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REGULATORY ALERT BULLETIN

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FERC'S OPEN ACCESS FINAL RULE¹

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INTRODUCTION

On February 15, 2007, the Federal Energy Regulatory Commission (“FERC”) issued, in Docket Nos. RM05-17-000 and RM05-25-000, its Final Rule on open access regulations and amendments to Order Nos. 888² and 889.³ This Regulatory Alert Bulletin identifies major aspects of the Final Rule and highlights areas where FERC has modified its approach from the proposal contained in the Notice of Proposed Rulemaking (“NOPR”), issued on May 19, 2006. The Final Rule requires public utilities to file amendments to their *pro forma* open access tariffs and significantly modify current Open Access Same-Time Information System (“OASIS”) practices.

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² *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh’g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000) (*TAPS v. FERC*), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

³ *Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct*, Order No. 889, 61 Fed. Reg. 21737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh’g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 (1997), *order on reh’g*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

The Final Rule will become effective 60 days after publication in the Federal Register.

I. SUMMARY, SCOPE, AND APPLICABILITY OF THE FINAL RULE

FERC reformed the *pro forma* Open Access Transmission Tariff (“OATT”) in order to address deficiencies that have become clear since the OATT was developed in 1996. Final Rule at P 1. Significant aspects of the Final Rule include the following:⁴

- **ATC Calculation:** FERC reforms the Available Transfer Capability (“ATC”) calculation requirements in the OATT. Public utilities are to work with the North American Electric Reliability Council (“NERC”) and the North American Energy Standards Board (“NAESB”) to develop greater consistency in inputs, calculations, and data exchange, in order to increase transparency. More detail is required to be included in the OATT and additional information must be posted on the OASIS.
- **Transmission Planning:** FERC requires a more inclusive transmission planning process incorporating nine principles: (1) coordination, (2) openness, (3) transparency, (4) information exchange, (5) comparability, (6) dispute resolution, (7) regional participation, (8) economic planning studies, and (9) cost allocation for new projects.
- **Transmission Pricing:** FERC modifies certain pricing rules including: (1) revising energy and generator imbalance charges; (2) eliminating the requirement that new facilities may receive credits only if they are “jointly planned;” and (3) lifting the cap on capacity reassignment pricing. FERC also clarifies its policies on operational penalties, including unreserved use penalties and the distribution of penalty proceeds.
- **Ancillary Services:** FERC amends Schedules 2 – 6 and Schedule 9 of the *pro forma* OATT to state that the ancillary services of Reactive Supply and Voltage Control, Regulation and Frequency Response, Energy Imbalance, Spinning Reserves, Supplemental Reserves, and Generator Imbalance, may be provided by generating units or non-generating resources, where appropriate.
- **Point-to-Point Service:** FERC modifies point-to-point service by clarifying that a transmission provider must use all of its available redispatch options to satisfy a request for firm point-to-point service, and, if the customer chooses, these redispatch options must be studied before the transmission provider commences a facilities study. In addition, transmission providers must offer conditional firm transmission service. The Final Rule rejects the proposal in the NOPR to require hourly Firm Point-to-Point Service.

⁴ For a summary of significant differences between the language of the currently-effective *pro forma* OATT and the *pro forma* OATT language in the Final Rule, please see the chart in Appendix A that identifies tariff language modifications by tariff sheet number. Additionally, Appendix B is a summary chart of changes between the *pro forma* OATT language from the NOPR and the *pro forma* OATT language contained in the Final Rule. The charts do not include non-significant changes (corrected typos, section numbering changes, conforming changes, and very minor wording changes).

FERC also clarifies that pre-confirmed short-term point-to-point requests will have priority over requests that are not pre-confirmed and that have equal or shorter duration.

- **Rollover Rights:** FERC requires that contracts with rollover rights must have a minimum term of five years and that customers notify transmission providers one year in advance that they will be renewing their rights.
- **Acquisition of Transmission Service:** FERC requires that transmission providers post specific performance metrics regarding the timely completion of required studies. FERC also clarifies the priority for pre-confirmed requests for service.
- **Penalties:** FERC will subject transmission providers to penalties if they persistently fail to meet deadlines for completing required studies.
- **Network Resources:** FERC requires transmission providers and network customers to use the transmission provider's OASIS to request designation of, or termination of, network resources and clarifies the types of resources that can be designated.
- **Transparency / OASIS:** FERC requires that transmission providers post: (1) specific performance metrics related to completion of studies under the OATT; and (2) all rules, standards and practices that relate to terms and conditions of transmission service.
- **Credit Standards:** The Final Rule amends the *pro forma* OATT to include an attachment that describes the transmission provider's basic credit standards.
- **Reciprocity:** The Final Rule modifies the reciprocity provision to specify that, if an Independent Transmission System Operator ("ISO") or Regional Transmission System Operator ("RTO") is the transmission provider, the reciprocity obligation is owed to all members of that ISO or RTO.
- **Compliance⁵**
 - Transmission providers that have not been approved as ISOs or RTOs, and whose transmission facilities are not under the control of an ISO or RTO, must submit FPA section 206 compliance filings that contain the revised non-rate terms and conditions set forth in the Final Rule within 60 days following its publication in the Federal Register. The filing need only contain the revised provisions of the Final Rule and not the transmission provider's entire *pro forma* OATT. Additional compliance filings are required in 120 days (capacity benefit margin charges), 180 days (ATC), and 210 days (transmission planning).

⁵ See Part V. of this summary for the Final Rule's chart of major compliance filing deadlines (pages 1061-61), with a few additions.

- For those non-ISO/RTO transmission providers that have received approval from FERC to adopt variations from the non-rate terms and conditions of the *pro forma* OATT, the Final Rule provides a two-tiered compliance process. First, if the variations previously adopted will not be affected in a substantive manner by the reforms of *pro forma* OATT by the Final Rule, the variations may remain in place. Second, if the Final Rule modifies the previously-approved *pro forma* variations, the non-ISO/RTO transmission provider must demonstrate that the previously adopted variations continue to be consistent with or superior to the new *pro forma* OATT. The non-ISO/RTO transmission providers may submit a FPA section 205 filing within 30 days after the publication of the Final Rule to seek a determination that the variation continues to be acceptable.
- ISO and RTO transmission providers must file 210 days after publication, an FPA section 206 compliance filing that contain non-rate terms and conditions set forth in the Final Rule or demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions.

II. BACKGROUND

A. Procedural History

- FERC issued a Notice of Inquiry (“NOI”) on September 16, 2005. In response, parties filed over 4,000 pages of initial and reply comments.
- FERC issued the NOPR on May 19, 2006.⁶ Another 5,700 pages of initial and reply comments were submitted.
- On October 12, 2006, FERC held a technical conference that focused on three main areas: transmission planning, ATC calculation, and redispatch and conditional firm service.
- FERC issued a Notice of Request for Supplemental Comments on November 15, 2006,⁷ and received an additional 750 pages of comments.

B. Legal Justifications for Changes

- FERC concludes that reforms to the *pro forma* OATT are necessary to limit remaining opportunities for undue discrimination, particularly in areas where the *pro forma* OATT leaves the transmission provider with substantial discretion.⁸ Final Rule at PP 39-40.

⁶ *Preventing Undue Discrimination and Preference in Transmission Service*, Notice of Proposed Rulemaking, 71 Fed. Reg. 32,636 (Jun. 6, 2006), FERC Stats. & Regs. ¶ 32,603 (2006).

⁷ *Preventing Undue Discrimination and Preference in Transmission Service*, 117 FERC ¶ 61,185 (2006).

⁸ FERC notes that it does not have to make specific findings of discrimination in order to promulgate a generic rule to eliminate undue discrimination. Final Rule at P 41.

- FERC states that inadequate transparency requirements, combined with inadequate compliance with existing OASIS regulations, increases opportunities for undue discrimination and makes instances of undue discrimination harder to detect. Final Rule at P 51.
- FERC states the *pro forma* OATT has very few requirements regarding how transmission planning should be conducted to ensure that undue discrimination does not occur. Final Rule at P 57. This flaw is notable because of the critical need for new transmission infrastructure to alleviate congestion on the grid. Final Rule at P 58.
- FERC finds that transmission providers have too much discretion under the *pro forma* OATT in the calculation of ATC, which has resulted in a variety of ATC calculation methodologies in use today, very little transparency regarding the nature of the calculations, and very few clear rules governing their use. Final Rule at PP 62, 69.
- FERC notes that existing policies provide wide discretion in the development of imbalance energy charges. Final Rule at P 70.
- Under the Final Rule, the two techniques (planning redispatch and conditional firm services) that are used by transmission providers to serve native load will also be available to transmission customers in order to avoid undue discrimination, facilitate the provision of long-term transmission service and provide customers with greater flexibility in choosing resources to meet their needs. Final Rule at P 78.
- FERC states that its Final Rule is consistent with policies and provisions of the Energy Policy Act of 2005 (“EPAct 2005”), including: (1) facilitating the development of transmission infrastructure; (2) improving transparency in the electricity markets; and (3) increasing compliance with applying civil and criminal penalties for violation of those regulations. Final Rule at PP 79-81.

III. MAJOR MODIFICATIONS OF THE OATT

A. ATC Calculations: Consistency and Transparency

- “ATC” means available transfer capability. Although FERC used the term “Available Transmission Capability” in Order No. 888, the *pro forma* OATT will be revised to be consistent with the NERC definition of ATC, which is the transfer capability remaining on the system for further commercial activity over and above already committed uses.
- Under Order Nos. 888 and 889, each public utility calculates ATC. Instead of prescribing a specific methodology for calculating ATC, FERC encouraged the industry to develop a consistent, industry-wide approach. Order No. 890 finds that this process has been unsuccessful. Final Rule at P 68.

- FERC directs public utilities, working through NERC reliability standards and NAESB business practices development processes, to improve the consistency and transparency of ATC calculations. Final Rule at P 196. Public utilities must develop standards that ensure consistency in ATC calculation components, data inputs, modeling assumptions, and data exchange among transmission providers.
- FERC also increases transparency of ATC calculations by requiring each transmission provider's OATT to include its specific ATC calculation methodology, and to post relevant data and models on each transmission provider's OASIS. FERC does not establish a single methodology for calculating ATC, due to the burden of developing and adopting a uniform software package to calculate ATC. Final Rule at P 208.

