

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Integrating Renewable Resources Into the
Wholesale Electric Grid

Docket No. AD09-4-000

**COMMENTS OF
TRANSMISSION ACCESS POLICY STUDY GROUP**

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to submit Comments in response to the Commission’s February 20, 2009 “Supplemental Notice of Technical Conference,” in the above-captioned proceeding.¹ TAPS has long supported timely and nondiscriminatory planning and construction of the transmission facilities essential to supporting robust, competitive wholesale markets. The development of new intermittent renewable generating resources, and the challenge of integrating those resources while maintaining grid stability and reliability, have highlighted existing weaknesses in the investment-starved grid and the importance of promptly addressing those deficiencies.

It is crucial that the Commission ensure that needed transmission expansions are built not only soon, but also in a manner that will reduce opportunities for discrimination and meet the Congress’ directive in Federal Power Act (“FPA”) Section 217(b)(4), 16 U.S.C. § 824q(b)(4), to meet the needs of load-serving entities. Specifically, TAPS urges the following:

1. The Commission should not eliminate or supplant the new Order 890 regional transmission planning processes, which require opportunities for meaningful input, including from the load-serving entities whose needs Congress has directed be

¹ Available at eLibrary Accession No. 20090220-3034.

considered in the planning and expansion of the grid. Those regional planning processes should be given an opportunity to work and enhanced to address interconnection-wide concerns.

2. The Commission should not adopt interconnection-wide cost spreading in the absence of evidence demonstrating that the assigned costs are not substantially disproportionate to reasonably anticipated benefits.
3. The Commission should require opportunities for joint ownership of new major transmission projects, or at minimum require such opportunities for any such projects for which incentives are authorized or for which any federal siting authority has been exercised.

INTEREST OF TAPS AND COMMUNICATIONS

TAPS is an informal association of transmission-dependent utilities in more than 33 states, promoting open and non-discriminatory transmission access.² As entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS members have supported the Commission's initiatives to form truly independent regional transmission organizations, to foster efficient investment in transmission and generation facilities, and to provide for non-discriminatory transmission access.

² TAPS is chaired by Roy Thilly, CEO of WPPI Energy. Current members of the TAPS Executive Committee include, in addition to WPPI, representatives of: American Municipal Power-Ohio; Blue Ridge Power Agency; Clarksdale, Mississippi; ElectriCities of North Carolina, Inc.; Florida Municipal Power Agency; Illinois Municipal Electric Agency; Indiana Municipal Power Agency; Madison Gas & Electric Co.; Missouri River Energy Services; Municipal Energy Agency of Nebraska; Northern California Power Agency; Oklahoma Municipal Power Authority; Southern Minnesota Municipal Power Agency; and Vermont Public Power Supply Authority.

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COMMENTS

I. INTERCONNECTION-WIDE PLANNING ISSUES SHOULD BE ADDRESSED THROUGH ENHANCEMENT OF EXISTING REGIONAL PROCESSES

During the March 2, 2009 Technical Conference, several participants identified broader planning as crucial to the development of the transmission facilities needed to support integration of new, intermittent renewable resources.³ TAPS agrees that robust regional planning is essential to meeting the challenges posed by such resources, and TAPS members have actively participated in both the new Commission-mandated regional planning processes and voluntary coordinated planning efforts to tackle these issues.

We urge the Commission to address the planning issues associated with new renewable resources through enhancement of existing regional planning efforts, rather than attempting to create a new interconnection-wide planning system from the ground

³ Technical Conference Tr., No. AD09-4-000, Mar. 2, 2009, *available at* <http://www.ferc.gov/EventCalendar/Files/20090316075308-AD09-4-03-02-09.pdf>. *See, e.g.*, Tr. 19 (Lauren Azar, Wisconsin PSC and Organization of MISO States, advocating regional planning); Tr. 57 (Michael Kormos, PJM, recommending planning by RTOs in coordination with their neighbors); Tr. 75 (Gordon van Welie, ISO New England, recommending “regional plans that are integrated and harmonized by a federal entity,” but with RTOs retaining primary planning authority for managing the integration of renewables in their footprint).

up, as some technical conference participants suggested.⁴ In Order 890, the Commission required transmission providers to develop and file as part of their Open Access Transmission Tariffs new coordinated, open, inclusive, and transparent regional transmission planning processes.⁵ These new regional planning processes have been in place for less than eighteen months.⁶ In some instances, protests of the Order 890 compliance filings are still pending before the Commission.⁷

The Commission should give these new processes a chance to work. Although some of the regional planning processes proposed by transmission providers in response to Order 890 are flawed, scrapping them now will only further delay meaningful regional planning at a time when everyone agrees the prompt identification and construction of new transmission facilities is critical.

