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FERC Clarifies Order No. 845's Interconnection Reforms

By Joseph W. Lowell and Pamela Tsang Wu*

The Federal Energy Regulatory Commission has issued an order clarifying Order No. 845 and reforming certain parts of the large generator interconnection rules. The revisions and clarifications in Order No. 845-A largely preserve the reforms of Order No. 845 and explain how certain reforms should be implemented. The authors of this article explain the order.

The Federal Energy Regulatory Commission ("FERC") has issued an order[1] on rehearing and clarification of Order No. 845,[2] which was issued in April 2018, and reformed certain parts of the large generator interconnection rules. The reforms of Order No. 845 were intended to improve the efficiency of processing interconnection requests, maintain reliability, balance the needs of interconnection customers and transmission owners, and remove barriers to resource development. In Order No. 845-A, FERC generally affirmed Order No. 845 and denied most of the rehearing requests, but did grant clarification and rehearing in limited respects. The revisions and clarifications in Order No. 845-A largely preserve the reforms and explain how certain reforms should be implemented. Order No. 845-A will become effective 75 days after publication in the *Federal Register*. Transmission providers were required to submit compliance filings by May 22, 2019.

INTERCONNECTION CUSTOMER'S OPTION TO BUILD

Prior to Order No. 845, FERC's large generator interconnection rules generally required the transmission provider to construct all network upgrades and the transmission provider's interconnection facilities, except in a limited

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[1] Reform of Generator Interconnection Procedures and Agreements, 166 FERC ¶ 61,137 (2019) (Order No. 845-A).

[2] Reform of Generator Interconnection Procedures and Agreements, 163 FERC ¶ 61,043 (2018) (Order No. 845).

instance.[3] Specifically, interconnection customers were allowed to build the transmission provider's interconnection facilities and standalone network upgrades[4] only in situations where the transmission provider could not meet the milestone dates proposed by the interconnection customer for the construction of the interconnection. Order No. 845 modified provisions of the pro forma Large Generator Interconnection Agreement ("LGIA") to allow interconnection customers to exercise the option to build with respect to the transmission provider's interconnection facilities and standalone network upgrades, regardless of whether the transmission provider can meet the interconnection customer's proposed dates.

In Order No. 845-A, FERC clarified several aspects of the expanded "option to build." FERC held that when there is a disagreement on whether a network upgrade is a standalone network upgrade, the transmission provider must explain why it does not consider a specific network upgrade to be a standalone network upgrade. FERC also held that transmission providers may recover oversight costs[5] related to the interconnection customer's option to build and added language to that effect in the pro forma LGIA. In addition, FERC clarified that (1) the option to build provisions apply to all public utility transmission providers, including those that reimburse the interconnection customer for network upgrades; and (2) the option to build does not apply to standalone network upgrades on affected systems.

OPTION TO REQUEST INTERCONNECTION SERVICE BELOW GENERATING FACILITY CAPACITY

In Order No. 845, FERC modified the pro forma Large Generator Interconnection Procedures ("LGIP") to allow interconnection customers to request interconnection service in an amount that is less than a resource's full generating facility capacity. Prior to this reform, the right of the customer to

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[3] Under FERC's rules, "Transmission Provider's Interconnection Facilities" are "all facilities and equipment owned, controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Standard Large Generator Interconnection Agreement, including any modifications, additions, or upgrades to such facilities and equipment. Transmission Provider's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades."

[4] Standalone network upgrades are "Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Provider and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the Standard Large Generator Interconnection Agreement." Order No. 845-A at n.5.

[5] Generally, "oversight costs" are the costs for providing the coordination, oversight, and approval required for the Interconnection customer's construction.

choose interconnection service at less than full capacity was not clear. In Order No. 845-A, FERC clarified that, if a customer chooses service below the facility's capacity and subsequently requests to increase its service up to the full capacity of the facility, the transmission provider must provide a detailed explanation in support of any determination to require additional studies prior to granting such a request. FERC also held that an interconnection customer may propose control technologies at any time during the interconnection process to request service below the generating facility's maximum capacity.

SURPLUS INTERCONNECTION SERVICE

In Order No. 845, FERC established "Surplus Interconnection Service," a form of interconnection service that allows a new interconnection customer to use excess or unused interconnection service capacity associated with an existing resource. This reform was adopted to reduce costs for interconnection customers and improve wholesale market competition by increasing the use of existing interconnection facilities and network upgrades rather than requiring new ones. On rehearing, FERC clarified that Surplus Interconnection Service is only available up to the level that can be accommodated without requiring new network upgrades to be constructed. FERC also confirmed that it did not intend to limit the regional transmission organizations' and independent system operators' ability to argue that an independent entity variation from the Surplus Interconnection Service requirements is appropriate.

ADDITIONAL TRANSPARENCY REGARDING STUDY MODELS AND ASSUMPTIONS

Order No. 845 required transmission providers to maintain not only base case data, but also network models and underlying assumptions on its OASIS site or a password-protected website. In Order No. 845-A, FERC held that transmission providers may use the Commission's CEII regulations as a model for evaluating entities that request network model information and assumptions. FERC also clarified that transmission providers are not required to maintain network models that reflect current real-time operating conditions of the transmission provider's system and that the network model information should reflect the system conditions currently used in interconnection studies.

POSTING INTERCONNECTION STUDY METRICS

In Order No. 845, FERC modified the pro forma LGIP to require transmission providers to report interconnection study performance data on their OASIS sites on a quarterly basis to increase the transparency of interconnection study completion timeframes. On rehearing, FERC clarified that transmission providers are not required to post 2017 interconnection study metrics under the new reporting requirements.