This document is scheduled to be published in the
Federal Register on 02/06/2012 and available online at
http://federalregister.gov/a/2012-02575, and on **FDsys.gov**

BILLING CODE 6717-01-P

Department of Energy
FEDERAL ENERGY REGULATORY COMMISSION

Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects	Docket No. AD12-9-000
Priority Rights to New Participant-Funded Transmission	AD11-11-000
Puget Sound Energy, Inc.	EL10-72-001
National Grid Transmission Services Corporation Bangor Hydro Electric Company	EL11-49-000
Rock Island Clean Line LLC	ER12-365-000

NOTICE OF WORKSHOP

Take notice that Federal Energy Regulatory Commission (Commission) staff will convene a workshop to obtain input on potential reforms to the Commission's policies governing the allocation of capacity on new merchant transmission projects and new cost-based, participant-funded electric transmission projects. The workshop will be held on Tuesday, February 28, 2012, from 9:00 am to 1:15 pm (EST), at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Members of the Commission may attend.

Advance registration is not required, but is encouraged. You may register at the following webpage: https://www.ferc.gov/whats-new/registration/capacity-workshop-2-28-12-form.asp.

Attached to this notice is an agenda for the workshop. If any changes are made, the revised agenda will be posted prior to the event on the Calendar of Events on the Commission's web site, www.ferc.gov.

This workshop is not intended to address the substance of any particular case pending before the Commission. However, out of an abundance of caution, notice is hereby given that discussions at the workshop may touch upon matters at issue in the above-referenced individual proceedings that are either pending or within their rehearing period.

The format of the workshop is a facilitated discussion with those persons attending the workshop. As such, there will be no panelists or presentations from participants. We encourage people to attend in person. However, if that is not possible, the Commission will provide a listen-only line. If you need a listen-only line, please email Sarah McKinley (Sarah.McKinley@ferc.gov) by 5:00 pm (EST) on Thursday, February 23, with your name, email, and phone number, in order to receive the call-in information the day before the conference. Please use the following text for the subject line, "AD12-9-000 listen-only line registration."

The workshop will not be transcribed nor webcast. The Commission will be accepting comments following the workshop from all interested parties. Comments will be due within 30 days of the workshop.

FERC workshops are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to accessibility@ferc.gov or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a fax to (202) 208-2106 with the requested accommodations.

FOR FURTHER INFORMATION PLEASE CONTACT:

Andrew Weinstein (Legal Information)
Federal Energy Regulatory Commission, Office of the General Counsel
888 First Street, NE
Washington, DC 20426
(202) 502-6230
andrew.weinstein@ferc.gov

Becky Robinson (Technical Information)
Federal Energy Regulatory Commission, Office of Energy Policy & Innovation
888 First Street, NE
Washington, DC 20426
(202) 502-8868
becky.robinson@ferc.gov

Dated: January 31, 2012

Kimberly D. Bose,
Secretary.

Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects

AD12-9-000
February 28, 2012

Agenda

9:00 – 9:15 a.m.   Welcome and Opening Remarks

In March 2011, the Commission convened a conference to examine, among other things, the process of allocating transmission capacity of new transmission projects, including projects by merchant transmission developers at negotiated rates[1] and participant-funded projects being developed by incumbent public utility transmission providers and nonincumbent transmission developers at cost-of-service based rates.[2] Having analyzed the discussion and comments received, Commission staff is reviewing a range of more specific policy reforms that the Commission may wish to consider. The purpose of this workshop is to obtain input on possible policy reforms, balancing open access principles with the needs of transmission developers to reasonably allocate capacity created by new merchant transmission projects and new cost-based, participant-funded transmission projects. Each session will consist of a facilitated dialogue; there will be no panelists or presentations by participants.

9:15 – 11:15 a.m.   Session 1: Merchant Transmission Projects

---

[1] *See*, *e.g.*, *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) (*Chinook*).

[2] *See*, *e.g.*, *Northeast Utilities Service Co. and NSTAR Electric Co., LLC*, 127 FERC ¶ 61,179, *reh'g denied*, 129 FERC ¶ 61,279 (2009) (*NU/NSTAR*); *Grasslands Renewable Energy, LLC*, 133 FERC ¶ 61,225 (2010) (*Grasslands*).

Public

Commission staff seeks to explore the merits of potential reforms to the Commission's policies governing negotiated rate authority for merchant transmission projects. Prior to the *Chinook* order in 2009, the Commission required that all merchant transmission capacity be allocated during an open season. In *Chinook* and subsequent proceedings, the Commission has permitted flexible capacity allocations on a case-by-case basis with some share of capacity allowed for anchor customer presubscriptions and the remainder being allocated in a subsequent open season. In *SunZia*,[3] the Commission rejected a request to allocate 100 percent of a line's capacity to anchor customers, finding that the applicant did not provide sufficient justification to support that allocation. The Commission, however, did not foreclose the possibility that an applicant could propose and justify a 100 percent capacity allocation to anchor customers. During a technical conference held in March 2011 in Docket No. AD11-11-000, several commenters suggested that the Commission allow 100 percent of a line's capacity to be allocated to an anchor customer.[4]

Staff seeks comment regarding whether it would be appropriate for the Commission to return to the pre-*Chinook* requirement for open seasons as the means to allocate all capacity on a merchant transmission line, but also to allow for distinctions among prospective customers in the open season based on transparent and not unduly discriminatory criteria, with the possible result that a single customer could be awarded up to 100 percent of capacity. Staff also wants to explore the use of the terms open season and anchor customer as used by industry. While petitioners have characterized certain parties as anchor customers, staff has noticed that at times the process used to select these looks like what staff would consider an open season. In evaluating whether this policy change would be an appropriate action for the Commission, participants are encouraged to consider the following questions:

1. Would the above-noted approach provide similar benefits as presubscription of anchor customers? If not, in what ways does presubscription of anchor customers enable a project to succeed that are not also satisfied by allocating up to 100 percent of capacity through an open season, including to a single customer?

