

Transmission Provider, and the Interconnection Customer, including a requirement to coordinate Interconnection Studies.

Comments

117. Interconnection Customers including Duke Energy, Independent Producers, Norton Energy, and Peabody support requiring the Transmission Provider (rather than the Interconnection Customer) to coordinate and perform all necessary Interconnection Studies and Network Upgrades with an Affected System. Duke Energy agrees that the Affected System Operator should be required to cooperate with the Transmission Provider in completing necessary studies. Duke Energy also wants the Affected System Operator to enter into an agreement with the Interconnection Customer. Other commenters, predominately Transmission Providers, oppose placing these responsibilities on the Transmission Provider.⁵⁵ They contend that (1) a contract cannot bind a third party that is not a signatory to it, (2) it is unfair to impose liability for liquidated damages for an incomplete study on the Transmission Provider where the Transmission Provider has no control over the Affected System, (3) the Transmission Provider should be required to use only “reasonable efforts” to coordinate with an Affected System, (4) the Interconnection Customer should pay any costs of conducting Interconnection Studies on an Affected System, including all costs of delays caused by the studies, (5) the Interconnection Customer should be required to pay for the necessary upgrades on the Affected System and not be allowed to operate until such upgrades are completed, and (6) the Transmission Provider should not be responsible for actions (or inactions) of third parties either with regard to funding or construction of Network Upgrades.

Commission Conclusion

118. The Commission continues to treat interconnection and delivery as separate aspects of transmission service, and an Interconnection Customer may request Interconnection Service separately from transmission service (delivery of the Generating Facility’s power output). In the majority of

circumstances, interconnection alone is unlikely to affect the reliability of any neighboring Transmission System. However, in those rare instances in which the interconnection alone may cause a reliability problem on an Affected System, the Commission adopts the approach of Order No. 888 for Network Upgrades required to protect an Affected System from a reliability problem due to delivery service.⁵⁶ Under Order No. 888, the Transmission Provider is required to assist the Transmission Customer in coordinating with the Affected System on any Network Upgrades needed to protect the reliability of that system.⁵⁷ We will also allow the Transmission Provider to coordinate the timing of construction of Network Upgrades to its Transmission System with the construction required on the Affected System.⁵⁸ As provided in the OATT, the Commission’s Dispute Resolution Service is available should the Interconnection Customer wish to challenge the Transmission Provider’s decision to delay construction pending completion of the Affected System’s upgrades.⁵⁹

119. The Commission reiterates that under Order No. 888, economic losses from having to redispatch generation do not justify delaying the provision of the delivery component of transmission service.⁶⁰ The Commission adopts the same standard here for interconnections.

120. Thus, unless the interconnection alone will endanger the reliability of an Affected System, a Transmission Provider may not require an Interconnection Customer, as a condition of interconnection, to accept responsibility for Network Upgrades on other systems. To hold new Interconnection Customers responsible

for upgrades to all interconnected systems, including not only the system to which the Generating Facility interconnects, but other, more distant systems as well would create an unreasonable obstacle to the construction of new generation.⁶¹ We reiterate that requiring a Transmission Provider to coordinate intermediate studies and upgrades with other systems is just and reasonable.

121. Although the owner or operator of an Affected System is not bound by the provisions of the Final Rule LGIP or LGIA, the Transmission Provider must allow any Affected System to participate in the process when conducting the Interconnection Studies, and incorporate the legitimate safety and reliability needs of the Affected System. However, the Affected System is not required to participate in the interconnection of the Generating Facility, as proposed by Duke Energy. If the Affected System declines to work with the Transmission Provider, or fails to provide information in a timely manner, the Transmission Provider may proceed in the interconnection process without taking into account the information that could have been provided by the Affected System. Neither the Final Rule LGIP nor the Final Rule LGIA is intended to expose the Transmission Provider to liability as a result of delays by the Affected System.

122. In addition, we note that NERC Planning Standards require Transmission Providers to work together to minimize effects on each others’ systems. When a Transmission Provider adds its own new generation to its system, this may have a reliability effect on other systems, requiring coordination among systems. Such coordination must extend to new generation of any Interconnection Customer because, as stated in this provision, a Transmission Provider must offer all generators service that is comparable to the service that it provides to its own generation or that of its Affiliates.

123. *Section 3.6—Withdrawal*—Proposed LGIP Section 3.6 provided that the Interconnection Customer would have the option to withdraw its Interconnection Request at any time with written notice to the Transmission Provider. If the Interconnection Customer fails to adhere to the requirements of the interconnection procedures, its request would be deemed withdrawn and the Transmission Provider would provide written notice of the deemed

⁵⁶ See Section 21 of the OATT. See also Tampa Electric Co., 103 FERC ¶61,047 (2003), and Nevada Power, 97 FERC ¶61,227 (2001), *reh’g denied*, 99 FERC ¶61,347 (2002); but see American Electric Power Service Corporation, 102 FERC ¶61,336 (2003).

⁵⁷ Section 21.1 of the OATT states that: “The Transmission Provider will undertake reasonable efforts to assist the Transmission Customer in obtaining such arrangements, including without limitation, provided any information or data required by such other Transmission System pursuant to Good Utility Practice.”

⁵⁸ Section 21.2 of the OATT states that: “Transmission Provider shall have the right to coordinate construction on its own system with the construction required by others. The Transmission Provider, after consultation with the Transmission Customer and representatives of such other systems, may defer construction of its new transmission facilities, if the new transmission facilities on another system cannot be completed in a timely manner.”

⁵⁹ See Section 21.2 of the OATT.

⁶⁰ See Section 13.2 of the OATT.

⁶¹ Nevada Power, 97 FERC ¶61,227 (2001), *reh’g denied*, 99 FERC ¶61,347 at 62,294 (2002).

⁵⁵ E.g., AEP, Ameren, BPA, Cal ISO, Central Maine, Central Vermont PSC, Cleco, the Construction Issues Coalition, Dairyland Power, Dominion Resources, Entergy, Georgia Transmission, Imperial Irrigation, ISO New England, MidAmerican, the Midwest ISO, National Grid, Nevada Power, NYTO, PGE, PJM, Salt River Project, SoCal Edison, TANC, and TVA.