LEGAL UPDATES PUBLISHED: DECEMBER 20, 2016

FERC Proposes Broad Reforms to the Interconnection Process

Services

Electric Transmission

Energy Regulation

Professionals

CHRIS REEDER
AUSTIN:
512.479.1154
CHRIS.REEDER@HUSCHBLACKWELL.COM

LINDA L. WALSH
WASHINGTON:
202.378.2308
LINDA.WALSH@HUSCHBLACKWELL.COM

The Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NOPR) on December 15, 2016, that proposes to modify many aspects of the large generator interconnection process in order to enhance the generation interconnection process. FERC's intent with the broad regulatory changes is to enhance interconnection processes first developed in 2003, prior to the proliferation of new generation resources and transmission investments.

The NOPR responds to the concerns of interconnection customers and transmission providers over FERC's current generator interconnection procedures. The proposed reforms are targeted at "improving the efficiency of processing interconnection requests, removing barriers to needed resource development and assuring continued reliability of the grid." Specifically, the NOPR proposes revisions to the *pro forma* Large Generator Interconnection Procedures (LGIP) and *pro forma* Large Generator Interconnection Agreement (LGIA), the pro forma Open Access Transmission Tariff (OATT) and the commission's regulations. The proposed changes aim to increase predictability and transparency for interconnection customers, better use existing interconnection capacity, reduce delays and improve the ability of the interconnection process to adapt to project development changes. The proposed changes include:

Proposal to Require Restudies on a Scheduled Basis

When higher-queued interconnection requests drop out of the queue or an interconnection customer modifies its interconnection request, there could be unexpected and costly consequences for lower-queued generators, especially in regions where cluster studies are conducted. Prospective developers cited lack of certainty and transparency in the restudy process as a key issue needing reform. FERC proposes to require transmission providers that conduct cluster

studies to conduct restudies on a scheduled, periodic basis to increase efficiency and certainty.

Expanding the Interconnection Customer's Option to Build TIF

Currently, an interconnection customer's ability to assume responsibility for the construction of the transmission provider's interconnection facilities (TIF) is contingent on the transmission provider notifying the interconnection customer that the transmission provider cannot complete the facilities as originally scheduled. To provide interconnection customers with more certainty and control during the design and construction phase, FERC proposes to remove the limitation on when the interconnection customer can exercise the option to build. FERC proposes to allow an interconnection customer to build TIF, but only in instances where the interconnection customer and transmission provider can agree on the facilities that are needed. Existing tariff provisions that elevate reliability concerns would still apply.

New Options for Interconnection Customers to Self-Fund Network Upgrades

Generally, transmission owners have the option to initially fund network upgrades and collect those costs from interconnection customers. FERC has heard complaints that this process increases costs for interconnection customers because transmission owners can add their own return costs to the amount interconnection customers must repay. FERC proposes to restrict the transmission owner's option to self-fund network upgrades to instances in which there is mutual agreement between the transmission owner and the interconnection customer.

RTO/ISO Dispute Resolution

FERC proposes that regional transmission organizations (RTOs) and independent system operators (ISOs) be required to establish interconnection dispute resolution procedures that a party can initiate unilaterally and that can be administered by a neutral staff member. FERC's proposal is intended to address complaints concerning that the current RTO/ISO dispute resolution process often leaves the interconnection customer with the sole option of filing a formal complaint at FERC.

Capping Costs for Network Upgprades

Often the final cost of network upgrades greatly exceeds the higher bound of the transmission provider's estimates. Excessive cost overruns are often caused by inaccuracies in the estimates and costs attributed to the withdrawal of higher-queued interconnection requests, some of which are beyond the transmission provider's control.

FERC is considering implementing a cost cap on network upgrades, but seeks comments on several important issues related to cost cap limitations, including balancing the benefits of increasing cost

certainty against the drawbacks of shifting costs to other parties, whether there should be exceptions to the cost cap and how cost shifting can be minimized.

Revisions Related to Transparency and Improved Information

The NOPR proposes several changes that would require transmission providers to disclose more information throughout the interconnection process:

Contingent facilities. Transmission providers would be required to outline and disclose a methodology for designating contingent facilities, e.g., the interconnection and network facilities upon which the interconnection request's costs, timing and study findings are dependent.

Study models. FERC proposes to require transmission providers to provide the specific study processes and assumptions used to develop the networking models that are used in feasibility and system impact interconnection studies and post expanded information on the transmission providers' Open Access Same-Time Information System (OASIS).

Congestion and curtailment information. FERC proposes to require transmission providers to post disaggregated and more granular congestion and curtailment information on their OASIS sites.

Revised definition of generating facility. FERC proposes to include electric storage in the definition of "Generating Facility" to ensure consistency among the regions.

Interconnection study deadlines. FERC proposes to require transmission providers to post summary statistics for its processing of interconnection studies on the OASIS site.

Coordination with affected systems. FERC seeks comments on whether it should require transmission providers to post standardized guidelines and timelines for coordinating with affected systems (usually neighboring systems) during the interconnection process.

Ability to Request Lower Level or Surplus Interconnection Service

An interconnection customer can sometimes benefit from a level of interconnection service that is below its proposed full generation capacity by avoiding construction of certain network upgrades. FERC proposes to allow an interconnection customer to request such lower level interconnection service, as long as the interconnection agreement specifies the appropriate facilities required to prevent the interconnection customer from exceeding the level of service.

Similarly, FERC is proposing (1) to adopt a provisional agreement process whereby new interconnection customers could interconnect, with limited operation, using interconnection service shown to be available by prior studies while the interconnection customer's studies are completed, and (2) to provide an expedited process for interconnection customers to utilize or transfer surplus interconnection service at existing generating facilities.

Other Proposed Changes

FERC is proposing that transmission providers establish a procedure to assess whether technological changes to an interconnection customer's facilities will be considered a material modification requiring new studies.

Finally, FERC is proposing to require transmission providers to review the modeling methods they use for interconnection of electric storage resources and to report whether existing practices are sufficient to account for operating characteristics of electric storage resources.

What This Means to You

Generators: The proposed changes could help reduce interconnection-related costs and delays, while streamlining and accelerating the interconnection process. The proposed changes could also introduce flexibility in addressing project design changes that often occur as a generation development evolves parallel to interconnection studies. The NOPR may also afford developers greater ability to anticipate likely interconnection terms and facilities earlier in the development timeline. Finally, these changes could provide developers with greater standardization, impartiality and a stronger voice in the interconnection process.

Transmission Providers: FERC's proposed reforms will place significant burdens on transmission providers and transmission owners in revising existing interconnection procedures and practices. Transmission providers will be required to submit compliance filings within 90 days, a very short time given the extent of the proposed changes. Ultimately, if approved, the proposed new procedures can provide efficiencies in the interconnection process and potentially free up resources of transmission providers and transmission owners. Elimination of the transmission owner's option to self-fund network upgrades may have a significant impact on some transmission owner's revenues.

Opportunity to Comment

Comments on the NOPR are due 60 days after publication in the Federal Register (likely around the middle of February) in Docket No. RM17-8-000. Although the vast majority of the NOPR's revisions specifically apply to the large generator interconnection process, FERC indicated that it will consider applying the revisions to the small generator interconnection process. It requested comments on

whether it should apply any of the NOPR's reforms to the *pro forma* Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA).

Contact Us

If you have questions about the NOPR and how it might affect your business, please contact Linda Walsh, Chris Reeder, Marvin Griff or another member of Husch Blackwell's Energy & Natural Resources group.