickly if it is to meet the DOE's deadline of taking "final action" on the proposal by April 2026. Given that DOE's proposal is cast as an ANOPR—which typically precedes the issuance of a notice of proposed rulemaking and final rule—it seems likely that any actions that are taken by FERC by April 2026 may represent the first steps in a longer rulemaking process. Nevertheless, an order by the FERC articulating its view on the principles included in the ANOPR would represent a milestone in the FERC's articulation of a policy respecting the interconnection of large loads.

¹ Secretary of Energy’s Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal Regarding the Interconnection of Large Loads Pursuant to the Secretary’s Authority Under Section 403 of the Department of Energy Organization Act (Oct. 23, 2025), <https://www.energy.gov/articles/secretary-wright-acts-unleash-american-industry-and-innovation-newly-proposed-rules> (“Directive”).

² *Interconnection of Large Loads to the Interstate Transmission System*, Docket No. RM26-4-000, Notice Inviting Comments (Oct. 27, 2025).

³ ANOPR at ¶ 1, n.1.

⁴ Maya Weber and Ellie Potter, *Chatterjee set to depart FERC on Aug. 30, leaving 2-2 voting split*, S&P Global (Aug. 20, 2021), <https://www.spglobal.com/commodity-insights/en/news-research/latest-news/electric-power/082021-chatterjee-set-to-depart-ferc-on-aug-30-leaving-2-2-voting-split>.

⁵ David Rosner, October 24, 2025 LinkedIn Post (Oct. 24, 2025), *available at*: <https://www.linkedin.com/feed/update/urn:li:activity:7387508898917715968/> (stating that “I am excited to work with my colleagues on U.S. Department of Energy (DOE) Secretary Wright’s large load proposal. Getting large load interconnection right is a generational opportunity that’s key to winning the AI race, reshoring American manufacturing, and keeping electricity reliable and affordable for everyone. There is broad bipartisan support for the Federal Energy Regulatory Commission taking action soon on these issues, and I appreciate the Secretary turning to FERC to do so.”).

⁶ *Large Loads Co-Located at Generating Facilities*, Docket No. AD24-11-000, *Third Supplemental Notice of Commissioner-Led Technical Conference* (Oct. 10, 2024).

⁷ *PJM Interconnection, L.L.C.*, 190 FERC ¶ 61,115 (2025).

⁸ *PJM Interconnection, L.L.C.*, 189 FERC ¶ 61,078 (2024).

⁹ 42 U.S.C. § 7173.

¹⁰ *Id.*

¹¹ The same day that the Secretary issued the Directive, he also issued a directive related to hydropower. The Secretary directed FERC to initiate rulemaking procedures to remove unnecessary burdens for preliminary hydroelectric power project permits. The Secretary's proposed rule would clarify that third parties do not have veto rights over the issuance of preliminary hydroelectric power permits. Secretary of Energy's Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal Regarding Hydroelectric Power Preliminary Permits Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act (Oct. 23, 2025), <https://www.energy.gov/articles/secretary-wright-acts-unleash-american-industry-and-innovation-newly-proposed-rules>.

¹² *Certification of New Interstate natural Gas Facilities*, Docket Nos. PL18-1-000, et al., Secretary of Energy's Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal to Rescind the Draft Updated Certificate Policy Statement Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act (Aug. 29, 2025) ("August 2025 Directive").

¹³ *Certification of New Interstate Natural Gas Facilities*, 192 FERC ¶ 61,216 (2025).

¹⁴ *Grid Reliability and Resilience Pricing*, Docket No. RM18-1-000, Secretary of Energy's Direction that the Federal Energy Regulatory Commission Issue Grid Resiliency Rules Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act at 7 (Sept. 28, 2017).

¹⁵ *Grid Reliability and Resilience Pricing*, 162 FERC ¶ 61,012 (2018).

¹⁶ Directive at 1.

¹⁷ ANOPR at ¶ 4.

¹⁸ *New York v. FERC*, 535 U.S. 1, 17 (2002).

¹⁹ ANOPR at ¶ 4 (quoting *New York v. FERC*, 535 U.S. 1, 28 (2002)).

²⁰ ANOPR at ¶ 5 (quoting *New York v. FERC*, 535 U.S. 1 (2002) (Thomas, J. dissenting at 29)). The ANOPR also cites FERC's recent transmission planning and cost allocation rule Order No. 1920, but aside from noting that Order

No. 1920 built upon prior orders addressing FERC's open access transmission policy, it did not further elaborate on the jurisdictional support Order No. 1920 may lend to the Directive.

21 ANOPR at ¶ 7 (quoting *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 9 (2003) (“Order No. 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 (2005), *order on reh’g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff’d sub nom., National Ass’n of Regulatory Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007)).

22 ANOPR at ¶¶ 7, 8 (quoting Order No. 2003 at ¶¶ 10, 11).

23 ANOPR at ¶ 13.

24 ANOPR at ¶ 14 (citing *FERC v. Elec. Power Supply Ass’n*, 577 U.S. 260 (2016)).

25 See *FERC v. Elec. Power Supply Ass’n*, 577 U.S. 260 (2016); *Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 964 F.3d 1177 (D.C. Cir. 2020).

26 ANOPR at ¶ 15.

27 ANOPR at ¶ 16.

28 ANOPR at ¶ 17.

29 ANOPR at ¶ 30.

30 ANOPR at ¶¶ 18-31.

31 The ANOPR asserts that this limiting principle will ensure that states’ jurisdiction over generation or distribution facilities is not “*even arguably*” affected. ANOPR at ¶ 18.

32 ANOPR at ¶ 19.

33 ANOPR at ¶ 21.

34 ANOPR at ¶ 24.

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