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FERC Adopts Transmission Planning and Cost Allocation Reforms

The Federal Energy Regulatory Commission (FERC) has adopted reforms to its transmission planning and cost allocation requirements for public utilities that own and/or operate electric transmission facilities. Order No. 1000, issued on July 21, 2011, seeks to improve the efficiency and cost effectiveness of transmission planning through increased transmission provider participation in regional and interregional coordination efforts, and addresses perceived deficiencies in transmission cost allocation requirements. Order No. 1000 also addresses the “right of first refusal” (ROFR) of incumbent transmission providers to construct and own transmission facilities. All told, Order No. 1000 is a step in the direction of providing greater certainty and removing barriers to the development of transmission needed to ensure continued reliable operation of the transmission system while integrating anticipated large quantities of wind and other renewable energy.

Order No. 1000

Order No. 1000 establishes three transmission planning requirements and three related transmission cost allocation requirements:

Transmission Planning

- Each public utility transmission provider must participate in a **regional** planning process that complies with the planning process requirements of Order No. 890 and creates a regional transmission plan. FERC also expects non-public utility transmission providers (such as municipal utilities and electric cooperatives) to participate in the regional planning processes.
- Local and regional planning processes must consider public policy-driven transmission needs (e.g., transmission required to integrate large quantities of wind and solar generation built to satisfy state renewable portfolio standard (RPS) requirements). Each public utility transmission provider must develop procedures to identify such transmission needs and evaluate possible solutions to those needs.
- Public utility transmission providers must coordinate with neighboring transmission planning regions to identify more efficient or cost-effective solutions for cross-regional transmission needs.

Cost Allocation

- The regional transmission plan developed during the regional planning process noted above must include a regional cost allocation method for new transmission facilities selected in the regional transmission plan for purposes of cost allocation. The chosen method must satisfy six regional cost allocation principles: (1) costs must be allocated to beneficiaries in a way that is “at least roughly commensurate” with estimated benefits, (2) there may be no involuntary allocation of costs to non-beneficiaries, (3) if a benefit-to-cost threshold ratio is used, it must not be excessive (generally no more than 1.25), (4) costs must be allocated solely within the transmission planning region(s) unless those outside the region(s) voluntarily assume costs, (5) the cost allocation method and method for determining benefits and identifying beneficiaries must be transparent

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and well-documented, and (6) different cost allocation methods may be used for different types of facilities (e.g., those required for reliability, congestion relief, or to achieve public policy requirements).

- An interregional cost allocation method must be developed among public utility transmission providers in neighboring transmission planning regions for new interregional transmission facilities. The chosen interregional method also must satisfy the six principles.
- Participant-funding of new transmission facilities (in which the developer voluntarily agrees to pay the costs of the project) is allowed, but this mechanism may not be used as the regional or interregional cost allocation method.

Order No. 1000 also prohibits a federal ROFR for transmission facilities selected as part of a regional transmission plan for purposes of cost allocation. Public utility transmission providers must revise language providing such rights in FERC-approved tariffs and agreements, subject to the following conditions:

- The ROFR limitation applies only to transmission facilities selected as part of a regional transmission plan for purposes of cost allocation.
- The limitation does not apply to transmission facility upgrades, such as tower change outs or reconductoring.
- Public utility transmission providers in a transmission planning region may, but are not required to, adopt competitive bidding practices to solicit transmission projects or developers.
- Other laws and regulations regarding the construction of transmission facilities (such as siting and permitting requirements) are not affected by this limitation.

Order No. 1000 recognizes that incumbent transmission providers may rely on regional transmission facilities to meet reliability needs and service obligations. Order No. 1000 directs each public utility transmission provider to amend its tariff to require reevaluation of the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for cost allocation purposes require evaluation of alternative solutions to ensure an incumbent transmission provider may meet its reliability needs or service obligations.

Compliance Filings

The requirements of Order No. 1000 become effective in late September or early October (60 days after publication of the order in the Federal Register). Each public utility transmission provider – including independent system operators (ISOs) and regional transmission organizations (RTOs) – must make a compliance filing with FERC within 12 months of the effective date to address the regional transmission planning and cost allocation requirements as well as FERC’s concerns regarding ROFRs and incumbent transmission providers’ reliance on regional transmission facilities. Compliance filings for interregional transmission coordination and cost allocation are due within 18 months of the effective date.

Non-public utility transmission providers (such as municipal utilities and electric cooperatives) may voluntarily submit to FERC a transmission tariff and request for a declaratory order that their tariffs satisfy the requirements of Order No. 1000.

Customers and other stakeholders will have a chance to comment on these compliance filings.

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