

## FERC Asked to Reconsider Whether Generation Interconnection Tie Lines Should be Subject to NERC's Transmission Reliability Standards

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July 27, 2011

In a case of importance to all generators who own radial tie lines connecting their project to the transmission grid, Federal Energy Regulatory Commission (FERC) is being asked by wind developers to reconsider a June 16, 2011 Order authorizing of the North American Electric Reliability Corporation's (NERC) to subject such tie line owners to NERC's transmission reliability standards as Transmission Owners (TO) and Transmission Operators (TOP). Unless changed on rehearing, FERC's Order could result in many more power plant owners and operators being required to comply with additional mandatory reliability standards applicable to owners and operators of transmission facilities.

The decision involves two wind projects, one a 300 MW facility connected to the transmission grid via a 76-mile, 230 kV radial generation tie line, and the other a 203.5 MW wind project connected to the transmission grid via an 88-mile, 345 kV radial generation tie line. NERC required registration of both as TOs and TOPs based on its interpretation of Section III.d.1 of the NERC Compliance Registry Criteria. NERC found that each of the gen-tie lines is an "integrated transmission element" that meets the specific registration criteria because each is a link between a generation facility and the grid switchyard, and both end points, according to NERC, are "material to and part of" the Bulk Electric System.

FERC's decision did not address the difficult issue of whether the tie lines are an "integrated transmission element," and instead upheld registration on the more general grounds that "the reliable operation and maintenance of the interconnection facilities that connect Cedar Creek and Milford to the Bulk-Power System are necessary to the reliability of the Bulk-Power System." FERC's order seems to have applied a less strict analysis compared to a 2008 case where FERC was asked to determine if generator interconnection facilities were subject to transmission reliability standards. There, FERC upheld NERC's decision to register New Harquahala Generating Company as a TO/TOP based on its ownership of a 500 kV interconnection line for its 1,092 MW gas-fired plant. In that case, however, there was evidence showing that the interconnecting substation was a major hub where over 10,000 MW were connected, including the largest nuclear power plant in the U.S. Further, there was a past incident where a fault at the interconnecting substation caused units of the nearby nuclear station to trip.

The June 16 Order appears to have lowered the threshold for what showing is necessary for registration of generator owners and operators as a TO or TOP in the NERC Compliance Registry, in that the wind projects at issue were modest-sized variable resources that were not connected to critical hubs. Significantly, FERC did not require the same factual showing of reliability impact that it relied upon in its *New Harquahala* precedent, but instead mainly relied on the potential for line faults if protection relays operated by the generator are not coordinated with the grid operator. FERC largely deferred to NERC's determination that the wind projects must be registered as TOs/TOPs in order to avoid a gap in reliability because the tie-line facilities have a material impact on the bulk power system.

The June 16 Order raises uncertainty for generators because it indicates that the Regional Entities and NERC may apply a lower threshold than that applied in *New Harquahala* to register the owner or operator of a radial gen-tie line as a TO or TOP. Requiring the generators to comply with the transmission Reliability Standards will result in increased costs, and make them subject to sanctions and penalties associated with violations of such requirements.

Except for NERC, the parties requesting rehearing of the June 16 Order (Cedar Creek and Milford) generally argue, among other things, that the June 16 Order is arbitrary and capricious because FERC failed to substantively address whether NERC's determination that the gen-tie lines are "integrated transmission element[s] associated with the bulk power system" is supportable on the record in these dockets, and whether, on the facts presented, NERC reasonably demonstrated that the gen-tie lines in question are material to the reliability of the bulk power system.

NERC's rehearing request was limited to the issue of the specific transmission standards that might be applicable to the generators. NERC is in the process of revising its Reliability Standards to generically clarify which standards and requirements apply to the owners and operators of generation interconnection facilities. Even before the June 16 Order, NERC's Project 2010-07 drafting team recommended that only two Reliability Standards, FAC-001-0 and FAC-003-2, be revised to make generator owners subject to them. Notwithstanding this recommendation, FERC's order directed NERC and WECC to apply, at a minimum, six Reliability Standards and Requirements to the two wind projects, with the possibility of adding more.

On rehearing, NERC requests FERC to clarify that its directive with respect to applicable Standards was more of a suggestion to NERC, as was the case in *New Harquahala*, and not intended to prejudge the outcome of the FERC-ordered negotiation among NERC, WECC and the respective gen-tie line owners of an agreement on what standards are applicable in these circumstances. The American Wind Energy Association (AWEA) requests FERC to direct NERC to expedite the Project 2010-07 drafting process. However, NERC's 2010-07 drafting team anticipates its efforts "will not take effect for a year or more" and also notes that NERC's ongoing project to define better the Bulk Electric System "may have an enormous impact on the work of [the Standards Drafting Team]". This means that a final version of Reliability Standards applicable to generation interconnection facilities likely will not be available until at least next year.

Meanwhile, generators must continue to deal with the uncertainty both as to whether NERC and the Regional Entities will require them to register as TOs/TOPs, and as to what Reliability Standards gen-tie line owners will be subject to. Gen-tie line owners should consider ways to manage the risk, where possible, of being registered as a TO/TOP and, if so registered, prepare for compliance with Reliability Standards that may be applicable to them.

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