

Federal Energy Regulatory Commission

Competitive Transmission Development
Technical Conference

Docket No. AD16-18-000

Statement of Michael Sheehan on Behalf of NextEra Energy Transmission, LLC

Panel 1: Cost Containment Provisions in Competitive Transmission Development Processes

On behalf of NextEra Energy Transmission, LLC (“NEET”), I thank the Commission for this opportunity to address you today with respect to the use and evaluation of cost containment mechanisms within the competitive planning processes implemented by Regional Transmission Organizations (“RTOs”) and Independent System Operators (“ISOs”) under Order No. 1000. NEET is committed to working with the Commission, system operators, and others to assure competitive transmission processes benefit electric customers.

The Commission eliminated the right of first refusal from RTO/ISO tariffs in the hope that competition among transmission developers would lead to consumer benefits, including greater innovation and cost certainty. This hope is being realized: in CAISO and PJM, NEET and other non-incumbent developers have been selected for projects in large part based on the strength of the binding cost containment commitments including within our bids. This has led to real benefits for consumers in the form of cost savings and certainty, shifting the risk of cost overruns from consumers to the developer’s equity investors, even when those costs were otherwise prudently incurred.

Cost estimates used in transmission planning are just that – estimates. Under traditional transmission development and cost of service ratemaking consumers bear the full risk of overruns when costs exceed estimates but are otherwise not deemed imprudent. The Commission specifically designed the non-incumbent developer reforms of Order No. 1000 to mitigate this risk by allowing developers to compete for new transmission projects. And in implementing Order No. 1000, several RTO/ISO’s specifically recognized the significance of cost containment commitments in evaluating competing bids by including language in their tariffs and/or *pro forma* developer agreements with respect to the use of cost caps by developers.

Nevertheless, a number of incumbent transmission owners criticize the use of cost containment mechanisms in comments filed with the Commission in advance of this conference. Paralleling many of the arguments these companies made against the Commission’s adoption of Order No. 1000, they question the commitment of non-incumbents to complete awarded projects and suggest that cost containment mechanisms create destructive incentives for non-incumbents to abandon projects or otherwise propose and implement less resilient solutions. These incumbents argue against undue emphasis on cost, advocating for traditional ratemaking practices allowing for full recovery of all prudently incurred costs.

NEET certainly agrees that cost containment mechanisms should not be required for every competitively-selected transmission project. However, developers should have the option of offering cost containment mechanisms and, when offered, such proposals should be binding according to their terms and highly relevant to the RTO/ISO’s consideration of competing proposals. In many cases, there are few easily quantifiable metrics upon which to distinguish otherwise qualified developers other than

cost. Indeed, the Suncrest and Estrella Projects awarded to NEET's subsidiary operating in CAISO were the first projects awarded solely to a non-incumbent developer, and the CAISO's selection reports indicate that the projects were awarded based in large part on the strength of our cost containment commitments. Such commitments by definition entail the shifting of risk from consumers to developers, with the latter responsible for cost overruns that otherwise would be passed on to consumers under the traditional cost-of-service model. Thus, cost capped bids that are price-competitive with non-cost capped bids are in the best interests of consumers and should be a critical factor in the evaluation process.

In NEET's experience, however, the benefits of cost-containment are not fully evaluated by some RTO/ISO's. Order No. 1000 has given these organizations the responsibility for analyzing and comparing transmission projects that may include a variety of different pricing mechanisms. Yet it is not clear that cost containment is given weight in these evaluations commensurate with the value it provides to consumers. This is despite the fact that the entities that are most concerned with the impact of transmission costs on consumers – state commissions and state consumer advocates – have sought to highlight the need to control transmission costs. Taking cost containment into account at the bid evaluation stage is the optimal means of keeping costs under control, because absent such caps, project costs are simply passed through to local distribution company customers through transmission adjustment clauses. There is little that commissions or consumer advocates can do to challenge those costs, even when the actual costs for particular projects are significantly higher than original projections.

To better reflect the value of cost containment, RTO/ISO's should use a transparent scoring system based on the benefits provided in each proposal. Project costs should be given ample weight in the evaluation of bids. Overall project cost evaluation also should include meaningful consideration for cost capped bids to encourage bidders to propose cost containment measures in order to be competitive. Otherwise, a developer could simply provide a low ball, non-cost capped bid in order to secure project cost points knowing full well that it cannot complete the project for that cost, but nonetheless will be able to recover the full costs from consumers. As several other developers suggest in their comments submitted in advance of this conference, NEET suggests that each region should be required to develop a published methodology for comparing cost-contained bids with cost-of-service bids or for evaluating likely cost escalations under the latter with the greater certainty provided by the former. Failure to have such scoring systems and methodologies in place is impairing the RTO/ISO's ability to fairly evaluate the relative consumer benefits of competing transmission proposals and meet the objectives of Order No. 1000.

As also suggested by other commenters, NEET believes that neither the Commission nor the RTO/ISO's should define in advance which categories of costs are covered, or not covered, by binding cost contained bids. Order No. 1000 was intended to foster innovation in transmission development, and bidders should be allowed to submit cost contained bids reflecting the assumption of risk in various elements of transmission development. Each developer has to evaluate its risk with respect to each cost category and decide for itself which cost items it wishes to cap. Clarification by each RTO/ISO as to how cost containment is evaluated, as requested above, will provide the certainty needed by developers and the Commission with respect to each RTO/ISO solicitation and evaluation process.

We would like to thank the Commission for holding this technical conference. Competitive transmission is beginning to deliver savings to customers and we hope that our comments are helpful in assisting the Commission realize the promise of competitive transmission.