

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Mandatory Reliability Standards for the  
Calculation of Available Transfer  
Capability, Capacity Benefit Margins,  
Transmission Reliability Margins,  
Total Transfer Capability, and  
Existing Transmission Commitments  
and Mandatory Reliability Standards  
for the Bulk-Power System

Docket Nos. RM08-19-000,  
RM08-19-001, RM09-5-000,  
RM06-16-005

**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. ¶ 61,249 (“NOPR”) proposing to approve and direct certain modifications of six Modeling, Data and Analysis Standards submitted by the North American Electric Reliability Corporation (“NERC”). As explained below, TAPS urges the Commission to:

- adopt the NOPR’s proposed directive for development of modified standards to make available ATC, CBM and TRM documents to all customers eligible for transmission service, consistent with relevant NAESB standards;
- adopt the NOPR’s proposed directive for development of modified standards to preclude transmission providers from double-counting impacts on available capacity;
- adopt the NOPR’s proposed directive for development of modified standards for studies supporting CBM set asides, but make clear in the final rule that, consistent with the language of MOD-004-1, only load-serving entities (“LSEs”) and Resource Planners seeking CBM set asides must perform such studies;

- consistent with Order 890-C, provide a vehicle for reexamining the interaction of network resource undesignation requirements with ATC calculations; and
- conduct selective audits, pursuant to its authority under Federal Power Act (“FPA”) Sections 205 and 206, to determine whether the ATC standards result in transparent and consistent ATC determinations, as directed in Order 890.<sup>1</sup>

## 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 reliability standards not become a means to confer competitive advantages or disadvantages on particular types of market participants. TAPS has long advocated for reforms in the computation of Available Transfer Capability (“ATC”), Capacity Benefit Margins (“CBM”) and Transmission Reliability Margins (“TRM”), 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>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).

<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; ElectricCities 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.

Communications regarding these proceedings should be directed to:

Roy Thilly, CEO  
WPPI ENERGY  
1425 Corporate Center Drive  
Sun Prairie, Wisconsin 53590  
Tel: (608) 837-2653  
Fax: (608) 837-0274  
E-mail: rthilly@wppienergy.org

Robert C. McDiarmid  
Cynthia S. Bogorad  
Margaret A. McGoldrick  
Rebecca J. Baldwin  
SPIEGEL & MCDIARMID LLP  
1333 New Hampshire Ave., NW  
Washington, DC 20036  
Tel: (202) 879-4000  
Fax: (202) 393-2866  
E-mail: robert.mcdiarmid@spiegelmc.com  
cynthia.bogorad@spiegelmc.com  
margaret.mcgoldrick@spiegelmc.com  
rebecca.baldwin@spiegelmc.com

***A. ATC, CBM and TRM Documents Should be Available to all Customers Consistent with Relevant NAESB Standards***

The Reliability Standards proposed by NERC—specifically, Requirement R4 of MOD-001-1, Requirement R2 of MOD-004-1, and Requirement R3 of MOD-008-1—would restrict access to ATC, CBM and TRM implementation documents to a narrow group of entities. The Commission appropriately proposes to direct NERC “to modify the proposed Reliability Standards to make the available transfer capability, capacity benefit margin, and transmission reliability margin implementation documents available to all customers eligible for transmission service in a manner that is consistent with relevant NAESB standards.”<sup>3</sup> NOPR P 105. As the Commission states, P 104, “it is

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<sup>3</sup> As described and interpreted in PP 27-28 of the March 19, 2009 Notice of Proposed Rulemaking in Docket No. RM05-5 (“NAESB NOPR”), 126 F.E.R.C. ¶ 61,248, proposed NAESB standard 001-13.1.5 requires that transmission providers post links to their ATC, CBM and TRM implementation documents on OASIS and make unredacted versions of the implementation documents available to those with a legitimate need for the information subject to appropriate confidentiality restrictions. At P 21 of the NAESB NOPR, the Commission interprets NAESB 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.’”

important for reliability purposes to require disclosure of the implementation documents to a broader audience than provided in the Reliability Standards.” In addition to reliability considerations, it is essential from a *competitive* perspective for customers to have timely access to this data; the expanded disclosure requirements are consistent with the Commission’s obligation to review *de novo* the competitive impact of the proposed standards under FPA § 215(d)(2).

