

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Uplift Cost Allocation and
Transparency in Markets Operated
by Regional Transmission
Organizations and Independent
System Operators

Docket No. RM17-2-000

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

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to comment on the January 19, 2017 Notice of Proposed Rulemaking¹ to require each regional transmission organization and independent system operator (collectively referred to as “RTO”) that currently allocates the costs of real-time uplift due to deviations to allocate such real-time uplift costs only to those market participants whose transactions are reasonably expected to have caused such costs, and to otherwise require enhanced transparency.

TAPS questions the need for generic action on the allocation and transparency of real-time uplift costs. TAPS also contests the NOPR’s foundational assumption that allocating real-time uplift costs to load is consistent with a “beneficiary pays” principle. With those cautions in mind, TAPS responds to questions posed in the NOPR, assuming the Commission nevertheless proceeds to a final rule, generally supporting the NOPR’s approach while urging accommodation of regional variation.

¹ *Uplift Cost Allocation & Transparency in Mkts. Operated by Reg’l Transmission Orgs. & Indep. Sys. Operators*, 82 Fed. Reg. 9539 (proposed Jan. 19, 2017), FERC Stats. & Regs. ¶ 32,721 (2017) (“NOPR”).

INTEREST OF TAPS

TAPS is an association of transmission-dependent utilities in more than 35 states, promoting open and non-discriminatory transmission access.² Because TAPS members rely on transmission facilities owned and controlled by others, TAPS supports open and non-discriminatory transmission access, and has supported the Commission's initiative to form independent RTOs fostering efficient transmission and generation investment and robust wholesale competition. TAPS has a strong interest in ensuring that RTO energy markets work well and enable its members to affordably and reliably meet their load obligations.

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COMMENTS

I. TAPS QUESTIONS THE NOPR'S FINDING THAT GENERIC REFORM IS REQUIRED, AS WELL AS ITS FOUNDATIONAL ASSUMPTION THAT ALLOCATING UPLIFT COSTS TO LOAD IS CONSISTENT WITH "BENEFICIARY PAYS" PRINCIPLES

From TAPS' perspective, energy markets are working well. We therefore question the need for a generic rule to standardize the allocation of real-time uplift costs.

² Dave Geschwind, Southern Minnesota Municipal Power Agency, chairs the TAPS Board. Jane Cirrincione, Northern California Power Agency, is the TAPS Vice Chair. John Twitty is the TAPS Executive Director.

Given the complexity of this issue and the varying practices among RTOs, the NOPR's preliminary finding (P 31) that *some* existing RTO practices may be unjust and unreasonable does not justify standardizing this aspect of the various RTOs' market design.

In addition, TAPS challenges the NOPR's foundational assumption that allocating real-time uplift costs to load is consistent with the principle of "beneficiary pays," with reforms focused on those RTOs that choose to allocate uplift through cost causation methodologies, such as a deviation-based approach. NOPR, P 13.³ The NOPR seems to endorse the view that a load-based uplift allocation is always appropriate because load can be viewed as "the ultimate beneficiary of the actions the system operator takes to maintain reliability"; load is the market participant class least sensitive to price; and an allocation of uplift costs to load is arguably least likely to distort behavior. *Id.*

The NOPR has it backwards—load should not be left holding the bag for costs that can and should be allocated to cost causers. Contrary to the NOPR (P 13), peanut-buttering real-time uplift costs across load may distort market participant behavior by eliminating financial consequences from taking actions that cause uplift. Indeed, the NOPR's apparent approval of allocation to load, as ultimate beneficiary of RTO action, is a cost allocation principle that has no apparent boundaries. And it runs contrary to the requirements of the Federal Power Act, as enunciated by courts, that costs allocated be

³ For shorthand, the NOPR refers to allocating uplift costs to load as "beneficiary pays." NOPR, P 13.

“roughly commensurate” with estimated benefits, and that those who do not benefit from a facility or service should not have to pay for it.⁴

Thus, if the Commission proceeds to promulgate a generic rule, the final rule should make clear that FERC is not signaling a preference for allocating uplift costs on a load-ratio share basis, as opposed to adopting an allocation based on cost-causation. In fact, to be consistent with the Federal Power Act, any final rule should require RTOs that rely on a load-based allocation for all or part of their uplift costs to demonstrate that such allocation methodology is just, reasonable, and not unduly discriminatory or preferential, and that the RTO’s allocation of uplift costs is “roughly commensurate” with estimated benefits.

