

1068. We will require annual caps on the number of hours because calculating an annual cap entails less risk for the transmission provider and its existing firm customers than monthly or seasonal caps. While we will not require monthly or seasonal caps, we encourage transmission providers to offer them if they can overcome modeling barriers because monthly or seasonal caps give more certainty to customers about the particular aspects of their service. Though we allow for flexibility in modeling and determining the number of conditional curtailment hours for a particular service request, we believe that this will have a minimal impact on conditional firm customers. Transmission providers will be allowed to curtail only for reliability purposes and conditional firm customers during conditional curtailment hours will be curtailed only after all point-to-point non-firm customers have been curtailed.

**(iii) Conditional Curtailment Priority**

**Comments**

1069. Some commenters agree with the Commission's proposal that conditional firm service should have secondary network curtailment priority during conditional curtailment hours,<sup>656</sup> while others disagree. Bonneville supports the use of the secondary network curtailment priority arguing that customers will value the service more with the secondary network priority, thus increasing the viability of conditional firm service as an alternative to transmission upgrades. EPSA and AWEA argue that conditional firm

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<sup>656</sup> E.g., Bonneville, AWEA Reply, and EPSA Reply.

service during conditional curtailment hours should be curtailed after all non-firm uses.

In their reply comments, TDU Systems oppose EPSA and AWEA's position, arguing that secondary network service should have at least as high a priority as conditional firm service. In contrast, EEI argues that setting the curtailment priority equal to secondary network service would adversely impact the reliability of firm service by reducing real-time redispatch options and contradict Order No. 888 precedent that provides priority non-firm service only for network customers that pay a load ratio share of system costs.<sup>657</sup> If conditional firm service is implemented, Powerex states that transmission providers should provide data and evidence demonstrating that the rights of existing long-term firm customers will be protected. EEI takes issue with the Commission's proposal to grant conditional firm customers priority non-firm service during conditional curtailment hours because they would pay for long-term use of the grid, stating that all long-term point-to-point customers pay for service on a long-term basis but, unlike network customers, they do not get priority non-firm service.

1070. Commenters address implementation issues related to the Commission's right of first refusal, tagging, tracking, and curtailment priority proposals, as well as other implementation issues implicated in the conditional firm service. Manitoba Hydro, Bonneville and Seattle support the Commission's proposal that conditional firm service would qualify for right of first refusal when firm service becomes available. Several

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<sup>657</sup> Citing Order No. 888 at 31,750.

commenters believe that the Commission's proposal with regard to right of first refusal should be refined to allow automatic assignment to conditional firm customers of firm capacity as it becomes available in the short term.<sup>658</sup> Bonneville asserts that prior to implementation of the new service the industry must work with NAESB to develop a communications protocol to either employ automatic assignment or right of first refusal.

1071. Entergy and Exelon state that the standards for implementing transmission loading relief, including the NERC's Interchange Distribution Calculator (IDC), would need modification to allow for curtailment. Specifically, Entergy contends that the Commission should allow time for the IDC to be modified to specify a different curtailment priority for the same transaction depending on the identity of the constraining element. Imperial states that it may take over a year to develop computer software to correctly handle new curtailment priorities during an emergency. Bonneville disagrees and states that conditional firm service does not present unique issues with respect to curtailment and that it would be curtailable during real time like secondary network service.

1072. EEI states that the conditional firm service as currently proposed would conflict with tagging protocols and NERC criteria because there is currently no way to tag service as both firm and non-firm. EEI states that, if conditional firm service is subject to curtailment during a specific period, the tag can identify those periods and curtailments

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<sup>658</sup> E.g., EEI, EPSA, TranServ, Bonneville, Constellation and Seattle Reply.

will be implemented in conditional periods and non-conditional periods in accordance with those tags. However, if conditional service is curtailable in a certain number of hours, or when specific conditions occur, the tag cannot be rewritten in a way that will provide for curtailment without personal involvement of balancing authority operators, which could lead to increased curtailments of firm transmission customers.

1073. Xcel states that limiting curtailments to a specified number of hours per year could result in conditional firm service having greater value than firm, while strictly adhering to a maximum number of curtailment hours could potentially conflict with the reliability standards in section 215 of the FPA. NRECA argues that conditional firm service should be subject to pro rata curtailment with all other firm users during non-conditional times.