1. Consistency

(a) Necessary Degree of Consistency

- The transmission provider must provide, in Attachment C, detailed descriptions for calculating both firm and non-firm ATC. FERC expects that there will only be a few industry-wide ATC calculation formulas. Final Rule at P 207.
- FERC believes that the three ATC calculation methodologies being finalized by NERC (contract path, network ATC, and network AFC) will produce predictable and sufficiently accurate, consistent, equivalent, and replicable results if there is industry-wide consistency of all: (1) ATC components (Total Transfer Capacity ("TTC"), Existing Transmission Commitments ("ETC"), Capacity Benefit Margin ("CBM"), and Transmission Reliability Margin ("TRM")) and certain data inputs and exchange; (2) modeling assumptions; (3) ATC calculation frequency; and (4) coordination of data relevant for the calculation of ATC. Final Rule at P 210.
- Because posted Available Flowgate Capacity ("ATC") values must be associated with a particular path (not AFC values associated with a flowgate), transmission providers using an AFC methodology must convert flowgate values into ATC path values for OASIS posting. Public utilities, working through NERC are to develop in the MOD-001 standard a rule to convert AFC into ATC values. Final Rule at P 211.
- Public utilities working with NERC are to modify related ATC standards by implementing the following principles for firm and non-firm ATC calculations: (1) for ATC calculations, the transmission provider shall account only for firm commitments; and (2) for non-firm ATC calculations, the transmission provider shall account for both firm and non-firm commitments, postbacks of redirected services, unscheduled service, and counterflows. Each transmission provider's Attachment C must include a detailed formula for both firm and non-firm ATC, consistent with the modified ATC-related reliability standards. Final Rule at P 212.

(b) Process to Achieve Consistency

- FERC directs public utilities, working through NERC, to modify the ATC-related reliability standards within 270 days of publication in the Federal Register. Final Rule at

PP 221, 223. Public utilities must work through NAESB to develop business practices that complement NERC's new reliability standards within 360 days of publication in the Federal Register. Also, within 90 days of publication in the Federal Register, NERC and NAESB must file a joint status report on standards and business practices development and a work plan for completion of this task. Final Rule at P 223.

(c) ATC Components

- TTC/TFC: public utilities, working through NERC, are to develop consistent TTC or total flowgate capacity ("TFC") calculation methodologies. Final Rule at P 237. FERC states that the TTC requirements will be determined by the NERC reliability standards and any request for a regional difference from the reliability standards must take place through the NERC process. Final Rule at P 238.
- ETC: Public utilities, working through NERC and NAESB, are to develop a consistent approach for determining the amount of transfer capability a transmission provider may set aside for its native load and other committed uses. Final Rule at P 243. ETC must include committed uses of the transmission system, including: (1) native load commitments (including network service), (2) grandfathered transmission rights, (3) appropriate point-to-point reservations, (4) rollover rights associated with long-term firm service, and (5) other uses identified through the NERC process. ETC should not be used to set aside transfer capability for any type of planning or contingency reserve, which are to be addressed by CBMs and TRMs. All reserved, but unused, transfer capability (non-scheduled) shall be released as non-firm ATC. Final Rule at P 244.
- Public utilities, working through NERC, are to develop requirements in MOD-001 laying out clear instructions on how reservations that have the same Point of Receipt ("POR") (generator) but different Point of Delivery ("POD") (load) should be accounted for. *These reservations should not be modeled in the ETC calculation simultaneously if their combined reserved transmission capacity exceeds the generator's nameplate capacity at POR.* Final Rule at P 245. Because some elements of ETC can be managed via business practices rather than reliability standards, FERC directs public utilities, working through NAESB, to develop business practices necessary for full implementation of the developed MOD-001 reliability standard. Final Rule at P 246.
- CBM: Despite concerns that transmission providers have preferential access to the interface capacity that is set aside for CBM, FERC concludes that Load Serving Entities ("LSEs") should be able to retain the option of setting aside transfer capability in the form of CBM to maintain their generation reliability requirement. Final Rule at PP 256, 259. FERC requires public utilities, working through NERC and NAESB, to develop clear standards for how the CBM value shall be determined, how CBM is allocated across transmission paths, and how CBM is used. Final Rule at PP 257, 260. Transmission providers must reflect the set-aside of transfer capability as CBM in the development of the rate for Point-to-Point transmission service. Final Rule at P 257. Public utilities are required to work through NERC to modify the CBM-related standards to specify the generation deficiency conditions during which an LSE will be allowed to use the transfer capability reserved as CBM. Additionally, transmission set aside as CBM shall be zero in non-firm ATC calculations. FERC orders public utilities to work

with NAESB to develop an OASIS mechanism that will allow for auditing of CBM usage. Final Rule at P 262.

- Transmission providers are to design their transmission charges to ensure that the class of customers not benefiting from the CBM set-aside, *i.e.*, Point-to-Point customers, do not pay a transmission charge that includes the cost of the CBM set-aside. Transmission providers must submit redesigned transmission charges that reflect the CBM set-aside through a limited issue FPA section 205 rate filing as part of their initial ATC-related compliance filing. These filings, to be submitted within 120 days after the publication of the Final Rule in the *Federal Register*, may be limited to the rate design change only, *i.e.*, they will not require the submission of cost of service data or a revision to the transmission provider's revenue requirement. Final Rule at P 263.
- TRM: Public utilities, working through NERC, are to complete the ongoing process of modifying TRM standards MOD-008 and MOD-009. Final Rule at P 272. FERC adopts the NOPR proposal to establish standards specifying the appropriate uses of TRM to guide NERC and NAESB in the drafting process. Transmission providers may set aside TRM for: (1) load forecast and load distribution error, (2) variations in facility loadings, (3) uncertainty in transmission system topology, (4) loop flow impact, (5) variations in generation dispatch, (6) automatic sharing of reserves, and (7) other uncertainties as identified through the NERC process. FERC does not require transfer capability that is set aside as TRM to be sold on a non-firm basis. Final Rule at P 273. FERC directs public utilities, working through NERC, to establish an appropriate maximum TRM. Final Rule at P 275. Each Transmission Provider must calculate, and allocate on the paths and flowgates, the aggregate TRM value for all LSEs within its area and make available all underlying documentation, including work papers and load flow base cases, used to determine TRM, to any transmission customer and LSE within its control area, subject to a confidentiality agreement, if necessary. Final Rule at P 276.

(d) Modeling, Assumptions, and Input Data

- FERC directs public utilities, working through NERC, to modify the reliability standards MOD-010 through MOD-025 to incorporate a requirement for the periodic review and modification of models for: (1) load flow base cases with contingency, subsystem, and monitoring files, (2) short circuit data, and (3) transient and dynamic stability simulation data, in order to ensure that they are up to date. Models should be updated and benchmarked to actual events. Final Rule at P 290.
- FERC adopts the NOPR proposal to require transmission providers to use data and modeling assumptions for the short- and long-term ATC calculations that are consistent with that used for the planning of operations and system expansion, respectively, to the maximum extent practicable. This includes: (1) load levels, (2) generation dispatch, (3) transmission and generation facilities maintenance schedules, (4) contingency outages, (5) topology, (6) transmission reservations, (7) assumptions regarding transmission and generation facilities additions and retirements, and (8) counterflows. FERC directs public utilities, working through NERC in MOD-001, to modify ATC standards to achieve this consistency. Final Rule at PP 292, 295.

- With respect to modeling of generation dispatch, public utilities, working through NERC, are to develop requirements in NERC's MOD-001 specifying how transmission providers shall determine which generators should be modeled in service, including guidance on how independent generation should be considered. FERC also specifies that base generation dispatch will model: (1) all designated network resources and other resources that are committed or have the legal obligation to run, as they are expected to run, and (2) uncommitted resources that are deliverable within the control area, economically dispatched as necessary to meet balancing requirements. Final Rule at P 296.
- Regarding transmission reservations modeling, FERC directs public utilities, working through NERC, to develop requirements in reliability standard MOD-001 that specify: (1) a consistent approach on how to simulate reservations from points of receipt to points of delivery when sources and sinks are unknown and (2) how to model existing reservations. Final Rule at P 297.

(e) ATC Calculation Frequency

- Public utilities, working through NERC and NAESB, must revise reliability standard MOD-001 to require ATC to be recalculated by all transmission providers on a consistent time interval and in a manner that closely reflects the actual topology of the system, *e.g.*, generation and transmission outages, load forecast, interchange schedules, transmission reservations, facility ratings, and other necessary data. Final Rule at P 301.

(f) Data Exchange

- FERC will require public utilities, working through NERC, to revise the related MOD reliability standards to require the exchange of data and coordination among transmission providers and, working through NAESB, to develop complementary business practices. The following data shall, at a minimum, be exchanged among transmission providers for the purposes of ATC modeling: (1) load levels; (2) transmission planned and contingency outages; (3) generation planned and contingency outages; (4) base generation dispatch; (5) existing transmission reservations, including counterflows; (6) ATC recalculation frequency and times; and (7) source/sink modeling identification. Because transmission providers are required to coordinate the calculation of TTC/TFC and ATC/AFC with others, this requires a standard means of exchanging data. Final Rule at P 310.
- FERC acknowledges the concerns of ISO/RTOs that new data exchange protocols may interfere with the existing protocols and seams coordination agreements and, therefore, ISO/RTOs may demonstrate in relevant filings that their existing data exchange protocols are consistent with or superior to those that are developed in the NERC and NAESB processes. Final Rule at P 311.

2. Transparency

- FERC requires transmission providers to take certain measures to make their ATC calculation process more transparent.

(a) OATT Transparency

- Each Transmission Provider must, at a minimum, include the following information in Attachment C to its OATT: (1) clear identification of the NERC-approved methodologies it employs (contract path, network ATC, or network AFC); (2) a detailed description of the specific mathematical algorithm the transmission provider uses to calculate firm and non-firm ATC for the scheduling horizon (same day and real-time), operating horizon (day ahead and pre-schedule), and planning horizon (beyond the operating horizon); (3) inclusion of a process flow diagram that describes the various steps that it takes in performing the ATC calculation; and (4) a definition of each ATC component (i.e., TTC, ETC, TRM, and CBM) and a detailed explanation of how each one is derived in both the operating and planning horizons. Final Rule at P 323. Transmission providers are also required to document their processes for coordinating ATC calculation with their neighboring systems. Final Rule at P 326.
- Attachment C must also contain a description detailing the CBM practices, explain the definition of CBM, and list the databases used to derive its value. Final Rule at P 337.

