

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning Processes
Under Order No. 890

Docket No. AD09-8-000

NOTICE OF REQUEST FOR COMMENTS

(October 8, 2009)

In Order No. 890, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their open access transmission tariffs.¹ On December 7, 2007, pursuant to Order No. 890, most public utility transmission providers and several non-public utility transmission owners submitted their proposed transmission planning processes.² The Commission subsequently addressed these filings in a series of orders that were issued throughout 2008. Generally, the Commission accepted each of the transmission planning processes to be effective December 7, 2007, subject to further compliance filings required to meet the nine planning principles the Commission outlined in Order No. 890 (Initial Planning Orders). The Commission also noted that its staff would periodically monitor the implementation of these processes, and it stated its intent to convene regional technical conferences in 2009 to assess them.

Earlier this year, the Commission issued a series of orders addressing the further transmission planning process compliance filings (Compliance Filing Orders). In each of the Compliance Filing Orders, the Commission stated that it remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. The Commission reiterated the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. The Commission also restated that, as part of its ongoing evaluation of the implementation of the planning processes, it intended to convene regional technical conferences to determine if further refinements to these processes are necessary.

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 418-602, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299, (2008) *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

² A small number of transmission providers were granted extensions.

Consistent with the Compliance Filing Orders, Commission staff in September 2009 held three regional technical conferences to: (1) determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas that may need improvement; (2) examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates; and (3) explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of inter-regional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

At the technical conferences, staff heard from a variety of industry and stakeholder representatives regarding the effectiveness of the current planning processes, the treatment of resources in the planning process, and the development of regional and inter-regional transmission plans. Speakers also addressed the effectiveness of existing cost allocation methods and alternatives thereto. As discussed further below, the Commission staff seeks comment regarding these issues.

Enhancing Regional Transmission Planning Processes

At the technical conferences, speakers generally supported the regional planning requirements in Order No. 890. However, some suggested that expansion of the transmission grid could be enhanced by increasing the amount of coordination that occurs across neighboring transmission systems. Under current transmission planning processes, there is no comprehensive structure in place to identify the optimal set of facilities that address needs that affect multiple systems. For example, transmission providers in certain parts of the country have organized sub-regional planning groups for the purpose of collectively developing plans for upgrades on their combined systems. These sub-regional transmission plans are then analyzed by regional reliability entities to ensure that, if implemented, they will be simultaneously feasible. However, there are limited processes in place to proactively analyze whether alternative solutions would more efficiently or effectively meet the needs identified in each of the individual transmission plans. This lack of coordinated planning over the seams of current planning regions could be needlessly increasing costs for customers of individual transmission providers or resulting in discrimination among potential users of the grid.

The Commission staff understands that some joint planning among neighboring transmission providers is being undertaken pursuant to bilateral agreements. In addition, transmission providers have put processes in place to respond to requests for economic planning studies that involve analysis of upgrades to resolve congestion or integrate new resources on a regional basis. Proposals to implement interconnection-wide planning activities are also being developed in response to funding opportunities under the

American Recovery and Reinvestment Act of 2009. It is not clear, however, whether these activities will result in a regular process for jointly identifying and evaluating alternatives to solutions identified in transmission plans developed through existing sub-regional and regional planning processes.

Moreover, there appears to be a lack of consistency across existing transmission planning processes regarding the treatment of certain types of resources. Planning transmission facilities necessary to meet state renewable resource requirements must be integrated with existing transmission planning processes that are based on metrics or tariff provisions focused on reliability or in some cases production cost savings. As a result, some areas are struggling with how to adequately address transmission expansion necessary to integrate renewable generation resources. In addition, in some areas merchant transmission developers choose to plan proposed facilities outside the transmission providers' planning processes. In other areas, when merchant transmission developers participate in the transmission planning process, they may lose their opportunity to construct to incumbent transmission owners through rights of first refusal. In some regions, there are transmission planning practices that disproportionately affect certain types of generation, such as resources developed by independent power producers. The interconnection queue process may serve as a further hindrance to the efficient planning of transmission investment. Finally, there does not appear to be a consistent way of treating demand resources, such as demand response and energy efficiency, in transmission planning activities.

