

MEMORANDUM

FROM: Van Ness Feldman LLP
DATE: December 24, 2024
RE: Overview of Compliance Obligations Under Order 1920 and Order 1920-A

The Federal Energy Regulatory Commission (FERC, or the Commission) established new Long-Term Regional Transmission Planning (LTRTP) as well as other new or modified transmission planning requirements for transmission providers in Order No. 1920.¹ Order 1920-A modifies, clarifies, and sets aside some of Order 1920's requirements.² These changes establish a more robust role for Relevant State Entities (RSEs) in the LTRTP process and greatly enhances transmission providers' affirmative obligations to engage with Relevant State Entities. They also modify some of the requirements relating to the development of Long-Term Scenarios and the identification of Long-Term Transmission Needs, which feed into Long-Term Regional Transmission Planning. This memorandum summarizes the most significant changes made by Order 1920-A to Order 1920's requirements.

State Engagement Period

Order 1920 Requirement: Order 1920 requires transmission providers to provide a six-month "State Engagement Period" for negotiating and discussing cost allocation methods with Relevant State Entities.³ The deadline to open this six-month period was December 12, 2024 (six months prior to the June 12, 2025, filing deadline).

Order 1920-A Modification:

- **Extension of State Engagement Period upon Request:** FERC will consider and grant Relevant State Entities an extension of the State Engagement Period of up to six months when necessary to resolve questions of cost allocation.⁴ If the Commission grants a Relevant State Entity's request to extend the engagement period, the Commission will also extend the relevant Order 1920 compliance deadlines as appropriate, *sua sponte*.⁵

Cost Allocation Methods and State Agreement Processes

Order 1920 Requirement: Under Order 1920, transmission providers are required to revise their OATT

¹ *Building For the Future Through Electric Regional Transmission Planning and Cost Allocation*, Docket No. RM 21-17-000, 187 FERC ¶ 61,068 (May 13, 2024) (Order 1920).

² *Building For the Future Through Electric Regional Transmission Planning and Cost Allocation*, Docket No. RM 21-17-000, 187 FERC ¶ 61,068 (2024) (Order 1920), *order on reh'g*, 189 FERC ¶ 61,126 (2024) (Order 1920-A).

³ Order 1920 at PP 1354–59.

⁴ Order 1920-A at PP 15, 33, 675.

⁵ Order 1920-A at PP 15, 33, 677–78.

to include at least one Long-Term Regional Transmission Cost Allocation Method⁶ for selected Long-Term Regional Transmission Facilities.⁷ FERC gave transmission providers discretion to also include a process (State Agreement Process or SAP) by which one or more Relevant State Entities may voluntarily agree to a cost allocation method for Long-Term Regional Transmission Facilities.⁸

Order 1920-A Modifications:

- **Inclusion of State-Approved Cost Allocation Methods or SAP in Transmittals/Filings:** Order 1920-A, requires transmission providers to include in either the transmittal or as an attachment to Order 1920 compliance filings any *ex ante* cost allocation methodology or State Agreement Process agreed to by the Relevant State Entities, as well as any information related to the State Engagement Period that Relevant State Entities requests be included.⁹
- **Consultation with RSEs:** Requires Transmission providers to consult with Relevant State Entities (1) prior to amending the Long-Term Regional Transmission Cost Allocation Method(s) and State Agreement Process(es) or (2) if a Relevant State Entity requests—consistent with the entity’s chosen method to reach agreement—that the transmission provider amend that method or process.¹⁰
- **Flexibility in Adopting Cost Allocation Methods:** Order 1920-A clarifies that Order 1920 gives transmission providers and Relevant State Entities sufficient flexibility to adopt cost allocation methods that allocate certain costs across all states in the region based on region-wide economic and reliability benefits, while allocating other costs across a subset of all states based on additional benefits provided to only those states.¹¹

Effective Date for OATT Revisions and Other Procedures

Order 1920 Requirement: In Order 1920, the Commission required transmission providers to propose an effective date for the Order 1920 OATT revisions no later than the commencement date of the first Long-Term Regional Transmission Planning cycle.¹²

⁶ “[A] Long-Term Regional Transmission Cost Allocation Method is an *ex ante* regional cost allocation method for one or more selected Long-Term Regional Transmission Facilities (or a portfolio of such Facilities) that are selected in the regional transmission plan for purposes of cost allocation.” Order 1920 at P 43.

