

134 FERC ¶ 61,123  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM11-9-000]

Locational Exchanges of Wholesale Electric Power

(February 17, 2011)

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Inquiry.

**SUMMARY:** In this Notice of Inquiry (NOI), the Commission seeks comment that would assist the Commission in providing guidance as to the circumstances under which locational exchanges of electric power should be permitted generically and circumstances under which the Commission should consider locational exchanges on a case-by-case basis.

**DATES:** Comments are due [Insert date that is 60 days after publication in the **FEDERAL REGISTER**].

**ADDRESSES:** Commenters may submit comments, identified by docket number by any of the following methods:

- Agency Web Site: <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Commenters unable to file comments electronically must mail or hand deliver an original copy of their comments to: Federal Energy

Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426. Additional requirements can be found on the Commission's website, see, e.g., the "Quick Reference Guide for Paper Submissions," available at <http://www.ferc.gov/docs-filing/efiling.asp>, or via phone from FERC Online Support at 202-502-6652 or toll-free at 1-866-208-3676.

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SUPPLEMENTARY INFORMATION:

134 FERC ¶ 61,123  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Locational Exchanges of Wholesale Electric Power                      Docket No. RM11-9-000

NOTICE OF INQUIRY

(Issued February 17, 2011)

1. The Commission seeks comment regarding circumstances in which locational exchanges of electric power should be permitted generically or considered by the Commission on a case-by-case basis. Because locational exchanges, in different circumstances, might look either like wholesale power transactions that make efficient use of the transmission system or like the functional equivalent of transmission service, we also seek comments as to whether and how different types of locational exchanges are consistent with our core principles that transmission service must be available on a transparent and not unduly discriminatory basis. While the Commission has spoken to locational exchanges in the past and that guidance continues to apply today, any policy determinations made in this proceeding will only be applied prospectively.

**I. Background**

**A. Docket No. EL10-71-000**

2. On June 4, 2010, Puget Sound Energy Inc. (Puget) filed a petition for declaratory order seeking a finding that a locational exchange is a wholesale power transaction and

not transmission service subject to an open access transmission tariff (OATT). Puget defines a locational exchange as

...a pair of simultaneously arranged wholesale power transactions between the same counterparties in which party A sells electricity to party B at one location, and party B sells the same volume of electricity to party A at a different location with the same delivery period, but not necessarily at the same price.<sup>1</sup>

3. In an order issuing contemporaneously with this NOI, the Commission finds that Puget's Petition raises significant policy issues for market participants in the electric industry and that the record in Docket No. EL10-71-000 provides insufficient basis to make the determination requested by Puget.<sup>2</sup> The Commission has initiated this proceeding to develop the record necessary to address the proper regulatory treatment of locational exchanges.

**B. Prior Commission Policy**

4. Prior to Puget's Petition, the Commission discussed transactions similar to locational exchanges in Order No. 888<sup>3</sup> and subsequent Commission orders. As part of

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<sup>1</sup> Puget, Petition for Declaratory Order, Docket No. EL10-71-000, at p. 1 (filed June 4, 2010) (Puget's Petition).

<sup>2</sup> 134 FERC ¶ 61,122 (2011).

<sup>3</sup> Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

its statutory obligation under sections 205 and 206 of the Federal Power Act<sup>4</sup> to remedy undue discrimination, the Commission adopted Order No. 888, which prohibits public utilities from using their monopoly power over transmission to engage in undue discrimination against others. In Order No. 888, the Commission discussed certain “buy-sell arrangements” that could be used “to obfuscate the true transactions taking place and thereby allow parties to circumvent Commission regulation of transmission in interstate commerce.”<sup>5</sup> The Commission further noted in Order No. 888-A that “[we] reserve our authorities to ensure that public utilities and their customers are not able to circumvent non-discriminatory transmission in interstate commerce.”<sup>6</sup> Moreover, the Commission recognized that a wide range of existing programs and transactions might fall within a category of arrangements that look similar to buy-sells and indicated that it would address these on a case-by-case basis.<sup>7</sup>

5. Subsequent to Order No. 888, the Commission has considered exchanges of power resembling those proposed by Puget on at least two occasions. In *UAMPS*, the

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<sup>4</sup> 16 U.S.C. 824d.