The Commission staff seeks comment on these concerns. If commenters believe these concerns are unfounded, they should explain why that is so. By contrast, if commenters have practical examples of these concerns or others, they should provide them in their comments. All commenters should address whether additional reforms are necessary in these areas to ensure that the rates, terms and conditions of transmission service are just and reasonable or to otherwise eliminate remaining opportunities for undue discrimination in the provision of transmission service, including consideration of the following questions:

- Are existing transmission planning processes adequate to identify and evaluate potential solutions to needs affecting the systems of multiple transmission providers? Should prospective transmission developers coordinate their projects in the interest of "right-sizing" facilities to make the best possible use of available corridors and minimize environmental impacts? If so, what process should govern the identification and selection of projects that affect multiple systems?
- Are there adequate opportunities for stakeholders to participate in planning activities that span different regions, including for example those undertaken pursuant to bilateral agreements?

- Is there adequate coordination among planning entities to provide consistency in the data, assumptions and models being used in planning activities?
- Will the interconnection-wide processes adopted pursuant to funding opportunities under the American Recovery and Reinvestment Act of 2009 result in an ongoing process for jointly identifying and evaluating alternatives to solutions identified in transmission plans developed through existing sub-regional and regional planning processes? Will the scope and function of these interconnection-wide planning activities be sufficient to help address the concerns identified above? How will planning activities conducted on an interconnection-wide basis be integrated into the development of sub-regional and regional transmission plans and vice versa?
- How are reliability impact studies aligned with economic-based evaluations of sub-regional or regional projects and assessments of projects needed to satisfy renewable energy standards? If not aligned, how can reliability assessments and economic evaluations be aligned in order to better identify options that meet regional needs?
- How should merchant and independent transmission projects be treated for purposes of regional transmission planning?
 - Should they be required to participate in the planning process and, if so, at what point must they engage in the planning process?
 - Do rights of first refusal for incumbent transmission owners unreasonably impede the development of merchant and independent transmission? If so, how can this impediment be addressed?
 - Are there other barriers to the development of merchant and independent transmission in the transmission planning process?
 - Should similar assumptions regarding resource availability be used for generation owned by the transmission owner and merchant or independent developers?
- Is the interconnection queue process hindering the ability to plan the transmission system to integrate new generation? Would any reforms to the Commission's interconnection procedures support efficient planning of the transmission system?
- Should there be consistency in the way transmission providers treat demand resources, such as demand response, energy efficiency and distributed storage, in the transmission planning process? Are there preferred methods of modeling or otherwise accounting for demand resources in the planning process? Does the planning process investigate transmission needs at fine enough granularity to identify beneficial demand resource projects?

- Are existing dispute resolution procedures in transmission provider tariffs adequate to address disputes that arise in the planning process?

Allocating the Cost of Transmission

At the technical conferences, speakers identified a number of barriers to the expansion of transmission facilities necessary to accomplish the goals of ensuring the reliable operation of the grid, reducing congestion, and meeting renewable resource requirements. One such obstacle that speakers identified is the lack of mechanisms to allocate and recover the costs of certain types of new transmission facilities and upgrades to existing facilities. This is not a new problem, but it has become more acute as the need for transmission infrastructure has grown. The Electricity Advisory Committee has identified cost allocation as “the single largest impediment to any transmission development, especially across multiple [regional transmission organizations (RTOs)] or across RTO and non-RTO regions.”³

Constructing new transmission facilities requires a significant amount of capital. A threshold consideration for any company considering investing in transmission is whether it will have a reasonable opportunity to recover its costs. Determining the costs and benefits of adding transmission infrastructure to the grid is a complex process, particularly for projects that affect multiple systems and therefore may have multiple beneficiaries. At the same time, the expansion of regional power markets and the increasing adoption of renewable energy requirements have led to a growing need for transmission projects that cross multiple utility and RTO systems. There are few rate structures in place today that provide the allocation and recovery of costs for these inter-system projects, creating significant risk for developers that they will have no identified group of customers from which to recover the cost of their investment. The Commission staff also is aware that cost allocation within RTO regions, particularly those that encompass several states, is contentious and prone to litigation because it is difficult to reach an allocation of costs that is perceived as fair.

Indeed, the Commission staff has become aware, through the technical conferences and other outreach, of several currently-proposed transmission projects that

³ Electricity Advisory Committee, *Keeping the Lights On in a New World*, at 50 (Jan. 2009). The Electricity Advisory Committee was formed to provide advice to the Department of Energy in implementing the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 and modernizing the nation’s electricity delivery infrastructure. It includes representatives from industry, academia, and state government.

highlight the lack of a comprehensive solution to the problem of allocating and recovering the cost of transmission investment. While these projects likely face other hurdles, such as siting and other regulatory risk, many of them will not be able to move forward until they receive up-front certainty about their opportunity to recover the costs of their investment. Until then, the multiple beneficiaries of each project will have the incentive to defer investment in the hopes that others will value the line enough to fund it individually.