TAPS strongly disagrees with Technical Conference participant Joseph Welch (ITC), who stated that “we need to ... really unload [RTOs] from having to deal with the stakeholders.” Technical Conference Tr. 71-72. To the extent that Mr. Welch proposes a

⁴ See, e.g., Technical Conference Tr. 120 (Lisa Barton, AEP).

⁵ Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 Fed. Reg. 12,266, 12,322-41 (Mar. 15, 2007), [2006-2007 Regs. Preambles] F.E.R.C. Stat. & Regs. ¶ 31,241, PP 435-602 (“Order 890”), *order on reh'g and clarification*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), [2006-2007 Regs. Preambles] F.E.R.C. Stat. & Regs. ¶ 31,261, *order on reh'g*, Order No. 890-B, 73 Fed. Reg. 39,092 (July 8, 2008), 123 F.E.R.C. ¶ 61,299 (2008), *order on reh'g and clarification*, Order No. 890-C, 74 Fed. Reg. 12,540 (Mar. 25, 2009), 126 F.E.R.C. ¶ 61,228 (2009), *review docketed*, No. 08-1278 (D.C. Cir. filed Aug. 22, 2008).

⁶ Transmission Providers were required to submit their Order 890 compliance filings implementing the new regional transmission planning requirement by December 7, 2007. *Preventing Undue Discrimination and Preference in Transmission Service*, 120 F.E.R.C. ¶ 61,103, Ordering Paragraph A (2007).

⁷ The Midwest ISO, for example, submitted its Order 890 regional transmission planning compliance filing on December 7, 2007. Letter from Gregory A. Troxell, Assistant Gen. Counsel, Midwest ISO, to Kimberly D. Bose, Sec’y, FERC (Dec. 7, 2007) (regarding Section 205 Filing to Incorporate Transmission Planning Principles in the Open Access Transmission and Energy Markets Tariff), *available at* eLibrary Accession No. 20071213-0038. The Commission ruled on that filing on May 15, 2008 (*Midwest Indep. Transmission Sys. Operator, Inc.*, 123 F.E.R.C. ¶ 61,164 (2008)); and it directed the Midwest ISO to submit a further compliance filing in mid-August 2008 (*id.* at Ordering Paragraph B). Protests of the Midwest ISO’s August 2008 compliance filing were filed. The Commission has not yet ruled on those protests.

broad exclusion of stakeholders from transmission planning processes,⁸ the proposal should be rejected. In Order 890, the Commission identified transparency and meaningful stakeholder participation as key safeguards to counteract existing incentives for transmission-owning utilities to discriminate in transmission planning and construction. Order 890, PP 422-25. The need for those safeguards still exists.

More, rather than less, accountability is required from transmission providers. The current system has left customers exposed to constraints that severely limit their power-supply options, and it has fallen far short of producing the robust grid required to foster competitive wholesale markets. Transmission investment has fallen way behind load and generation growth.⁹ Requiring transmission providers to make nondiscriminatory plans with meaningful stakeholder input *and* putting teeth into those plans by requiring that transmission providers construct planned facilities—a step that the Commission declined to take in Order 890¹⁰—are needed to break the gridlock, consistent with the dual directives of FPA Section 217(b)(4) to “facilitate[] the planning *and expansion* of transmission facilities to meet the reasonable needs of load-serving entities.” Emphasis added.

To address interconnection-wide planning issues, the Commission could build on the existing regional planning processes established under Order 890. Transmission providers are already required to coordinate their transmission planning with the planning

⁸ Mr. Welch’s specific comments focused on undue pressure being placed on RTOs by transmission owner stakeholders threatening to withdraw from the RTO unless favorable rules are adopted. *Id.* 70. His general recommendation, however, appeared to envision restrictions on all stakeholder participation.

⁹ See, e.g., Eric Hirst, *U.S. Transmission Capacity: Present Status and Future Prospects*, (2004), available at http://www.oe.energy.gov/DocumentsandMedia/transmission_capacity.pdf (prepared for the Edison Electric Institute and the Office of Electric Transmission & Distribution, Department of Energy).

¹⁰ Order 890, P 594.

of interconnected systems. Order 890, P 523. The Commission could strengthen and give specificity to this general requirement by directing RTOs and other transmission providers to enhance that interregional planning through agreements among regional planning entities, thereby minimizing the impact of seams through increased coordination and integration of interregional plans with neighboring regions. This approach would leave primary planning responsibility with the RTOs and other transmission providers responsible for managing and operating the grid (leaving room for sprawling regions like the Midwest ISO to have subregional planning processes within the RTO umbrella where that makes sense), but provide structure and specific direction on interregional goals and plans and how to handle projects that span multiple regions. The approach should assure both that broader interregional issues are addressed and that the resolution of those issues is integrated and consistent with regional and subregional plans.

