

Facility is not dispatched.²⁷ The Commission has also allowed Transmission Providers to require several Interconnection Customers to share the costs of Network Upgrades, under certain circumstances.²⁸

23. The Commission has also clarified that an Interconnection Customer need not enter into an agreement for the delivery component of transmission service to interconnect with a Transmission Providers' Transmission System.²⁹ At the same time, Interconnection Service or an interconnection by itself does not confer any delivery rights from the Generating facility to any points of delivery.³⁰

24. The Commission has clarified that ownership of the Interconnection Facilities does not have a direct effect on reliability of the system. Therefore, as long as the Transmission Provider operates the Interconnection Facilities, the Commission will allow an Interconnection Customer to own part, or all, of those facilities.³¹

C. Differences Between the Proposed and Final Rules

25. The Final Rule LGIP and Final Rule LGIA largely track the proposed documents. Changes made in the Final Rule tend to be specific to an individual LGIP section or LGIA article, and do not require fundamental changes to the documents. That being said, there are a few significant issues, some substantive and others organizational, that the Commission summarizes here.

26. Most importantly, we note that the Final Rule applies to independent and non-independent Transmission Providers alike, but non-independent Transmission Providers are required to adopt the Final Rule LGIP and Final Rule LGIA into their OATTs, with deviations from the Final Rule justified using either the "regional differences" or "consistent with or superior to" standard. We also allow Regional Transmission Organizations (RTOs) and ISOs more flexibility to customize an LGIP and LGIA to meet their regional needs. This applies to terms and conditions as well as pricing. While RTOs and ISOs are required to submit compliance filings, they may submit LGIP and LGIA terms and conditions

that meet an "independent entity variation" standard that is more flexible than the "consistent with or superior to" standard and the regional differences standard.

27. We are also including in the Final Rule LGIA an article addressing insurance requirements and limiting liability for consequential damages, both of which were absent from the NOPR. Provision for liquidated damages had been removed from the Final Rule LGIP but remains an option in the Final Rule LGIA. Also, in the Final Rule LGIP, when a Transmission Provider elects to study Interconnection Requests in Clusters, it would simultaneously study all Interconnections Requests received within a 180 day window, rather than a 90 day window as proposed.

28. On pricing, we clarify the approach set forth in the NOPR. We continue our current policy of requiring a Transmission Provider that is not an independent entity to provide transmission credits for the cost of Network Upgrades needed for a Generating Facility interconnection. For a Transmission Provider that is an independent entity, such as an RTO or ISO, we allow flexibility as to the specifics of the interconnection pricing policy. Also, an RTO or ISO may propose participant funding for Network Upgrades for a generator interconnection, and, for a transitional period not to exceed a year, a region may use participant funding as soon as an independent administrator has been approved by the Commission and the affected states.

29. Where the policy of transmission credits for upgrades required as a result of the interconnection applies, the Commission provides several clarifications in this Final Rule. For example, the Interconnection Customer should receive transmission credits only if its Generating Facility has achieved commercial operation. Transmission credits are to be paid to the Interconnection Customer when upgrades to an Affected System³² are constructed and the Interconnection Customer has paid for them. Finally, the Transmission Provider may decline to award credits for only those transmission charges that are designed to recover out-of-pocket costs, such as the cost of line losses, associated with the delivery of the output of the Generating Facility.

³² An Affected System is an electric system other than the Transmission Provider's Transmission System that may be affected by the proposed interconnection.

II. Discussion

30. In part A of this discussion we address the Standard Large Generator Interconnection Procedures (Final Rule LGIP) that specify the details of the uniform process a prospective Interconnection Customer and its Transmission Provider shall use to initiate, evaluate, and implement an Interconnection Request pursuant to the Final Rule.

31. In part B we discuss the details of the Standard Large Generator Interconnection Agreement (Final Rule LGIA) to be executed by the prospective Interconnection Customer, the Transmission Provider and, where appropriate, the Transmission Owner. This document is incorporated as Appendix 6 to the Standard Large Generator Interconnection Procedures and covers the related rights and obligations of the Parties.³³

32. In part C, we discuss a number of other significant policy issues in connection with this rulemaking, including pricing policies; the required Interconnection Services; the treatment of "Distribution" level interconnections; Qualifying Facility matters; variations from the Final Rule and accommodation of regional differences; the availability of waivers for small entities; OATT reciprocity implications for interconnection requests; assorted clarifications to the NOPR's proposals; insurance and liquidated damages matters; two- versus three-party interconnection agreements; and consequential damage issues.

33. In part D, we address Compliance Issues pertaining to the requirement for a Transmission Provider to file conforming amendments to its existing OATT; the treatment to be accorded existing interconnection agreements (grandfathering); and the method a Transmission Provider is to use to file executed and unexecuted interconnection agreements in accord with this Final Rule.

A. Issues Related to the Standard Large Generator Interconnection Procedures (LGIP)

1. Overview³⁴

34. The Final Rule Standard Large Generator Interconnection Procedures (LGIP) document specifies the steps that must be followed and deadlines that must be met when an Interconnection

³³ The Final Rule LGIP and Final Rule LGIA define Party or Parties as "Transmission Provider, Transmission Owner, Interconnection Customer, or any combination of the above."

³⁴ For the convenience of the reader, a flow chart depicting the interconnection process is appended to this preamble as Appendix A.

²⁷ Colton Power, LP, 101 FERC ¶ 61,150 (2002).

²⁸ *Id.*

²⁹ Entergy Services, Inc., 101 FERC ¶ 61,016 (2002); Southern Company Services, Inc., 95 FERC ¶ 61,307 at 62,049, *order dismissing reh'g*, 96 FERC ¶ 61,168 (2001); Tennessee Power Co., 90 FERC ¶ 61,238 at 61,761 (2000).

³⁰ See Arizona Public Service Co., 94 FERC ¶ 61,027 at 61,076, *order on reh'g*, 94 FERC ¶ 61,267 (2001).

³¹ Arizona Public Service Company, 102 FERC ¶ 61,303 (2003).