<sup>5</sup> Order No. 888, FERC Stats. & Regs. at 31,785. The Commission discussed a specific type of transaction in which “an end user arranges for the purchase of generation from a third-party supplier and a public utility transmits that energy in interstate commerce and re-sells it as part of a ‘bundled’ retail sale to the end user.” *Notice of Proposed Rulemaking*, FERC Stats. & Regs. ¶ 32,514, at 33,082-83 (1995).

<sup>6</sup> Order No. 888-A, FERC Stats. & Regs. at 30,344.

<sup>7</sup> *Id.* The Commission has subsequently enforced this prohibition against “buy-sell” arrangements. See *New York State Electric and Gas Corporation*, 77 FERC ¶ 61,044 (1996), *reh’g denied*, 83 FERC ¶ 61,203 (1998).

Commission prohibited an arrangement in which a transmission customer sold electricity to a transmission provider's merchant affiliate at one location, and the transmission provider's merchant affiliate sold the same volume of electricity to the transmission customer at a different location.<sup>8</sup> Prior to entering into the exchange, the transmission customer had sought to interconnect additional generation to the transmission provider's system. However, because this customer was operating under a grandfathered bilateral agreement and not the OATT adopted under Order No. 888, the transmission customer did not have a right to demand the redispatch necessary to place the generation on the transmission provider's network. As an alternative to obtaining redispatch, the customer entered into an exchange with the transmission provider's merchant affiliate. Subsequently, the customer filed a complaint with the Commission alleging that the transmission provider had failed to maintain functional separation between its transmission and merchant functions. The Commission prohibited this transaction, finding that it effectuated transmission service and violated the separation of functions between the merchant affiliate and the transmission provider. The Commission explained,

The redispatch transaction offered by PacifiCorp's Merchant Function is, unquestionably, a transmission service; the sole result of the transaction is to deliver a Utah Municipal

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<sup>8</sup> *Utah Associated Municipal Power Systems v. PacifiCorp*, 83 FERC ¶ 61,337, at 62,367 (1998) (*UAMPS I*), *reh'g denied and clarification granted*, 87 FERC ¶ 61,044, at 61,187-88 (1999) (*UAMPS II*) (collectively, *UAMPS*).

Systems resource from a receipt point on PacifiCorp's system to a delivery point on PacifiCorp's system.<sup>9</sup>

The Commission further explained that all transmission service must be provided under an OATT or under grandfathered bilateral arrangements. The Commission reiterated that the only permissible way for a customer to arrange transmission service on a transmission provider's system through the merchant affiliate is via re-assignment of point-to-point transmission service. On rehearing, the Commission affirmed the prohibition on the transaction in which a transmission provider's merchant function purchased power from a transmission customer at receipt points on the transmission provider's system and simultaneously sold the same amount of power to the transmission customer at delivery points again on the transmission provider's transmission system.<sup>10</sup> Characterizing the exchange as redispatch of generation resources that effectuated transmission service, the Commission emphasized that transmission service can only be provided under the OATT.

6. In *El Paso*, however, the Commission reached a different decision based on a different set of facts and found that the specific locational exchange proposed by El Paso and a counterparty (Phelps Dodge) was permissible.<sup>11</sup> In *El Paso*, the parties submitted their agreement to the Commission for approval and provided additional information in response to data requests from Commission staff. In permitting the exchange in *El Paso*, the Commission expressly distinguished the factual circumstances related to the exchange

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<sup>9</sup> *UAMPS I*, 83 FERC at 62,367.

<sup>10</sup> *UAMPS II*, 87 FERC at 61,188.

