

FERC Proposes Changes to Transmission Planning and Cost Allocation

On June 17, 2010, in Docket No. RM10-23-000, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued a [Notice of Proposed Rulemaking \(“NOPR”\)](#) regarding planning and cost allocation for transmission facilities. The NOPR is designed to further reform the open access requirements, which were most recently addressed by the Commission in Order No. 890.

Although the final rule may provide for some regional variation, some may view the NOPR as FERC’s latest attempt to establish a nationwide program for transmission development, which would address issues that open access alone was unable to solve. The final rule will likely have a dramatic effect on the entire industry, including developers, transmission providers and load, by making the planning process longer and more complex, and allocating costs to customers or entities in new and unfamiliar ways. As a result, one may wonder whether the new procedures may actually impede development. Whether this new set of requirements will solve the “problems” facing transmission development is an open question, one that may not be answered for several years (after working under them and experiencing the results).

The Commission identified several deficiencies in the existing planning and cost allocation, including:

- A regional transmission plan is not currently required, which could impair identification of the best regional transmission solution or inhibit transmission development entirely;
- Existing transmission planning processes were not designed to account for public policy requirements

established by state or federal laws, such as renewable portfolio standards;

- Obstacles to non-incumbent transmission developers’ (e.g., merchant and independent transmission developers) participation in regional transmission planning processes;
- Lack of coordination between transmission planning regions; and
- Cost allocation methods that inhibit development of efficient, cost-effective transmission facilities necessary to produce just and reasonable rates.

To address these deficiencies, the Commission proposed certain initial “solutions,” listed below with some questions that these proposals raise:

- Each public utility transmission provider would be required to participate in a regional transmission planning process that produces a regional transmission plan and meets the planning principles established in Order No. 890, which include: coordination, openness, transparency, information exchange, comparability, dispute resolution, and economic planning studies; (Is this Order 2000 revisited?)
- Each regional planning process should consider and evaluate transmission facilities and other non-transmission solutions; (Is this a call for integrated resource planning?)

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- Utility transmission providers would have to consider how to comply with state and federal policy in a cost-effective manner and amend their OATTs to include the procedures or mechanisms for achieving such public policy requirements; (Does this, coupled with regional planning, imply that a utility in one state would be subject to the requirements of a neighboring state?)
- Utilities would have to modify their OATTs to provide criteria and procedures that would have to be followed for all proposed transmission projects; (How will this be coordinated with individual state transmission planning procedures?)
- Incumbent transmission providers would not have a right of first refusal to pursue transmission projects and project sponsors would have the right to proceed with a project, they could not be usurped by the utility or any other developer; (How would this affect a state's right to site transmission?)
- If the incumbent utility has a right to recover costs through a regional allocation mechanism, other transmission developers would have the same rights; (How will the reasonableness of these additional costs be judged?)
- Each transmission provider would coordinate with its neighboring transmission planning regions, as reflected in an "interregional transmission planning agreement." (How will this be integrated with state required planning processes?)

With regard to cost allocation issues, the Commission observed that in compliance with Order No. 890's requirements, many transmission providers relied exclusively on a participant funding mechanism to allocate the costs of new transmission. The Commission concluded, however, that the challenges associated with allocating transmission costs have become more "acute" and on that basis it proposed to more closely align transmission planning and cost allocation processes. The Commission would direct transmission providers to develop methods for allocating costs of interregional facilities with neighboring regions in consultation with customers and stakeholders and if an agreement could not be reached, the Commission would develop a cost allocation method.

Filings to comply with most requirements in the final rule would be due within six (6) months of the issuance of the final rule. Filings to address the interregional planning and interregional cost allocation requirements would be due within one (1) year of the issuance of the final rule.

Comments on the NOPR should be submitted to FERC within 60 days of the date on which the NOPR is published in the Federal Register, which is still pending. (The due date should fall in mid-to-late August 2010).

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Energy Group

ARTHUR W. ADELBERG	AADELBERG@LOEB.COM	202.434.8292
GREGORY J. BLASI	GBLASI@LOEB.COM	212.407.4236
FRANK LEE	FLEE@LOEB.COM	212.407.4825
RICHARD M. LORENZO	RLORENZO@LOEB.COM	212.407.4288 202.434.8295
JAY MATSON	JMATSON@LOEB.COM	202.434.8291