(b) OASIS

- FERC adopts the proposal in the NOPR to continue to require transmission providers to comply with existing ATC-related posting obligations, and requires Transmission providers, on request, to make available all data used to calculate ATC and TTC for any constrained paths and any system planning studies or specific network impact studies performed for customers. Transmission providers must also continue to post a list of such studies on OASIS. Final Rule at P 348. FERC also requires the additional posting of, at a minimum, a listing of all system impact studies, facilities studies, and studies performed for the transmission provider's own network resources and affiliated transmission customers, to be made available upon request. Appropriate procedures to accommodate CEII concerns should be developed to ensure eligible entities with a legitimate interest in transmission study data can receive access to it. Studies should be made available for five years, consistent with data retention requirements pertaining to denial of service requests. Final Rule at P 349.
- FERC amends the OASIS regulations to incorporate the directives established in the CBM Order⁹ and requires transmission providers to post (and update) the CBM amount for each path. In addition, transmission providers are to make any transfer capability set aside for CBM but unused for such purpose (1) available on a non-firm basis and

⁹ *Capacity Benefit Margin in Computing Available Transmission Capacity*, 88 FERC ¶61,099 (1999).

(2) posted as available on OASIS. Furthermore, transmission providers are to post (and update) the TRM values for the paths on which the transmission provider already posts ATC, TTC, and CBM. Final Rule at P 354.

- FERC requires CBM studies to be performed at least every year. Final Rule at P 358.
- FERC requires transmission providers to post a brief, but specific, narrative explanations for changes in monthly and yearly ATC values on a constrained path. FERC will require a narrative when a monthly or yearly ATC value changes only as a result of a 10 percent change in TTC. Posted information include: (1) the specific events which gave rise to the change; and (2) new values for ATC on that path (as opposed to all points on the network). Final Rule at P 369. FERC will also require a narrative with regard to monthly or yearly ATC values when ATC remains unchanged at a value of zero for a significant period, and sets that period at six months or longer. Final Rule at P 371.
- FERC maintains the requirement that a transmission provider post the reason for a denial of service and extends from three years to five years the period for which transmission providers must maintain data providing reasons for denial of service. Final Rule at P 376. FERC also expands the regulations to include availability of information supporting the disposition of a transmission provider's own network resource designations and to make such information available to any eligible customer rather than just to the customer denied service. FERC also clarifies that a partial denial of service triggers the requirements as well. The development of a log of service denials, full or partial, will establish an ongoing record of service requests and transmission provider responses demonstrating the transmission provider's provision of nondiscriminatory open access service. Final Rule at P 377.
- FERC requires transmission providers and network customers to use OASIS to request designation of new network resources and to terminate designation of network resources. This information shall be posted on OASIS for 90 days and available for audit for a five-year period. Transmission customers thus shall be able to query requests to designate and terminate a network resource. FERC orders public utilities, working through NAESB, to develop appropriate templates for OASIS. Final Rule at P 385.
- FERC affirms that transfer capability associated with transmission reservations that are not scheduled in real time are required to be made available as non-firm, and posted on OASIS. Final Rule at P 389.
- Although acknowledging the security and confidentiality concerns raised by commenters, FERC asserts that those with a need to obtain CEII information must be able to obtain it on a timely basis. Final Rule at P 403. Therefore, FERC requires transmission providers to establish a standard disclosure procedure for CEII. Transmission providers may: (1) set up additional login requirements and (2) require customers to sign a nondisclosure agreement at the time that the customer obtains access to this portion of the OASIS. Final Rule at P 404.

- FERC requires that the metrics related to the provision of transmission service under the OATT be posted on OASIS.
- Transmission providers must post: (1) the number of affiliate versus non-affiliate requests for service that have been rejected, and (2) the number of affiliate versus non-affiliate requests for service that have been made. This posting must detail the length of service request (*e.g.*, short-term or long-term) and the type of service requested (*e.g.*, firm point-to-point, non-firm point-to-point or network service). FERC also requires transmission providers to post their underlying load forecast assumptions for all ATC calculations and to post, on a daily basis, their actual daily peak load for the prior day. FERC directs transmission providers to work through NAESB to develop standards for consistent methods of posting the new requirements on OASIS. Final Rule at P 413.
- FERC notes that affiliate posting requirements do not apply to RTOs and ISOs because they do not have affiliates to transact with. Final Rule at P 414. RTO and ISO load data needs to be posted at a sufficient granularity to allow for meaningful comparison of control area and LSE load levels, and FERC directs ISOs and RTOs to post load data for the entire ISO/RTO footprint and for each LSE or control area footprint within the ISO/RTO.
- FERC also finds that the peak load applies to system-wide load, including native load and, therefore, transmission providers are directed to post load forecasts and actual daily peak load for both system-wide load (including native load) and native load, as this data will be useful to customers and regulators. Final Rule at P 416.

B. Transmission Planning

1. Need for Reform

- The OATT is not sufficient to encourage non-discriminatory transmission expansion in an era of congestion and under-investment in the transmission grid and does not sufficiently counter the incentives for transmission owners to expand the system in a manner that favors their generation and their native load. Final Rule at PP 422-423.
- FERC concludes that it is necessary to require coordinated, open, and transparent transmission planning on both a local and regional level. Final Rule at P 435.

2. New Planning Requirements

- Each public utility transmission provider is required to submit, as part of a compliance filing, a proposal for a coordinated and regional planning process that complies with the planning principles and other requirements in the Final Rule. Final Rule at P 437. Alternatively, transmission providers may make a compliance filing describing their existing coordinated and regional planning process, including the appropriate language in their tariff, and show that their existing process is consistent with or superior to the requirements in the Final Rule. Final Rule at P 437.

- FERC does not intend to reopen prior approvals of ISOs and RTOs that already have established regional transmission planning processes, but will require them to make a showing that their processes comply with the Final Rule. FERC notes that transmission owning members of RTOs must also comply with the Final Rule and participate in the planning process. Final Rule at P 439-440.

3. Compliance Deadline

- Transmission planning processes must be contained in an attachment to the OATT to be filed within 210 days after the publication of the Final Rule. Final Rule at P 442.

4. Technical Conferences

- FERC will convene staff technical conferences in several regions to discuss regional implementation 3-4 months after publication of the Final Rule. Final Rule at P 443.
- To facilitate these conferences, each transmission provider should, within 75 days after the publication of the Final Rule, post a “strawman” proposal for compliance with each of the planning principles, including a specification of the broader region in which it will conduct coordinated regional planning. Final Rule at P 443.

5. Planning Principles

- The Final Rule contains 9 Transmission Planning Principles that FERC would like to guide the transmission planning process. This adds one guideline to those in the NOPR.
 - Coordination – The transmission provider must meet with all of its transmission customers and interconnected neighbors to develop a transmission plan. FERC notes that meetings might be complemented by a standing planning committee. Final Rule at P 452. Customers must be included at the early stages of the development of the transmission plan and not merely given an opportunity to comment on transmission plans that were developed in the first instance without their input. Final Rule at P 454.
 - Openness – Transmission planning meetings must be open to all affected parties. While some circumstances require planning efforts of smaller groups, the process must remain open. Final Rule at P 460.
 - Transparency – The transmission provider is required to disclose to all customers and other stakeholders the basic criteria, assumptions, and data that underlie its planning, including how it treats retail native loads, in order to ensure that standards are consistently applied. Final Rule at P 471. FERC also requires that transmission providers make available information regarding the status of upgrades identified in their transmission plans and reiterates that non-public utility transmission providers should abide by the Standards of Conduct with regard to managing non-public transmission planning information obtained through the planning process, consistent

- with their reciprocity obligations. Final Rule at PP 472-474. FERC finds Form 715 is an insufficient basis for broad transmission planning purposes and must be supplemented by additional assumptions and data. Final Rule at P 477. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be included in the transmission planning process. Final Rule at P 479.
- Information Exchange – Transmission customers are required to submit information on their projected loads and resources on a comparable basis as used by transmission providers in planning for their native load at regular intervals, and the transmission provider must allow market participants the opportunity to review and comment on draft transmission plans. Final Rule at P 486.
 - Comparability – The transmission system plan should meet the specific service requests of transmission customers and otherwise treat similarly situated customers comparably. Ultimate responsibility remains with transmission providers, and FERC rejects the arguments that comparability requires that customers have equal weight in decision-making. Final Rule at P 495.
 - Dispute Resolution – FERC adopts the NOPR’s proposal to require transmission providers to develop a dispute resolution process to manage disputes that arise from the Final Rule’s planning process and that should address both procedural and substantive planning issues. Final Rule at PP 496, 501.
 - Regional Participation – The transmission provider is required to coordinate with interconnected systems to share system plans and ensure that they are simultaneously feasible and identify system enhancements that could relieve significant and recurring transmission congestion. Final Rule at P 523. FERC urges participants in existing regional planning processes to closely examine whether improvements may be implemented to ensure that each regional planning process is fully consistent with the requirements of this Final Rule. Final Rule at P 526. FERC declines to mandate the geographic scope of particular planning regions at this time. Final Rule at P 527.
 - Economic Planning Studies – The transmission provider is required to annually prepare studies identifying “significant and recurring” congestion and to post such studies on OASIS. FERC disagrees that economic upgrades should be considered only in the context of individual requests for service under the OATT. Final Rule at PP 542-543. FERC clarifies that it is not intending to establish a rule under which an obligation to study potential upgrades is equivalent to an obligation to fund or build such upgrades. Final Rule at P 544. This principle also applies to ISOs and RTOs. Final Rule at P 544. FERC modifies the NOPR principle to require that stakeholders be given the right to request a defined number of high priority studies annually (e.g., five to ten studies) to address congestion and/or the integration of new resources or loads. Final Rule at P 547. This principle covers the study of upgrades to integrate new generation resources or loads on an aggregated or regional basis. Final Rule at P 548.

