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FERC Largely Affirms Key Order on Open Transmission Access Reform

The Federal Energy Regulatory Commission today largely affirmed its rule on open access transmission, Order No. 890, issued earlier this year.

The order, *Promoting Undue Discrimination and Preference in Transmission Service*, reformed the open access regulatory framework first set out in Order Nos. 888 and 889 in 1996. The rule ensures that transmission service is provided on a nondiscriminatory, just and reasonable basis and helps provide the foundation for a competitive electric power market. In addition, Order No. 890 provides for more effective regulation and transparency in the operation of the transmission grid.

"This rehearing order represents the final step to reform the landmark open access rules established by FERC more than 10 years ago," Chairman Joseph T. Kelliher said. "We acted to reform our rules because it was necessary to prevent undue discrimination and preference in transmission service. But doing so also will promote effective competition in wholesale power markets and strengthen the grid."

FERC reaffirmed its rationale for issuing Order No. 890 – to ensure that the 1996 ruling achieves its original purpose of remedying undue discrimination – by reforming the terms and conditions of the *pro forma* open access transmission tariff (OATT), particularly in the calculation of available transfer capability (ATC), the planning of transmission facilities and the conditions of services offered by each transmission provider. Work is "well underway" to implement these reforms, the order states.

FERC said that based on the extensive record of this proceeding, it is convinced that the particular reforms adopted in Order No. 890 are appropriate to satisfy the obligation to remedy undue discrimination.

In addressing issues raised on rehearing, FERC commended transmission providers "for the substantial resources dedicated to the development of transmission planning processes" in response to Order No. 890. "Transmission planning is critical because it is the means by which customers consider and access new sources of energy."

The draft order affirms, and in some cases clarifies, FERC's position as stated in Order No. 890 regarding, among other issues:

- ☐ the methodology for calculating available transfer capability (ATC);
- ☐ implementation of open and coordinated transmission planning processes;
- ☐ standardization of energy and generation imbalance charges;
- ☐ implementation of conditional firm and planning redispatch options for long-term point-to-point customers;
- ☐ reform of rollover rights; and



- rules regarding the designation and undesignation of network resources.

The draft order also affirms the decision to lift the price cap on reassignments of transmission capacity, but grants rehearing to limit the time period during which reassignments may occur above the cap. In Order No. 890, FERC directed staff to prepare a report on the development of the secondary market after the receipt of two years of transaction data, provided by transmission providers in quarterly reports. Today's order provides that, upon consideration of this staff report, FERC will determine whether it is appropriate to continue to allow further reassignments of capacity above the price cap.

Today's order revises the Open Access Same-time Information System regulations to more clearly state posting requirements relating to the processing of service requests. The order further revises the *pro forma* OATT to implement the clarifications made in the rehearing order.

FERC also noted that in a September 2007 order, it had extended the effective date of the minimum lead time for undesignating network resources adopted in Order No. 890. The appropriate effective date for that tariff language will be addressed in a future order.

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