

provide that the RTO or ISO must satisfy this requirement as soon as practicable but no later than when it begins operation, rather than after three years of initial operation. The Final Rule would not change the decisions in prior RTO orders regarding the role that an Independent Transmission Company (ITC) could have in the regional planning process.<sup>12</sup>

The regional transmission plan must include all transmission facility expansions in the region. Thus, the RTO or ISO can assess the combined effect on loop flows and reliability of all existing and planned facilities, including transmission facility expansions for which the costs are not necessarily to be borne by all customers. However, we clarify that transmission owners and others may propose to build transmission enhancements. The RTO or ISO will assess the impact of these proposals in the regional transmission plan. In addition, the RTO or ISO may assess the need for transmission enhancements in view of opportunities for energy efficiency, demand response, and new generation technologies, consistent with the policy direction of the regional state committee on these issues.

The RTO or ISO must also be responsible for transmission planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to reliably and economically serve the needs of all customers in the region, including historical and native load customers and their projected load growth. The RTO or ISO would include transmission upgrades in the regional plan that are necessary to maintain or improve reliability or to reduce congestion and improve access to lower cost supplies (economic enhancements).

Economic enhancements would be included in the regional transmission plan with the costs recovered through the license plate or postage stamp access charges, if it is prudent to do so from the perspective of native load in the region. For example, these projects could include transmission upgrades that: (1) Would resolve significant and persistent congestion within the region; (2) due to their size and scope, are unlikely to be undertaken as participant funded transmission upgrades; or (3) show positive benefits to the region using a cost benefit analysis that compares the cost to load within the region and the benefits to load within the region.

We will permit regional flexibility in determining the types of economic

enhancements that would be recovered through the access charges.<sup>13</sup> Some RTO or ISO regions may choose an expansive definition of the types of economic enhancements that benefit customers within the region. Other RTO or ISO regions may choose to rely more on participant funding.

The RTO or ISO tariff would have a clear plan that states the non-discriminatory criteria that would be used for determining the reliability and economic enhancements that are needed for customers within the region. Each regional state committee may determine the criteria for these economic enhancements. If the regional state committee reaches a decision on the criteria that would be used, the RTO or ISO would file these criteria in a filing pursuant to section 205 of the FPA. If the regional state committee is unable to reach a decision, the RTO or ISO would file its own proposal pursuant to section 205 of the FPA.

The Final Rule would not require that the RTO or ISO use a Request for Proposal (RFP) process for transmission upgrades.

#### 8. Interregional Coordination

*Order No. 2000.* The RTO must ensure the integration of reliability practices within an interconnection and market interface practices among regions.

*Wholesale Market Platform.* RTOs and ISOs would perform this Function. In addition, the Final Rule would require that RTOs and ISOs within an electrical interconnection coordinate to resolve seams issues. Additionally, as discussed above, RTOs and ISOs should coordinate to eliminate export fees where there is no significant trade imbalance between the regions.

#### Transmission Pricing

In addition to the above Characteristics and Functions of an RTO, Order No. 2000 also addressed transmission pricing reforms by RTOs.

*Order No. 2000.* RTOs may file for a variety of innovative rate reforms, including performance-based, returns on equity, non-traditional methods of determining depreciation schedules for new transmission investments, and incremental pricing for new transmission investments (which has since become known as participant funding). Some of these pricing reforms

will be available only through January 1, 2005.

*Wholesale Market Platform.* The Final Rule would provide that both RTOs and ISOs would be eligible for the rate reforms identified in Order No. 2000.

The Final Rule would provide further clarification on when incremental pricing for new transmission facilities (participant funding) could be used. The cost of transmission projects that are determined through the regional planning process to be necessary to reliably and economically serve load in the region will be recovered through the access charge that is assessed to load in the region. As stated above, regions would have flexibility in determining the types of economic enhancements that would be recovered through the access charge. Some RTO or ISO regions may choose an expansive definition of the types of economic enhancements that benefit customers within the region. Other RTO or ISO regions may choose to rely more on participant funding.

These rate provisions would be revised to permit an optional transitional process that could be used for participant funding. For a transitional period, not to exceed a year, participant funding may be used for transmission upgrades for generator interconnection as soon as an independent entity has been approved by the Commission and the affected states. Using the regional criteria, the independent entity would make decisions on which transmission upgrades should be participant funded and which ones should not. These decisions would be made through a regional planning process conducted by an independent entity in which the independent entity is also responsible for conducting all necessary facility studies.<sup>14</sup> However, this transitional process is explicitly predicated on the assumption that this will be the first step towards the RTO or ISO satisfying the requirements of § 35.34 of the Commission's regulations.

#### Additional Requirements of the Wholesale Market Platform

In addition to the above changes to the existing requirements for RTOs, the Wholesale Market Platform would require the following:

##### 1. Role of the States

*Order No. 2000.* Order No. 2000 recognizes that states have an important role in RTO formation and governance,

<sup>12</sup> See TRANSLink Transmission Company, LLC, *et al.*, 99 FERC ¶ 61,106 (2002).

<sup>13</sup> As discussed below, the choice made by the region will affect the cost recovery for transmission upgrades. If a transmission upgrade is determined to be needed to reliably and economically serve load in the region, the costs will be recovered through the license plate or postage stamp access charges used by the region.

<sup>14</sup> E.g., if ESBI were selected by the SeTrans Sponsors to be their proposed ISA and it received the necessary regulatory approvals, ESBI could serve this function for SeTrans RTO on an interim basis.