Thus, the final rule should adopt the NOPR’s directive for development of modified standards to provide for broad dissemination of ATC, CBM and TRM implementation documents, consistent with the Commission’s regulations (18 C.F.R. § 37.6(a)(2)) and Order 890’s transparency requirements.<sup>4</sup> 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.

***B. Transmission Providers Must be Precluded from Double-Counting Impacts on Available Capacity***

The Commission states (NOPR P 107) that while NERC claims that “MOD-004-1 and MOD-008-1 have been drafted to preclude the double counting of similar risks in the calculation of capacity benefit margin and transmission reliability margin..., other components of the available transfer capability calculation could be affected by the same data or assumptions.” The Commission properly directs NERC (P 108), “to modify the proposed Reliability Standards to ensure that the proposed Reliability Standards preclude

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<sup>4</sup> See, e.g., Order 890, PP 348-349, 403-404.

a transmission service provider from using data and assumptions in a way that double counts their impact on available transfer capability and thereby skews the amount of capacity made available to others.” Factors affecting the calculation of available transfer capability should be considered in a way that reflects their actual impact on available transfer capability; transmission providers must not be permitted to calculate available transfer capability using data and assumptions that double count the impact of factors that would artificially decrease available transmission and create the appearance of constraints. The NOPR’s proposed directive to NERC to develop modified standards that eliminate the potential for double counts is consistent with Order 890’s effort to enhance reliability and competition through more accurate and transparent calculation of ATC.

***C. The Final Rule Should be Clear as to the LSEs Required to Perform Studies Pursuant to NERC’s CBM Standards, and any Directed Modifications***

NERC’s proposed MOD-004-1 appears to limit those required to perform studies to those load-serving entities that are requesting CBM to be set aside in the calculation of ATC. For example, Requirement R3 provides that “Each Load-Serving Entity determining the need for Transmission capacity to be set aside as CBM for imports into a Balancing Authority Area shall determine that need” using one or more of the study methods specified in Requirement R3.1. *See also* Requirements R4 and R4.1, which impose similar requirements on “[e]ach Resource Planner determining the need for Transmission capacity to be set aside as CBM for imports into a Balancing Authority.” Requirement R6 requires Transmission Planners to establish CBM set-asides for each path reflecting, “if available,” “any studies” performed by load-serving entities and resource planners pursuant to Requirements R3.1 and R4.1.

TAPS supports the NOPR's proposal to direct NERC to develop modified standards that require studies supporting CBM set-asides "to determine generation capability import requirements by reference to relevant studies and applicable reserve margin or resource adequacy requirements, as relevant." P 111 (emphasis in original). TAPS has concerns, however, that the NOPR's discussion at PP 109-11 (which at times refers generally to load-serving entities) could be interpreted as requiring LSEs and Resource Planners ("RPs") to perform such assessments even if they are *not* requesting that transmission be set aside for CBM.

Consistent with the language of MOD-004-1, and with earlier Commission directives,<sup>5</sup> the final rule should avoid potential confusion by more clearly describing Requirements R3 and R4 of MOD-004-1 as requiring performance of assessments only by those LSEs and RPs that are requesting CBM to be set aside. Further, the modified standards directed by the Commission should similarly address only those LSEs and RPs seeking a CBM set aside on their behalf. LSEs and RPs that do not request that ATC be reduced to set aside CBM on their behalf are not, and should not be, required to perform assessments under MOD-004-1 or modified versions thereof.