<sup>11</sup> *El Paso Electric Co.*, 115 FERC ¶ 61,312 (2006) (*El Paso*).

in *El Paso* from the exchange in *UAMPS*. The Commission observed that, unlike the facts presented in *UAMPS*, in *El Paso* (1) the generation substations at which the sales occurred and the lines interconnecting the substations were owned jointly by multiple parties, not just El Paso, and thus El Paso's counterparty could have obtained service from another source; (2) the counterparty had not requested redispatch, nor was redispatch needed to complete the transaction; (3) the counterparty was not an existing transmission customer of El Paso, so it was not paying twice for the same service and had not requested nor had it been denied transmission service; and (4) the swap could have been entered into with another power marketer instead of El Paso's merchant affiliate.<sup>12</sup>

## **II. Subject of the Notice of Inquiry**

7. The Commission seeks comments regarding circumstances in which locational exchanges of electric power should be permitted generically or considered by the Commission on a case-by-case basis. The Commission specifically requests comments addressing the topics identified below, as well as any other relevant issues identified by interested parties.

### **A. General Information**

8. The Commission seeks comment regarding the characteristics of locational exchanges and whether the definition set forth by Puget's Petition sufficiently accounts for those characteristics. Puget defined a locational exchange as "[a] pair of simultaneously arranged wholesale power transactions between the same counterparties

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<sup>12</sup> *El Paso*, 115 FERC ¶ 61,312 at P 18-22.

in which party A sells electricity to party B at one location, and party B sells the same volume of electricity to party A at a different location with the same delivery period, but not necessarily at the same price.”<sup>13</sup> Puget also describes the locational exchanges it is proposing as different from the buy-sell transactions discussed in Order No. 888. Puget explains that, in Order No. 888, the Commission was concerned about exchanges in which one party wanted to transmit power from one location to another location, and a second party with transmission capacity on that path simply purchased the power from the first party at the point of delivery, moved the power to the point of receipt using its transmission capacity, and sold the same power back to the first party at the point of receipt. In contrast to such buy-sell transactions, Puget explains, the parties to a locational exchange both have power at the respective sides of the transaction, which is exchanged bilaterally resulting in exchanges that “are simply symmetrical swaps of power at two points.”<sup>14</sup> We encourage commenters to identify other transactions that may be different in form from the types of transactions encompassed by Puget’s proposal but should be considered by the Commission as part of this proceeding.

9. Moreover, the Commission understands that various parties, at least in the Northwest, believe that locational exchanges provide certain benefits, including the

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<sup>13</sup> Puget’s Petition, at p. 1.

<sup>14</sup> Puget Petition at p. 15. Puget elaborates that “Party A has power at Point X and wants to market or use it at Point Y and Party B has power at Point Y and wants to market or use it at Point X.” *Id.* at 14-15.

ability to streamline operations.<sup>15</sup> For example, as discussed more fully below, some parties assert that locational exchanges may reduce transmission congestion and improve system reliability by offering an alternative mechanism to serve load while avoiding the transmission of electricity over congested transmission paths. Parties also assert that locational exchanges (1) facilitate access to distant energy resources, including wind power and other variable resources located far from native load; (2) allow market participants to take advantage of price spreads at different locations; (3) enable market participants to more efficiently utilize their existing transmission capacity rights; (4) ease scheduling burdens by eliminating the need for hourly and daily scheduling of transmission between the exchange points; and (5) allow entities such as power marketers the ability to avoid having to return small amounts of in-kind power to the transmission provider in order to manage transmission service-related imbalances.

10. Moreover, it is the Commission's understanding that locational exchanges typically occur outside of organized markets. To the extent that the exchange involves power located inside an organized market, the other side of the exchange typically involves power located outside of an organized market. The Commission also understands that locational exchanges may vary in duration, as many of them are for only a few hours or days whereas others may be for longer periods. The Commission

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<sup>15</sup> *E.g.*, Puget's Petition; Xcel Energy Services Inc., Comments, Docket No. EL10-71-000, (filed July 6, 2010); Portland General Electric Co., Docket No. EL10-71-000 (filed July 6, 2010); Financial Institutions Energy Group, Comments, Docket No. EL10-71-000 (filed July 6, 2010).

understands that these exchanges may be arranged several months to several days in advance or shortly before the exchange is initiated.

