

tariff provisions.¹⁵ We invite comment on this approach, and ask interested parties to address whether Large Generators and Small Generators should be treated differently with respect to those parts of the Proposed SGIP and Proposed SGIA that follow the Final Rule LGIP and Final Rule LGIA.

21. The Coalition presents various procedures to determine whether certain Small Generators may interconnect safely with a Transmission Provider's Transmission System. In the Coalition's proposed SGIPs, some procedures would evaluate requests to interconnect Small Generators to a Transmission Provider's Distribution System, while others would evaluate requests to interconnect with its Transmission System. The Commission here proposes instead to use the voltage level of the Transmission Provider's Transmission System at which the interconnection is to be made as one basis for determining which procedure may be employed¹⁶—Low-Voltage procedures would apply to interconnections made at voltage levels below 69 kV, and High-Voltage procedures would apply to interconnections made at voltage levels of 69 kV and above. The Commission believes that this will assist the Parties by making clear which procedure applies to a particular Interconnection Request.

A. The Commission's Small Generator Interconnection Proposal

22. This NOPR includes a Proposed SGIP and a Proposed SGIA. The Proposed SGIP describes the process for evaluating the proposed interconnection. After the process is successfully completed, the Parties would then execute the Proposed SGIA, which sets forth the contractual rights and obligations of the Parties. To explain the contents of the Proposed SGIA and Proposed SGIP, we next present: (1) A discussion of our legal authority over a Small Generator's interconnection to a public utility's Transmission System, (2) a summary of the proposed interconnection process,¹⁷ and (3) a discussion of significant issues that arose during the Small Generator

Interconnection ANOPR process and how we propose to resolve them.

1. Jurisdiction

23. At the outset, it is important to clarify several terms when discussing the question of jurisdiction. "Local distribution" is a legal term; under FPA section 201(b)(1), the Commission lacks jurisdiction over local distribution facilities.¹⁸ "Distribution" is an unfortunately vague term, but it is usually used to refer to lower-voltage lines that are not networked and that carry power in one direction. Some lower-voltage facilities are "local distribution" facilities not under our jurisdiction, but some are used for jurisdictional service such as carrying power to a wholesale power customer for resale and are included in a public utility's OATT (although in some instances, there is a separate OATT rate for using them, sometimes called a Wholesale Distribution Rate).

24. This NOPR proposes to apply the NOPR SGIA and NOPR SGIP in a manner consistent with the Large Generator Interconnection Final Rule. This is different from the authority proposed in the Small Generator Interconnection ANOPR, where, consistent with the jurisdiction proposed in the Large Generator Interconnection NOPR, we proposed to assert jurisdiction when the owner of a generator seeks to interconnect with a distribution facility to make a wholesale sale of electricity in interstate commerce.¹⁹ Several commenters to the Small Generator Interconnection ANOPR object to the Commission asserting jurisdiction over interconnections to distribution facilities, both legally and as a matter of policy.²⁰ They argue, among other things, that the FPA reserves jurisdiction over local distribution facilities to the States and that the Commission lacks sufficient staff and expertise to regulate numerous Small Generator interconnections to Distribution Systems. These matters, they say, are best left to the States. Most of these commenters do not distinguish between distribution facilities owned by

jurisdictional public utilities and those owned by non-public utilities.

25. The proposed rule proposes to apply to interconnections to the facilities of a public utility's Transmission System that, at the time the interconnection is requested, may be used either to transmit electric energy in interstate commerce or to sell electric energy at wholesale in interstate commerce pursuant to a Commission-filed OATT.²¹ In other words, the standard interconnection procedures and contract terms would apply when an Interconnection Customer that plans to engage in a sale for resale in interstate commerce or to transmit electric energy in interstate commerce requests interconnection to facilities owned, controlled, or operated by the Transmission Provider or the Transmission Owner, or both, that are used to provide transmission service under an OATT that is on file at the Commission at the time the Interconnection Request is made. Therefore, the NOPR proposes to apply to a request to interconnect to a public utility's facilities used for transmission in interstate commerce. It also would apply to a request to interconnect to a public utility's "distribution" facilities used to transmit electric energy in interstate commerce on behalf of a wholesale purchaser pursuant to a Commission-filed OATT. But in such a case where the "distribution" facilities have a dual use, *i.e.*, the facilities are used for both wholesale sales and retail sales, the NOPR would apply to interconnections to these facilities only for the purpose of making sales of electric energy for resale in interstate commerce.²²

26. For those Small Generator interconnections that would not be subject to the Final Rule SGIP and Final Rule SGIA, the Commission will make the Final Rule documents available as a guideline. The standardization of small generator terms and conditions would

²¹ For purposes of this paragraph, the term "Commission-filed OATT" means a tariff that is on file at, and has been approved by, the Commission.

²² The Commission will exercise exclusive jurisdiction only over the Commission-jurisdictional service. *See* Laguna Irrigation District, 95 FERC ¶ 61,305 at 62,039 (2001) *aff'd sub nom. Pacific Gas & Electric Co. v. FERC*, 44 Fed. Appx. 170 (9th Cir. 2002); *Tex-La Electric Cooperative of Texas, Inc.*, 67 FERC ¶ 61,019 at 61,055–56, *final order*, 69 FERC ¶ 61,269 (1994) (both noting that the Commission asserts jurisdiction over the service when the facilities are not purely "transmission" facilities). Accordingly, the Commission will continue to exercise exclusive jurisdiction over the rates, terms, and conditions of the Commission-jurisdictional service provided over the dual use "distribution" facility, but the Commission will not assert jurisdiction over all uses of that facility, because the regulation of "local distribution" of electricity to end users is reserved to the States.

¹⁵ *See, e.g.*, Articles 4.1, 5.1.2, 5.1.2.1, 5.2, 6.1–6.9, 6.12–6.20, 7, and 8 of the Proposed SGIA.

¹⁶ The other basis is generator size.

¹⁷ To aid the reader, the Appendices contain flow charts that depict the interconnection process. Appendix 1 depicts the Super-Expedited Procedures for interconnecting Small Generating Facilities no larger than 2 MW to a Low-Voltage Transmission System. Appendix 2 depicts the procedures for interconnecting Small Generating Facilities to a High-Voltage Transmission System and Small Generating Facilities larger than 2 MW to a Low-Voltage Transmission System.

¹⁸ 16 U.S.C. 824(b)(1) (2000).

¹⁹ Standardization of Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 67 FR 22250 (May 2, 2002), FERC Stats. & Regs. ¶ 32,560 at 34,178 n.22 (2002).

²⁰ *E.g.*, Baltimore Gas & Electric Co., Commonwealth of Massachusetts Department of Telecommunications and Energy, Connecticut Department of Public Utility Control, Edison Electric Institute, FirstEnergy, NARUC, Public Service Commission of Wisconsin, and Southern Company Services Inc.