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Order No. 890:

The Nuts and Bolts of Complying with FERC's New Open Access Transmission Tariff Rule

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Agenda

- The Basics: Order No. 890 Issuance and Effective Date
- The Bullet: The Top Changes You Need to Know About Order No. 890
- Compliance: The First 6 Months
- Compliance: Longer-Term Issues
- Conclusions and Q&A

Order No. 890 Issuance and Effective Date

- Issued by FERC on February 16, 2007
- Published in Federal Register on March 15, 2007
- Rule effective May 14, 2007
- But compliance deadlines run from March 15, 2007
 - 30 days = April 16
 - 90 days = June 13
 - 120 days = July 13
 - 180 days = September 11
 - 210 days = October 11

The Top Changes You Need to Know About

- ATC
- Regional Planning
- Designated Network Resources
- Modifications to LT Firm PTP Service
- Planning Redispatch
- Conditional Firm Service
- Other Modifications to Transmission Products
- Modification of Receipt or Delivery Points
- Acquisition of Transmission Service
- Transmission Pricing
- Standardization of Rules and Practices
- Enforcement

Consistent and Transparent ATC Calculations

- Commission wants clear and consistent ATC methodology and calculations
- Commission recognizes that NOPR six-month timeline was too short, so it adopted the following deadlines:
 - 270 days (working with NERC) to comply with ATC-related reliability requirements
 - 360 days (working with NAESB) to develop business practices
 - NERC and NAESB must file a work plan by June 13, 2007
- Although many of the ATC-related compliance requirements are more long-term changes, many ATC-related changes are required by June 13, 2007.

ATC-Related Changes Required by July 13, 2007:

- providing TRM values and data (P 276)
- posting studies list for the TP's own network resources (P 349)
- implementing mechanism to post and update CBM/TRM (P 354)
- implementing mechanism to make CBM set-aside available on a non-firm basis (P 354)
- implementing mechanism to post narratives regarding ATC changes (P 369)
- implementing mechanism to indicate if service denials were for firm or non-firm service (P 377)
- posting and making available, on a non-firm basis, unused but reserved transmission (P 389)

ATC-Related Changes Required by July 13, 2007 (continued):

- establishing a disclosure procedure for CEII (P 404)
- posting of all current Designated Network Resources (“DNRs”) on OASIS
- additional posting requirements for designating off-system resources (P 1476)
- implementing the requirement to permit DNRs of as short as one day (P 1505)
- implementing mechanism for reviewing DNR attestations through OASIS (PP 1521, 1531-32)
- posting descriptions of denials to and requests for change of service relating to undesignations of DNRs (P 1586)

Regional Planning Process:

- Commission requires TPs to develop regional planning process that complies with FERC's planning principles
- By May 29, 2007, each TP must post on its OASIS a "strawman" proposal for compliance with the FERC planning principles
- Commission will hold technical conferences between June 13 and July 13, 2007
- Each OATT planning process attachment (Attachment K) must be filed with the Commission by October 11, 2007.

Regional Planning Principles:

- Coordination
- Openness
- Transparency
- Information Exchange
- Comparability
- Dispute Resolution
- Regional Participation
- Economic Planning Studies
- Cost Allocation for New Projects

LD Contracts

- FERC finds that “make whole” LD contracts (such as those found in the EEI Firm LD Product and in WSPP Schedule C) can qualify as network resources. Other LD provisions that cap penalties or set a fix-dollar amount do not qualify (PP 1452-54).
- An agreement that has been properly designated prior to May 14, 2007 but contains an unacceptable LD provision will be grandfathered until the earlier of: (1) the expiration of the current term of the agreement or (2) an indefinite termination of the agreement as a DNR (P 1455).

Off-System Sales

- FERC requires the following information to be provided and posted on OASIS when designating an off-system resource: (1) identification of the resource as an off-system resource; (2) amount of power to which the customer has rights; (3) identification of the control area(s) from which the power will originate; (4) delivery point(s) to the TP's transmission system; and (5) transmission arrangements on the external transmission system(s) (P 1476).
- Additionally, the OATT is revised to require the following information: (1) any operating restrictions (periods of restricted operation, maintenance schedules, minimum loading level of resource, normal operating level of resource); and (2) approximate variable generating cost (\$/MWH) for redispatch computations (P 1476). Such information must be masked on OASIS to prevent the release of commercially sensitive information.

