Order No. 1000 Summary Talking Points for
Sept. 9 MN PUC MISO Quarterly Update Meeting

Provided by Alliant Energy, Great River Energy, Minnesota Power, Otter Tail Power Company, and Xcel Energy

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FERC's Stated Objectives:

(1) Ensure that transmission planning processes at the regional level consider and evaluate, on a non-discriminatory basis, possible transmission alternatives and produce a transmission plan that can meet transmission needs more efficiently and cost-effectively; and

(2) Ensure that the costs of transmission solutions chosen to meet regional transmission needs are allocated fairly to those who receive benefits from them.

Timeline:

- FERC Issues Order No. 1000: July 21, 2011
- Posted in Federal Register: August 11, 2011
- Rehearing Date: August 22, 2011
- Intraregional Compliance Filings Due: October 11, 2012
- Interregional Compliance Filings Due: April 11, 2013

- Order No. 1000 requirements apply to "new transmission facilities," which are those subject to evaluation or reevaluation within local or regional transmission planning processes after the effective date of compliance filings (assumed 60 days after filing so Dec. 10, 2012 at the earliest).
- ***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 the Order:

(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

1. Regional Transmission Planning Requirements

- ***Order No. 890 Principles*** (designed principally to increase transparency) applied to Regional Planning.
- ***Effective Planning Obligation***: Requires regional planners (e.g., MISO) to evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.
- ***Public Policy Requirements***: Not only are the regional planners (e.g., MISO) required to include enacted state and federal statutes and regulations but they are also required to post on their website "an explanation of which transmission needs driven by Public Policy Requirements will be evaluated in the local or regional transmission planning process, as well as an explanation of why other suggested transmission needs will not be evaluated."
    - FERC does not prescribe any particular Public Policy Requirements or limit the types of public policy requirements that can be studied.

- FERC also recognizes that if a utility has native load obligations that it has addressed in developing its resource assumptions in the transmission planning process, those procedures (used to identify transmission needs driven by Public Policy Requirements) should be taken into account.
- **FERC clarified that nothing in the Final Rule is intended to alter the role of states with respect to adopting or implementing public policy requirements.**

2. Interregional Transmission Planning Requirements

- Each pair of neighboring transmission planning regions must:
    - ***Share Information:*** Coordinate procedures to annually share planning data and information regarding the respective needs of each region and coordinate potential solutions to those needs. A website or email list must be maintained to communicate information related to coordination procedures.
    - ***Coordinate/Jointly Evaluate***: Develop a formal procedure to identify and jointly evaluate interregional transmission facilities that may be more efficient or cost-effective solutions to those regional needs
    - ***Revise tariffs*** (or file an interregional coordination agreement) to describe interregional transmission coordination procedures for a particular pair of regions.
        - FERC will allow MISO/PJM to memorialize our current cross-border planning (and cost allocation) arrangements.
        - It is not clear whether MISO must develop cross-border evaluation and joint planning with non-FERC-jurisdictional neighbors. Regardless, there is a lot of work ahead in consideration of MISO's many adjoining planning regions.

3. 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 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)
- Neighboring planning regions must have a common interregional cost allocation method for new interregional facilities that both regions determined to be more efficient or cost-effective
- 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

4. Elimination of the Federal Right of First Refusal (ROFR)

- ***State Jurisdiction***: FERC made clear that, with respect to its federal elimination of ROFR, "nothing in this Final Rule is intended to limit, preempt, or otherwise affect 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."

- Required to remove from FERC-jurisdictional tariffs and agreements a federal right of first refusal ("ROFR") to construct transmission facilities selected in a regional transmission plan for purposes of cost allocation.
- Allows any nonincumbent developer of a transmission facility <u>selected in the regional transmission plan</u> to allocate the cost of such transmission facility through a regional cost allocation method(s).
- FERC is requiring (in our case) MISO and its stakeholders to come up with a Project Submission Form, Reevaluation Procedures, and Qualification Criteria.
  - ***Project Submission Forms:*** Required to identify:
    - The information that must be submitted by a prospective transmission developer in support of a transmission project it proposes in the regional transmission planning process; and
    - The date by which such information must be submitted to be considered in a given transmission planning cycle."
  - ***Reevaluation Procedures***. Must develop a process if the non-incumbent is not completing a project required by the incumbent to meet its reliability needs or service obligations such that if a delay occurs, the incumbent can propose a solution within its retail distribution service territory or footprint that will enable it to meet its reliability needs or service obligations.
  - ***Qualification Criteria***: Identify the qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation whether the entity is an incumbent or nonincumbent developer.
    - Developer to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities
    - <u>Note</u>: This is one of the areas where states can assist MISO in providing what they will deem a qualified developer within their state.

Limitations on ROFR
ROFR May Be Retained On:

- "Local" facilities that are planned by individual transmission owners and whose costs are borne locally, rather than being subject to regional cost allocation.
  - In other words, projects selected for regional cost allocation can be located entirely within the service territory of a single public utility transmission provider, but the Rule does not allow the incumbent the ROFR for that project (unless state law

would determine otherwise). FERC indicates that the public utility can construct facilities that are located solely within its retail distribution service territory if the project is not submitted through the regional plan (and regional cost allocation)(i.e., it is the regional nature of cost allocation which categorizes the project as not subject to ROFR).

- Use and control of existing rights-of-way and upgrades to the transmission owner's own transmission facilities (e.g., tower change outs or reconductoring).

- ***Potential North American Electric Reliability Corporation (NERC) Violations***: If a violation of a NERC reliability standard would result from a nonincumbent transmission developer's decision to abandon a transmission facility meant to address such a violation, the incumbent transmission provider does not have the obligation to construct the nonincumbent's project," but rather "must identify the specific NERC reliability standard(s) that will be violated and submit a NERC mitigation plan to address the violation."
    - FERC goes on to indicate that, "[p]rovided the public utility transmission provider follows the NERC approved mitigation plan; the FERC will not subject that public utility transmission provider to enforcement action for the specific NERC reliability standard violation(s) caused by a nonincumbent transmission developer's decision to abandon a transmission facility."