
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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COMMISSION SEEKS COMMENTS ON REFORMING ORDER No. 888's OPEN ACCESS TARIFF

The Federal Energy Regulatory Commission is seeking comment on whether its *pro forma* open access transmission tariff (OATT) needs reform in light of the changes in the electric utility industry since the Commission's landmark open-access rulemaking, Order No. 888, established the *pro forma* OATT in 1996.

"Reform of our open access rules is one of my top priorities as Chairman," Commission Chairman Joseph T. Kelliher noted.

"We have a legal duty to prevent undue discrimination and preference in transmission service. I have concluded that OATT reform is necessary in order to fulfill that duty. Today, we take the first step in that direction. While I am convinced of the need to act, I have reached no conclusions about the extent of reforms necessary. This Notice of Inquiry, and the comments we receive, will decide the scope and breadth of OATT reform," Chairman Kelliher said.

Order No. 888, designed to remedy undue discrimination or preference in accessing transmission systems, requires public utilities to provide nondiscriminatory, open-access transmission service. This applies to all public utilities that own, control or operate facilities for transmitting electric energy in interstate commerce.

While Order No. 888 set the foundation for competition in wholesale electric markets, it did not eliminate the potential for undue discrimination and preference in providing transmission service, the Commission said. Public utilities continue to have the discretion and incentive to interpret and apply OATT provisions to their advantage.

The Commission's preliminary determination, based on the experience of nearly 10 years since implementation of Order No. 888, is that reforms to the *pro forma* OATT are necessary to prevent undue discrimination and preference in the provision of interstate transmission service.

Among the topics the Commission is seeking comment on are:

- What further remedies are necessary to address undue discrimination?
- Should reforms to the Commission’s pricing policies be considered as part of OATT reform?
- Should changes be made to various services required under Order No. 888?
- Should the obligations of public utility transmission providers be better defined?
- Should there be specified penalty charges for violations of the tariff provisions?
- Should hourly firm transmission service be required?
- Have transmission customers been discriminated against in modifying receipt and delivery points?

The Commission is also seeking comment on: processing of requests for transmission services; rollover rights, rules and standards governing transmission service; joint transmission planning; capacity expansion obligations; joint ownership; tariff compliance reviews; hoarding of transmission capacity; curtailments; reservation priority; designation of network resources; queuing for long-term transmission service; ancillary services; energy imbalances; generator imbalances; OATT definitions; and applications of these matters to independent system operators, regional transmission organizations and independent transmission companies.

The Commission emphasized that it is not proposing to change the protections afforded native-load customers in Order No. 888.

The Commission is also seeking comment on the implementation of a newly established section of the Federal Power Act (FPA) – section 211A. The new energy law gives the Commission authority to require non-public utilities – or “unregulated transmitting utilities” – to provide open access transmission service. Among other things, the Commission is seeking comment on whether it should require unregulated transmitting utilities to provide transmission service under rates comparable to what they charge themselves, and under terms and conditions that are comparable to those that they apply to themselves and that are not unduly discriminatory or preferential.

Comments on the Notice of Inquiry, *Preventing Undue Discrimination and Preference in Transmission Services*, are due within 60 days after the notice’s publication in the Federal Register.