Off-System Sales (continued)

- FERC clarified that a customer may not designate as a network resource a seller's choice agreement which is sourced by generating units internal to the TP's control area (P 1483).

Documentation of Network Resources

- When designating network resources, network customer must include a statement that: (1) customer owns or has committed to purchase the designated network resource; and (2) the designated network resource comports with the requirements for designated network resources.
- Network customers must continue to undesignate network resources or portions thereof in order to make certain firm, third-party sales from those resources. Network customers may only enter into a third-party power sale from a designated network resource if the third-party power purchase agreement allows the seller to interrupt power sales to the third party in order to serve the designated network load. Such interruption must be permitted without penalty. (P 1539).

Documentation of Network Resources (continued)

- FERC clarifies that requests to undesignate network resources that are submitted concurrently with a request to redesignate those network resources at a specific point in time shall be considered temporary terminations and not result in forfeiture of priority.
- Conversely, requests to undesignate network resources submitted without any concurrent request to redesignate those network resources shall be considered a request for indefinite termination (PP 1540, 1544).

Modifications to Long-Term Firm Point-to-Point Service

- I. Planning Redispatch and Conditional Firm Service (“CFS”):
Order No. 890 requires implementation of Planning Redispatch and CFS to provide comparable service between customers and TP’s own native load (Par. 911)
 - A. **Independent Services**: Planning Redispatch and CFS may be offered independently or as a combination when insufficient ATC exists to grant a transmission service request; meant to allow more flexibility in granting point-to-point service in light of limited constraints (Par. 914)
 - If TP determines that Planning Redispatch is available, it shall provide customer with non-binding estimates of the incremental costs of redispatch and identify relevant constraints for which redispatch will be provided (Par. 958)
 - If CFS is available, TP shall identify the conditions and hours pursuant to which the service may be curtailed to maintain reliability. Customer taking CFS must chose between conditions or hours (Par. 958).

Modifications to Long-Term Firm Point-to-Point Service (continued)

- I. Planning Redispatch and Conditional Firm Service (“CFS”):
 - B. **Potential Harm to Reliability and Pre-existing Firm Commitments:** TP does not need to offer either service if reliability may be harmed or if the provision of service will interfere with ability to satisfy prior firm contractual commitments to others (Pars. 941, 946)
- II. **Time Limitations on Planning Redispatch and CFS:** Services need only be made available to customers who request firm point-to-point service of more than a year in duration; Reassess Planning Redispatch and Conditions/Hours every two years. (Par. 978, 981)
 - “Bridge” product until necessary upgrades are available (Par. 980)

Modifications to Long-Term Firm Point-to-Point Service (continued)

III. Study Obligations and Required Information: When the requested firm point-to-point service is not available and the customer agrees to a system impact study, the transmission provider must evaluate the Planning Redispatch and conditional firm options at the customer's request. The system impact study must identify the following:

- the system constraints, identified by transmission facility or flowgate, causing the need for the system impact study;
- additional direct-assignment facilities or network upgrades required to provide the requested service
- incremental costs for redispatch options/conditional firm options (i.e., curtailment hours and conditions) (Par. 978)

Modifications to Long-Term Firm Point-to-Point Service (continued)

IV. Interim Posting of Planning Redispatch Pricing Information (Interim 90 days after FR publication/Final After NAESB Process): TPs must post their monthly average cost of redispatch for each internal congested transmission facility or interface over which they provide redispatch service using planning redispatch or reliability redispatch under the *pro forma* OATT.

