

NON-DISCRIMINATORY TRANSMISSION TARIFFS

FERC-State Commissioner Discussion Sunday, February 10, 2002

NOTE: This document was prepared by staff members at the Federal Energy Regulatory Commission to facilitate discussion and should not be assumed to represent the view of the full Commission.

At present there are generally two sets of rules governing transmission of electric energy to retail customers -- state rules and FERC rules.¹ One set of rules applies to transmission of bundled retail electric energy, with rates, terms and conditions set by each state. The second set of rules applies to the transmission in interstate commerce of wholesale and unbundled retail electric energy, with rates, terms and conditions determined by FERC pursuant to Order Nos. 888 and 2000. Even the Order No. 888 pro forma tariff rules contain certain provisions that recognize a preference for transmission used for bundled retail customers, based on the historical State-Federal jurisdictional split.

Thus, while the electrons moving across the grid do not distinguish between bundled retail and other services, and behave according to the laws of physics rather than the laws of a particular jurisdiction, there can nevertheless be conflicting rules governing the flows of electric energy on the grid. These conflicting rules can have major consequences in light of the dramatic changes that have occurred in the electric industry over the recent past -- competition in the industry has increased, more services have become unbundled, states have adopted a variety of retail choice programs, and regional entities have arisen. The number of suppliers and the reliance on broader markets has increased greatly, resulting in substantial competitive consequences, if the same non-discriminatory rules do not apply to all transmission customers.

The Problem

What are the problems caused by conflicting regulation of transmission? Each traditional public utility system was designed to serve and protect its own native load. However, in today's world of large joint-venture power plants, distant public hydro-power projects, competitive interstate wholesale markets, and varied retail choice programs, any preference for one transmission owner's native load only serves to erect barriers to fair and competitive trade to serve other native load. As state retail transmission rules tend to protect the native load customers of each state's transmission owners, any attempt to protect one entity's native load in a time of congestion could compromise another entity's native load.

¹This paper addresses only transmission in interstate commerce. It does not address local distribution, which is a state function.

The simple fact is that all load is somebody's native load. Even non-traditional utilities that do not have a franchise and a traditional "native load" are obligated by contract to serve customers somewhere, and they need transmission service to meet their customer obligations. To protect all customers fairly and efficiently, consistent transmission rules must be applied. Consistent regional rules will facilitate a more competitive marketplace for wholesale and retail electric energy.

The Options

Retail electricity service was formerly delivered almost exclusively by vertically-integrated utilities. Today, that simple model is being replaced by a variety of models around the country. Even utilities without retail choice have become more dependent on power purchases from independent generators due to increased competition in wholesale markets. Further, the lowest cost generators may no longer be proximate to the load they serve, so native load customers may not get access to the cost-reducing benefits of a working competitive wholesale market. Thus, all customers depend more today on a robust transmission system than ever before.

There are two ways to organize electric transmission services in this new world. In one, states would continue to regulate the transmission component of utilities' bundled retail services, and FERC would regulate the remaining wholesale and unbundled retail transmission services, in conjunction with state retail regulators. This is the system in place today. In the other option, FERC would work with state regulator input to set consistent regional rules for all uses of the transmission system (*i.e.*, to serve both wholesale and retail loads) under the direction of regional transmission organizations. The recent FERC staff white paper, released at the December 19, 2001 public meeting, proposes a "single transmission tariff" model which presents one way to implement this approach. This paper can be found at <http://www.ferc.gov/electric/rto/mrkt-strct-comments/mrkt-strct-concept.PDF>.

The Single Tariff Model

Given that every load is someone's native load, can any preference be granted for the transmission of electric energy without unduly discriminating against someone else? It may be impossible to craft a regulatory regime that affords a transmission customer or load a preference in interstate transmission service that does not at the same time place a burden on other loads. The simplest and fairest course may be to require that every transmission customer face the same set of rates, terms and conditions. This would apply to all wholesale and retail loads and consistently grant all loads the same rights. Most proposals to do this include some form of "grandfathering" provision to accommodate existing obligations for some transition period.

What essential terms and conditions should be included in a single tariff?

1. Interconnection and Transmission Rights: Interconnection procedures must allow all suppliers to be competing resources for meeting load and load growth without having to be selected by

a customer or load at the time of interconnection. Thus, the interconnection study must be performed based on the premise that the generator will be a resource which will compete to serve any load on the transmission provider's network. Currently, load in a transmission provider's control area often must access alternative suppliers that are in neighboring control areas. The new interconnection procedures will promote entry for alternative supply that will relieve the need to use scarce intertie capacity between control areas.

In addition, transmission providers must be obligated to meet all requests for transmission service, subject only to the customer being willing to pay the cost of any redispatch and an appropriate share of any transmission expansion necessary to make the transaction possible. In other words, any load must be permitted to choose any generation facility, subject to paying the applicable congestion management charge to reach the chosen generator. The transmission provider must also offer financial hedges to allow the customer to lock in its cost of transmission service.

2. OASIS and Available Capacity: The accuracy of total transfer capacity (TTC) and available transfer capability (ATC) is essential to avoid withholding of transmission capacity and, therefore, must be calculated directly by an independent entity and not by the transmission owner(s). The calculations should be performed regionally (over multiple control areas) to eliminate discrepancies across neighboring control areas and to ensure accurate accounting of parallel flows.

3. Capacity Benefit Margin (CBM) Compensation: To the extent CBM is reserved under the tariff to meet reliability needs of the load in a control area, costs should be assigned and it should be explicitly purchased as a service under the tariff. Currently, control area operators maintain a certain amount of transfer capability in reserve for importing external generation into the control area in the event of an emergency. In the past, transmission rates have not been calculated with an explicit allocation of costs to this use of the transmission system. As a result, transmission service used to export power outside of a control area has had to pay for the CBM through implicit rate design. There should be an explicit assignment of CBM costs to the load within the control area that benefits from CBM.

Specific Questions for Commissioners to Consider:

1. Given that current regional, multi-state markets and extensive wholesale transactions serve native loads through wholesale customers, does it make sense to maintain the dual jurisdiction transmission model?

- What are its benefits?
- What are its flaws?
- Can we make it work?

2. If we move from the current system to a single transmission tariff approach, what are the options for managing the transition?

- Where there is an RTO, does the transition occur as a matter of course?
- Do existing contracts need to be changed or abrogated?
- How can we assure that all native load will continue to receive the firm transmission service needed?

3. How can we make a single transmission tariff model consistent with state commissions' obligations to protect their retail customers? How would the single transmission tariff federal model fit with state responsibility for bundled retail rates?

- How would a single transmission tariff and pricing affect state retail ratemaking?
- How might we mitigate the potential cost impacts of moving to the single transmission tariff model, e.g., careful granting of FTR rights to native load?
- What structural or procedural ways are there to set up federal rate-setting to feed into state rate-setting in a non-disruptive way? Who will do prudence reviews on new transmission investments?

4. What are the pros and cons of the single transmission tariff model?