

Commission Conclusion

269. In response to Central Maine's and several others' requests that the confidentiality provision in the NOPR LGIP be made more specific, the Commission is incorporating into Section 13.1 certain aspects of the confidentiality provisions in Article 22 of the LGIA. These include a definition of Confidential Information, procedures for the release of Confidential Information, and guidance regarding how Confidential Information should be treated when it is requested by the Commission as part of an investigation. Both Parties are eligible to use the protection afforded by the revised section as long as the information is identified as Confidential Information in accordance with the section. This revision should satisfy commenters that sought greater specificity regarding procedures for maintaining and disclosing information in the confidentiality provisions in the LGIP. It also eliminates any significant conflicts between the LGIP and LGIA confidentiality provisions. The Final Rule LGIP Section 13.1 differs from Final Rule LGIA Article 22 only with respect to the provisions in Article 22 that address the fact that the confidentiality obligations arise under a signed Interconnection Agreement.

270. This revision eliminates from the Section 13.1 the exception for information that appears in the Interconnection Request. Under the revised provision, it is the Interconnection Customer's responsibility to designate the information submitted in its Interconnection Request that should remain confidential.

271. Lakeland requests that the Commission adopt provisions that accommodate compliance with state open records laws. Public utilities also may be subject to information restrictions arising from national security concerns. As noted above, the Commission expects all public utilities to meet basic standards for system infrastructure and operational security. In addition, if state laws indeed conflict with the confidentiality and information sharing addressed in this provision, the Commission expects that public utilities will make conforming changes to these provisions in their compliance filings and explain the statutory basis for such changes.

272. The Commission agrees with the Midwest ISO and NERC that the Final Rule must allow information to be shared with Transmission Provider representatives of NERC and other regional planning groups, since to deny

them this information may undermine Transmission System reliability and modeling efforts. Section 13.1 of the Final Rule allows the Parties to share Confidential Information with an independent transmission administrator or reliability organization as long as the disclosing party agrees to promptly notify the other Party in writing and to seek to protect the Confidential Information from public disclosure by separate confidentiality agreement or other reasonable measures. We do not, as the Midwest ISO requests, specify the planning information that may be made available, as it is likely that the data will vary by region.

273. Finally, GE Power proposes that this rulemaking address what information a Transmission Provider should make available to a would-be Interconnection Customer before the submission of an Interconnection Request. We decline to do so. This Final Rule addresses interconnection, not the general availability of information to all those who have not yet submitted an Interconnection Request.

274. *Section 13.3—Obligation for Study Costs*—Proposed LGIP Section 13.3 would have required the Interconnection Customer to pay the actual costs of the Interconnection Studies. If any deposit exceeds the actual cost of the study, that amount would be refunded to the Interconnection Customer or offset against the cost of any future Interconnection Studies associated with the Interconnection Request. Proposed LGIP Section 13.3 also stated that the Transmission Provider would not be obligated to perform or continue to perform any Interconnection Studies unless the Interconnection Customer has paid all undisputed amounts under this section.

Comments

275. PJM argues that the absence of significant milestones in Section 13.3 amplifies the opportunities for an Interconnection Customer to dispute its bill and string its project along at little cost. Any refusal to pay an invoiced study cost should be a Default that triggers withdrawal of the Interconnection Request.

276. The Midwest ISO believes that the Transmission Provider should be permitted to collect interest on any unpaid amounts not in dispute, and Duke Energy believes that deposits in excess of the actual study cost should be entitled to earn interest from the day a deposit is credited to an account.

277. Semptra would require the Interconnection Customer to pay for simple and inexpensive Interconnection

Studies up front, and to pay for expensive and complicated studies through periodic payments.

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278. The Commission declines to adopt any of the proposed changes to Section 13.3 in the Final Rule. While an Interconnection Customer could delay the interconnection process merely by disputing its bill, the Commission is not convinced that a significant number of Interconnection Customers will act in this manner, since most Interconnection Customers presumably will want to have their projects on line as soon as possible. Furthermore, requiring the Interconnection Customer to pay all invoiced amounts, no matter how unreasonable, or lose its Queue Position would invite abuse on the part of the Transmission Provider.

279. In response to the Midwest ISO and Duke Energy, the payment of interest on study deposits and unpaid study costs tend to offset one another over time. Moreover, the Commission is not persuaded that the interest costs would be large enough to warrant the additional administrative expense that the Transmission Provider would incur in tracking the amounts due. Also, the requirement to pay a deposit and then additional amounts as they come due will generally achieve the result that Semptra seeks.

280. Finally, to ensure that the Interconnection Customer is adequately informed regarding the actual costs of Interconnection Studies, we revise Section 13.3 to require the Transmission Provider to provide a detailed and itemized accounting of the Interconnection Study costs in the relevant invoices.

281. *Section 13.4—Third Parties Conducting Studies*—Proposed LGIP Section 13.4 provided that the Interconnection Customer be able to require the Transmission Provider, within 30 days of its notification, to use a consultant to complete the Interconnection Study at issue if (1) the Parties cannot agree to the timing of the completion of the Interconnection Study, or (2) the Interconnection Customer receives notice from the Transmission Provider that the Transmission Provider will not complete an Interconnection Study within the applicable time frame, or (3) the Interconnection Customer receives from the Transmission Provider neither the Interconnection Study nor a notice about not completing the Interconnection Study. In such situations, the Interconnection Study would be conducted at the Interconnection Customer's expense and