In addition, to demonstrate the range of redispatch costs each month, TPs must post a high and low redispatch cost for the month for each of these same transmission constraints (Par. 1187)

Planning Redispatch

- I. **Third-Party Resources In Control-Area:** Order No. 890 does not require TPs to solicit third-party resources in order to provide planning redispatch. TPs, customers, and third-party resources, however, must coordinate with third-party resources to provide planning redispatch, where available.
 - After NAESB process, TPs must post third-party offers for redispatch on OASIS (Par. 1005)

Planning Redispatch (continued)

- II. **Third-Party Resources Outside Control Area:** If a TP is aware of a particular generation resource outside of its control area that may be able to relieve congested transmission facilities, the TP must inform the customer of that resource. This does not require the TP to undertake any additional investigation or study to identify generation options located outside of the control area. (Par. 1004-05)

Planning Redispatch (continued)

III. Planning Redispatch Pricing: Customers will have the option of paying (1) the higher of (a) actual incremental costs of redispatch or (b) the applicable embedded cost transmission rate on file or (2) a fixed rate for redispatch to be negotiated by the TP and customer and subject to a cap representing the total fixed and variable costs of the resources expected to provide the service (Par. 1024)

Conditional Firm Service

- I. **Secondary Network Resource Curtailment Priority:** Secondary Network Service curtailment priority applies to CFS (Par. 958)
- II. **Coordinate Rollovers and Biennial Review:** TPs and Customers should coordinate biennial review and rollover deadline to ensure that Customer can best evaluate desire to rollover reservation (Par. 1083)

Conditional Firm Service (continued)

- III. **Assignment of Short-Term Firm Service:** Order No. 890 directs TPs to assign short-term firm service to conditional firm customers as the service becomes available. TPs must work with NAESB to develop the appropriate communications protocols to implement this attribute of conditional firm service (Par. 1078)

- IV. **Regional Coordination for CFS:** Order No. 890 requires new tracking and tagging business practices for CFS. FERC ordered TPs to coordinate by region to develop these business practices (180 days from FR) (Par. 1046)

Other Modifications to Transmission Products

- I. **Hourly Firm Product:** Order No. 890 rejected mandatory hourly firm transmission product (Par. 1212)
- II. **Rollovers:** Order No. 890 extended minimum transmission reservation term to five years; customer must provide one year's notice to roll over service (Pars. 1231, 1247)

Other Modifications to Transmission Products (continued)

- III. **Capacity Reassignment:** Order No. 890 lifts “price cap” for assigned transmission capacity (Par. 808)
- without congestion, de facto price cap is filed rate (Par. 812)
 - with congestion, the de facto price cap is incremental rate of expansion (Par. 812)
 - Assignee must execute service agreement with TP (Par. 816)
 - The assignee will pay the TP for service at the negotiated rate and the TP will bill or credit the assignor with any difference between the negotiated rate and the assignor’s original rate (Par. 816n. 496)
 - All sales or reassignments must be conducted through or posted on TP’s OASIS on or before date service starts
 - TPs must work through NAESB to develop OASIS functionality
 - TPs must aggregate and report reassignment data in EQRs

Modification of Receipt or Delivery Points

- I. **Rollover Rights**: Rollover rights follow the redirect (Pars. 1280-81)
- II. **Reservation Priority**: Like any other reservation, a request to redirect will be evaluated in accordance with Section 17 of the OATT and therefore does not receive any special queue priority. (Par. 1285)
- III. **Pricing**: No standardized industry-wide pricing for redirects, but transmission providers cannot collect additional charges when a firm point-to-point customer redirects on a non-firm basis; non-firm redirects are not subject to “Appalachian” pricing (Par. 1289)
 - FERC reasons that the redirecting customer already would have paid for firm service over all peak and off-peak hours during the reservation and therefore there is no need to charge a premium to “cherry-pick” the best hours of each day (Par. 1289)
- IV. **No Redirecting of Network Service**: Unlike point-to-point service, Network Service involves no identified contract path and thus is not a directable service (Par. 1293)

Acquisition of Transmission Service

- I. **Transmission Performance Metrics:** TPs must begin tracking and posting their performance metrics. Metrics must be posted 15 days after the end of each quarter and must be calculated separately for affiliates and non-affiliates. (Par. 1309)
 - metrics identified in Paragraph 1310 (process time for transmission reservations and related studies)
 - can aggregate studies for short-term and long-term service requests (Par. 1309)
 - keep records for three years (Par. 1309)

Acquisition of Transmission Service (continued)

- II. **Transmission Study Reporting Obligations:** TPs must submit a filing notifying FERC if the TP processes more than 20% of non-affiliated customers' transmission studies outside of the 60-day deadline for two consecutive quarters. (Par. 1319)
- calculate by aggregating all system impact and facilities studies; can attempt to justify missed deadlines (Par. 1319)
 - filing due 30 days following second quarter of missed deadlines (Par. 1319)
 - must post time and number of employees devoted to processing system impact and facilities studies while notification filing is pending; may aggregate all affiliate and non-affiliate requests and short-term and long-term service requests (Par. 1320)

