

Transmission Provider that is not independent of market participants, and invited comments on whether it should depart from this policy for a Transmission Provider that is independent.

676. Since the NOPR was written to reflect the Commission's current pricing policy, NOPR LGIA Article 11 proposed that the Interconnection Customer be solely responsible for the costs of Interconnection Facilities, which are defined as all facilities and equipment between the Generating Facility and the Point of Interconnection with the Transmission System. Network Upgrades, which are defined as all facilities and equipment constructed at or beyond the Point of Interconnection for the purpose of accommodating the new Generating Facility,¹⁰⁸ would be funded initially by the Interconnection Customer unless the Transmission Provider elects to fund them. The Interconnection Customer would then be entitled to a cash equivalent refund (i.e., credit) equal to the total amount paid for the Network Upgrades, including any tax gross-up or other tax-related payments. The refund would be paid to the Interconnection Customer on a dollar-for-dollar basis, as credits against the Interconnection Customer's payments for transmission services, with the full amount to be refunded, with interest calculated in accordance with 18 CFR 35.19a(a)(2)(ii), within five years of the date the Network Upgrades are placed in service, so long as the Transmission Provider continues to receive payments for transmission service with respect to the Generating Facility during this period. The NOPR proposed that the Interconnection Customer may assign its refund rights to any person.

677. Also, in the NOPR, the Commission asked for comments on appropriate interconnection pricing consistent with the use of the locational marginal pricing methodology. This method was proposed in the Standard Market Design proceeding that the Commission had previously announced.¹⁰⁹ The Commission noted that in a region that uses locational

pricing, the RTO or ISO usually assigns to the Interconnection Customer the cost of any new network facilities that would not be in its transmission expansion plan but for the interconnecting Generating Facility. The Interconnection Customer then typically receives transmission rights in return for the capacity that is created. The Commission explained that this pricing method has been allowed only in regions where the Transmission Provider is independent of market participants, because certain aspects of this method can be subjective. These subjective aspects include the determination of congestion prices, rules for deciding which Interconnection Customer in the queue should be responsible for which facilities, the cost of the facilities, and the assumptions underlying the power flow analysis needed for system impact and facilities studies. The Commission noted that a Transmission Provider that is not an independent entity would have the ability and the incentive to exploit this subjectivity to its own or its affiliates advantage if it is able to allocate the costs of Network Upgrades between the Interconnection Customer and other transmission customers, where the Transmission Provider may be the principal other customer. The Commission invited comments on whether it should accept an approach that departs from the current Commission policy of providing transmission credits, and stated its willingness to consider alternative proposals as long as the cost causation determinations are made on an objective and non-discriminatory basis by an independent entity such as an RTO.

678. The Commission has traditionally favored a "rolled-in" transmission pricing policy of the type that formed the basis for the pricing proposal in the Interconnection NOPR. However, such a policy may limit economic expansions that would remove congestion and allow customers to reach more distant power supplies. This may occur at least in part because state siting authorities may have little interest in siting a transmission facility that benefits mainly a particular Interconnection Customer or customers in another state if doing so would require the retail sales customers on the constructing public utility's system to pay for the new facilities.

679. The Standard Market Design NOPR proposed that a policy of participant funding, where those who benefit from a particular project pay for it, may help to solve this problem. The Commission then reiterated its concern that certain functions that the

Transmission Provider must perform to implement participant funding can be subjective. Also in this docket, the Commission encouraged the formation of Regional State Committees, which would allow states to work together to identify beneficiaries of expansion projects and make recommendations on pricing proposals and cost recovery that may include rolling in, assignment to beneficiaries, or some combination of the two.

680. Finally, the Commission also addressed in the NOPR the question of the appropriate rate treatment for the cost of Interconnection Facilities that the Transmission Provider constructs for its own Generating Facilities. The Commission noted that, in *Southern Company Services, Inc. (Southern)*, the company proposed to continue to treat the cost of Interconnection Facilities for its own Generating Facilities as part of the network while directly assigning the cost of the same type of facilities to its competitors' Generating Facilities. Southern raised the issue of how to ensure consistency between interconnection and transmission pricing. Recognizing the need to address this issue on a generic basis, the Commission made *Southern* subject to the outcome of this rulemaking. The Commission proposed in the NOPR to require all transmission rates to be designed in a manner that is consistent with whatever interconnection pricing policy is approved in the Final Rule. Thus, the Commission proposed that, to the extent its current interconnection pricing policy is adopted, each Transmission Provider must remove from its transmission rates the costs of all Interconnection Facilities, not just generator step-up transformers, constructed for the Transmission Provider's own Generating Facilities. The Commission proposed that the costs of these sole use facilities be directly assigned as generation-related costs. The Commission explained that this would be consistent with its current pricing of generator step-up transformers, and it would send a more accurate price signal by assigning the cost of Interconnection Facilities to the generation customers using them.

Comments

681. A large number of commenters argue that the Commission's proposed crediting policy provides an undesirable subsidy to the Interconnection Customer and thereby creates incentives for the Interconnection Customer to make poor siting and investment decisions. Many commenters express concerns about the relationship between this policy and the Commission's Standard Market Design

¹⁰⁸ The proposed definition also states that the "facilities and equipment are used by and benefit all users of the transmission grid, without distinction or regard as to the purpose of the upgrade (e.g., to relieve overloads, to remedy stability and short circuit problems, to maintain reliability, or to provide protection and service restoration) including the fact that these facilities and equipment are being replaced or upgraded to accommodate the interconnection request."

¹⁰⁹ Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking, 67 FR 55542 (Aug. 29, 2002), FERC Stats. & Regs. ¶ 32,563 (2002).