#### **Commission Determination**

1074. We adopt a secondary network curtailment priority to apply for the hours or specific system conditions when conditional firm service is conditional. During non-conditional periods, conditional firm service is subject to pro rata curtailment consistent with curtailment of other long-term firm service. Thus, secondary network service and conditional firm service when it is conditional will share the same curtailment priority. Also, there is no conflict with reliability standards because conditional firm service will be subject to pro rata curtailment with all other firm uses of the system once conditional curtailment hours, if that is the option selected, are exhausted.

1075. The secondary network curtailment priority is appropriate because the customer is paying the long-term firm point-to-point rate and thus should receive the highest non-firm

curtailment priority during the conditional curtailment hours or during specified system conditions. Adoption of this curtailment priority overcomes what could otherwise be significant implementation hurdles. It allows for implementation of the service without changes to existing NERC TLR practices. NERC and members of the industry need not undertake the time-consuming and expensive process of establishing a new curtailment priority that is between firm and non-firm service as some commenters requested. Use of this curtailment priority also avoids attendant decisions relating to the method of curtailment that should apply, *i.e.*, pro rata or transactional curtailment, for a quasi-firm curtailment priority. It is also consistent with existing interruption provisions of the pro forma OATT which provide that secondary service cannot be interrupted for economic reasons.<sup>659</sup> This is consistent with our determination that conditional firm service when it is conditional is curtailable only to maintain reliable operation of the transmission system.

1076. We reject EEI's argument that the curtailment priority for conditional firm service is inconsistent with Commission precedent regarding priority non-firm service only for network customers. EEI's argument is inapposite. Long-term firm point-to-point customers taking fully firm service without the conditional firm option do not need access to priority non-firm service as EEI suggests. They have assurance that their service will not be interrupted for economic reasons and will only be curtailed on a

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<sup>659</sup> See pro forma OATT section 14.7.

comparable basis with network service. This would not be the case for conditional firm customers. We also find that EEI has failed to explain the connection between the conditional firm transmission service and the availability of reliability redispatch options, i.e., generators on its system that can ramp up or down in response to a curtailment. We reject Powerex's request that transmission providers be required to show that existing long-term rights are protected. Each addition of a new long-term firm transaction impacts the rights of existing firm customers to some extent.

1077. We disagree with commenters' suggestion that the NERC IDC must be changed to accommodate conditional firm service. We reiterate that we are not creating a new curtailment priority in this Final Rule. We also disagree that new tags that combine a firm and non-firm priority must be developed in order to implement the conditional firm option. The curtailment priority in a tag can be changed ahead of the operating hour based on a near-term forecast of system conditions.<sup>660</sup> We are cognizant that daily and hourly operations to change the tags for conditional firm customers likely involve the need for control room coordination and development of an appropriate tracking process. As the Commission described in the NOPR, new tracking and tagging business practices for this service must be developed by each transmission provider. Thus, we are allowing

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<sup>660</sup> For example, in the Eastern Interconnection, tags can be changed up to 35 minutes before the hour in which a TLR event is scheduled. See NERC Standard IRO-006-3, Transmission Loading Relief Procedures – Eastern Interconnection, section 6.2 (Communications and Timing Requirements) at 23-25 (August 2, 2006).

a sufficient period for the development of these business practices, i.e., 180 days from the date of publication of this Final Rule in the Federal Register. As directed above, transmission providers must coordinate with other transmission providers in their regions to develop these tracking and tagging business practices.

1078. Finally, we address requests to allow for automatic assignment of short-term firm point-to-point service to conditional firm customers. We agree that transmission providers must take into account the conditional firm service in evaluating the availability of short-term firm service. Because conditional firm is a long-term firm use of the system, it should not be interrupted prior to short-term firm service. However, short-term firm service reserved prior to the reservation of conditional firm service should maintain priority over conditional firm service in the periods when conditional firm service is conditional, i.e., when specified system conditions exist or conditional curtailment hours apply. Because the assignment proposal meets both of these objectives, we direct transmission providers to assign short-term firm service to conditional firm customers as the service becomes available. Accordingly, we direct transmission providers to work with NAESB to develop the appropriate communications protocols to implement this attribute of conditional firm service. Transmission providers need not implement this requirement until NAESB develops appropriate communications protocols.