TAPS also supports enhancement of open, inclusive, and, preferably, independent regional planning in areas not covered by RTOs. In too many parts of the country, planning is still in the hands of individual non-independent transmission providers that lack the full regional scope needed for effective planning for future needs. In addition, notwithstanding Order 890, this situation continues to provide the opportunity and incentive to discriminate in favor of the transmission provider's generation function objectives, rather than serving the needs of transmission dependent utilities to access alternative generation, including renewables. TAPS would welcome Commission movement in this direction.

II. INTERCONNECTION-WIDE COST SPREADING IS INAPPROPRIATE WHERE IT WILL RESULT IN ASSIGNED COSTS THAT ARE SUBSTANTIALLY DISPROPORTIONATE TO REASONABLY ANTICIPATED BENEFITS

TAPS has strongly supported broad cost sharing of very high voltage transmission facilities within RTOs. Cost-spreading across an entire interconnection, as suggested by some speakers at the Technical Conference,¹¹ however, is unjust and unreasonable in the absence of evidence demonstrating that the assigned costs are not substantially disproportionate to reasonably anticipated benefits.

Where it is demonstrated that there *are* reasonably anticipated benefits to transmission customers in other regions, it may be appropriate to assign charges beyond a transmission provider's borders. A default rule that simply spreads all costs for new transmission facilities, or all costs for new transmission facilities above a certain voltage, across the whole interconnection, however, is unjust and unreasonable. TAPS agrees with statements by some of the Technical Conference participants that unnecessarily complex and restrictive cost-allocation rules should be avoided;¹² but the opposite extreme is also inappropriate. It does not make sense to automatically require Florida customers to pay for every high-voltage or extra-high-voltage upgrade in New England or Ohio—or vice versa. A requirement that assigned costs not be substantially disproportionate to reasonably anticipated benefits strikes the right balance between the two extremes and is consistent with the Commission's obligation to ensure transmission rates are just, reasonable, and not unduly discriminatory.¹³

¹¹ See, e.g., Technical Conference Tr. 109 (Elizabeth Model, Exelon).

¹² See, e.g., *id.* 86-87 (Joseph Welch, ITC); *id.* 83 (Stephen Kozey, Midwest ISO).

¹³ A default rule requiring interconnection-wide cost spreading is particularly unreasonable where load-serving entities would be required to pay pancaked transmission rates to a number of different transmission providers to schedule a transaction that would use the facilities in question.

The Commission may wish to consider requiring greater *consistency* in cost-allocation methodologies, both across RTOs and beyond their borders. Comments by the Technical Conference participants suggest that transmission owners can currently exercise significant leverage over RTO cost-allocation policies by threatening to withdraw to escape bearing a share of transmission expansion costs.¹⁴ Although there must be room for technically-based regional differences and differences that result from broad, multi-state consensus, requiring greater consistency in cost-allocation methodologies and their application within an interconnection should substantially decrease the ability of transmission owners to force RTOs into a destructive “race to the bottom.”¹⁵

III. OPPORTUNITIES FOR JOINT OWNERSHIP OF NEW TRANSMISSION PROJECTS SHOULD BE REQUIRED

The Commission has acknowledged the benefits of joint ownership of transmission facilities, and it encourages joint ownership for the large, backbone

¹⁴ Joseph Welch (ITC), for example, specifically commented on the ability of transmission owners to exert pressure on RTOs and unduly influence RTO policies by threatening to withdraw. Technical Conference Tr. 70; *see also id.* 107-09 (Stephen Kozey, Midwest ISO, noting that entities may seek to avoid costs by leaving RTOs).

¹⁵ The Commission recognized this problem in *Midwest Independent Transmission System Operator, Inc.*, 126 F.E.R.C. ¶ 61,139, P 64 (2009) (footnote omitted), rejecting the Midwest ISO’s new proposed Market Service for non-RTO members in order to prevent defections of existing Midwest ISO members seeking to avoid regional cost sharing:

The Market Service proposal, when combined with concerns about regional cost sharing, could result in current Transmission Owners leaving the Midwest ISO Transmission Owners Agreement to take Market Service. Such departures would adversely affect Midwest ISO’s scope and configuration under Order No. 2000, and its ability to perform regional transmission operations. Further, there is concern that the proposal would create a disincentive for remaining Midwest ISO Transmission Owners to invest in certain extra high voltage transmission projects if those Transmission Owners believe that such costs are not being properly assigned to beneficiaries. While Midwest ISO has asked repeatedly that Market Service be evaluated in this proceeding independently of the RECB issues, we find that this is not possible. The ability for existing signatories to the Transmission Owners Agreement and potential new members to avoid RECB costs while maintaining or gaining full access to Midwest ISO’s security constrained economic dispatch by taking Market Service could create a new incentive for current members to withdraw or for non-members to forego joining the Midwest ISO.

