

MARCH 2017

VOL. 17-3

PRATT'S

ENERGY LAW REPORT



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ISBN: 978-1-6328-0836-3 (print)

ISBN: 978-1-6328-0837-0 (ebook)

ISSN: 2374-3395 (print)

ISSN: 2374-3409 (online)

Cite this publication as:

[author name], [article title], [vol. no.] PRATT’S ENERGY LAW REPORT [page number]
(LexisNexis A.S. Pratt);

Ian Coles, *Rare Earth Elements: Deep Sea Mining and the Law of the Sea*, 14 PRATT’S ENERGY
LAW REPORT 4 (LexisNexis A.S. Pratt)

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An A.S. Pratt® Publication

Editorial Office
230 Park Ave., 7th Floor, New York, NY 10169 (800) 543-6862
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POSTMASTER: Send address changes to Pratt's Energy Law Report, LexisNexis Matthew Bender, 121 Chanlon Road, North Building, New Providence, NJ 07974.

FERC Proposes Broad Changes to Its Pro Forma Interconnection Procedures and Interconnection Agreement

*By Adam Wenner and A. Cory Lankford**

The Federal Energy Regulatory Commission has issued a notice of proposed rulemaking in which it proposes changes to its standard interconnection rules and agreement for generators with a capacity of more than 20 megawatts. The authors of this article discuss the notice of proposed rulemaking.

In its final meeting of 2016, the Federal Energy Regulatory Commission (“FERC”) issued a notice of proposed rulemaking (“NOPR”)¹ in which it proposes changes to its standard interconnection rules and agreement for generators with a capacity of more than 20 megawatts. The proposed reforms are intended to benefit interconnection customers by providing more timely and accurate information to inform and streamline the interconnection process. Among FERC’s proposals are enhancements that would benefit the energy storage industry.

BACKGROUND

FERC adopted the current *pro forma* interconnection procedures and agreement in 2003. Since then, FERC has made revisions from time to time, but none have been as sweeping as the current proposals, which include significant changes to the *pro forma* Large Generator Interconnection Procedures and *pro forma* Large Generator Interconnection Agreement. FERC states that these changes are necessary to address the significant technological and market advances that have occurred since 2003. The proposals fall into three categories: (1) certainty and predictability in the interconnection process; (2) transparency; and (3) other enhancements to the interconnection process.

Changes to the Interconnection Procedures

Transmission network upgrade costs often are the biggest expense for generators seeking to interconnect with utilities. At present, pursuant to their FERC-approved interconnection procedures, utilities and regional transmission organizations conduct interconnection studies, often in an aggregate cluster of

* Adam Wenner, a partner at Orrick, Herrington & Sutcliffe LLP, heads the firm’s Energy Regulatory Group. A. Cory Lankford is an associate at the firm and a member of Energy and Infrastructure Group. Based in the firm’s Washington, D.C., office, the authors may be contacted at awenner@orrick.com and clankford@orrick.com, respectively.

¹ <https://www.ferc.gov/whats-new/comm-meet/2016/121516/E-1.pdf>.

interconnection requests, through which they identify transmission network upgrades necessary to accommodate the respective requests. Restudies can be triggered unexpectedly and by events that are not within the control of the interconnection customer, such as the withdrawal of other interconnection customers from the interconnection queue. To provide greater predictability in the interconnection process, FERC proposes to change its *pro forma* interconnection procedures to require utilities and regional transmission organizations (“RTOs”) that conduct cluster interconnection studies to implement a binding schedule for the restudy process. In addition, FERC proposes to expand opportunities for interconnection customers to construct transmission network upgrades and seeks comment on the use of a cap on an interconnection customer’s allocated upgrade costs to mitigate the potential for multiple restudies.

The NOPR cites an assertion by the American Wind Energy Association that some utilities and RTOs have unilateral discretion under their FERC-approved tariffs to self-fund high-cost transmission upgrades, the costs of which they then pass on to interconnection customers, even when the utility or RTO does not allow interconnection customers to recover the full costs of the upgrades. To mitigate these concerns, FERC proposes to require utilities and RTOs to enter into an agreement with their interconnection customers before electing to self-fund the costs of transmission upgrades. The proposal is intended to mitigate opportunities for utilities to “gold plate” transmission upgrades by giving generator owners an opportunity to negotiate necessary transmission upgrades and their costs with their interconnecting utility or RTO. Under the proposal, if an interconnection customer determines that it can construct upgrades more inexpensively than the utility, the customer could refuse to enter into an agreement to allow the utility to self-fund the upgrades and could construct them itself.

