

Comments

68. Some commenters including Central Maine found this definition to be vague. They also contend that only Good Utility Practice should be required.

Commission Conclusion

69. The Commission adopts the proposed definition. The standard in the NOPR is necessary to ensure comparable treatment. If a Party normally exceeds Good Utility Practice when it protects its own interests, it must do so for others as well.

70. *System Protection Facilities*—The NOPR proposed to define System Protection Facilities as the equipment required to protect the Transmission System from faults and other electrical disturbances occurring at the Interconnection Customer's Generating Facility, and vice versa.

Comments

71. NERC proposes that the definition of System Protection Facilities should include "necessary protection signal communications equipment" in addition to the other equipment mentioned in the definition. It argues that such communications equipment is needed to coordinate and monitor the operation of protective devices.

Commission Conclusion

72. The Commission agrees with NERC and adopts the recommended language.

73. *Transmission Owner and Transmission Provider*—In the NOPR, the Commission proposed to define Transmission Owner to mean any entity that owns, leases or otherwise possesses an interest in the Transmission System at the Point of Interconnection. It proposed to define Transmission Provider to mean the entity that provides transmission service under its OATT.

Comments

74. EEI proposes that the definition of Transmission Provider be revised to include Transmission Owner. National Grid states that the proposed LGIA should clearly delineate the rights and responsibilities of Transmission Owners that are not Transmission Providers.

Commission Conclusion

75. We agree with EEI. Accordingly, the definition of Transmission Provider in the Final Rule includes the Transmission Owner as well. While we recognize that the Transmission Provider and the Transmission Owner may be distinct entities in some cases, throughout the Final Rule we will refer

to both the Transmission Provider and the Transmission Owner generically as the Transmission Provider. There are a few instances in which the distinction between Transmission Owner and Transmission Provider becomes relevant and there we use the appropriate terms.

76. *Section 2—Scope and Application*—Section 2 of the NOPR LGIP provided that the Transmission Provider receive, process, and analyze all Interconnection Requests in the same manner as it does for itself, its subsidiaries or Affiliates.

77. *Section 2.3—Base Case Data*—Section 2.3 of the NOPR LGIP required the Transmission Provider to provide base case power flow, short-circuit and stability databases to the Interconnection Customer upon request so that the Interconnection Customer may independently study its Interconnection Request.

Comments

78. Mirant notes that certain of the language from the Consensus LGIP Section 2.3 concerning confidentiality provisions and the makeup of the Base Case data appears to have been unintentionally left out of the NOPR LGIP Section 2.3.⁵³

79. Dominion Resources asks that the Commission revise LGIP Section 2.3 to state that Base Case data is subject to a confidentiality provision between the Parties. Semptra comments that the Transmission Provider should protect the confidentiality of other Interconnection Customers' information that is part of those databases. Entergy states that this Section should apply only to information that is not commercially sensitive, so as to avoid providing a competitive advantage to other Interconnection Customers.

80. Calpine argues that the Transmission Provider should provide, in addition to the stated databases, all underlying assumptions, data files and documents used to create the Base Case, because otherwise the provision could be interpreted as a narrow set of data files that are meaningless.

81. The Ohio PUC contends that the Commission should ensure that rules for handling critical energy infrastructure information (CEII) are not abused by utilities that seek to withhold from public disclosure commercial

information that is not really CEII and that has historically been central to public regulatory proceedings. It believes that there must be procedures to ensure protection of critical public interests. The Ohio PUC recommends that the procedures be carried out by an entity, such as the newly formed Department of Homeland Security, that has specific experience in CEII and is qualified to review the Commission's CEII decisions.

Commission Conclusion

82. As Mirant correctly notes, segments of the Consensus LGIP Section 2.3 relating to confidentiality and the makeup of the Base Case data were inadvertently omitted from the NOPR; this text is included in the Final Rule. Both confidentiality and the Base Case data format were significant topics in the Commission Staff Queuing Technical Conference held on January 21, 2003. Most conference participants agreed that providing this Base Case data was reasonable in that it would help the Interconnection Customer and its subcontractor conduct Interconnection Studies independently, expedite the evaluation process, and free up the Transmission Provider's resources, and reduce the time that would otherwise be devoted to performing Interconnection Studies or acting as the Interconnection Customer's consultant. The Commission believes that adding the missing text addresses other commenters' concerns regarding the need for confidential treatment of the Base Case data and other commercially sensitive information that may be provided to the Interconnection Customer.

83. In response to Calpine, we clarify that Transmission Providers must provide all underlying assumptions and data files so that the Interconnection Customer or its subcontractor can independently conduct Interconnection Studies.

84. As to the concerns of the Ohio PUC and others regarding the security of critical energy infrastructure information, the security of the energy infrastructure is essential. The Commission expects that all Transmission Providers, market participants, and Interconnection Customers will comply with the recommendations of the President's Critical Infrastructure Protection Board, as well as any best practice recommendations or requirements that may be issued by NERC or any other electric reliability authorities. In particular, all public utilities are expected to meet basic standards for system infrastructure and operational

⁵³ Mirant states that the following language was left out of Section 2.3 of the NOPR LGIP: "and contingency lists upon request subject to confidentiality provisions. Such databases and lists, herein referred to as Base Cases, shall include all (i) generation projects and (ii) transmission projects, including merchant transmission projects that are proposed for a Transmission System for which a transmission expansion plan has been submitted and approved by the applicable authority."