transmission upgrades included in the transmission plans developed by the new Order 890 planning processes. *See, e.g.*, Order 890, P 593. However, it has refused to require joint ownership, or to tie incentives to offering joint ownership. *Id.* P 594. In the context of considering an intensified transmission build-out to meet renewable and other demands, the Commission should revisit this issue.

Both the Commission and Technical Conference participants have emphasized the need to get major transmission expansions built. As TAPS has previously explained, providing all load-serving entities with opportunities to participate as owners in transmission projects not only ensures that the grid meets the needs of all consumers, but also broadens support in the often contentious siting process.¹⁶ Although he did not raise the issue in his comments in this proceeding, ITC's Joseph Welch specifically noted the benefits of partnering with load-serving utilities in *Green Power Express LP*:

The Green Power Express is the first of its kind and is meant to truly serve a regional need. As such, in order to advance the Green Power Express, we will need local utility partners with whom we can collaborate and develop support for the project. ITC has already begun seeking partnerships with local utilities and wind developers such as NorthWestern Energy and Iberdrola Renewables.

This is one of the primary drivers behind our decision to pursue this application. Having certainty around rate elements will provide us the foundation from which we can discuss and secure partnerships. With approval of this application and the development of partnerships in the region, we will be able to expeditiously move the Green Power Express forward.

¹⁶ *See, e.g.*, Comments of Roy Thilly, *Transmission Barriers to Entry*, No. AD08-13-000 (Oct. 14, 2008), available at eLibrary Accession No. 20081113-5048; Transmission Access Policy Study Group, *Effective Solutions for Getting Needed Transmission Built at Reasonable Cost* 13 (2004), available at <http://www.tapsgroup.org/sitebuildercontent/sitebuilderfiles/effectivesolutions.pdf>.

Direct Test. of Joseph L. Welch, *Green Power Express LP*, Docket No. ER09-681-000, at 15-16 (Feb. 4, 2009), *available at* eLibrary Accession No. 20090211-0037.

By minimizing conflicts and opening up the planning and expansion process, joint ownership—through the inclusive stand-alone and shared-system models—brings a broader perspective to meeting the transmission needs of the participants and the region. It will also provide new sources of capital, from entities that have strong credit ratings and a reliable stream of existing ratepayer revenues, which is especially important in these financially troubled times.

Joint ownership can also increase the willingness of states to support the siting process. As Roy Thilly (CEO of WPPI Energy and Chairman of TAPS) explained at the Technical Conference in *Transmission Barriers to Entry*, Docket No. AD08-13-000, very careful planning and public outreach are the most effective way to convince state regulators and the public of the need for new transmission, and joint ownership makes it easier for state commissions to accept proposed upgrades:¹⁷

Transmission siting decisions are not easy for state commissions. When they can deal with projects that are least-cost because they meet multiple needs, they see unity among the utilities on need and are faced with a broad base of support from diverse stakeholders, it is far easier.

Mr. Thilly noted, based on the experience of the CapX 2020 regional transmission planning and construction process, “[t]he broad base of support achieved through joint ownership arrangements can also be essential to securing state legislative action required to better align retail rate recovery with the need for supporting major transmission investment.” *Id.*

¹⁷ Comments of Roy Thilly at 9.

In short, opportunities for joint ownership can be instrumental to getting needed transmission built. It has a proven track record, and the Commission should actively reward and promote it. It should require opportunities for joint ownership of major new transmission projects. At minimum, it should require such opportunities for any projects for which incentives are authorized or for which any federal siting authority has been exercised.

CONCLUSION

WHEREFORE, for the reasons discussed above, the Commission should:

(1) address the planning issues associated with new renewable resources with the enhancement of existing regional planning efforts, rather than attempting to create a new interconnection-wide planning system; (2) adhere to its statutory requirements by resisting invitations to broadly spread the costs for new transmission facilities on an interconnection-wide basis, and ensure that regions and subregions are not assigned costs for new transmission facilities that are substantially disproportionate to reasonably anticipated benefits; and (3) require opportunities for joint ownership of major new transmission projects, or at minimum require such opportunities for any such projects for

which incentives are authorized or for which any federal siting authority has been exercised.

Respectfully submitted,

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