- Cost Allocation for New Projects – This principle is not intended to replace current cost allocation rules but rather to apply to projects that do not fit under the existing structure. Final Rule at P 558. *Rather than imposing a particular allocation method, FERC permits transmission providers and stakeholders to determine their own criteria.* Final Rule at P 558. FERC recognizes that there is a free rider problem with cost allocation and encourages regional planning processes to come up with equitable rules. FERC provides several cost allocation principles: (1) whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them; (2) whether a cost allocation proposal provides adequate incentives to construct new transmission; and (3) whether the proposal is generally supported by state authorities and participants across the region. Final Rule at P 561.

6. Independent Third Party Coordinator

- FERC adopts the NOPR proposal to not require the use of an independent third party coordinator at this time. Final Rule at PP 567-568.

7. State Commission Participation

- FERC encourages state commission participation and encourages states to coordinate with each other. FERC will defer to states where appropriate. Final Rule at P 575.

8. Flexibility in Implementation and Examples of Compliant Processes

- FERC makes clear that it does not endorse any specific existing process as a model for all transmission providers. Final Rule at P 582.

9. Recovery of Planning Costs

- FERC will not propose a specific method for recovery and allocation of planning costs. Final Rule at P 586.

10. Open Season for Joint Ownership

- FERC believes there are benefits to joint ownership of transmission facilities, but does not mandate open season procedures to allow market participants to participate in joint ownership. Final Rule at P 594.

11. Specific Study Processes Beyond Reliability and Congestion Reduction

- FERC believes that development of a study process for identifying opportunities for grid enhancement beyond reliability and congestion reduction (such as access to generation

resources) has the potential to provide useful information. FERC therefore will include such study processes within the scope of Principle No. 8. Final Rule at P 599.

12. Level of Planning Detail in the OATT

- FERC requires the transmission provider's OATT to include sufficient detail describing: (1) the process for consulting with customers and neighboring transmission providers; (2) the procedures and anticipated frequency of meetings or planning-related communications; (3) the methodology, criteria, and processes used to develop transmission plans; (4) the method of disclosure of transmission plans and related studies and the criteria, assumptions and data underlying those plans and studies; (5) the obligations of and methods for customers to submit data; (6) the dispute resolution process; (7) the transmission provider's study procedures for economic upgrades to address congestion or the integration of new resources; and (8) the relevant cost allocation procedures or principles. Final Rule at P 602.

C. Transmission Pricing

1. General

- FERC declines to address issues related to rate-pancaking, regional security constrained economic dispatch with LMP, or seams. Final Rule at PP 623-626.

2. Energy and Generator Imbalances

- FERC notes it has accepted a variety of different pricing methodologies and deviation bands for energy imbalance service. In the Final Rule, FERC adopts a standard methodology for imbalance service, in order to provide appropriate incentives for accurate scheduling, without being excessive. Final Rule at P 634.

(a) Three-Tiered Approach

- The imbalance provisions adopted in the new *pro forma* OATT are similar to those implemented by the Bonneville Power Administration. Tier 1 – Imbalances of less than or equal to 1.5% of the scheduled energy (or 2 MW, whichever is larger) are netted monthly and settled at 100% of the incremental or decremental cost. Tier 2 – Imbalances between 1.5% and 7.5% of the scheduled energy (or between 2 – 10MW, whichever is larger) are settled at 90% of the decremental cost for overscheduling or 110% of the incremental cost for underscheduling; and Tier 3 – Imbalances greater than 7.5% (or 10MW, whichever is larger) are settled at 75% of the decremental cost for overscheduling or 125% of the incremental cost for underscheduling. Final Rule at P 664.
- Intermittent resources are exempt from the third tier, and will pay second tier charges for all deviations of 1.5% or larger. An "Intermittent Resource" is "an electric generator that is not dispatchable and cannot store its fuel source and therefore cannot respond to

changes in system demand or respond to transmission security constraints.” Final Rule at PP 665-666.

- This tiered approach applies to both energy (Schedule 4) and generation imbalances (a new Schedule 9). Final Rule at P 668.
- FERC will consider proposals for markets or pools to net or settle imbalances on a case-by-case basis. Final Rule at P 669.
- Transmission providers who have imbalance provisions that deviate from the OATT may re-file their proposals and seek renewed approval. The new imbalance provisions do not abrogate existing agreements. Final Rule at PP 670-671.

(b) Intentional Deviations

- FERC has not adopted penalties for intentional schedule deviations; rather, the imbalance penalties embodied in the three-tiered approach should be sufficient to discourage intentional power dumps or leans on other generation. Final Rule at P 676.

(c) Calculation of Incremental Cost

- For the purpose of imbalance charges, FERC has defined “incremental cost” as “the transmission provider’s actual average hourly cost of the last 10MW dispatched to supply the transmission provider’s native load, based on the replacement cost of fuel, unit heat rates, start-up costs, incremental operation and maintenance costs, and purchased and interchange power costs, as applicable.” This definition will allow recovery of commitment and redispatch costs, but will exclude additional regulation reserve costs. Final Rule at PP 687, 689.
- The feasibility of using market prices will be assessed by FERC on a case-by-case basis. Final Rule at 692.

(d) Inadvertent Energy Treatment

- Inadvertent energy is the difference between a control area’s net actual interchange and the net scheduled interchange. FERC will continue to allow inadvertent energy to be treated differently from imbalances. Under NAESB standards, inadvertent energy must be managed; the return-in-kind approach currently used is adequate, but if it is no longer sufficient for reliability, FERC may adopt a new standard. Final Rule at PP 702-703.

(e) Netting/Crediting of Energy and Generator Imbalances

- As a general rule, FERC is concerned that allowing netting and crediting of imbalances will undermine any incentive to adhere to scheduling. However, FERC will allow netting and crediting within the Tier 1 deviation band. Final Rule at PP 715-716.

(f) Intra-Hour Netting

- FERC will continue to allow net generation to be aggregated over the hour, but will consider proposals to adopt a shorter interval that is consistent with a transmission provider's relevant market structures. Final Rule at P 722.

(g) Distribution of Penalty Revenues above Incremental Cost

- Transmission providers are to develop and file mechanisms to credit penalty revenues above incremental costs to all non-offending transmission customers (including affiliated transmission customers). Final Rule at P 727.

3. Credits for Network Customers

- FERC severs the link between joint planning and credits for new facilities. A network customer will receive transmission credits if the facilities are integrated into the operations of the transmission provider's facilities and such facilities will be presumed integrated if they would be eligible for cost recovery under the transmission provider's annual revenue requirement. Final Rule at P 753.
- The new crediting provisions only apply to facilities added after the effective date of the Final Rule, not to pre-existing facilities. Final Rule at P 758.
- The costs associated with the transmission credits will not be automatically recovered in the transmission provider's cost of service. Transmission providers may propose an automatic adjustment clause under their rates to address the "lag time" between the costs incurred and the transmission provider's next rate case. Final Rule at P 766.
- Point-to-Point customers are not eligible for credits. Final Rule at P 770.
- RTOs and ISOs are not exempted; rather RTO and ISO issues relating to transmission credits will be considered in their compliance filings. Final Rule at P 773.

4. Capacity Reassignment

- FERC finds that the capacity reassignment market has failed to develop into a robust secondary market. As a stimulus, FERC removes the price cap for capacity reassignment (including capacity resold by the transmission provider's merchant function). Final Rule at PP 808-809.
- FERC will monitor the capacity reassignment market to ensure that it is developing properly. This includes the following reforms: (1) all sales or assignments of capacity are to be posted on the transmission provider's OASIS before the reassigned service commences (Final Rule at P 815); (2) assignees of transmission capacity must execute a service agreement before the reassigned service commences (Final Rule at P 816); (3) transmission providers are required to provide quarterly reports summarizing the

service agreements (Final Rule at P 817); and (4) FERC staff will closely monitor the reassignment data submitted by transmission providers in order to identify any problems, including the exercise of market power (Final Rule at P 820).

5. “Operational” Penalties

- If a transmission customer (or the transmission provider taking service under its own OATT) uses transmission service in excess of the capacity it has reserved, or uses unreserved transmission service, it will incur transmission use penalties. Final Rule at PP 834, 837, 840.
- Network customers are subject to penalties if they use network service to support off system sales. Final Rule at P 842.
- Transmission providers have discretion in setting their penalty rates, as long as penalty rates are based on the period of unreserved use. Final Rule at P 846. Also, transmission providers should respect the following criteria: (1) the unreserved use penalty for a single hour of unreserved use is based on the rate for daily firm point-to-point service (even if there is a rate for hourly firm service); (2) generally, more than one penalty assessment for a given duration will lead to an increase in the penalty assessment to the next given duration; thus, more than one daily penalty will lead to incurrence of a weekly penalty; and (3) the penalty rates must be stated explicitly. Final Rule at PP 846-848.
- Transmission providers must provide annual reports detailing the penalties received and distributed. Final Rule at P 861. All Point-to-Point and network customers, including native load customers, will be eligible to receive penalty distributions. Final Rule at P 862.

6. “Higher of” Pricing Policy

- In the NOPR, the Commission sought comment on whether, consistent with the “higher of” pricing policy, the incremental cost for a network upgrade should be presented as a monthly cost rather than a lump sum. Based on the comments received, FERC determined that it was not necessary to make changes to the OATT at this time to address this issue. Final Rule at P 883.

7. Other Ancillary Services

- FERC has amended Schedules 2 – 6 and Schedule 9 of the *pro forma* OATT to state that the ancillary services of Reactive Supply and Voltage Control, Regulation and Frequency Response, Energy Imbalance, Spinning Reserves, Supplemental Reserves, and Generator Imbalance, may be provided by generating units or non-generating resources, where appropriate. Final Rule at P 888.

