

that relying more on markets has saved customers \$13 billion per year over traditional regulation. It has stimulated innovation in generation and transmission technologies. It has freed customers from being forced to pay for the "stranded costs" of unwise investments. This competitive market framework came about as a result of national legislation and a series of Commission initiatives in both the wholesale gas and electric industries. In particular, these actions were intended to provide all wholesale power sellers with equal access to the transmission grid. Equal, nondiscriminatory access is a necessary prerequisite for fair competition among sellers, and, together with regional operation of the grid, gives wholesale buyers access to a much wider range of supply choices.

The transition to restructured markets has not been smooth or uniform. In regions with an effective wholesale market platform, an ISO or RTO provides effective market monitoring and has clear market rules designed to protect customers. Some markets, however, clearly have not been immune from market design flaws. Experiences in California have shown the consequences of poorly designed markets and inadequate generation, transmission and demand response. Moreover, they demonstrate the need for before-the-fact market power mitigation and ongoing market monitoring. Some areas also have experienced "seams" problems where differences in design between regions create artificial barriers to trade which raise costs, limit customer supply choices, and create opportunities for exploitation of differences between markets.

In other areas of the country, where markets do not have independent or regional grid operation, the lack of price transparency in the marketplace can mask problems and transmission operators can use their ability to control the transmission system to favor their own power sales. New competitors may be blocked or delayed because the transmission operator can favor its affiliated suppliers both in interconnecting to the grid and in allocating the costs of interconnection. The result of these problems is higher customer costs, making independence a critical element for protecting native load. Dealing with these issues and concerns on a case-by-case basis takes significant time and effort for both the Commission and market participants to resolve.

In the proposed rule, the Commission identified the building blocks for a healthy wholesale market to address the problems we have experienced in both

competitive and non-competitive markets. In moving forward on a Final Rule, we believe it is critical to retain certain fundamental building blocks for healthy electric markets, and we agree with commenters that regional economic differences and regional timing constraints must be recognized. Below we identify market issues that lend themselves to regional solutions without compromising the integrity of a solid market platform.

The Commission is aware that the success of our RTO-based initiative is more likely in a region where the bulk of the transmission grid is in the hands of jurisdictional public utilities. But in the Pacific Northwest, roughly 80 percent of the grid assets are controlled by the Bonneville Power Administration, which is not a public utility under the Federal Power Act. Bonneville's participation in RTO West is essential for RTO West to succeed. Thus, we encourage Bonneville's continued voluntary participation in RTO West. We are also aware that Bonneville will continue to participate only if RTO West has the flexibility to meet the unique needs of the Pacific Northwest. We clarify what may be obvious. Any decision of Bonneville to meet its obligations and operational responsibilities with respect to such matters as irrigation, flood control, treaties, environmental rules and the like is solely Bonneville's to make and is not jurisdictional to the Commission. While the Commission has limited jurisdiction over Bonneville's rates under the Pacific Northwest Electric Power Planning and Conservation Act, the contracts between Bonneville and its customers do not require Commission review or approval. We have heard the concerns expressed about the merits of locational pricing and a day ahead market in a region dominated by interdependent hydroelectric resources. With respect to these concerns, our commitment is to work with interested parties, including state commissions, to find solutions that are appropriate to the unique needs of the Pacific Northwest.

The Commission will consider all comments received on this White Paper, as well as any pending electricity legislation being considered in the U.S. Congress, prior to issuing a Final Rule.

Comments on the Proposed Rule

A number of concerns have been raised about various aspects of the proposed rule. We have received approximately 1,000 sets of formal comments on our proposed rule. The most extensive concerns involved the following issues. We state these concerns and our responses below:

- The Commission proposed to assert jurisdiction over transmission used to provide retail service to native load customers.

Pursuant to Order No. 888, the Commission currently asserts jurisdiction over wholesale transmission service and unbundled retail transmission service by public utilities. In the Final Rule, with respect to bundled retail service, we will continue our existing practice for RTOs and ISOs of distinguishing between the non-price terms and conditions of transmission service and the rates for transmission service. As discussed in Appendix A, the non-price terms and conditions of the RTO or ISO tariff will apply equally to all users, including those taking service to meet their obligation to serve bundled retail customers. However, the Commission will not assert jurisdiction over the transmission rate component of bundled retail service, thereby avoiding unintended issues raised by a new assertion of jurisdiction.

- Specific features of the proposed rule, particularly the resource adequacy requirement and the regional transmission planning requirement, infringe on state jurisdiction.

The Commission clarifies that nothing in the Final Rule will change state authority over these matters. We will not include a minimum level of resource adequacy. The RTO or ISO may implement a resource adequacy program only where a state (or states) asks it to do so, or where a state does not act. The Final Rule will direct RTOs and ISOs to develop a periodic regional transmission plan for submission to relevant state and local siting authorities and to assist the states in whatever manner they desire, including evaluating the impact of new generation, transmission, energy efficiency, and demand response on regional reliability and resource adequacy.

- The transition process to the new proposed transmission service would not provide sufficient protection for existing customers.

As with our earlier restructuring efforts in the natural gas and electric power industries, we want to ensure that existing customers retain their existing transmission rights and retain rights for future load growth. While all customers that pay a basic access charge can schedule transmission service, it is important that customers be able to protect themselves from congestion costs through Firm Transmission Rights (FTRs). The Final Rule will eliminate any requirement that FTRs be auctioned. We will, instead, look to