***D. The Commission Should Provide a Vehicle for Reexamining the Interaction of Network Resource Undesignation Requirements with ATC Calculations***

One of the issues that received attention in the OATT reform rulemaking proceeding is the requirements for undesignation of network resources when a network customer elects to make sales from them. In Order 890-B, the Commission ruled that

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<sup>5</sup> See, e.g., Order 693, P 1080.

(1) sellers who make system sales to third parties *within* the same transmission system do not have to make unit-specific undesignations; they can simply undesignate a MW quantity on a system-wide basis as long as the buyer and seller are both network customers, but (2) sellers would have to undesignate specific network resources from which they propose to make third-party system sales *outside* of the seller's host transmission system.<sup>6</sup>

One party, South Carolina Electric & Gas ("SG&E"), sought rehearing of this ruling, arguing that this distinction discriminates against and imposes unnecessary restrictions on sellers who wish to make sales of system power to customers on neighboring transmission systems.<sup>7</sup> SCE&G asserted, among other things, that unit-specific undesignations for system sales made to off-system third parties are not necessary to determine the effects the sale would have on ATC. Its request for rehearing stated (at 8-9, emphasis in original):

Performing transmission modeling relating to off-system sales is a routine matter in the industry, and the practice of supporting such sales via slice-of-system undesignations has presented no obstacles to the execution of such modeling or any associated calculations. Rather, for purposes of modeling transmission flows associated with an off-system sale, the neighboring systems (that of buyer and seller) are evaluated on a system-wide basis, and calculations reflecting the amount of the sale are properly performed in modeling the flow from the system of the seller to that of the buyer. Modeling associated with off-system sales of the *unit-contingent* or *unit-specific* variety of course focuses to a far greater degree on unit-specific data than is the case with slice-of system sales, but that is not to suggest that the latter category of sales presents any

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<sup>6</sup> Order 890-B, PP 202-210.

<sup>7</sup> Request for Rehearing of South Carolina Gas & Electric Co., filed on July 23, 2008 in Docket Nos. RM05-17 and RM05-25, *available at* eLibrary Accession No. 20080723-5104.

modeling problems. To the contrary, modeling for slice-of-system sales, *whether on-system or off-system*, is designed to ensure not only accuracy, but also economic efficiency; the modeling for such sales takes into account load forecasts for the relevant time period and, on the basis of such data, includes projections of which specific plants are likely to be involved in generating the incremental power that supports the sale, which in turn is reflected in the relevant economic dispatch plan. Because load forecasts invariably differ to at least some degree from the actual load that ultimately materializes, the modeling for such sales includes appropriate alternate dispatch scenarios, to ensure that no matter what the actual load may eventually prove to be, unit dispatch is performed in the correct economic order.

Transmission Providers routinely perform these operations without complication, irrespective of whether the slice-of-system customer is located on-system or off-system. Further, for off-system sales, the Transmission Provider takes the additional steps of recalculating ATC for the relevant interface and ensuring proper adjustments to posted ATC values. Those ATC procedures, like transmission modeling, are routine and are in no way compromised or even complicated by an off-system sale being made on a slice-of-system basis. If sellers were denied the ability to use a slice-of-system undesignation to support an off-system sale, they would be left only with the utterly unfeasible alternative of making unit-by-unit undesignations – a result that would not only be unworkable and inaccurate, but also could well result in units having to be dispatched out of economic order, which benefits no one.

In its recently issued Order 890-C, the Commission re-affirmed its requirement of unit-specific undesignations of network resources supporting sales of system power to off-system third parties. However, the Commission noted that it had “directed transmission providers to address ... the effect on ATC of designating and undesignating network resources” in the ATC rulemaking proceedings in this docket.<sup>8</sup> The Commission

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<sup>8</sup>Order 890-C, P 20.