D. Non-Rate Terms and Conditions

1. Modifications to Long-Term Firm Point-to-Point Service

- Planning redispatch involves an *ex ante* determination of whether out-of-merit order generation resources can be used to maintain firm service. Conditional firm service involves an *ex ante* determination of whether there are limited conditions or hours under which firm service can be curtailed to allow firm service to be provided in all other conditions or hours.
- FERC finds that both planning redispatch and conditional service are currently used under certain conditions by transmission providers to serve native load and determines that these services should be available to all customers in order to avoid undue discrimination. Final Rule at P 911.
- FERC states it will limit the availability of both service options so that the duration is for a time period over which service can be reasonably provided without impairing reliability. Final Rule at P 915. FERC finds that two years is the appropriate time period to allow the transmission provider to reassess the conditions under which redispatch or conditional firm service is provided. Final Rule at PP 959, 981.

(a) Implementation of Planning Redispatch and Conditional Firm

- Where a request for long-term point-to-point firm service is made and cannot be satisfied out of existing capacity, the transmission provider shall, at the request of the customer and in the system impact study, identify: (1) the transmission upgrades necessary to provide the service, and (2) the options for providing service during the period prior to completion of those transmission upgrades. If upgrades cannot be completed, the options subsequently studied must include planning redispatch and conditional firm options. Final Rule at P 957.
- FERC indicates that once the studies are completed, if planning redispatch is available, then the transmission provider shall provide the customer with non-binding estimates of the incremental costs of redispatch and identify the relevant constrained flowgates for which redispatch will be provided. Redispatch is available if it does not degrade or impair reliability of service or interfere with prior contractual commitments. Final Rule at P 946. If, alternatively, conditional firm is available, then the transmission provider shall identify the conditions and hours pursuant to which the service may be curtailed, using a secondary network curtailment priority to maintain reliability. Final Rule at P 958.
- The service agreement for the point-to-point service will specify whether the transmission provider will provide planning redispatch, a mix of planning redispatch and conditional firm, or conditional firm in order to provide the service. FERC states that any service agreement incorporating planning redispatch or conditional firm will be

considered a non-conforming agreement, and must be filed with FERC by the transmission provider. Final Rule at P 960.

(b) Eligibility and Timing for Planning Redispatch and Conditional Firm Options

- Both planning redispatch and conditional firm service need only be made available to customers who request firm point-to-point service of more than a year in duration. Final Rule at P 978.
- A system impact study that studies planning redispatch or conditional firm options must identify: (1) the system constraints; (2) additional direct assignment facilities or network upgrades required to provide the requested service; (3) redispatch options, including an estimate of the incremental costs of redispatch and the relevant congested transmission facilities for which redispatch will be provided; and (4) conditional firm options, including the number of conditional curtailment hours and the specific system conditions during which curtailment may occur. Final Rule at P 978.
- In the system impact study, the transmission provider must identify: (1) generation resources located within the transmission provider's control area, including its own resources, which can relieve the congested transmission facility at issue, and (2) the impact of each identified resource on the congested facilities. Final Rule at P 1003. The Final Rule also directs transmission providers to work with customers to facilitate the use of third party generation, where available, in provision of planning redispatch. Final Rule at P 1007. FERC specifically declined to adopt a commenter's proposal to expand transmission providers' real-time reliability redispatch obligations and incorporate third party bids into redispatch. Final Rule at P 1100.
- With regard to ISOs and RTOs, FERC states that it would be inappropriate to require such entities with real-time energy markets to adopt the provisions for conditional firm point-to-point service. Final Rule at P 992. However, FERC is requiring RTOs and ISOs to modify section 13.5 of the *pro forma* OATT to include monthly redispatch costs for each transmission facility over which planning and reliability redispatch are provided. Such revisions are not necessary if the RTO or ISO has previously been excused from including planning redispatch provisions in its OATT. Final Rule at P 993.
- FERC also places a limitation on the nature of the planning redispatch and conditional firm options based on whether the customer is supporting the construction of upgrades or not supporting such construction. For those supporting construction, the planning redispatch or conditional firm options will serve as a bridge until upgrades are constructed to remedy the congested transmission facilities. For customers not choosing to support the construction of new facilities, the planning redispatch or conditional firm options must be made available as a reassessment product and are subject to certain limitations. Final Rule at PP 979-981.

(c) Pricing of Planning Redispatch

- FERC adopts a new pricing method for planning redispatch service. FERC will no longer require the capping of redispatch costs over the term of the service at the costs of expansion. Final Rule at P 1023.
- Under the new pricing methodology, customers will have the options of paying: (1) the higher of (a) actual incremental costs of redispatch or (b) the applicable embedded cost transmission rate on file with the Commission; or (2) a fixed rate for redispatch to be negotiated by the transmission provider and customer and subject to a cap representing the total fixed and variable costs of the resources expected to provide the service. Final Rule at P 1024. If the customer selects the higher of incremental cost or the embedded cost-rate, the transmission provider shall calculate the costs of redispatch monthly and charge the higher of redispatch or the embedded cost rate each month. Final Rule at P 1024.

(d) Attributes of Conditional Firm

- Customers using the conditional firm service will pay the long-term firm point-to-point rate. Final Rule at P 1047. FERC also states there is no separate queue for the conditional firm option. Final Rule at P 1048.
- FERC indicates in the Final Rule that when conducting the system impact study for the conditional firm option, the transmission provider shall identify: (1) the specific system condition(s) when conditional curtailment may apply; and (2) the annual number of hours when conditional curtailment may apply. The customer is required to select either conditions or hours in its conditional firm service agreement. Final Rule at P 1064.
- FERC will allow for a sufficient time period for development of business practices and tracking mechanisms to implement the conditional firm service. Transmission providers located within the same region should coordinate such policies. Final Rule at P 1046.
- FERC will allow conditional firm point-to-point service to qualify as firm service that supports the designation of network resources imported from other control areas. FERC states this is appropriate because the conditional firm option only affects the transmission of the resource to the network, not the interruptibility of the generating resource itself. Final Rule at P 1091.

(e) Transparency for Redispatch Planning

- FERC adopts the following additional posting requirements for transmission providers. Transmission providers must post on OASIS: (1) their monthly average cost of redispatch for each internal congested transmission facility or interface over which they provide redispatch service using planning redispatch or reliability redispatch under the *pro forma* OATT; (2) a high and low redispatch cost for the month for each of these same transmission constraints; and (3) internal constraint or interface data for the month if any

planning redispatch or reliability redispatch is provided during the month, regardless of whether the transmission customer is required to reimburse the transmission provider for those exact costs. Final Rule at P 1162. FERC also requires posting of third party offers to redispatch. Final Rule at P 1005.

(f) Rollover Rights for Redispatch and Conditional Firm

- FERC states that rollover rights are appropriate for point-to-point service that is provided using planning redispatch or conditional firm options and would otherwise be eligible to for rollover rights. Final Rule at PP 1081-1082.

2. Hourly Firm Service

- While FERC initially proposed to add point-to-point hourly firm service in the NOPR, it declines to mandate it in the Final Rule. Transmission providers continue to have the option to propose the service in a 205 filing. Final Rule at P 1212.

3. Rollover Rights

- FERC revises the right of first refusal to apply to contracts that have a minimum term of five years (rather than the current one year minimum). Final Rule at P 1231.
- At the end of an initial five-year term, a transmission customer must agree to another five-year contract term or match any longer-term competing request in order to be eligible for a subsequent rollover. Final Rule at PP 1231, 1255.
- Additionally, a customer must now provide notice of whether or not it will exercise its right of first refusal no less than one year prior to the expiration date of the transmission service agreement (rather than the current 60-day period). Final Rule at P 1245.
- The only appropriate way to restrict a rollover right will continue to be based upon reasonable forecasts of native load growth or preexisting contracts that commence in the future and are included *in the initial transmission service agreement*. FERC will continue to evaluate forecasts of native load growth on a case-by-case basis. Final Rule at PP 1256-1257.
- FERC clarifies that RTOs and ISOs must submit a filing showing that their practices are consistent with, or superior to, the Final Rule's modifications, and that they do not necessarily need to create rollover rights if they do not currently exist. Final Rule at 1260.
- FERC is not changing section 1.20 of the *pro forma* OATT, which states that one year constitutes a long-term contract. Final Rule at P 1260.
- The new minimum five year/one year right of first refusal provision will become effective upon FERC acceptance of the transmission provider's coordinated and regional planning process also required by the Final Rule. Final Rule at P 1265. FERC clarified that: (1) an existing filed and accepted transmission planning process does not trigger the new rollover rules, but rather they will be triggered upon FERC acceptance of the Final Rule's required compliance filings (assuming rollover reform is applicable to the filer's

tariff service in the first instance); (2) existing contracts with a rollover right at the time of effectiveness of rollover reform may exercise their rollover based on the existing rules because it is only a rollover contract *entered into or renewed* after the effectiveness of rollover reform that must comply with the new rules. Final Rule at PP 1266-1267.

4. Modification of Receipt or Delivery Points

- FERC states that most issues related to redirect service and reform of section 22 (changes in service specifications) of the *pro forma* OATT were addressed by Order No. 676, FERC Stats. & Regs. ¶ 31,216 (2006), which adopted and incorporated into FERC's regulations the "Standards for Business Practices and Communication Protocols for Public Utilities" developed by NAESB's Wholesale Electric Quadrant ("WEQ standards"). Final Rule at P 1269.
- FERC finds that NAESB WEQ is the appropriate body for developing business practices and implementing the Commission's redirect policy. Final Rule at PP 1277-1278.
- FERC clarifies that rollover rights follow redirects, regardless of the duration of the redirect (even if, for example, the redirect is requested for a shorter period). This is consistent with FERC's prior policy that long-term customers should not have to choose between redirecting on a firm basis and maintaining rollover rights, but rather their rollover rights should be retained consistent with the long-term nature of their service. Final Rule at P 1280.
- FERC states that a redirect right does not grant a customer access to system capacity or queue position different from other customers submitting new requests for service. A redirect must be evaluated in accordance with section 17 (dealing with new requests for service) using the same system assumptions and analysis applicable to any other new request. Final Rule at P 1285.
- Although FERC found that a uniform pricing method for redirects was beyond the scope of the Final Rule, FERC noted its recent decision finding that transmission providers are not allowed to collect additional charges when a firm point-to-point customer redirects on a non-firm basis. Final Rule at 1289, citing *Midwest Independent Transmission System Operator, Inc.*, 118 FERC ¶ 61,095 at P 79-85 (2007).
- FERC finds that network customers may not redirect network service in a manner comparable to the way customers redirect point-to-point service. If necessary, a network customer may then either: (1) request to redesignate its original network resource by making a request to designate a new resource, or (2) use secondary network service to substitute a non-designated network resource for designated network resource on an as-available basis. Final Rule at P 1293.