11. The Commission seeks information regarding the characteristics of locational exchanges to help the Commission understand how market participants use and benefit from these arrangements, as well as how these arrangements affect the electric power system. In particular, the Commission encourages commenters to address the following questions:

- 1) How common are locational exchanges?
- 2) What types of parties use locational exchanges (affiliate, marketer, generator)?  
How common is it for an affiliate of the transmission provider to be one of the parties to a locational exchange?
- 3) In what regions of the country and in what types of organized and non-organized markets are locational exchanges used?
- 4) In a typical locational exchange how much power (in megawatts) is being exchanged? To the extent the amount of power varies significantly, please give a range.
- 5) Do locational exchanges typically involve short-term or long-term contracts?  
How many days in advance is a locational exchange typically arranged?

- 6) Under what circumstances, and for what purposes are locational exchanges used? How are locational exchanges arranged (bilateral negotiation via email, phone call, or instant message; broker; electronic exchange)?
- 7) What are the benefits of locational exchanges? In identifying the benefits of these arrangements, please describe the type of circumstances in which the locational exchange provides this benefit and why the locational exchange serves as a means to achieve the specified benefit. The Commission also urges commenters to provide specific examples demonstrating particular benefits.

**B. Effects of Locational Exchanges on System Congestion**

12. The Commission understands that some parties believe that certain types of locational exchanges may relieve physical congestion. In cases such as those contemplated in Puget's Petition,<sup>16</sup> it would seem that the locations and magnitudes of the generation sources and load sinks on the system remain unchanged. Thus, although the parties to the locational exchange may eliminate their own risks of curtailment due to congestion over that path, the distribution of power flows on the transmission system before and after the locational exchange transactions appears to remain unchanged. The Commission seeks comment on this and on whether other types of locational exchanges (for example, as described in the example below and depicted in Figure 1, where one

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<sup>16</sup> Puget's Petition, Figure 1, 3, and 4. For instance, in Figure 3, both generators output is the same with and without a locational exchange. The benefit cited by Puget appears to be that Puget avoids the need to use a constrained transmission path.

party *replaces* a source of power with a new source, rather than simply *swapping* pre-existing generator output) may actually increase congestion. Thus, the Commission encourages parties to comment on the effect of locational exchanges on system congestion and to provide examples of how these arrangements do or do not reduce system congestion.

### C. Merchant Affiliate Issues

13. In both *UAMPS* and *El Paso*, the Commission focused specifically on locational exchanges involving a merchant affiliate as one of the parties to the exchange. In *UAMPS*, the Commission rejected the proposed locational exchange, finding that “[a] public utility’s merchant function may not provide transmission service.”<sup>17</sup> In *El Paso*, however, the Commission accepted the locational exchange involving a merchant affiliate as a permissible marketbased rate wholesale power sale due to the factual distinctions described previously.

14. The Commission seeks comment as to whether locational exchanges may offer opportunities for transmission providers and their merchant affiliates to discriminate unduly against or between non-affiliate transmission customers. We seek comment on whether a merchant affiliate of a transmission provider is uniquely positioned, due to its access to network transmission service, to provide locational exchanges on its affiliated transmission provider’s system, and whether, in some cases, may be the only counterparty available for a customer seeking to enter into a locational exchange. We

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<sup>17</sup> *UAMPS II*, 87 FERC at 61,188.

seek comment on whether, under these circumstances, the merchant affiliate of a transmission provider (or its parent company) could benefit from revenues that flow from the locational exchange, while the transmission provider continues to recover its transmission cost-of-service, effectively shifting costs to network and native load customers due to decreased use of point-to-point transmission service pursuant to the OATT. Thus, the Commission seeks comment regarding potential concerns involving locational exchanges executed by a merchant affiliate on its affiliated transmission provider's system.

15. Recognizing that there may be safeguards to address concerns regarding affiliate transactions, the Commission seeks comment on how industry participants now assure that such activities do not violate Commission policies. For example, do tagging obligations, Electric Quarterly Report (EQR) filings, standards of conduct rules and market-based rates rules provide sufficient protections and transparency to mitigate against the possible risks related to locational exchanges involving a merchant affiliate transacting on its affiliated transmission provider's system? The Commission would also welcome comment on whether any additional regulatory safeguards are necessary.

