

# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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## PUBLIC SERVICE COMMISSION

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August 7, 2006

Sent via electronic filing

Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1-A209  
Washington, D.C. 20426

Re: Docket Nos. RM05-25-000 and RM05-17-000 -  
Preventing Undue Discrimination and Preference in  
Transmission Service

Dear Secretary Salas:

For filing, please find the Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in cursive script that reads "David G. Drexler".

David G. Drexler  
Assistant Counsel

Attachment

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Preventing Undue Discrimination and ) Docket Nos. RM05-25-000  
Preference in Transmission Service ) RM05-17-000

**COMMENTS OF THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION**

**BACKGROUND**

On May 19, 2006, the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Proposed Rulemaking (NOPR) proposing amendments to its pro forma Open Access Transmission Tariff (OATT) in order to address deficiencies and ensure that transmission services are just, reasonable and not unduly discriminatory or preferential. The Commission seeks to achieve these objectives by addressing ambiguities and increasing clarity and transparency in the OATT. Among other matters, the amendments provide for greater consistency in Available Transfer Capability (ATC) calculations,<sup>1</sup> and require an open and transparent transmission planning process.

**EXECUTIVE SUMMARY**

The NYPSC supports the Commission's efforts to address and eliminate any remaining opportunities for utilities to engage in

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<sup>1</sup> ATC commonly refers to the transfer capability remaining on the transmission system for further commercial activity over and above already committed uses.

discriminatory or preferential behavior. Although such opportunities are already limited in New York, where traditional vertically-integrated utilities (i.e., utilities owning generation, transmission and distribution) have divested essentially all of their generation facilities and transferred operational control of their transmission assets to an independent entity (i.e., the New York Independent System Operator, Inc. (NYISO)), these comments seek to help clarify and improve the Commission's initiatives.

In particular, we suggest that the most efficient means to implement the Commission's goal of establishing consistent ATC methodologies is through Regional Reliability Organizations (RRO), such as the Northeast Power Coordinating Council (NPCC). Designating RROs to complete this task, rather than the North American Electric Reliability Council (NERC), which has recently been certified as the single national Electric Reliability Organization (ERO), will ensure that valid regional differences are reflected in ATC methodologies, and should expedite implementation. This approach is consistent with NERC's existing standard, which calls for each RRO to develop, in conjunction with its members, regional Total Transfer Capability (TTC) and ATC methodologies.

In addition, we recommend that FERC consider establishing requirements for increased coordination of ATC calculations

between Independent System Operators (ISO)/Regional Transmission Organizations (RTO). The benefits of this approach would enable transmission providers to better operate the transmission system in a reliable, efficient and economic manner. We propose that ISOs/RTOs be responsible for such coordination. In the event that ISOs/RTOs cannot perform this function, we suggest that the Commission consider establishing an overarching entity.

With regard to the transmission planning process, we support the use of a "function test," in order to determine which facilities are part of and affect the Bulk Power System. A test to ascertain the function that a line serves is needed in order to avoid inappropriate designations and unnecessary expenditures for non-bulk facilities.

Furthermore, the planning process should include a measure of congestion costs that takes the avoided production costs associated with system improvements into account. Using such a measure will appropriately account for potential production cost savings over the long-run, and allow congestion costs to be standardized across regions. Finally, we seek clarification that the Commission does not intend to prohibit merchant developers, which rely on market-based revenues, from responding to regional planning needs.

## DISCUSSION

### I. Consistency and Transparency of ATC calculations (NOPR §V.A)

#### A. Regional Reliability Organizations Should Be Responsible For Developing Consistent ATC Methodologies and Inputs within Their Regions

While the Commission appropriately acknowledges that no single ATC calculation methodology should be applied by all transmission providers, it proposes that public utilities, working through NERC, develop consistent definitions of ATC components and data inputs.<sup>2</sup> However, developing only one or two ATC methodologies to be applied across the country may lead to inefficiencies. For example, valid differences in system designs, both between and within the eastern and western interconnections, result in varying ATC on those systems. Establishing only a couple of national methodologies could underestimate ATC by failing to recognize regional differences in those system designs.

We suggest that rather than creating a new obligation, FERC enforce the existing NERC standard, which calls for each RRO, such as the NPCC, to develop and document, in conjunction with its members, a regional TTC and ATC methodology.<sup>3</sup> This standard will ensure consistent ATC inputs and methodologies are

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<sup>2</sup> NOPR at ¶155.