“encourage[d] SCE&G and any other interested party to provide comments in that proceeding regarding the interaction of network resource designations and the calculation of ATC. Upon review of those comments and final action in that proceeding, the Commission may revisit its network resource policies as necessary to reflect the Reliability Standards implemented by NERC.”<sup>9</sup>

In its NOPR in this docket, the Commission “proposes to direct the ERO to develop a modification to the Reliability Standards to address” requirements associated with network resource designations, including the effect on ATC of network resource designations and undesignations. NOPR P 120. The Commission notes that NERC has not explained “the failure to include in each of the available transfer capability methodologies a requirement that base generation dispatch schedules will reflect the modeling of all designated network resources and other resources that are committed to or have the legal obligation to run, as they are expected to run.” *Id.*

TAPS supports the Commission’s general aim of ensuring that network resources are properly modeled in ATC calculations. We further support the Commission’s expressed intention in Order 890-C that NERC provide a forum for re-examination of whether undesignation of network resources for certain third-party sales must be made on a unit-specific basis in order to properly model the effects of such sales on ATC. However, we are concerned that the specific language in the NOPR, if carried through in the final rule, might be read as undermining the Commission’s goals, in two respects.

First, the NOPR refers to “modeling of all designated network resources and other resources that are committed to or have the legal obligation to run, as they are expected to

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<sup>9</sup> *Id.*

run.” *Id.* The first part of this clause, in particular, could be interpreted as directing NERC to develop modified standards that adopt modeling assumptions as to use of network resources that fail to reflect the flexibility inherent in network service, which allows for economic dispatch, taking account of such factors as network resource availability and availability of non-network resources through use of secondary network service. For example, even if not undesignated, a network resource does not have to operate. While we believe the inclusion of the phrase “as they are expected to run,” *id.*, tempers this requirement, in order to avoid unnecessary confusion the Commission’s final rule should avoid being prescriptive in how network service is to be modeled.

Second, the NOPR’s directive does not expressly incorporate, or perhaps even leave room for, the concept articulated in Order 890-C of re-examining the Commission’s undesignation requirements, and in particular the requirement of unit-specific undesignations for off-system sales of system power, in light of better information as to their practical impact on the realistic determination of ATC. If, for example, SCE&G is correct that ATC determinations would not be adversely impacted by allowing undesignation of network resources supporting off-system system sales on a “system” rather than unit-specific basis, it would serve no useful purposes (in terms of reliability or the Commission’s objective of promoting competition) for NERC to develop modified standards that hardwire such unit-specific undesignation requirements, which discourage the traditional firm system sales that many small systems have long relied upon to reliably meet their service obligations. Similarly, TAPS is skeptical that unit-specific undesignations of system sales made on a day-ahead basis (*e.g.*, for sales in centralized RTO markets) will usefully enhance the precision of ATC calculations.

Consistent with the suggestion in Order 890-C, the Commission should initiate a process to reexamine the interaction of network resource undesignation requirements with ATC calculations. Particularly if it is unlikely that ATC calculations would be made significantly more precise by imposing unit-specific undesignation requirements on system sales where the supplier and purchaser do not take network service on the same transmission system, it would be contrary to the Commission's pro-competitive policies to discourage beneficial transactions, including firm system sales from entities other than the customer's host transmission provider. Transmission-dependent systems have long relied upon firm system sales to enable them to secure highly reliable service at a reasonable cost.

At minimum, the final rule should clearly afford NERC, through its standards development process, the flexibility to assess the impact of network resource designations and undesignations on ATC determinations and to report back to the Commission as to its assessment, along with modified standards as appropriate. A more flexible directive would enable NERC, through its standards development process, to assess whether unit-specific network resource undesignations are, in fact, needed to allow transmission providers to determine ATC when a network customer seeks to make a sale of system power to an off-system third party (and/or on a day-ahead basis into centralized markets), along with the prompt submission of modified standards to the extent it will contribute to more accurate determinations of ATC.