⁷ Order 1920 at P 1291. The method “cannot be participant funding.” Order 1920 at P 1408.

⁸ Order 1920 at P 1291. The Commission will allow stakeholders to continue using of existing state agreement process where consistent with Order 1920’s requirements. Order 1920-A at P 717.

⁹ Order 1920-A at P 15.

¹⁰ Order 1920-A at P 16.

¹¹ Order 1920-A at P 16. The Commission offered the example of scenarios that consider the incremental cost associated with transmission needed to facilitate state laws, policies, regulations in excess of the cost of transmission needed otherwise. In that case, only a subset of states with laws/policies that necessitate new transmission or network upgrades would benefit from the costs associated with those investments. Order 1920 is flexible enough to accommodate a cost allocation model that recoups these kinds of costs across only the subset of entities that benefit from them. Order 1920-A at P 767.

¹² Order 1920 at P 1768.

Order 1920-A Modifications:

- **Extension of OATT Revisions Effective Date:** Order 1920-A extended the deadline for Order 1920 OATT revisions to no later than two years from the commencement of the first Long-Term Transmission Planning cycle.¹³
- **Must Consult with Stakeholders:** In Order 1920-A, the Commission clarified that transmission providers must develop the processes, procedures, and OATT revisions required by Order 1920 in consultation with stakeholders.¹⁴ This clarification is consistent with past Orders.¹⁵

Long-Term Scenarios

Order 1920 Requirement: Order 1920 requires transmission providers in each transmission planning region to participate in Long-Term Regional Transmission Planning (LTRTP)—comprehensive 20-year regional transmission planning to identify Long-Term Transmission Needs.¹⁶ Long-Term Transmission Needs are identified using at least three plausible, diverse future transmission development scenarios (Long-Term Scenarios) developed by transmission providers based on reasonable assumptions and best available data.”¹⁷

Order 1920-A Modifications:

- **State Input on Long-Term Scenarios:** Order 1920-A adds a requirement that transmission providers consult with and consider input from states on the development of the Long-Term Scenarios used in the LTRTP process.¹⁸
- **Additional Scenarios on Request from RSE:** Order 1920-A requires that transmission providers develop a reasonable number of scenarios in *addition* to the three Long-Term Scenarios required by Order 1920 to inform the development of cost allocation methods if requested to do so by a Relevant State Entity.¹⁹
- **Removes Corporate Commitments from Factor Categories:** Order 1920-A eliminates the requirement in Order 1920 that corporate commitments be accounted for under Factor Category Seven when developing Long-Term Scenarios.²⁰
- **Option to Develop Additional Scenarios:** Order 1920-A clarifies that Transmission Providers may develop analyses and scenarios in addition to the three Long-Term Scenarios required by Order 1920 to inform cost allocation methods.²¹

¹³ Order 1920-A at P 31.

¹⁴ Order 1920-A at P 923.

¹⁵ Order 1920-A at P 923; *See., e.g., Order No. 890, 118 FERC ¶ 61,119 at P 582; Order No. 1000, 136 FERC ¶ 61,051 at PP 151, 206, 227, 336, 588, 793.*

¹⁶ Order 1920 at PP 38–39, 224.

¹⁷ Order 1920 at P 302.

¹⁸ Order 1920-A at PP 15, 242.

¹⁹ Order 1920-A at P 18.

²⁰ Order 1920-A at PP 18, 934.

²¹ Order 1920-A at P 18.

Seven Benefits to Inform Long-Term Transmission Needs

Order 1920 Requirement: Order 1920 required transmission providers to use seven discrete benefits provided by the Commission, to identify Long-Term Transmission Needs.²²

Order 1920-A Modification:

- **Seven Benefits No Longer Required to Identify Long-Term Transmission Needs:**
Transmission providers are no longer required to use the set of seven benefits identified in Order 1920 to help inform Long-Term Transmission Needs.²³

²² Order 1920 at P 301.

²³ Order 1920-A at P 31.