A SUMMARY OF FERC ORDER NO. 1000: TRANSMISSION PLANNING & COST ALLOCATION

A presentation to the Minnesota Public Utilities Commission

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APPLICABILITY

- Applied to new, regionally ***cost-shared*** facilities.
  - Effective date 60 days after compliance filing(s) (in MISO this will be about Dec. 10, 2012).
- ***All Regions Must Comply***: FERC specified that the reforms apply equally to transmission-owning public utilities in all regions (i.e., whether in or out of an RTO).

FOUR MAJOR COMPONENTS OF ORDER NO. 1000

1. Regional transmission planning requirements
2. Interregional transmission planning requirements
3. Transmission cost allocation principles (regional and interregional)
4. Elimination of the federal right of first refusal (ROFR) for facilities subject to regional cost allocation

REGIONAL TRANSMISSION PLANNING REQUIREMENTS

- Regional planning must adopt ***Order No. 890 Principles*** (designed principally to increase transparency).
  - MISO has already adopted Order No. 890.
- ***Effective Planning Obligation***: MISO (in consultation with stakeholders) must evaluate alternative transmission solutions and non-transmission solutions.
  - MISO's process already includes a review of alternative solutions.

REGIONAL TRANSMISSION PLANNING PUBLIC POLICY REQUIREMENTS

- FERC stated that **nothing in the Final Rule is intended to alter the role of states** with respect to adopting or implementing public policy requirements.
- Enacted state and federal statutes and regulations shall be considered in the regional planning requirements.
  - FERC doesn't prescribe or limit the policies to be studied.
  - Which Public Policy Requirements are evaluated and which ones are not must be publicly posted on website.
- The regional plan should take into account the local utility with native load obligations that has addressed its state (or federal) public policy requirements in its resource assumptions.

INTERREGIONAL TRANSMISSION PLANNING REQUIREMENTS

- Each pair of **neighboring transmission planning regions** must:
  - ***Share Information*** annually to consider respective needs and solutions.
  - Formalize procedures to ***Coordinate and Jointly Evaluate*** interregional transmission facilities.
  - ***Revise tariffs*** (or file an interregional coordination agreement) to describe the sharing, coordination, and joint evaluation.

- FERC will allow MISO/PJM to memorialize their current cross-border planning (and cost allocation) arrangements.
- Expect that MISO must develop cross-border planning with its other RTO (e.g., SPP) and non-FERC-jurisdictional neighbors.

TRANSMISSION COST ALLOCATION PRINCIPLES *(REGIONAL AND INTERREGIONAL)*

The Final Rule adopts six principles for regional or interregional projects (the interregional principles are similar with some slight differences):

1. Costs allocated "roughly commensurate" with benefits
2. No involuntary cost allocation to non-beneficiaries
3. If a minimum benefit-cost ratio is used, it can't exceed 1.25 unless FERC approves a higher ratio
4. Costs must be allocated solely within the region unless those outside voluntarily assume costs
5. Method and data requirements for determining benefits must be transparent
6. Different methods may be chosen for different types of facilities (e.g., reliability, congestion relief, public policy)

TRANSMISSION COST ALLOCATION PRINCIPLES *(REGIONAL AND INTERREGIONAL)*

Continued . . .

- Requires a common interregional cost allocation for new interregional facilities.
- Participant funding is permitted but not as the regional or interregional cost allocation method.
- Non-incumbent developer has same eligibility as incumbent to use a regional cost allocation method for qualifying projects.
- If region can't decide on a cost allocation method, then FERC would decide based on the record.

ELIMINATION OF THE FEDERAL RIGHT OF FIRST REFUSAL ("ROFR")

- ***State Jurisdiction Retained*: Nothing limits, preempts, or otherwise affects state or local laws or regulations with respect to construction of transmission facilities, including but not limited to authority over siting or permitting of transmission facilities**.
- FERC is requiring the removal of any federal ROFR to allow non-local developers to construct transmission facilities selected in a regional transmission plan for purposes of ***cost allocation***.
  - If the project is cost-shared, ROFR is gone. Moreover, FERC requires that any non-local developer (if selected to construct a regionally cost-shared project) shall allocate its project costs through the regional cost allocation method(s).

ELIMINATION OF THE FEDERAL RIGHT OF FIRST REFUSAL (ROFR)

Continued . . .

- FERC is requiring the regions to develop

  (1) Project Submission Forms,

  (2) Reevaluation Procedures, and

  (3) Qualification Criteria.

1. ***Project Submission Forms:*** Clearly identify the information that must be submitted for evaluation of a proposed regional transmission project for regional cost sharing.

ELIMINATION OF THE FEDERAL RIGHT OF FIRST REFUSAL (ROFR)

Continued . . .

2. ***Reevaluation Procedures***. If a non-local developer is not completing a project *required* by the local utility (*to meet its reliability needs and/or state service obligations*), FERC will recognize a process where the local utility can *then* propose a solution within its retail distribution service territory or footprint that will enable it to meet its reliability needs or service obligations.
3. ***Qualification Criteria*:** Establish a non-discriminatory qualification criteria for who is eligible to build.

ROFR MAY BE RETAINED ON:

- Existing rights-of-way and upgrades to the transmission owner's own transmission facilities (e.g., tower change outs or reconductoring).
- "Local" facilities that are planned by individual transmission owners and whose costs are borne locally (e.g., in the transmission owner's rate zone), rather than being subject to regional cost allocation.

POTENTIAL NORTH AMERICAN ELECTRIC RELIABILITY CORP. ("NERC") VIOLATIONS

- FERC indicates that if:
  - A non-local developer is granted a **regionally cost-shared reliability project** *and*
  - The local utility is **reliant** upon the project for meeting its
    - state obligations to serve and
    - NERC reliability standards *and*
  - The non-local developer **abandons** the project **before** it is **completed**
    - such that the local utility **can't comply** with its NERC reliability standards,
  - The local utility can submit a **mitigation plan** and FERC **won't penalize** it thru NERC enforcement actions.
- This provides little assurance to the local utility.

Requests for Rehearing or Clarification - Pending

- Approximately 60 parties – including the MISO Transmission Owners – filed requests for rehearing and/or clarification
  - MISO TO Request for Rehearing focuses on the ROFR issue as applied to projects needed for reliability purposes.
- FERC is required to act within 30 days.
  - We expect FERC to issue a "tolling order" to allow itself more time to act on the rehearing requests.
- Not clear when FERC may ultimately rule on the rehearing requests.
  - Order 890 went through several rounds of rehearing/clarification requests.

CONCLUSION

- We look forward to state input.
- There is a lot of work ahead in the MISO stakeholder process!