5. Acquisition of Transmission Service

(a) Processing of Service Requests

- The *pro forma* OATT requires that transmission providers process requests for transmission service in a timely fashion. As described more fully below, FERC has created performance metrics that must be posted to each transmission provider's OASIS to ensure transparency in the processing of service requests. Final Rule at P 1296.

(1) Posting Performance Metrics

- In general, transmission providers will be required to: (1) post performance metrics for each calendar quarter within 15 days of the end of the quarter; (2) begin tracking upon the effective date of the Final Rule; (3) keep the quarterly performance metrics on their OASIS site for three calendar years; and (4) calculate the performance metrics separately for affiliates and non-affiliates. Final Rule at P 1308.
- The following set of performance metrics will be required to be posted on a quarterly basis: (1) the processing time from initial service request to offer of a system impact study agreement; (2) system impact study processing time; (3) service requests withdrawn from system impact study queue; (4) process time from completed system impact study to offer of facilities study; (5) facilities study processing time; and (6) service requests withdrawn from the facilities study queue. Final Rule at P 1310.
- Examples of information to be posted include: (1) number of system impact study agreements executed; (2) number of system impact studies completed; (3) number of requests withdrawn from the system impact study queue; (4) average cost of recommended upgrades; and (5) average time from receipt of an executed facilities study agreement to the date when completed facilities study available to customer. Final Rule at P 1310.
- The posting of performance metrics only applies to transmission delivery service requests, and not interconnection service requests. Also, RTOs and ISOs are required to post the same performance metrics. Final Rule at P 1311.
- FERC proposes that the transmission provider must file a notice with FERC in the event that the transmission provider processes more than 20 percent of non-affiliates' studies outside of the 60-day due diligence deadlines for two consecutive quarters. The transmission provider may explain any extenuating circumstances. Final Rule at P 1319.
- Following the quarter following a notification filing, the transmission provider must post: (1) the average of the employee hours expended per completed system impact study; (2) the average of the employee hours expended per completed facilities study; (3) the number of employees dedicated to processing studies. Final Rule at P 1320.

(2) Operational Penalties for Late Studies

- FERC will subject transmission providers to penalties when they fail to meet the prescribed 60-day due diligence deadlines. The transmission provider will be subject to penalties if it continues to be out of compliance with the *pro forma* OATT requirements for each of the two quarters following the notification filing. Final Rule at P 1340. A transmission provider is out of compliance if it completes 10 percent or more of non-affiliates' studies outside of the 60-day period. Final Rule at P 1340.
- The penalty will be assessed on a quarterly basis, starting with the quarter following the notification filing and continuing until the transmission provider completes at least 90 percent of all studies within 60 days after the study agreement has been executed. Final Rule at P 1340.
- For any study completed during that quarter and more than 60 days after the study agreement was executed, the penalty will equal \$500 for each day the transmission provider takes to complete the study beyond 60 days. Final Rule at P 1340.
- For any study that is still pending at the end of the quarter and that has been in the study queue for more than 60 days, the penalty will equal \$500 for each day the study has been in the study queue beyond 60 days. Final Rule at P 1340.
- Penalties may be waived if a transmission provider establishes that the delay is the result of factors or events beyond its control, including delays by the transmission customer. Final Rule at P 1343.
- Penalties will apply to RTOs and ISOs. Final Rule at PP 1353-1354.
- The transmission provider cannot recover penalties through rates. Final Rule at P 1357.

(3) Fee for Multiple Self-Competing Transactions

- FERC will not require transmission providers to charge a fee for duplicate requests for transmission service but does permit transmission providers that experience problems related to the submission of multiple duplicative requests to file a tariff amendment that includes a fee to deal with the problem. Final Rule at P 1365-1366.

(4) Clustering Transmission Service Request Studies

- FERC does not require transmission providers to study transmission requests in a cluster, unless the customers involved make such a request which can be reasonably accommodated. Final Rule at P 1370.
- Transmission providers must include tariff language in their compliance filing that describes how it will process a request to cluster studies and how the transmission customer's obligations will be structured when in a cluster. Final Rule at P 1371.

(5) Standardization of Business Practices for Study Queue Processing

- FERC will not amend the *pro forma* OATT to require coordination of transmission requests across multiple transmission systems. Transmission providers are required to work through NAESB to develop business practice standards for the coordination of requests across multiple transmission systems. Final Rule at P 1377.

(b) Reservation Priority

(1) Priority for Pre-Confirmed Requests

- The Final Rule gives priority to pre-confirmed non-firm point-to-point transmission service requests and short-term firm point-to-point transmission service requests. Longer duration requests will continue to have priority over shorter term requests, with pre-confirmation serving as the tie-breaker for requests of equal duration. Final Rule at P 1401.
- FERC will prohibit transmission customers from withdrawing pre-confirmed non-firm and short-term firm point-to-point requests prior to when the transmission customer is offered service or a system impact study. Final Rule at P 1403.

(2) Price as a Tie-Breaker

- FERC adopts the NOPR proposal of adding price as a tie-breaker in determining reservation queue priority when the transmission provider is willing to discount transmission service. Final Rule at P 1410.

(3) Five-Minute Window for Requests

- The Final Rule makes only one change to the current first-come, first-served policy. FERC will allow transmission providers to propose a window within which all transmission service requests the transmission provider received will be deemed to have been submitted simultaneously. Final Rule at P 1418.

6. Designation of Network Resources

(a) Qualification as a Network Resource

(1) Liquidated Damage Contracts

- FERC finds that “make whole” LD contracts (such as those found in the EEI Firm LD Product and in the WSPP Schedule C agreement) can qualify as network resources. In contrast, other LD provisions that cap penalties or set a fix-dollar amount do not qualify. Final Rule at PP 1452-54.

- An agreement that has been properly designated prior to the effective date of the Final Rule and that contains another type of LD provision will be grandfathered, only until the earlier of (1) the expiration of the current term of the agreement or (2) an indefinite termination of the agreement as a designated network resource pursuant to section 30.3 of the *pro forma* OATT. Final Rule at P 1455.
- Additionally, FERC noted that although the WSPP Schedule C agreement contained an acceptable “make whole” LD provision, the agreement would need to be revised to make clear that interruptions in generation of service in order to serve native load are prohibited for reasons other than reliability. However, despite this infirmity, FERC will not invalidate existing designations of WSPP Schedule C agreements until the earlier of (1) the expiration of the current term of the agreement or (2) redesignation of a previously designated WSPP Schedule C resource following a period of temporary or indefinite termination pursuant to sections 30.2 and 30.3 of the *pro forma* OATT. Final Rule at P 1460.

(2) Off-System Resources

- FERC requires the following information to be provided and posted on OASIS when designating an off-system resource: (1) identification of the resource as an off-system resource; (2) amount of power to which the customer has rights; (3) identification of the control area(s) from which the power will originate; (4) delivery point(s) to the transmission provider’s transmission system; and (5) transmission arrangements on the external transmission system(s). Final Rule at P 1476.
- Additionally, section 29.2(v) is revised to require that the following information be provided with such designation, but such information must be masked on OASIS to prevent the release of commercially sensitive information including: (1) any operating restrictions (periods of restricted operation, maintenance schedules, minimum loading level of resource, normal operating level of resource); and (2) approximate variable generating cost (\$/MWH) for redispatch computations. Final Rule at P 1476.
- FERC will not require that more specific information than the control area be provided, but if any transmission provider believes that it faces unique circumstances, it can propose changes through a 205 filing. Final Rule at P 1481.
- FERC clarified that a customer may not designate as a network resource a seller’s choice power purchase agreement which is sourced by generating units internal to the transmission provider’s control area. Final Rule at P 1483.

(3) Ability to Serve Native Load

- Congress did not require that LSEs be able to take transmission service without limitations of any kind in order to serve their native load; if a transmission provider has unique circumstances, it can make a section 205 filing. Final Rule at P 1493-95.

(4) General

- Firm point-to-point transmission service provided on a conditional firm basis is sufficiently firm to be used for transmission to import a designated network resource. However, designation of network resources within a control area on a conditional-firm basis will not be allowed. Final Rule at P 1503.
- The minimum time period that a transmission provider must honor for designations of new network resources should be the same as the minimum time period used for firm point-to-point service (daily). Final Rule at P 1505.

(b) Documentation for Network Resources

- FERC adopts the NOPR proposal that transmission providers continue to be responsible for verifying that third-party transmission arrangements to deliver the purchase to the transmission provider's system are firm, but that transmission providers are not responsible for verifying that the generating units and power purchase agreements that network customers designate as network resources satisfy the requirements in sections 30.1 and 30.7. Final Rule at P 1521.
- FERC adopts the proposal to require both the transmission provider's merchant function and network customers to include a statement with each application for network service or to designate a new network resource that attests, for each network resource identified, that: (1) the transmission customer owns or has committed to purchase the designated network resource and (2) the designated network resource comports with the requirements for designated network resources. Final Rule at P 1521.
- If a transmission provider or any other network customer designates a network resource that it should not, FERC will consider this an OATT violation. Final Rule at P 1523.

(c) Undesignation of Network Resources

- FERC generally adopts the NOPR proposal to continue to require network customers and the transmission provider's merchant function to undesignate network resources or portions thereof in order to make certain firm, third-party sales from those resources. Network customers may only enter into a third-party power sale from a designated network resource if the third-party power purchase agreement allows the seller to interrupt power sales to the third party in order to serve the designated network load. Such interruption must be permitted without penalty. Final Rule at P 1539.
- FERC clarifies that requests to undesignate network resources that are submitted concurrently with a request to redesignate those network resources at a specific point in time shall be considered temporary terminations and not result in forfeiture of priority. Conversely, requests to undesignate network resources submitted without any concurrent request to redesignate those network resources shall be considered a request for indefinite termination. Final Rule at PP 1540, 1544.