***E. The Commission Should Perform Selective Audits as to Whether the ATC Standards Result in Transparent and Consistent ATC Determinations, as Directed by Order 890***

In the NOPR, the Commission finds the proposed ATC standards allow for “additional, undefined parameters and assumptions ... [which] could include criteria that

are themselves not sufficiently transparent to allow the Commission and others to determine whether they have been consistently applied by the transmission service provider....” P 81. Finding it appropriate for transmission providers to retain some level of discretion to reflect unique system conditions, the Commission states that “[a]ny such system conditions or modeling assumptions, however, must be made sufficiently transparent and be implemented consistently for all transmission customers.” *Id.* P 82. The NOPR proposes to address this by requiring NERC, through its staff or consultants, to conduct an audit within 180 days of the effective date of the standards (P 83).

[T]he Commission proposes to direct the ERO to conduct an audit of the various implementation documents developed by transmission service providers to confirm that the complete available transfer capability methodologies reflected therein, including the calculation of each component of available transfer capability, are sufficiently transparent to allow the Commission and others to replicate and verify those calculations and thereby ensure that they are being implemented consistently for all transmission customers. This audit would review the additional parameters and assumptions included by transmission service providers in their implementation documents as of the date the Reliability Standards become effective, analyzing all parameters and assumptions to determine if they are detailed enough to enable replication and verification of calculations. Upon review of this analysis, the Commission may direct the ERO to develop a modification to one or more of the Reliability Standards to address any lack of transparency that may exist in the calculation of available transfer capability and each of its components.

The ordered audit and associated follow-up is also the suggested means to address Commission concerns regarding standards that allow use of values, methodologies and assumptions set forth in the implementation documents. *E.g.*, NOPR P 88 (MOD-028, Requirement R3.1’s allowance of “any other values and additional parameters” specified in the ATC implementation document); P 91 (counterflow assumptions); P 92 (treatment

of existing transmission commitment). The audit is also the vehicle to address Commission concerns that CBM standards leave room for discrimination (PP 95-96). The NOPR adopts the same approach to addressing the opportunities left for undue discrimination in the calculation of TRM by the inclusion of parameters, modeling requirements, criteria and assumptions that may allow transmission providers to vary the calculation depending on the requesting customer. *See* P 100.

TAPS shares the Commission's concern that the proposed ATC, CBM and TRM standards still allow room for undue discrimination, contrary to the Order 890's directive. TAPS generally supports an audit as a good mechanism for assessing whether Order 890's objectives have been satisfied, or whether more steps need to be taken to eliminate opportunities for undue discrimination in the provision of transmission service through increased transparency.<sup>10</sup> TAPS suggests that given the focus of the audit, it may be more appropriate, effective, and efficient for the Commission itself, pursuant to its Section 205 and 206 authority, to perform selective audits to determine whether its Order 890 directives have been achieved, rather than imposing significant new audit requirements, subject to a tight schedule, on NERC under Section 215. Particularly given NERC's compliance backlog, the proposed imposition of significant new audit responsibilities on NERC could be counter-productive to its reliability mission.

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<sup>10</sup> *See, e.g.*, Order 890, P 2 (directing "public utilities, working through the North American Electric Reliability Corporation (NERC), to develop consistent methodologies for ATC calculation and to publish those methodologies to increase transparency. This important reform will eliminate the wide discretion that exists today in calculating ATC and ensure that customers are treated fairly in seeking alternative power supplies.").

**CONCLUSION**

The final rule should reflect TAPS Comments, as set forth above.

Respectfully submitted,

/s/ Cynthia S. Bogorad

Robert C. McDiarmid

Cynthia S. Bogorad

Margaret A. McGoldrick

Rebecca J. Baldwin

Attorneys for

Transmission Access Policy Study

Group

Law Offices of:

Spiegel & McDiarmid LLP

1333 New Hampshire Avenue, NW

Washington, DC 20036

(202) 879-4000

May 26, 2009