

FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

NEWS RELEASE

NEWS MEDIA CONTACT:

Barbara A. Connors
(202) 502-8680

FOR IMMEDIATE RELEASE

February 15, 2007
Docket Nos. RM05-17 & RM05-25,
Order No. 890

COMMISSION ADOPTS ORDER NO. 890, A FINAL RULE TO REFORM ITS LANDMARK 1996 OPEN ACCESS RULES, ORDER NOS. 888 & 889

The Federal Energy Regulatory Commission today adopted a final rule reforming its decade-old open-access transmission regulatory framework that will ensure transmission service is provided on a nondiscriminatory and just and reasonable basis, as well as provide for more effective regulation and transparency in the operation of the transmission grid.

The final rule is designed to: (1) strengthen the *pro forma* open-access transmission tariff, or OATT, to ensure that it achieves its original purpose of remedying undue discrimination; (2) provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and (3) increase transparency in the rules applicable to planning and use of the transmission system.

"The main duty of the Commission in the area of electric regulation is to 'guard the consumer from exploitation by noncompetitive electric power companies.' The action we take today is fully consistent with that duty. The primary goal of the OATT reform final rule is to prevent undue discrimination and preference in transmission service," Commission Chairman Joseph T. Kelliher said.

"We have secondary goals as well, namely promoting competition in wholesale power markets and strengthening our power grid. Today, we conclude that the existing Open Access Transmission Tariff provides an opportunity to engage in undue discrimination and preference in transmission service, and act to prevent that undue discrimination and preference. We also take steps to strengthen compliance and enforcement," Chairman Kelliher said.

The Commission noted that for the most part, today's final rule follows the proposed reforms set out in a notice of proposed rulemaking issued in May 2006. After reviewing approximately 6,500 pages of filed comments from nearly 300 parties, the Commission adopted a final rule that will:

- Increase non-discriminatory access to the grid by eliminating the wide discretion that transmission providers have in calculating available transfer capability.
- Increase the ability of customers to access new generating resources by requiring an open, transparent and coordinated transmission planning process.
- Increase efficient utilization of transmission by eliminating artificial barriers to use of the grid.
- Facilitate the use of and access to clean energy resources, such as wind power.
- Strengthen compliance and enforcement efforts.

The *pro forma* OATT and the open-access same-time information system (OASIS) were adopted in 1996, in Order Nos. 888 and 889 respectively. Those landmark rules helped to foster greater competition in wholesale power markets by enabling third-party users of the transmission system to obtain transmission service under terms and conditions comparable to the service transmission providers enjoy. While highly successful, experience in carrying out the rules as well as changes in the markets over the last decade have shown that opportunities for the exercise of undue discrimination continue to exist in the provision of transmission service under the *pro forma* OATT.

The Commission concluded as far back as December 1999, in Order No. 2000, that transmission providers retained the incentive and ability to discriminate against third-party users of their transmission systems, particularly in areas where the *pro forma* OATT left the transmission provider with significant discretion. Today's rulemaking enhances the regulatory framework established in Order Nos. 888 and 889.

Among the reforms in today's rule are:

- **CONSISTENCY IN CALCULATION OF AVAILABLE TRANSFER CAPABILITY.** Calculating Available Transfer Capability (ATC) is one of the "most critical functions under the *pro forma* OATT because it determines whether transmission customers can access alternative power supplies," the Commission said in providing for more consistent calculation of ATC. The rule requires public utilities, working through the North American Electric Reliability Corp., to develop consistent ATC calculation methodologies and to publish those methodologies to increase transparency.

- **COORDINATED, OPEN TRANSMISSION PLANNING PROCESS.** Each transmission provider’s planning process must meet nine specified planning principles: coordination; openness; transparency; information exchange; comparability; dispute resolution; regional coordination; economic planning studies and cost allocation.
- **TRANSMISSION PRICING REFORMS.** The rule reforms the pricing of energy and generator imbalances to require such charges to be related to the cost of correcting the imbalance, to encourage efficient scheduling behavior and to exempt intermittent generators, such as windpower producers, from higher imbalance charges in recognition of the special circumstances presented by such resources.
- **NON-RATE TERMS AND CONDITIONS.** The Commission adopts a conditional firm component to long-term point-to-point service addressing situations in which firm service can be provided for most, but not all, hours of the requested time period. The rule also reforms the existing requirements for redispatch service to ensure that the requirements are of greater use to transmission customers and more consistent with reliable planning and operation of the system.

In addition to the increased transparency included in the ATC and planning reforms, the final rule requires that transmission providers post on their OASIS all business rules, practices and standards related to transmission services provided under the *pro forma* OATT.

The final rule applies to all public utility transmission providers, including regional transmission organizations and independent system operators. Each public utility is required to file revisions to its OATT to conform to today’s rule. A public utility has the opportunity to demonstrate that its existing terms and conditions of open access service are consistent with or superior to, the *pro forma* OATT as outlined in today’s rule.

The final rule, “Preventing Undue Discrimination and Preference in Transmission Service,” takes effect 60 days after the rule’s publication in the *Federal Register*.