2. In the event of an oversubscription in an open season, would it be appropriate for the Commission to clarify that there is no obligation to prorate capacity allocations where bids are distinguishable by transparent and not unduly

[3] *SunZia Transmission, LLC*, 131 FERC ¶ 61,162 (2010).

[4] *Priority Rights to New Participant-Funded Transmission*, March 15, 2011 Technical Conference, AD11-11-000. Tr. 21:24, 45:2.

discriminatory criteria, such as creditworthiness, term of service sought, price bid, and net present value?

3. What criteria should the Commission use in evaluating whether a developer has appropriately sized a line?

4. Given the protections afforded by the open season process, should the Commission permit affiliates of the merchant transmission developer to be awarded up to 100 percent of capacity in the open season?

5. What are the characteristics of a well-designed open season process? Are there lessons learned from the use of open seasons for natural gas pipeline development that are relevant to merchant development of electric transmission?

6. Are the existing open season reporting requirements adequate to provide transparency as to how capacity rights are allocated?

7. Should the Commission retain its practice of considering responses to requests for proposals (RFP) by a merchant transmission developer to satisfy open season requirements, provided that any capacity in excess of the RFP amount be allocated through an open season?[5]

11:15 a.m. – 11:30 a.m. Break

11:30 a.m. – 1:00 p.m. Session 2: Cost-Based, Participant-Funded Transmission Projects

Staff also seeks to explore the merits of potential reforms to Commission policies regarding the development of participant-funded transmission projects at cost-based rates. In recent years, the Commission has received innovative proposals from transmission developers seeking to construct facilities for the use of specific customers in exchange for recovering the cost of the facilities from those customers.[6] To date, the Commission has not required the use of open seasons for customer solicitation for these projects, nor has it required transmission providers to follow service request procedures set forth in the *pro forma* Open Access Transmission Tariff (OATT).

---

[5] *See Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011).

[6] *See NU/NSTAR* and *Grasslands*.

As the Commission receives similar proposals in the future, staff anticipates that questions of customer access to capacity for such cost-based projects will arise. In resolving these questions, staff also anticipates that the nature of the transmission developer may be relevant, with potential distinctions made between incumbent public utility transmission providers and nonincumbent transmission developers.[7] With regard to incumbent public utility transmission providers, staff seeks comment regarding whether it would be appropriate for the Commission to adopt a policy requiring such entities to use service request and transmission planning rules contained in their OATTs for the development of all new transmission facilities. With regard to nonincumbent transmission developers, staff seeks comment on whether it would be appropriate for the Commission to adopt a policy requiring such entities to allocate capacity on new cost-based, participant-funded projects pursuant to an open season, similar to the development of merchant transmission projects.[8] In evaluating whether these would be appropriate actions for the Commission, participants are encouraged to consider the following questions:

1. Would it be appropriate for the Commission to distinguish for this purpose between incumbent public utility transmission providers and nonincumbent transmission developers, given that the former have a set of rules in place to govern the processing of service requests and planning of grid expansion, while the latter do not?

2. Is requiring incumbent public utility transmission providers to use the service request and transmission planning rules contained in their OATTs when allocating capacity on cost-based, participant-funded lines necessary to ensure transparent planning of transmission expansion?

3. Would requiring incumbent public utility transmission providers to use the service request and transmission planning rules contained in their OATTs

---

[7] Nonincumbent transmission developers include a transmission developer that does not currently have a retail distribution service territory or footprint as well as public utility transmission providers proposing transmission projects outside of their existing retail distribution service territory or footprint. A similar distinction was made in Order No. 1000. *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 at P 225 (2011).

[8] In the alternative, the nonincumbent transmission developer could use the service request and transmission planning rules of the *pro forma* OATT to allocate capacity on a project, even where the developer is not yet a public utility.

when allocating capacity on cost-based, participant-funded lines undermine the ability of some projects to succeed? If so, how?

4. Is requiring nonincumbent transmission developers to allocate capacity on cost-based, participant-funded projects through an open season necessary to ensure that such developers have sufficient information to make appropriate sizing decisions and avoid undue discrimination among customers?

5. Would requiring nonincumbent transmission developers to allocate capacity on cost-based, participant-funded projects through an open season undermine the ability of some projects to succeed? If so, how?

6. For purposes of allocating capacity on cost-based, participant-funded projects, would it be appropriate for the Commission to treat a nonincumbent transmission developer as an incumbent public utility transmission provider once it energizes transmission facilities?

1:00 – 1:15 p.m. Wrap-Up

[FR Doc. 2012-2575 Filed 02/03/2012 at 8:45 am; Publication Date: 02/06/2012]