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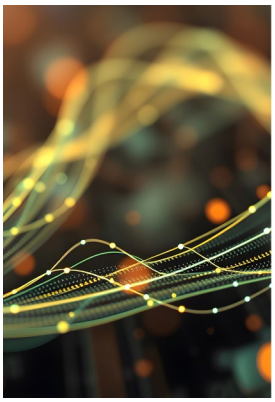

Department of Energy Directs FERC to Act on the Study and Interconnection of Large Loads and Hybrid Facilities, FERC Opens Public Comment Period

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On October 23, 2025, Secretary of Energy Chris Wright exercised his authority under Section 403 of the Department of Energy ("DOE") Organization Act (42 U.S.C. § 7173(a)) to propose that the Federal Energy Regulatory Commission ("FERC") initiate a rulemaking that would expedite the interconnection of large load facilities, such as data centers, to FERC-jurisdictional transmission systems. In his letter, Secretary Wright stressed that FERC action is needed to fulfill the Trump Administration's commitments to restoring American manufacturing and driving AI innovation.

Secretary Wright requested that FERC take final action on the proposal by April 30, 2026. Acting on this expedited timeline, on October 28, FERC announced a short public comment period on the framework developed by DOE—with a deadline for initial comments on November 14 and reply comments on November 28.

Overview of Proposed Action

The Secretary's order includes a draft Advance Notice of Proposed Rulemaking ("ANOPR") detailing the scope of regulatory action on transmission-level interconnections for large loads and hybrid facilities, the latter of which is defined as a load that shares a point of interconnection with new or existing generation facilities. As a starting point, the draft ANOPR identifies 14 principles:

1. Application of the proposed load interconnection procedures to transmission facilities as defined by the current "seven-factor" test for FERC-jurisdictional facilities.

2. Establishment of a "greater than" 20 MW threshold for application of the load interconnection procedures.

3. Integration of studies for large load interconnections with generator interconnection study procedures.

4. Application of standardized study deposits, readiness requirements, and withdrawal penalties.

5. Assessment of both injection and withdrawal rights in the study of hybrid facility interconnections.

6. Assurance that hybrid facility interconnections include system protection equipment necessary to prevent unauthorized injections or withdrawals above the requested interconnection rights.

7. Expedited studies for curtailable large load and curtailable/dispatchable hybrid facility interconnections, with a study window potentially as short as sixty (60) days.

8. Assignment of 100% of the network upgrades identified through interconnection studies to the requesting load/hybrid facility.

9. Inclusion of an option to build for load interconnections in the same or similar manner as provided to generation interconnection customers.

10. Requirement for a system support resource or reliability must run assessment to be performed for any existing generating facility seeking to add co-located load, with a three-year forward-looking assessment of any delisting of the generator's capacity from offering into wholesale markets.

11. Requirement that utilities serving large loads provide transmission service up to the authorized withdrawal rights for the load interconnection.

12. Responsibility of utilities serving large loads to provide ancillary services based on peak demand, without consideration of any co-located generation.

13. Adoption of implementation plans for load interconnection studies, with a call for public comment on the appropriate scope of transition plans.

14. Application of North American Electric Reliability Corporation ("NERC") reliability standards, including potential action by NERC to establish new registration categories or standards.

Implications and Issues

The interconnection of large loads is front-and-center for federal regulators. In addition to this request from DOE to FERC, Commissioner David Rosner also recently requested information from each Regional Transmission Organizations/Independent System Operators ("RTOs/ISOs") on this same topic.

In the past year, there has been increasing attention, and debate, on how large load and hybrid (i.e., co-located) load interconnections can be effectively planned and accommodated. In this order, DOE has suggested a framework for FERC's consideration and action. There are known implications and outstanding issues that will arise from FERC action, including:

- We expect FERC to adopt a universal framework for interconnection of large load and hybrid facilities—with public utilities and RTOs/ISOs required to update their interconnections procedures accordingly. FERC applies a "consistent with or superior to" standard for review of such implementing tariff revisions, with

RTOs/ISOs allowed further flexibility under an independent entity variation.

- DOE's call for an integrated study of interconnections covering large load, hybrid facilities, and new generator interconnections will intersect with the ongoing implementation of cluster studies under FERC Order No. 2023/2023-A. Further, allowing for expedited studies of curtailable load interconnections will require new study coordination procedures and, potentially, focused resources to implement.

- DOE has stated that "load and hybrid facilities should be responsible for 100% of the network upgrades that they are assigned through the interconnection studies." This principle addresses an end-state conclusion (assigned costs) but leaves the basis for identification and assignment of upgrades within the study process unstated.

- FERC also will need to balance its assertion of jurisdiction over transmission-level load interconnection with existing statutory boundaries between FERC and states under the Federal Power Act ("FPA"). In particular, states retain jurisdiction over retail service and end-use-consumption of electricity. Likewise, significant elements of the transmission grid are owned and operated by entities that are excluded from FERC jurisdiction under FPA Section 201(f).

- DOE's principles include recognition of transmission owners' retained FPA Section 205 rights covering rates, terms, and conditions of transmission service while also calling for large load and hybrid facilities to have the same options to build as those granted to generator interconnection customers. The scope of "options to build" within interconnection procedures has been the subject of frequent and ongoing litigation. Introducing a similar right for large load and hybrid facilities will likely precipitate further litigation on these matters.

With a goal of final action by April 2026, this ANOPR initiates an intensive, national discussion on large load interconnections coinciding with rising interest in the siting and development of data centers to support AI. The development of large load interconnection rules will present significant legal questions as well as practical challenges to the study and identification of upgrades necessary for continued, reliable grid operations. Further, this effort underscores the dynamic and consequential changes occurring across our grid—with respect to generation resource mixes, the current state, and limitations of existing transmission infrastructure and new entry of load with significant, unique demand attributes. Stakeholders will have the ability to comment on the scope of this large load interconnection effort through the ANOPR, as well as on any formally proposed load interconnection process as part of a succeeding Notice of Proposed Rulemaking.

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For More Information

Van Ness Feldman closely monitors and counsel clients on FERC-related issues. If you would like more information, please contact the authors or any member of VNF's energy regulatory practice.