II. TAPS RESPONSES TO QUESTIONS POSED REGARDING PROPOSED CHANGES TO ALLOCATION OF REAL-TIME UPLIFT COSTS

Although TAPS has concerns as to whether a generic rule is appropriate and disagrees with the NOPR’s foundational finding regarding the appropriateness of load-based allocation, in an attempt to be helpful in the event the Commission nevertheless proceeds to a final rule along the lines set forth in the NOPR, TAPS responds to various of the questions posed in the NOPR. All TAPS responses, however, should be read as subject to the caveats set forth in Part I above.

⁴ See, e.g., *Illinois Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) (“FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.”); *id.* at 477 (while “there will be *some* benefit to the midwestern utilities just because the network *is* a network,” FERC’s approval of the allocation of the costs of 500 kV transmission lines to those utilities is improper because “[n]othing in the Commission’s opinions enables an answer to [the] question” of whether that benefit is enough “to justify the costs that FERC wants shifted to those utilities.”).

A. *Real-Time Uplift Allocation Categories*

The NOPR (P 40) would require RTOs that allocate real-time uplift costs to deviations now allocate them into at least two categories based on the reason the resource commitment was made: system-wide capacity (i.e., to ensure sufficient system-wide online capacity); and congestion management (i.e., to manage transmission congestion on specific constraints). The NOPR seeks comment (P 44) on the need for regional flexibility with regard to the uplift categories, and whether other categories should be required.

If the Commission proceeds to a final rule, TAPS generally supports the two uplift categories identified in the NOPR, but supports regional flexibility on the establishment of additional uplift categories. Thus, the final rule should not require additional categories, or preclude RTOs from establishing them.

The NOPR also recognizes (P 56) that uplift may be incurred for the benefit of both the system-wide and congestion management categories, and seeks comment on the best methods to quantify this impact and the appropriate cost allocation. In response, TAPS suggests that the best course would be for the final rule to leave it to the individual RTOs to determine and support their treatment of uplift incurred for multiple purposes.

B. *Netting “Helpful” and “Harmful” Deviations*

Within each uplift category, the NOPR (PP 45-48) would require RTOs to distinguish between deviations that are “helping,” and those “harming,” efforts to address system needs, and to allocate uplift costs based on a market participant’s relevant “harming” deviations net of relevant “helping” deviations. In the system-wide capacity category, “harming” deviations exacerbate the difference between the day-ahead

schedules and real-time dispatch. In the congestion management category, “harming” deviations contribute to a difference between the congestion on a specific constraint in the day-ahead market and the real-time market. The NOPR (P 55) would require RTOs to allocate and net uplift costs hourly. The NOPR seeks comment on its proposed netting process for each category (P 56), and whether there should be advanced notification requirements in determining helpful deviations (P 50). As an example, the NOPR points (P 50 n.54) to Midcontinent Independent System Operator, Inc.’s (“MISO”) determination of whether a deviation is helpful based on whether it occurred before or after a notification deadline four hours prior to the operating hour.

If the Commission proceeds to a final rule, TAPS generally supports netting of helpful and harmful deviations as consistent with cost causation principles. However, the Commission should allow each RTO to propose specific criteria for determining whether a deviation is helpful or harmful, and should recognize that in certain circumstances, a deviation’s “helpfulness” or “harmfulness” may be difficult to establish.

Also, a final rule should not require RTOs to adopt advanced notification requirements in determining helpful deviations. We recognize that, as noted by the NOPR (P 50 n.54), MISO allows market participants to update positions four hours before real-time, and use that updated position as the basis for determining deviations. However, MISO’s practice adds significant complication for likely limited added value. We understand that relatively few market participants take advantage of the notice, e.g., because market participants are unlikely to know what will be helpful/harmful in real time.

Thus, if the Commission proceeds to a final rule, it should *not* require RTOs to adopt advanced notification requirements in connection with its netting proposal. Instead, the Commission should leave it to each RTO and its stakeholders to determine the specifics of how netting is applied, including whether to adopt advanced notification requirements.

