

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Standards for Business Practices and  
Communications Protocols for Public  
Utilities

Docket No. RM05-5-013

**COMMENTS OF THE TRANSMISSION ACCESS  
POLICY STUDY GROUP**

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to comment on the March 19, 2009 Notice of Proposed Rulemaking, 126 F.E.R.C. ¶ 61,248 (“NOPR”), proposing to incorporate by reference certain business practices adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (“NAESB”) that were developed mainly in response to Orders 890, 890-A and 890-B.<sup>1</sup> As explained below, TAPS submits these comments to support the Commission’s interpretation of certain of the proposed business practices as providing for disclosure of Available Transfer Capacity (“ATC”) and transmission service request-related data, with redacted material minimized and, in any event, made available subject to appropriate confidentiality agreements.

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<sup>1</sup> Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), [2006-2007 Regs. Preambles] F.E.R.C. Stat. & Regs. ¶ 31,241, *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), *reh'g granted*, Nos. RM05-17-005, RM05-25-005 (FERC May 20, 2009), *review docketed*, No. 08-1278 (D.C. Cir. filed Aug. 22, 2008).

## I. INTEREST OF TAPS

TAPS is an informal association of transmission-dependent utilities in more than 30 states, promoting open and non-discriminatory transmission access.<sup>2</sup> As entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS members are particularly concerned that business practices associated with transmission service and determining its availability not confer competitive advantages or disadvantages on particular types of market participants. TAPS has long advocated for reforms in the computation of ATC, Capacity Benefit Margins (“CBMs”) and Transmission Reliability Margins (“TRMs”), to prevent Transmission Providers (“TPs”) from using their control over the determination of transmission availability to provide an opportunity to discriminate.

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<sup>2</sup> TAPS is chaired by Roy Thilly, CEO of WPPI Energy (“WPPI”). Current members of the TAPS Executive Committee include, in addition to WPPI, representatives of: American Municipal Power of Ohio; Blue Ridge Power Agency; Clarksdale Public Utilities; Connecticut Municipal Electric Energy Cooperative; ElectriCities of North Carolina Inc.; Florida Municipal Power Agency; Illinois Municipal Electric Agency; Indiana Municipal Power Agency; Madison Gas & Electric; Missouri Public Utility Alliance; Missouri River Energy Services; NMPP Energy; Northern California Power Agency; Oklahoma Municipal Power Authority; and Southern Minnesota Municipal Power Agency.

## **II. COMMENTS: TAPS SUPPORTS THE NOPR'S PRO-TRANSPARENCY INTERPRETATIONS OF PROPOSED STANDARD**

TAPS supports the NOPR's pro-transparency interpretation of several of NAESB's proposed business practices. At P 21, the Commission proposes to interpret the Standard 001-16.1 "as requiring the Transmission Provider to provide data when necessary to respond to the methodology questions in order to be consistent with the requirement in Order No. 890 that transmission providers must, upon request, 'make available all data used to calculate [available transfer capability] and [total transfer capability] for any constrained paths and any system planning studies or specific network impact studies performed for customers.'" At P 28, the Commission proposes to interpret the Standard 001-13.1.5 provision for posting information on the ATC Information Link standard "subject to the Transmission Provider's ability to redact certain provisions due to market, security or reliability sensitivity concerns" in a manner consistent with Order 890:

We expect the provision in NAESB Standard 001-13.1.5 for a transmission provider to redact sensitive information from postings to be implemented by a transmission provider subject to the OATT in a manner consistent with its obligation to make that information available to those with a legitimate need to access the information, subject to appropriate confidentiality restrictions.<sup>33</sup>

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<sup>33</sup> See Order No. 890, PP 403-04 (requiring the development of standard disclosure for timely disclosure of CEII information to those with a legitimate need for it).

TAPS supports the Commission's interpretation of these proposed business practices. It is essential from a competitive perspective for customers to have timely access to ATC- and service request-related information. Confidentiality claims cannot be

permitted to thwart access essential to assessing transmission provider postings of transmission availability and actions on transmission service requests. Unless entities eligible to purchase transmission service have timely access to the transmission availability implementation documents, they will not be able to verify the amount of transmission that appears to be available, undermining the Commission's effort to enhance reliability and competition through more accurate and transparent calculation of ATC.

Thus, the final rule should adopt the NOPR's pro-transparency interpretation of these proposed business practices, consistent with the Commission's regulations (18 C.F.R. § 37.6(a)(2)) and Order 890's transparency requirements.<sup>3</sup>

#### **CONCLUSION**

For the reasons discussed above, the final rule should reflect the NOPR's pro-transparency interpretation of NAESB's proposed business practice standards as providing for disclosure of ATC- and transmission service request-related data, with

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<sup>3</sup> See, e.g., Order 890, PP 348-349, 403-404.

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Respectfully submitted,

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May 26, 2009