Acquisition of Transmission Service (continued)

- III. **Penalties:** Penalty applies if TP completes more than 10% of non-affiliated studies outside OATT deadline for two quarters following notification filing (Par. 1340)
- \$500 penalty per missed study per day assessed on quarterly basis (Par. 1340)
 - penalty will continue until 90% of all studies are completed within 60 days after the TSA is executed (Par. 1340)
 - penalty not recoverable through rates (Par. 1357)

Acquisition of Transmission Service (continued)

IV. Clustering: TPs are not required to study transmission service requests in clusters. TPs, however, must consider clustering studies if a customer requests such and the request can be reasonably accommodated.

→ TPs must include tariff language indicating how they will process a request to cluster studies and describing the customer's obligations when they have joined a cluster. (Pars. 1370-71)

Acquisition of Transmission Service (continued)

V. Pre-Confirmation Reservation Priority: Reservation Priority now applies to pre-confirmed non-firm and short-term firm point-to-point transmission service requests.

- priority of longer duration requests is preserved (e.g., a pre-confirmed daily or hourly request will not preempt a weekly request that has not been pre-confirmed) (Par. 1401)
- longer duration requests will continue to bump shorter-term requests with pre-confirmation serving as the “tie-breaker” for requests of equal duration (Par. 1401)
- Customer cannot withdraw pre-confirmed non-firm and short-term firm request prior to time that when Customer is offered service or a system impact study. Request can be invalidated if an error occurs. (Par. 1403)
- Customer is not bound to take service if TP counter-offers. (Par. 1403)

Acquisition of Transmission Service (continued)

VI. Price as a Tie-Breaker: Price will serve as a tie-breaker in determining reservation queue priority when the TP is willing to discount transmission service.

- In the event a later queued short-term request for transmission service preempts a conditional confirmed short-term request for transmission service based on price, then the conditional confirmed request has a right to match the price offer of the later queued request. (Par. 1410)
- Price will serve as a tie-breaker after pre-confirmation for those requests that have not yet been confirmed by the customer or have not yet been evaluated by the TP. (Par. 1410)

Acquisition of Transmission Service (continued)

VII. **Five Minute Reservation Windows:** TPs with “no earlier than” reservation deadlines must establish a window within which requests are deemed simultaneously submitted.

- presumption that window must be at least five minutes (Par. 1420)
- requests submitted within window should not be publicly available (Par. 1421)
- TPs must propose methodology for allocation of transmission capacity if insufficient capacity exists to grant all requests submitted within window (Par. 1422)

Transmission Pricing

- Order No. 890 does not implement a comprehensive overhaul of FERC's transmission pricing policies
- FERC acknowledged that LMP-based market designs "are not the only way to remedy undue discrimination or achieve comparability"
- FERC held that "seams" issues were beyond the scope of Order No. 890

Transmission Pricing

- Energy and Generation Imbalances
 - Order No. 890 adopts new OATT Schedule 9 for generator imbalances
 - FERC adopts a three-tiered deviation band approach to imbalance charges:
 1. Less than or equal to 1.5% of schedule (or 2 MW, if larger): netted on a monthly basis and settled at 100% of the TP's decremental or incremental cost
 2. Between 1.5% and 7.5% of schedule (or 2 to 10 MW if larger): settled at 90% of TP's decremental or incremental cost for surplus or 110% for shortage
 3. Greater than 7.5% of schedule (or 10 MW, if larger): settled at 75% of TP's decremental or incremental cost for surplus or 125% for shortage
 - TP's not required to net imbalances outside of Tier 1

Transmission Pricing (continued)

- Energy and Generation Imbalances (continued)
 - Principles for imbalance charges:
 - Charges must be based on incremental cost
 - » “Incremental cost” is TP’s “actual average hourly cost of the last 10 MW dispatched to supply the transmission provider’s native load, based on the replacement cost of fuel, unit heat rates, start-up costs, incremental operation and maintenance costs, and purchased and intermittent power costs and taxes, as applicable.”
 - » Incremental cost may include commitment and redispatch costs
 - Charges must provide incentive for accurate scheduling
 - Provisions must account for circumstances presented by “intermittent generators” (e.g., wind, solar)