DISPUTE RESOLUTION PROCEDURES

FERC’s current *pro forma* interconnection procedures and agreement provide standard dispute resolution procedures, but some RTOs direct parties involved in an interconnection dispute to use other, more general dispute resolution procedures that are not designed to resolve interconnection disputes. Interconnection customers have complained to FERC that current RTO interconnection dispute resolution procedures are inadequate. For example, RTOs can refuse to be a party to a dispute resolution, requiring the interconnection customer to resolve its dispute directly with the utility. An interconnection customer always has the option to file a complaint with FERC to resolve a dispute, but the formal complaint process can be costly and often does not provide resolution within time frames necessary for developers to finance and

construct their projects. To provide more uniformity in the resolution of disputes between RTOs and their interconnection customers, FERC proposes to require RTOs to adopt interconnection dispute resolution procedures under which an RTO will be required to serve as a neutral decision-maker in any dispute between a utility and interconnection customers. FERC believes that the proposal will streamline the interconnection dispute resolution process.

TRANSPARENCY IN THE INTERCONNECTION PROCESS

Often the interconnection of one generation project will be contingent upon the completion of interconnection facilities or network upgrades to be constructed or funded by a higher-queued interconnection customer. If these “contingent” interconnection facilities or network upgrades are not built, the utility or RTO will often restudy lower-queued interconnection requests and, to the extent the contingent facilities and upgrades are still required, the utility or RTO will reassess costs and construction timing for the remaining requests. To provide more transparency in the interconnection process, FERC proposes to require utilities and RTOs to describe and post online their methods for identifying contingent interconnection facilities and network upgrades. FERC’s proposals to impose a scheduled restudy process, to negotiate funding of upgrades, and to require a uniform dispute resolution process across all RTOs may mitigate many disputes related to contingent interconnection facilities and network upgrades.

FERC also proposes to require utilities and RTOs to post online the processes and assumptions that they use to develop network models for interconnection studies as well as data that they use to forecast transmission congestion and generator curtailment. Utilities and RTOs also would be required to post quarterly reports online as to the status of their pending interconnection studies. If a utility or RTO exceeds interconnection study deadlines for more than 25 percent of any study type for two consecutive calendar quarters, it would be required to file informational reports with FERC for the next four calendar quarters.

OTHER ENHANCEMENTS

Other FERC proposals would enable generators to use underutilized interconnection facilities, obtain interconnection service earlier, and accommodate technology changes in the development process. Under FERC’s proposal, a generator with excess capacity on its interconnection facilities could, under an expedited process, interconnect additional generating or storage facilities. In addition, FERC proposes to require utilities and RTOs to offer provisional interconnection agreements, which would allow interconnection customers to operate earlier at a reduced capacity or, subject to periodic curtailment, until all

transmission upgrades needed to accommodate the full capacity of the generator are complete. (Some utilities and RTOs already offer provisional interconnection agreements.) In response to frequent complaints by interconnection customers, FERC also proposes to require utilities and RTOs to develop a process to respond to interconnection customer proposals to change their generation technology without causing significant delays to the interconnection process.

In response to comments from generation and energy storage developers, FERC proposes to allow interconnection customers to limit their requested level of interconnection service to an amount that is less than the capacity of their generating facility. Under this approach, an interconnection customer would be able to avoid expensive transmission upgrades that would be triggered if the customer intended to deliver the full output of its facility to the transmission grid. Some RTOs and utilities already permit this, but FERC has not proposed to make this a universal requirement until now.

Finally, FERC's NOPR includes proposals intended to improve the ability of electric storage devices to interconnect with their local utilities and sell into wholesale electricity markets. FERC proposes to revise the definition of "Generating Facility" in the *pro forma* large generator interconnection procedures and agreement to include electric storage resources. (FERC has already directed a similar change to the *pro forma* interconnection procedures and agreement that apply to small generators that do not exceed 20 megawatts). In addition, generator owners with excess capacity on their interconnection facilities would be able to use the excess capacity to install energy storage devices on the same site. Energy storage developers also could benefit from FERC's proposal to allow interconnection customers to install more generating capacity than the megawatt limit of their interconnection service. For example, the owner of a battery storage device with a rating of 30 megawatts, which could discharge for a short period, might elect to limit itself to releasing a maximum of 22 megawatts, which it could discharge over a longer time period, and thereby satisfy minimum run-time requirements to sell energy and capacity into wholesale markets. Finally, FERC proposes to require utilities and RTOs to evaluate their methods for modeling electric storage resources for interconnection studies and to report to FERC as to why and how their existing practices are or are not sufficient.

Comments on FERC's interconnection proposals are due March 14, 2017.