C. Deviations that Result from Following Dispatch

The NOPR (PP 51-54) would prohibit RTOs from allocating deviation-related uplift costs to transactions that are economically evaluated by the RTO in the real-time market (e.g., real-time energy and Coordinated Transaction Scheduling transactions). It would also exclude instructed deviations (e.g., out-of-market dispatch instructions or reserve deployment), but include self-scheduled real-time transactions for purposes of allocating uplift costs. The NOPR seeks comment (P 56) on these exclusions/inclusions.

If the Commission proceeds to a final rule, TAPS generally supports the principles underlying the NOPR's proposed exclusions/inclusions. A final rule should not, however, codify the specific exclusions/inclusions proposed in the NOPR (e.g., excluding Coordinated Transaction Scheduling or including real-time self-schedules in accordance with their treatment under the rules of individual RTOs); instead, the Commission should allow RTOs to propose exclusions/inclusions that are consistent with the principles of incenting market participants to follow the RTO's dispatch instructions (whether through real-time economic dispatch or instructed deviations) and discouraging market participants from departing from RTO dispatch instructions out of concern that following instructions exposes them to financial harm. From a cost-causation perspective, the key to evaluating an RTO's proposed exclusions/inclusions is whether

market participant actions *not* directed by the RTO affect the RTO's real-time commitment of resources.

III. TAPS RESPONSES TO QUESTIONS REGARDING THE NOPR'S TRANSPARENCY PROPOSAL

TAPS has long supported transparency, and generally supports the NOPR's proposals to enhance transparency

A. RTO Uplift Reporting

The NOPR (P 83) would require RTOs to report monthly, with a 20-day lag: (1) total uplift payments for each transmission zone on a monthly basis, broken out by day and uplift category; and (2) the resource name and the total amount of uplift paid in dollars aggregated across the month to each resource that received uplift payments within the calendar month. The NOPR acknowledges (PP 87-88) concerns that disclosing resource-specific uplift payments could result in collusion, but addresses (P 89) generators' confidentiality concerns by allowing transmission zones with fewer than four resources to be aggregated with a neighboring transmission zone (or potentially exempted from reporting in certain circumstances). The NOPR also would require resource-specific uplift payment data to be reported in aggregate across the month, rather than daily.

TAPS generally supports the NOPR's proposal as consistent with TAPS' pro-transparency position, balanced against confidentiality concerns. We also agree with the Commission that the added transparency is unlikely to harm competition or competitors. NOPR, PP 87-88.

B. Reporting on Operator-Initiated Commitments

The NOPR (PP 90-91) would require RTOs to post a report detailing all operator-initiated commitments as soon as practicable after a resource has been committed (for real-time commitments, no later than four hours after the commitment). This would include any commitment, whether manual or automated, that is not associated with a resource clearing the day-ahead or real-time market on the basis of economics and that is not self-scheduled. The report must include: (1) the upper economic operating limit of the committed resource (i.e., its economic maximum); (2) the resource's transmission zone; and (3) the reason for commitment, within broad categories (e.g., voltage support, capacity-related).

The NOPR (P 95) asks whether more information is needed, and whether it should define specific categories of commitment reasons, for use across all RTOs. TAPS urges the Commission to leave it to individual RTOs to determine how best to comply with reporting requirements.

C. Transmission Constraint Penalty Factors

The NOPR (PP 96-99) would require RTOs to include in their tariffs: (1) their transmission constraint penalty factors (the values at which an RTO's market software will relax the limit on a transmission constraint rather than continue to re-dispatch resources to relieve congestion); (2) an explanation of whether and when transmission constraint penalty factors may be used to set LMPs; and (3) procedures (including posting notice) for temporarily changing transmission constraint penalty factors to account for changes in system conditions, if the RTO desires that flexibility.

TAPS generally supports the NOPR's proposals. In particular, we support the NOPR's proposal to allow RTOs to adopt procedures that retain flexibility to temporarily change transmission constraint penalty factors to account for changes in system conditions.

D. Transparency on Transmission Outages and Market Models

The NOPR seeks comment on whether additional reporting of transmission outages should be required (P 100), and on whether distribution of RTO network models (used in their energy management system for the real-time operation, including state-estimation and contingency analysis) are unnecessarily limited to only certain types of market participants (P 101).

TAPS generally supports the NOPR's proposals to enhance transparency. In particular, RTO network models should be available to all types of market participants.

CONCLUSION

Any final rule issued in this proceeding should consider and reflect TAPS comments as set forth above.

Respectfully submitted,

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