Transmission Pricing (continued)

- Energy and Generation Imbalances (continued)
 - Imbalance pricing reforms do not apply to RTO/ISO markets
 - Imbalance pricing reforms will not abrogate existing generator imbalance agreements between transmission providers and customers
 - Generators that incur imbalances due to responses to reliability directives to correct frequency deviations should not incur imbalance charges
 - TP should exempt generators from charges under those circumstances
 - No change in treatment of inadvertent energy
 - TPs must credit non-offenders with imbalance revenues in excess of incremental cost

Transmission Pricing (continued)

- Unreserved Use Penalty
 - Customer incurs penalty when it uses transmission service without reservation or in excess of its reservation
 - Penalty based on rate for firm PTP service for period of unreserved use
 - TPs may assess penalties up to twice the standard rate and propose higher penalties
 - TPs must credit non-offenders with all unreserved use penalty revenues

Standardization of Rules and Practices

- Order No. 890 requires TPs to incorporate into their OATTs only rules, standards, and practices that “significantly affect transmission service”
 - TPs must post to their websites, with links from OASIS, all rules, standards, and practices that “relate to transmission service”
- Order No. 890 adopts new *pro forma* OATT Attachment L on creditworthiness standards
- Order No. 890 adopts certain new definitions, revises others

Enforcement

- OATT compliance will continue to be subject to FERC oversight and enforcement
 - FERC encourages TPs to designate employees as OATT compliance officers and to conduct third-party audits relating to OATT compliance; Use of third-party auditors not required to assess OATT compliance (Par. 1718, 1723)
 - OATT violations may be subject to civil penalties consistent with guidelines established in FERC's *Policy Statement on Enforcement* (Par. 1730)
 - OATT violations may lead to revocation of market-based rate authority if sufficient "nexus" exists (Par. 1743)

Compliance with Order No. 890

- The First Six Months
- Longer-Term Compliance Issues

Compliance: The First Six Months

- **30 days (April 16)**: Non-RTO/ISO TPs may file to preserve previously-approved regional variations in their existing OATTs substantively affected by Order No. 890's *pro forma* OATT changes
 - No need to "rejustify" variations not affected by Order No. 890
 - Must show that variations are consistent with or superior to Order No. 890 *pro forma* OATT
 - Only available to TPs willing to give FERC 90 days to act
- **75 days (May 29)**: TPs must post "strawman" proposals on their website or OASIS for compliance with each of the nine planning principles FERC adopted in Order No. 890

Compliance: The First Six Months (continued)

- **120 days (July 13)**: Non-RTO/ISO TPs outside RTO/ISO footprints must file to adopt the non-rate terms and conditions of the Order No. 890 *pro forma* OATT
 - Need only adopt changes promulgated in Order No. 890
- Transmission providers must file updated transmission charges reflecting the CBM set-aside
- **180 days (September 11)**: Transmission providers must (1) file ATC-related compliance filings that conform with Order No. 890 OATT Attachment C, and (2) implement business practices and tracking mechanisms for conditional firm service

Compliance: Longer-Term Issues

- **210 days (October 11):** RTOs/ISOs and transmission providers within an RTO/ISO footprint must file to adopt the non-rate terms and conditions of the Order No. 890 *pro forma* OATT
- **Quarterly:** Transmission providers must aggregate transmission reassignments and report them in the EQR
- **Annual TP Obligations:**
 - Compliance filing for distribution of unreserved use and late study penalties to non-offending customers
 - CBM studies

Compliance: Longer-Term Issues (continued)

- **Annual TP Obligations** (continued):
 - Report on revenues received and distributed
 - Post changes in ATC resulting from a 10% change in TTC
 - Post narratives when monthly or yearly ATC remains at zero for six months or longer
 - Post transmission-related business practices and local procedures on OASIS-linked website

Order No. 890:

The Nuts and Bolts of Complying with FERC's New Open Access Transmission Tariff Rule

Questions and Answers

Please contact any of us with questions after the Webcast.

Thank you for joining our presentation.

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