- FERC directs transmission providers to develop OASIS functionality and, working through NAESB, business practice standards describing the procedural requirements for submitting both temporary and indefinite terminations. Final Rule at P 1541.
- FERC clarifies that network customers are not required to file modified service agreements when resources are designated or undesignated. Final Rule at P 1581.
- FERC clarifies that firm third-party sales may be made from an undesignated portion of a network customer's network resources; however, the network customer must submit undesignations for each portion supporting the third-party sale. Final Rule at P 1582.

7. Clarifications Related to Network Service - Secondary Network Service

- Contrary to the NOPR, FERC retains the existing section 28.4, permitting use of secondary network service "to deliver energy to its Network Loads." Final Rule at P 1601.
- Secondary service must be requested in accordance with section 18 (Procedures for Arranging Non-Firm Point-to-Point Transmission Service), including the timing restrictions. Final Rule at P 1606.
- Network customers may not redirect network service in a manner comparable to the way customers redirect point-to-point service, but instead should terminate the designation of the existing resource and designate a new resource. Final Rule at P 1612.

8. Transmission Curtailments

- FERC concludes that the posting of additional curtailment information is necessary to provide transparency. Final Rule at P 1626. Transmission providers, working through NAESB, are to develop a detailed template for the posting of additional information on OASIS regarding firm transmission curtailments. Final Rule at P 1627.
- Transmission providers are not required to implement these OASIS modifications until NAESB develops appropriate standards. Postings must include all circumstances and events contributing to the need for a firm service curtailment, specific services and customers curtailed, and the duration of the curtailment. This additional, detailed template posting regarding curtailment events is in addition to OASIS postings already required by existing rules. Final Rule at P 1627.

9. Standardization of Rules and Practices

(a) Business Practices

- The Final Rule continues FERC's policy to require only those rules, standards, and practices that significantly affect transmission service to be incorporated into the transmission provider's OATT under the "rule of reason" test. Final Rule at P 1649.
- Transmission providers are to post on their public websites *all* rules, standards, and practices that relate to transmission service and provide a link to these rules, standards, and practices. Final Rule at PP 1652-53. As guidance the Final Rule references the MAPP Policies and Procedures for Transmission Operations manual. Final Rule at P 1654.
- In addition, the transmission provider must post on its public website a statement of the process by which the provider will amend its rules, standards, and practices, including a mechanism to provide reasonable notice of any proposed changes to a posted business practice and the respective effective date of such change. Final Rule at P 1655.

(b) Credit Standards

- The Final Rule amends the *pro forma* OATT to include Attachment L describing the transmission provider's basic credit standards. It will include the quantitative and qualitative criteria to be utilized by the transmission provider to determine the level of credit extended to customers, including procedures to determine levels of secured and unsecured credit, types of acceptable collateral and security, procedures for providing notice of changes in credit levels, a procedure for providing customers written explanations of changes in credit determinations, and a reasonable opportunity for customers to post additional collateral or cure a lack of creditworthiness. Final Rule at PP 1656-57. Attachment L includes summary information about credit procedures and the Final Rule clarifies that more detailed credit procedures, metrics, or other information that relates to the provision of transmission service can be provided on the transmission provider's website. Final Rule at P 1658.

10. OATT Definitions

- The Final Rule adopts the OATT definition of "affiliate" proposed by the NOPR, with two clarifications. First, FERC clarifies that there is no corporate affiliation between G&T cooperatives and member distribution cooperatives. Final Rule at P 1682. Second, the Final Rule states that the affiliation of a merchant to a transmission provider does not establish an affiliation between such merchant and an RTO or ISO that has operational control over the transmission facilities of the transmission provider. Final Rule at P 1683.
- FERC incorporates the definition of reliable operation from FPA section 215 into the definition of "good utility practice" in the *pro forma* OATT. Final Rule at P 1687.

- The Final Rule creates a definition of “non-firm sale” to clarify the treatment of such sales under section 30.4 of the *pro forma* OATT. As provided in the *pro forma* OATT, network customers may use network resources for third party sales only if the sale is on a non-firm basis. Final Rule at P 1692.
- The Final Rule adopts the NOPR proposed definition of “pre-confirmed application” in order to implement the reforms adopted regarding the priority of transmission service requests. Final Rule at P 1695.

E. Enforcement

- FERC’s enforcement program will include: (1) operational audits (as in past OATT compliance audits); (2) audits that can be random or targeted at specific entities or compliance with specific provisions; and (3) staff discretion as to audited entities and subject matters. Final Rule at P 1718.
- Although it does not eliminate the possibility of an audit, transmission providers should designate employees as compliance officers for the OATT or conduct third-party audits where appropriate. Final Rule at P 1718.
- FERC does not prescribe specific penalties, develop formulas for different violations, or create “safe harbors.” Rather, penalty assessments will depend on a review of all applicable mitigating factors and the specific circumstances surrounding each violation. FERC also rejects automatic exemptions from civil penalties for violations by certain types of entities, such as non-profit RTOs. Final Rule at PP 1730-1732.
- FERC states that it will not consider an entity to be uncooperative with audit staff if the entity appropriately asserts the attorney-client privilege. FERC notes, however, there is a difference between “cooperation” (required by the FPA) and “exemplary” cooperation that ends wrongful conduct quickly. Final Rule at PP 1733-1734.
- FERC will revoke an entity’s market-based rate authority in response to an OATT violation only upon a finding of specific factual nexus between the violation and the entity’s market-based rate authority. It is FERC’s burden to show the factual nexus, and the decision will be made on a case-by-case basis. FERC notes, however, that it has discretion to fashion remedies for OATT violations that relate to the violator’s market-based rate authority in instances which it does not find a factual nexus justifying revocation of the market-based rate authority. Final Rule at PP 1743-1745.
- FERC does not adopt its NOPR proposal to revoke the market-based rate authority of each affiliate of a transmission provider that loses its market-based rate authority within a particular market as a result of an OATT violation. Rather, such affiliates will have an opportunity to overcome a rebuttable presumption that they should lose their market-based rate authority in such circumstances. Final Rule at PP 1746-1748.
- The Commission will use a case-by-case approach to considering whether OATT violations may constitute market manipulation. Final Rule at P 1751

IV. CORE ELEMENTS OF ORDER NO. 888 THAT ARE RETAINED

A. Federal/State Jurisdiction

- The Final Rule retains the existing jurisdictional divide established in Order No. 888 – FERC would have exclusive jurisdiction over unbundled retail transmission service but would not exercise jurisdiction over bundled retail transmission. Final Rule at P 94.

B. Native Load Protection

- The Final Rule concludes that the native load priority established in Order No. 888 is appropriate and is consistent with FPA section 217, which protects the transmission rights of entities with service obligations to end-users or a distribution utility to the extent required to meet their service obligations. Final Rule at P 107.

C. The Types of Transmission Service Offered

- The Final Rule concludes that network and point-to-point services are the appropriate base-line service offerings, and will not mandate that transmission providers adopt new service offerings such as network contract demand service. Final Rule at P 115.

D. Functional Unbundling

- As proposed in the NOPR, the Final Rule continues to require functional, rather than corporate or structural, unbundling. Final Rule at PP 122-123.

E. Other Unchanged Provisions

1. Behind the Meter Generation

- FERC will not require transmission providers to allow netting of behind the meter generation against transmission service charges to the extent customers do not rely on the transmission system to meet their energy needs. Instead, FERC will continue to review alternative transmission provider proposals for behind the meter generation treatment on a case-by-case basis. Final Rule at P 1619.

2. Liability and Indemnification

(a) Force Majeure

- The Final Rule retains language utilizing “all reasonable efforts” in the OATT force majeure provision and notes that the provision applies to both transmission providers and customers. Final Rule at 1664.

(b) Indemnification/Limitation of Liability

- The Final Rule retains the existing liability protections in the *pro forma* OATT, rejecting calls by certain industry participants to adopt broader customer indemnification obligations and declining to adopt a gross negligence standard of liability for transmission providers other than for ISOs and RTOs. Final Rule at PP 1671-72.

3. Other Provisions

The following sections are not modified by the Final Rule:

- Section 5 on Local Furnishing Bonds,
- Section 7 on billing and payment,
- Section 8 on accounting for the Transmission Provider's use of the tariff,
- Section 9 on regulatory filings,
- Section 10 on Force Majeure and indemnification,
- Section 12 on dispute resolution,
- Section 20 on procedures if the Transmission Provider is unable to complete new transmission facilities,
- Section 21 on transmission and construction services on the systems of other utilities,
- Section 22 on changes in service specifications,
- Section 24 on metering,
- Section 25 on compensation,
- Section 26 on stranded cost recovery,
- Section 33 on load shedding and curtailment,
- Section 34 on rates and charges,
- Schedule 1 on scheduling, system control and dispatch service,
- Schedule 7 in point-to-point transmission service, and
- Schedule 8 on non-firm service.

V. COMPLIANCE DEADLINES

Below is the Final Rule's chart of major compliance deadlines,¹⁰ with a few additions. For a more detailed description of compliance obligations, please refer to the Final Rule paragraph number in the right-hand column.

Deadline (days after publication in Fed. Reg.)	Compliance Action	Final Rule Paragraph #
Upon Effective date	Begin tracking performance metrics for quarterly postings	P 1308

¹⁰ See Final Rule at pages 1061-62.

