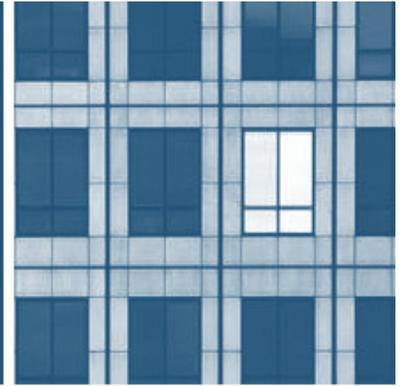


# On the Subject



## Energy and Commodities Advisory

June 18, 2010

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With an emphasis on regional planning, FERC proposes to require public utility transmission providers to consider public policy objectives in their planning, treat all transmission providers equally, enhance interregional cooperation and better align transmission planning with cost allocation methods.

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### FERC Proposes New Transmission Planning and Cost Allocation Principles

While recognizing that significant work has been done in recent years to enhance regional transmission planning processes, FERC proposes, and seeks comment on, a set of reforms to its electric transmission planning and cost allocation requirements for public utility transmission providers that would require further regional coordination. The Notice of Proposed Rulemaking (NOPR) builds on Order No. 888, which implemented open access to transmission facilities owned, operated, or controlled by a public utility, and Order No. 890, which established principles that public utility transmission providers are required to satisfy in their transmission planning. The NOPR was issued following comments FERC received after its October 2009 Notice of Request for Comments in Docket No. AD09-8-000.

FERC issued the NOPR on June 17, 2010 at 131 FERC 61,253, establishing Docket No. RM10-23-000. The NOPR would modify 18 CFR Part 35.

The major proposals in the NOPR are:

- **Regional Planning** - Each public utility transmission provider must participate in a regional transmission planning process that produces a plan that meets the principles established in Order No. 890.
- **Consideration of Public Policy** - Transmission planning processes must take into account transmission needs driven

by public policy requirements established by state or federal laws or regulations, such as Renewable Portfolio Standards.

- **Equal Treatment for Incumbents and Non-Incumbents** - An incumbent transmission provider is not allowed to have a right of first refusal with respect to facilities that are included in a regional transmission plan and subject to FERC jurisdiction, and both incumbents and non-incumbents should share similar benefits and obligations commensurate with their participation, including the right to construct and own a facility sponsored in a regional transmission planning process.
- **Interregional Planning Reforms** - Each public utility transmission provider, through its regional transmission planning process, must coordinate with the public utility transmission providers in each of its neighboring transmission planning regions, within its interconnection, and file an interregional transmission planning agreement with FERC.
- **Cost Allocation** - Each Regional Transmission Organization (RTO), Independent System Operator (ISO) and public utility transmission provider in a non-RTO or ISO planning region must demonstrate that it allocates costs of new transmission facilities to entities within its region in a manner that is at least roughly commensurate with estimated benefits.

### Regional Planning

In Order No. 890, FERC adopted a regional participation principle as a necessary component of a public utility transmission provider's planning process, and required each public utility transmission provider to share system plans to ensure feasibility and consistency and to identify system enhancements that could relieve congestion or integrate new resources. Although FERC recognized that regional transmission planning has increased in recent years, it found that the lack of a requirement for a regional transmission plan could inhibit construction of new transmission facilities. FERC therefore proposed that each public utility transmission provider be required to participate in a regional transmission planning process that produces a regional plan that meets the following principles established in Order No. 890: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5)

comparability; (6) dispute resolution; and (7) economic planning studies. FERC noted that many public utilities already participate in regional planning processes that may require only minor adjustments to meet FERC's proposed requirements.

## Consideration of Public Policy

Absent requirements and guidance, some regional planning entities have struggled to balance their primary goal of ensuring system reliability with the need to account for an increase in renewable generation mandated by state laws and regulations. (See also: FERC Seeks Industry Comments on Ways to Improve Wind and Solar Access to Grid.) FERC therefore proposed to require each public utility transmission provider to amend its Open Access Transmission Tariff (OATT) such that its local and regional transmission planning processes explicitly provide for consideration of public policy requirements that affect transmission needs.

## Equal Treatment for Incumbents and Non-Incumbents

In some areas of the country, the incumbent transmission provider has a right of first refusal on a project proposed by another developer as part of the regional planning process. As a result, non-incumbent developers may choose not to participate fully in the regional planning process. FERC therefore proposed a framework that: (1) eliminates a federal right of first refusal from a transmission provider's OATT or agreements subject to the Commission's jurisdiction with respect to facilities that are included in a regional transmission plan; (2) provides that no transmission facility developers should, as a result of a Commission-approved OATT or agreement, receive different treatment in a regional transmission planning process; and (3) establishes the principle that both incumbents and non-incumbents should share similar benefits and obligations commensurate with that participation, including the right, consistent with state or local laws or regulations, to construct and own a facility that it sponsors in a regional transmission planning process.

## Interregional Planning Reforms

FERC proposed that each public utility transmission provider, through its regional transmission planning process, be required to coordinate with the public utility transmission providers in each of its neighboring planning regions and file an interregional transmission planning agreement with FERC. The interregional planning agreement must include: (1) a commitment to coordinate and share the results of respective regional transmission plans to identify possible interregional facilities that

could address transmission needs more efficiently than separate intraregional facilities; (2) an agreement to exchange at least annually planning data and information; (3) a formal procedure to identify and jointly evaluate transmission facilities that are proposed to be located in both regions; and (4) a commitment to maintain a website or e-mail list for the communication of information related to the coordinated planning process.

## Cost Allocation

Current regulations for allocating costs of new transmission facilities have led to a classic economic free-rider problem where the transmission provider that builds a new facility must open it up to companies that have not paid for its construction. The free-rider problem is heightened when the new facility benefits multiple utilities' transmission systems. Any individual beneficiary has an incentive to forgo investment and hope that other beneficiaries will value the project enough to fund its development. FERC therefore proposed to require each RTO, ISO and public utility transmission provider that is not in an RTO or ISO region to establish a method, or set of methods, for allocating the costs of new transmission facilities that are included in the regional transmission plan. Cost allocation methods may distinguish among facilities that are driven by needs associated with maintaining reliability, relieving congestion and achieving public policy requirements. While FERC has identified six cost allocation principles, the two key principles are that: (1) the cost of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits; and (2) those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated the costs of those facilities.

## Public Comments

Written comments are due 60 days after the NOPR is published in the Federal Register.

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