



# USET

SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically*

November 18, 2024

Debbie-Anne Reese  
Acting Secretary  
Federal Energy Regulatory Commission  
12225 Wilkins Ave.  
Rockville, MD 20852

**Re: USET SPF Comments in support of the Alliance for Tribal Clean Energy's Petition for Expedited Rulemaking, Docket ID No. RM24-9-000.**

Dear Acting Secretary Reese,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Petition for Rulemaking (Petition) submitted by the Alliance for Tribal Clean Energy (ATCE) to the Federal Energy Regulatory Commission (FERC) on August 9, 2024. ATCE's Petition requests FERC to conduct an expedited rulemaking to revise the pro forma Large Generator Interconnection Procedures (LGIP) to defer the time for when federally recognized Tribal Nations and Tribal energy development organizations must post commercial readiness deposits and partially exempt them from potential withdrawal penalties. While USET SPF does not offer specific technical recommendations regarding ATCE's Petition, we express our support for ATCE's request for a rulemaking on this matter. The issues highlighted in ATCE's Petition regarding FERC's Order No. 2023 adopted in July 2023 necessitate further consideration and input from Tribal Nations. FERC's Order No. 2023, which established standardized commercial readiness deposit requirements and withdrawal penalty provisions for LGIP, does not take into consideration the unique issues Tribal Nations experience in developing energy projects and seeking access to capital for such projects.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

*Because there is Strength in Unity*

FERC's Order No. 2023 sought to limit speculative interconnection requests by requiring interconnection customers to post commercial readiness deposits to reserve interconnection queue positions and pay withdrawal penalties in the event of a decision to withdraw from the queue. However, USET SPF agrees with ATCE's assertion that these requirements place unduly burdensome requirements on Tribal Nations by limiting our ability to pursue interconnection agreements. Further, USET SPF agrees with ATCE's assertion that Tribal energy projects are not speculative projects and, therefore, should not be subjected to these rules. Several Tribal Nations across the country have pursued developing their own utility authorities to address the lack of access to energy and other utility resources since the commercial market—as well as the federal government—has failed to deploy this infrastructure to Tribal lands.

Unlike large non-Tribal energy developers, which FERC Order No. 2023 is meant to apply to, Tribal Nations experience unique issues in obtaining financial credit and capital resources. Similarly, Tribal Nations usually do not have the necessary, significant capital on hand to develop these energy projects due to the lack of a tax base available to other governments or the debt financing available to non-Tribal developers. Due to these unique circumstances, Tribal Nations must rely heavily on federal funds, which subject us to annual funding cycles and prolong the development of an energy project proposal from the feasibility study to the actual construction phase. In addition, Tribal Nations must go through a lengthy approval process with the federal government to develop Tribal Lands and obtain the necessary rights-of-way and easements to connect these projects to Tribal citizens, businesses, and government operations, as well as non-Tribal energy entities.

Due to the effort Tribal Nations must exert to pursue energy development on Tribal lands to provide essential energy services to our citizens, Tribal energy projects are not speculative projects and, therefore, should not be subjected to the rules of FERC Order No. 2023. These projects are being pursued because of the failure of the federal government to uphold its trust and treaty obligations to provide this critical infrastructure, as well as the failure of the commercial market to build out to Tribal lands. For these reasons, we strongly urge FERC to uphold its trust and treaty obligations—as an entity of the federal government—to further consult with Tribal Nations and develop a Notice of Proposed Rulemaking in response to ATCE's Petition to gather additional input to revise the pro forma LGIP so that it appropriately considers the unique environment of Tribal energy development. This action would uphold FERC's 2003 [Tribal Policy Statement](#) to, "promote a government-to-government relationship [with] federally-recognized Indian tribes...and the Commission's trust responsibility to Indian tribes." Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at [LMalerba@usetinc.org](mailto:LMalerba@usetinc.org) or 615-838-5906.

Sincerely,



Chief Kirk Francis  
President



Kitcki A. Carroll  
Executive Director