The Commission has taken a number of steps to encourage investment in new transmission facilities.⁴ In Order No. 890, the Commission directed transmission providers to address the issue of cost allocation by identifying in their tariffs how the cost of new facilities not subject to existing rules would be allocated, consistent with several general principles.⁵ The Commission also has addressed the specific cost allocation rules for new facilities and upgrades within RTO boundaries.⁶ As a general matter, however, these proceedings have only established cost allocation mechanisms for projects within the footprint of a single RTO or transmission provider. Few mechanisms are in place to govern the allocation of costs for transmission projects that cross multiple systems.

⁴ *E.g.*, *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007); *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, FERC Stats. & Regs. ¶ 31,226, *reh'g denied*, Order No. 681-A, 117 FERC ¶ 61,201 (2006); and Order No. 890.

⁵ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,222 at P 559 (“First, we consider whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, we consider whether a cost allocation proposal provides adequate incentives to construct new transmission. Third, we consider whether the proposal is generally supported by state authorities and participants across the region.”).

⁶ *See, e.g.*, *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106 (2006), *order on technical conference, reh'g, clarification and compliance*, 117 FERC ¶ 61,241, *order on reh'g and clarification*, 118 FERC ¶ 61,208 (2007); *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209 (2007), *order on reh'g and compliance*, 120 FERC ¶ 61,080, *order on reh'g and compliance*, 122 FERC ¶ 61,127 (2008); *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 (2007), *order on reh'g and compliance filing*, Opinion No. 494-A, 122 FERC ¶ 61,082 (2008), *remanded in part sub nom. Illinois Commerce Comm'n v. FERC*, 576 F.3d 470 (DC Cir. 2009).

The Commission's best remaining opportunity to eliminate barriers to new transmission construction may therefore be to provide greater certainty in its policies for allocating the cost of new transmission facilities, particularly for facilities that cross multiple transmission systems. The Commission staff therefore seeks comment on whether existing cost allocation practices may create a disincentive to invest in new transmission, and if so, how they might be changed. Staff also seeks comment on whether the Commission should pursue generic reform in the area of cost allocation, or rather should continue to address cost allocation issues as they arise on a case by case basis.

If commenters believe these concerns are unfounded, they should explain why that is so. By contrast, if commenters have practical examples of these concerns or others, they should provide them in their comments. All commenters should address whether it is necessary to pursue generic reform in the area of cost allocation in order to ensure that the rates, terms and conditions of transmission service are just and reasonable or to otherwise eliminate remaining opportunities for undue discrimination in the provision of transmission service, including consideration of the following questions:

- To the extent that a lack of up-front certainty about cost allocation is inhibiting transmission development, describe the relative impact of this concern on specific projects and as it relates to other impediments to development.
- Should processes be established to help stakeholders address cost allocation matters over larger geographic regions? What is an appropriate scope for those regions? Should they align with the regions for which planning is conducted?
- Are there regional cost allocation methodologies outside RTOs, and broader regional cost allocation within RTOs, that should be considered or established? If so, how should this be done?
- Should each transmission provider hold an open season solicitation of interest for needed transmission projects identified through the transmission planning process in order to assist in cost allocation determinations?
- How can the customers that benefit from a particular facility be determined? Is there a preferred method? Should the method vary depending on the nature of the facility?
- Should costs for base upgrades needed for existing reliability or economics be allocated differently than excess capacity expected to be needed for later-developed resources? Should the allocation of costs for certain projects take into account the risk of under-subscribed "right sized" lines? If so, how should costs be re-allocated over time as such lines become subscribed by new customers?

- Should cost allocation mechanisms continue to differ based on whether a project is deemed necessary based on reliability and adherence to approved reliability standards versus economic considerations?
- Should the determination of beneficiaries of a transmission facility include generators as well as loads?
- Should benefits be recalculated over time? Would recalculations negatively affect usage decisions?
- How should non-quantifiable costs or benefits be identified, factored in or otherwise weighted?

Persons wishing to comment on the matters discussed above should submit comments to the Commission no later than November 9, 2009. Reply comments should be submitted by December 4, 2009.

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Deputy Secretary.

Document Content(s)

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