Deadline (days after publication in Fed. Reg.)	Compliance Action	Final Rule Paragraph #
30	Optional implementation FPA section 205 filings allowing transmission providers to propose previously approved variations from the <i>pro forma</i> OATT that have been affected by <i>pro forma</i> OATT Final Rule reforms to remain in effect subject to a demonstration that such variations continue to be consistent with or superior to the revised Final Rule <i>pro forma</i> OATT (non RTO/ISO transmission providers). Such optional filings must request a 90 day effective date to facilitate Commission review under section 205.	P 139
60	Non-ISO/RTO transmission providers submit FPA section 206 filings that contain the non-rate terms and conditions set forth in Final Rule. These filings need only contain the revised provisions adopted in the Final Rule. Transmission providers utilizing the optional implementation FPA section 205 filing described above, need only submit tariff sheets necessary to implement the remaining modifications required under the Final Rule, <i>i.e.</i> , modifications related to tariff provisions that did not implicate previously-approved variations.	P 135
75	Transmission providers must post a “strawman” proposal for compliance with each of the nine planning principles adopted in the Final Rule. This may be posted on the transmission provider’s website or its OASIS site.	P 443
90	NERC/NAESB status report and work plan for completion of ATC related business practices and standards.	P 223
90	NAESB status report and work plan for completion of OASIS functionality or uniform business practices (other than those related to ATC).	P 141
120	Transmission providers must submit redesigned transmission charges that reflect the Capacity Benefit Margin set-aside through a limited issue section 205 rate filing as part of their initial ATC related compliance filings	P 263
180	Submit compliance filings with Attachment C (ATC) of the <i>pro forma</i> OATT	P 140
180	Transmission providers must implement regional mechanisms and business practices for the provision of conditional firm service.	P 1046
210	ISOs and RTOs, and transmission providers located within an ISO/RTO footprint, must submit FPA section 206 filings that contain the non-rate terms and conditions set forth in the Final Rule. These filings need only contain the revised provisions adopted in the Final Rule or a demonstration that previously approved variations continue to be consistent with or superior to the revised <i>pro forma</i> OATT.	P 157 P 161
210	Submit compliance filings with Attachment K (Planning) of the <i>pro forma</i> OATT or RTOs and ISOs file a demonstration that their planning processes are consistent with or superior to the planning principles in the Final Rule	P 140 P 442
270	Public utilities must work through NERC to modify the ATC-related reliability standards	P 223
360	Public utilities must work through NAESB to develop business practices that complement NERC’s new reliability standards	P 223
N/A	Transmission providers must file a revised Attachment C to incorporate any changes to NERC’s and NAESB’s reliability and business practice standards to achieve consistency in ATC within 60 days of completion of the NERC and NAESB processes.	P 325
N/A	After the submission of FPA section 206 compliance filings, transmission providers may submit FPA section 205 filings proposing rates for the services provided for in the tariff, as well as non-rate terms and conditions that differ from those set forth in the Final Rule if those provisions are “consistent with or superior to” the <i>pro forma</i> OATT.	P 135

APPENDIX A
SUMMARY OF SIGNIFICANT MODIFICATIONS
TO THE CURRENTLY EFFECTIVE PRO FORMA OATT

**ORDER NO. 890:
SUMMARY OF SIGNIFICANT MODIFICATIONS
TO THE CURRENTLY EFFECTIVE PRO FORMA OATT**

MODIFICATION	ORIGINAL SHEET NO.
Added definition for “affiliate.”	10
Added reference to FPA Section 215(a)(4) to definition of “good utility practice.”	14
Added definition of “non-firm sale.”	18
Added definition of “pre-confirmed application.”	20
Added definition for “system condition.”	21-22
Added clarification regarding right of first refusal rights for existing service agreements once a transmission provider’s Attachment K is accepted.	25
Discussion of Ancillary Services amended to include references to non-generation sources of reactive and voltage control.	25
Modified Ancillary Services discussion to provide that a transmission customer that exceeds its firm reserved capacity is required to pay for Ancillary Services related to such transmission.	26
Reference made to Generator Imbalance Service and Schedule 9 details of such service.	28
New provision added to require transmission provider to post all rules, standards, and practices related to transmission service on its public website and procedures to be used to institute changes to these rules, standards, and practices.	29-30
Expanded the number of transmission customers subject to the OATT’s reciprocity requirements to those that take transmission service from RTOs, ISOs, and other regional entities.	32
Removed section regarding creditworthiness standards in the body of the OATT and replaced the section with reference to Attachment L.	37-38
Provided greater clarification of service priority among short-term firm point-to-point transmission customers.	41-42
Provided greater clarification of service priority among short and long-term service customers.	42-43
Modified the discussion of service agreements to provide that eligible customers that receive service will be deemed to have executed a service agreement, provides for conditional curtailment provisions in service agreements,	44-45

MODIFICATION	ORIGINAL SHEET NO.
Provided that eligible customers may take service from the transmission provider if they agree either to compensate transmission providers for necessary transmission additions or subject to biennial reassessment of redispatch requirements.	46
Provided additional priorities for curtailment of long-term firm point-to-point service.	47
Addressed priority of pre-confirmed applications.	52
Added reference to the new transmission planning requirements in Attachment K.	60
Required transmission providers to utilize due diligence to accommodate firm point-to-point transmission service via redispatch or conditional curtailment procedures, where appropriate.	60-62
Provided that transmission customers must provide the data required by Attachment K's transmission planning process in order to receive firm point-to-point service.	63
Required transmission customer applications to include whether the customer commits to a pre-confirmed request and information required for transmission planning purposes under Attachment K.	67
Regarding extensions for commencement of service to an eligible customer, provided for withdrawal of applications where a request for extension is pending and a non-refundable reservation fee is not timely paid.	71
Required transmission customer applications for non-firm point-to-point service to include whether the customer commits to a pre-confirmed request.	73
Provided option to eligible customer to forego study of redispatch or conditional curtailment as part of a system impact study.	75
Provided greater detail regarding content of system impact studies, including redispatch.	77-78
Provided penalties and procedures related to a transmission provider's failure to timely complete system impact studies and facility studies.	82-84
Modified procedures for assignment of transmission service rights, including timely execution by assignee of a service agreement.	90-91
Provided that assignments of transmission service rights must be done over OASIS.	92
Included reference to Attachment K transmission planning process in discussion of transmission provider responsibilities.	95-96

MODIFICATION	ORIGINAL SHEET NO.
Clarified preconditions to provision of secondary service.	97
Provided that the transmission provider will establish stated penalties and charges for network service customers that utilize network integration transmission service to permit a wholesale sale not serving network load.	98
Provided for designation and data in applications related to off-system network resources.	102-103
Required applications for network service to include a certification and additional data required by Attachment K.	104-105
Imposed new requirements for a network customer to designate a network resource.	107-108
Provided procedures by which a network customer may terminate the designation of network resources, including temporary termination.	108-110
Addressed scheduling of network resources not physically connected to the transmission provider's transmission system.	110-111
Provided greater detail regarding conditions under which transmission customer will receive credits for integrated transmission facilities.	113
Required network customers to provide Attachment K information in its annual load and resource update.	116
Specified that failure to complete facilities studies and system impact studies under Part 3 of the OATT utilize the same penalties and procedures as outlined in Part 2.	121
Edited Schedules 2, 3, 4, 5, 6, and 9 to provide for possible use of non-generation resources to provide certain ancillary services.	131, 133, 134, 137, 138, 143
Edited Schedule 4 to provide procedures regarding imbalance services and calculation of related charges.	134-135
Added Schedule 9 regarding generator imbalance service.	143-145
Added Attachment A-1 to standard <i>pro forma</i> long-term firm form of service agreement related to the assignment of transmission service.	150-153
Added Attachment C regarding methodologies to calculate ATC.	156-157
Added Attachment J regarding parallel flows.	164
Added Attachment K to formalize procedures to be used in the transmission provider's transmission planning process.	165-166
Added Attachment L regarding creditworthiness evaluations and credit determination procedures.	167

APPENDIX B
SUMMARY OF SIGNIFICANT MODIFICATIONS
TO PRO FORMA OATT PROPOSED IN THE NOPR

**ORDER NO. 890:
SUMMARY OF SIGNIFICANT MODIFICATIONS
TO PRO FORMA OATT PROPOSED IN THE NOPR**

MODIFICATION	ORIGINAL SHEET NO.
Deleted definition of “economy energy.”	12
Added definition for “system condition.”	21-22
Discussion of Ancillary Services amended to include references to non-generation sources of reactive and voltage control.	25
Modified Ancillary Services discussion to provide that a transmission customer that exceeds its firm reserved capacity is required to pay for Ancillary Services related to such transmission.	26
Reference made to Generator Imbalance Service and Schedule 9 details of such service.	28
New provision added to require transmission provider to post all rules, standards, and practices related to transmission service on its public website and procedures to be used to institute changes to these rules, standards, and practices.	29-30
Expanded the number of transmission customers subject to the OATT’s reciprocity requirements to those that take transmission service from RTOs, ISOs, and other regional entities.	32
Changed the minimum term for firm point-to-point transmission service from one hour to one day.	40
Deleted references to pre-confirmed applications for service for long-term firm point-to-point service.	41
Provided greater clarification of service priority among short-term firm point-to-point transmission customers.	41
Provided greater clarification of service priority among short and long-term service customers.	42-43
Modified the discussion of service agreements to provide that eligible customers that receive service will be deemed to have executed a service agreement. Provided for conditional curtailment provisions in service agreements.	44-45
Provided additional priorities for curtailment of long-term firm point-to-point service.	47
Required transmission providers to utilize due diligence to accommodate firm point-to-point transmission service via redispatch or conditional curtailment procedures, where appropriate.	60-61

MODIFICATION	ORIGINAL SHEET NO.
Regarding extensions for commencement of service to an eligible customer, provides for withdrawal of applications where a request for extension is pending and a non-refundable reservation fee is not timely paid.	71
Provided option to eligible customer to forego study of redispatch or conditional curtailment as part of a system impact study.	75
Provided greater detail regarding content of system impact studies, including redispatch.	77-78
Modified procedures for assignment of transmission service rights, including timely execution by assignee of a service agreement.	90-91
Provided that assignments of transmission service rights must be done over OASIS.	92
Provided that the transmission provider will establish stated penalties and charges for network service customers that utilize network integration transmission service to permit a wholesale sale not serving network load.	98
Provided for designation and data in applications related to off-system network resources.	102-103
Provided procedures by which a network customer may terminate the designation of network resources, including temporary termination.	108-110
Edited Schedules 2, 3, 4, 5, 6, and 9 to provide for possible use of non-generation resources to provide certain ancillary services.	131, 133, 134, 137, 138, 143
Edited Schedules 4 and 9 to provide procedures regarding imbalance services and calculation of related charges.	134-135, 143-145
Added Attachment A-1 to standard <i>pro forma</i> long-term firm form of service agreement related to the assignment of transmission service.	150-154
Modified Attachment C regarding methodologies to calculate ATC.	156-157
Revised Attachment K to formalize procedures to be used in the transmission provider's transmission planning process.	165-166