<sup>3</sup> NERC Reliability Standards for the Bulk Electric Systems of North America, MOD-001-0 through MOD-009-0.

developed within regions, while accommodating regional differences and moving the industry toward a limited set of ATC calculations. Given that the NERC standard has existed for some time, albeit not mandatory in all regions, it should provide faster results than a new initiative at NERC, which is currently undertaking the transition to ERO.

**B. Calculations of ATC Should Be Closely Coordinated Between ISOs/RTOs In Order To Improve Operation of the Transmission System**

Although the NOPR proposes OATT revisions, which we support, that provide for ATC calculations by transmission providers based on the scheduling horizon (same day and real-time), operating horizon (day ahead and pre-schedule) and planning horizon (beyond the operating horizon), the OATT revisions are silent on what coordination will take place between transmission providers. Presently, the NYISO, as well as other ISOs and RTOs within the NPCC, establish ATC limits for external interface tie flows between neighboring ISOs/RTOs based on a seasonal analysis. The interface limits between ISOs/RTOs are not re-studied hourly, daily, or even monthly.

Increasing the frequency that ATC is calculated between ISOs/RTOs to the day-ahead, and even potentially hour-ahead,<sup>4</sup>

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<sup>4</sup> It is possible that stability runs would not have to be executed every single day, thereby providing time to perform a system evaluation of ATC in the hour-ahead, or perhaps a few hours ahead of real-time.

will better recognize the connectivity of the transmission system and enable transmission providers to better operate the transmission system in a reliable, efficient and economic manner.<sup>5</sup> Although ISOs/RTOs appear to be the appropriate entities to coordinate timely ATC calculations, they lack access to the data necessary to properly value the interconnections with adjacent ISOs/RTOs and to perform up-to-date ATC calculations. While we hope that existing ISOs/RTOs could perform this function with increased access to data from neighboring ISOs/RTOs, we suggest that a new entity should be considered if they cannot. Having an overarching entity, such as a Transmission Oversight Center (TOC), that is responsible for calculating and coordinating ATC between various ISOs/RTOs, could overcome this lack of data.

Initially, the ISO/RTO/TOC could assess day-ahead forecasts of peak loading on all transmission lines, particularly interfaces, under normal and contingency conditions, and establish the TTCs and ATCs for all interfaces. In order to perform this daily assessment, the ISO/RTO/TOC would require daily data inputs from ISOs/RTOs. We note that generator bid data would not need to be provided, which should assuage any

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<sup>5</sup> We anticipate that as more accurate ATC calculations are performed, the need for Capacity Benefit Margins (CBM) and Transmission Reserve Margins (TRM) calculations would be minimized.

potential concerns that market participants would need to provide confidential information.

The ISO/RTO/TOC could conduct the necessary simulation studies of the entire network for the day ahead. The line and interface limit results obtained by an analysis at the ISO/RTO/TOC level could be communicated back to each ISO/RTO. Depending upon the results obtained, each ISO/RTO may re-run their own day-ahead dispatch in order to avoid identified reliability concerns and/or optimize the system further. Therefore, we recommend that FERC consider designating ISOs/RTOs, or alternatively a TOC, to oversee the calculation of ATC within and between ISOs/RTOs.

**II. Transmission Planning - Coordinated; Open and Transparent Planning (NOPR §V.B)**

**A. The Commission Should Utilize a Function Test to Designate Those Facilities That Are Subject To the Planning Process**

The NOPR proposes a requirement that transmission providers, including ISOs/RTOs, engage in a planning process that addresses the needs of the Transmission System.<sup>6</sup> However, it is unclear how the Commission defines the "Transmission System." The Commission should make clear that the Transmission System identified in the NOPR will be defined as facilities that serve a bulk power system function. This definition should be

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<sup>6</sup> NOPR at ¶214, Attachment K.

consistent with the Federal Power Act's directive that the Bulk-Power System does not cover "facilities and control systems [un]necessary for operating an *interconnected* electric energy transmission network."<sup>7</sup>

While certain facilities operate at transmission voltage levels, they are not involved in the movement of energy on the "interconnected" Bulk-Power System, nor affect such System. Generally, there is a layer of "area" transmission facilities below the bulk power system and above distribution facilities that serves to move energy within a service territory and toward load centers. For example, there are lines in New York that are operated at voltages above 100 kV due to the high concentration of load served by those lines, yet they do not serve a bulk system function. As such, a test is needed to determine the function that particular lines serve so that non-bulk facilities are not subject to the costly and time-consuming planning process required for the bulk system.

