Order No. 1000
Transmission Planning and Cost Allocation Reforms
FINAL RULE
Docket No. RM10-23-000

RPPTF
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Order No. 1000 Overview

- Order No. 1000 addresses the following topics:
  - Local, regional and interregional transmission planning processes;
  - Transmission cost allocation policies;
  - Consideration of transmission needs driven by Public Policy Requirements;
  - Right of First Refusal
  - Development of transmission facilities by non-incumbent developers

Order No. 1000 Overview

- Order No. 1000 requires Transmission Providers (TP) to:
  - improve transmission planning *processes*; and
  - allocate costs for new transmission facilities “roughly commensurate” with estimated **benefits**.
  - align transmission planning and cost allocation.

- Final Rule is not a “one size fits all” approach. Each region is expected to fashion its procedures and processes to fit the region’s needs.

- Three requirements:
  - Single Regional Plan. Each public utility TP must participate in a regional planning process and produce a *single regional plan*;
  - Consideration of Public Policy Requirements. Local and regional planning processes *must "consider"* transmission needs driven by public policy requirements established by "enacted" state or federal laws or "adopted" regulations; and
  - Interregional Planning. TPs in neighboring regions that have a common interface *must coordinate* more efficient and cost-effective solutions.

Identification of Public Policy Issues

- The Commission declined to mandate the consideration of transmission needs driven by any <u>particular</u> Public Policy Requirement.

- Commission intends the procedures to be flexible enough to allow stakeholders to suggest consideration of transmission needs driven by any Public Policy Requirement, *e.g.*, EPA regulations, FPA section 217, or any other federal or state law or regulation that drive transmission needs .

Identification of Public Policy Issues

- Each TP must establish procedures to:
  - Identify transmission needs driven by public policy requirements
  - Evaluate potential solutions to those needs
- Only guidance - some examples of how to comply:
  - TP could rely on (i) a committee of load-serving entities, (ii) a committee of state regulators, or (iii) a stakeholder group to identify those transmission need; or
  - TP could identify those transmission needs after consultation with stakeholders, including participating state regulators
- TPs must provide all stakeholders, including state regulatory authorities, an opportunity to provide input on the transmission needs they believe are driven by Public Policy Requirements.
- No requirement to produce a public policy project.

Interregional Coordination

- Each pair of neighboring transmission planning regions must:
  - Share information
  - Identify and jointly evaluate interregional transmission facilities that may be more efficient and cost-effective solutions

- No requirement to produce an interregional transmission plan or engage in interconnection-wide planning

- Three requirements:
  - Each TP must participate in a regional planning process that has a regional cost allocation for *new* facilities.
  - There must be a common cost allocation method for new regional and interregional facilities, which must meet six cost allocation principles.
  - Participant Funding of new transmission facilities is permitted but cannot be used as the regional or interregional cost allocation method.

- The regional and interregional cost allocation methods must comply with the following six principles:
  - (i) cost must be allocated commensurate with estimated *benefits*;
  - (ii) no benefits, no involuntary cost allocation;
  - (iii) no costs allocated outside a transmission planning region unless the other region agrees;
  - (iv) a benefit to cost ratio threshold not required; however, if used, it must not exceed 1.25 to 1 unless justified and accepted by the Commission;
  - (v) the cost allocation method(s) for determining benefits and identifying beneficiaries must be transparent
  - (vi) a planning region may use different cost allocation methods for different types of transmission facilities in the regional plan

Right of First Refusal (ROFR)

- In order to promote competition in regional transmission planning, the Final Rule requires TPs to remove federal ROFR provisions from FERC-approved tariffs or agreements, subject to the following four exceptions:
  - Does not apply to transmission facilities that are not included in a TP's regional transmission plan for purposes of cost allocation;
  - Does not apply to upgrades of existing facilities, *e.g*., tower change outs or reconductoring;
  - The Final Rule allows, but does not require, competitive bidding to solicit new projects or project developers; and
  - Does not void state or local laws.

ROFR Backstop

- Incumbent transmission owners (TOs) may rely on RTEP facilities to satisfy their reliability needs or service obligations.

- Therefore, the Final Rule provides for a ROFR backstop provision which requires the TP to develop planning procedures to reevaluate the regional plan if delays in development of an “RTEP” project may affect the incumbent TOs ability to meets its reliability needs or service obligations.

State Jurisdiction Issues

- In the Final Rule, FERC made clear:
  - The Final Rule simply requires the institution of certain *processes*.
    - Does not exercise jurisdiction over specific substantive matters traditionally reserved to the states, *e.g*., Integrated Resource Planning or authority of transmission facilities
  - Nothing in the Final Rule is intended to limit, preempt, or otherwise affect state or local laws or regulations regarding:
    - Construction of transmission facilities, *e.g*., siting, permitting, etc.

FERC Final Rule

- Changes from the NOPR:
  - Non-incumbent Developers. Sponsorship right to allow a transmission developer to maintain for a defined period a right to build and own transmission was eliminated.

- Some Issues left outstanding:
  - No definition of “benefits” or “beneficiary”
  - FERC authorized departure from “bright line” standards for reliability and economic projects

- Compliance
  - Request for Rehearing must be filed no later than 30 days after issuance of Order.
  - The final order takes effect within 60 days of publication in the *Federal Register*.
  - TPs must make a compliance filing on most issues within 12 months of the effective date;
  - Interregional transmission coordination and cost allocation: Compliance filing required within 18 months of the effective date.
  - TPs must consult with its stakeholders in developing and implementing their compliance filings.
  - FERC Staff will hold informational conferences on the final rule.

Primary Power and Order No. 1000

- Does the Final Rule impact the *Primary Power* Order?
  - The Primary Order states that:

> "*PJM should administer this tariff provision in a not unduly discriminatory manner; in this regard it should handle the study of Primary Power"s application no differently than that of any other application proposing to build a project, be it an existing transmission owner or an "other entity," and would need to adequately justify its action if it denied the sponsor of the project the right to construct that project and receive the economic benefit of its project."*

- Order No. 1000 offered no further guidance.

7th Circuit Decision and Order No. 1000

- Does the Final Rule address the 7th Circuit Appeal regarding cost allocation?
  - The 7th Circuit decision states that:

    "*We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars. If it cannot quantify benefits to the midwestern utilities from new 500 kV lines in the East even though it does so for 345 kV lines, but it has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with those utilities" share of total electricity sales in PJM"s region, then fine; the Commission can approve PJM"s proposed pricing scheme on that basis. For that matter it can presume that new transmission lines benefit the entire network by reducing the likelihood or severity of outages. But it cannot use the presumption to avoid the duty of „comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.*'"

- Order No. 1000 offered no further guidance.