**B. The Commission Should Define Congestion Costs to Include the Production Costs Avoided By System Enhancements**

As part of the Commission's effort to develop an open and transparent transmission planning process, the NOPR identifies eight principles that must be satisfied as part of this process,

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<sup>7</sup> 109 Pub. L No. 58, 119 Stat. 594 (2005), Energy Policy Act of 2005, §1211(a) (emphasis added).

including annual studies identifying "significant and recurring" congestion, and the associated costs of congestion.<sup>8</sup> As part of the NYISO's process for measuring historical congestion, the costs of congestion are defined as the short-run production (i.e., dispatch) costs that could be avoided by system enhancements. This represents the savings to society, which can be compared to the cost to society of investing in the system enhancement. We suggest that the Commission require a similar measure of congestions costs so that the costs can be standardized across regions. Such a method should be used in assessing the cost effectiveness of system enhancements pursued for reasons other than reliability. An advantage of this approach is that it would be simpler to estimate than getting into extremely complicated and contentious matters related to bill impacts, and how to distribute costs and benefits.

Potential savings in production costs may be greater in the long-run than in the short-run, and should also be taken into account. For example, in the short-run a new transmission line into New York City (NYC) could simply allow the NYISO to back down existing NYC generation and ramp-up existing upstate generation; but, in the long-run, the new transmission line

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<sup>8</sup> NOPR at ¶214(8).

could allow new generation to be built upstate and import its energy into NYC, thus saving additional fixed costs.

Other measures of the costs of congestion may be inappropriate and should be avoided. For example, some transmission providers measure the existing power flowing across a transmission interface, which is then multiplied by the marginal cost of congestion (i.e., the price difference across the interface). This approach inappropriately measures the market value of the existing lines and fails to appropriately reflect the potential savings from new lines. To illustrate, suppose demand within a load pocket is 5000 MW and there is a 4000 MW transmission limit. An inappropriate approach would be to estimate the cost of congestion at 4000 MW multiplied by the difference between the energy price within the load pocket and outside the load pocket. However, the potential savings to society from eliminating all congestion is related to the 1000 MW of additional power flows that additional transmission could enable, rather than the 4000 MW that already exists. Moreover, some local generation may still be required to maintain voltage, which would further limit the amount of potential savings from transmission upgrades.

We also caution the Commission against utilizing analyses focused on the impacts of transmission investments on wholesale energy prices. These energy price impacts may be temporary and

offset by changes in generation investments. For example, a new transmission line into NYC may temporarily reduce NYC wholesale prices and increase upstate prices. However, those price signals will affect generation investments, deferring NYC generation while increasing upstate generation. The generation response will in turn mitigate the price impacts. In the long-run, NYC load could be served either by local generation or by the combination of a transmission line and distant generation. The planning process should allow local generation to compete with transmission/distant generation on a level playing field.

C. **The Commission Should Clarify That It Does Not Intend To Prohibit Merchant Developers From Responding To Regional Planning Needs**

The NOPR seeks comment on the recovery and allocation of costs associated with funding regional planning requirements, and indicates that "the participating entities must be assured of recovery of their costs."<sup>9</sup> However, this guarantee of cost recovery implies some type of a regulated rate of return, and appears to preclude merchant developers, which typically rely on market-based revenues for a return on their investment.

The NYISO's Comprehensive Reliability Planning Process (CRPP) specifically contemplates the ability of merchant developers to respond to identified reliability needs through

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<sup>9</sup> NOPR at ¶218(a).

market-based proposals.<sup>10</sup> The CRPP attempts to minimize costs by providing merchant developers, which do not have a guaranteed cost recovery, with an opportunity to respond and make a profit in the market. We therefore request the Commission to clarify that it will continue to allow this type of approach.

CONCLUSION

We support the Commission's initiative to address and eliminate any remaining opportunities for utilities to engage in discriminatory or preferential behavior. In doing so, we request that the Commission carefully consider the above comments, and modify its proposed OATT revisions accordingly.

Respectfully submitted,



Dawn Jablonski Ryman  
General Counsel  
Public Service Commission  
of the State of New York

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Dated: August 7, 2006  
Albany, New York

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<sup>10</sup> NYISO OATT, Attachment Y.

CERTIFICATE OF SERVICE

I, Leann Ayer, do hereby certify that I will serve on August 7, 2006, the foregoing Comments of the New York State Public Service Commission upon each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: August 7, 2006  
Albany, New York

  
Leann Ayer