**D. Flexible Use of Network Transmission Service to Effectuate Locational Exchanges**

16. The Commission seeks comment on whether locational exchanges could interact with network service rights in a manner that is inconsistent with the Commission's open access principles. One potential such transaction, shown in Figure 1 below, could involve an arrangement in which Party A operates expensive generation at Location X to

serve its load at Location X. Party A wishes to replace its expensive generation with inexpensive generation it owns at Location Y, but the Y-to-X path is congested. Party A's solution is to enter into a locational exchange with Party B, which has network transmission service, network resources, and load straddling Locations X and Y. Parties A and B enter an agreement in which Party A sells its inexpensive generation at Location Y to Party B, and Party B sells to Party A some of its generation that is closer to Location X and unaffected by the constraint on the Y-to-X path.<sup>18</sup> In this example, Party A's reduction in resources at Location X and Party B's new purchase of generation at Location Y may effectively transfer to Party A the inherent flexibility afforded to Party B as a network customer. The Commission further notes that this transaction has the effect of physically sending more power over the already congested Y-to-X path and onto Party A's load. More generally, the Commission is inquiring whether the interaction between network service rights and locational exchanges could create a risk that parties will be able to engage in the effective provision of transmission service in a non-transparent manner outside of an OATT.

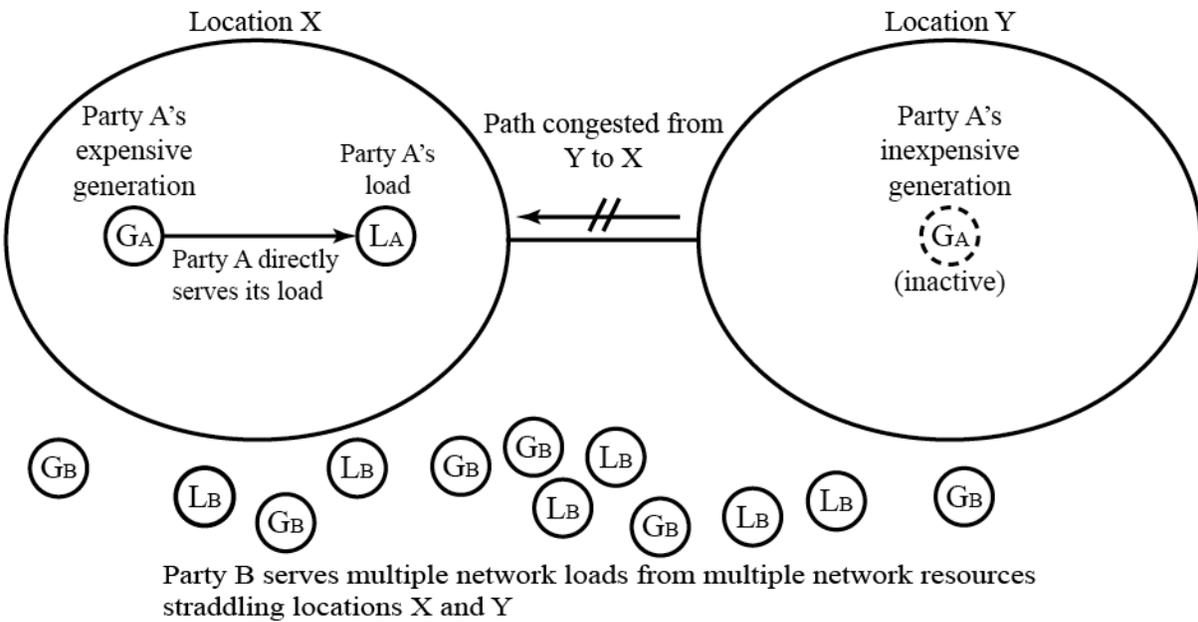
17. Thus, the Commission seeks comment whether a party with network transmission rights could use locational exchanges to circumvent the Commission's open access principles.

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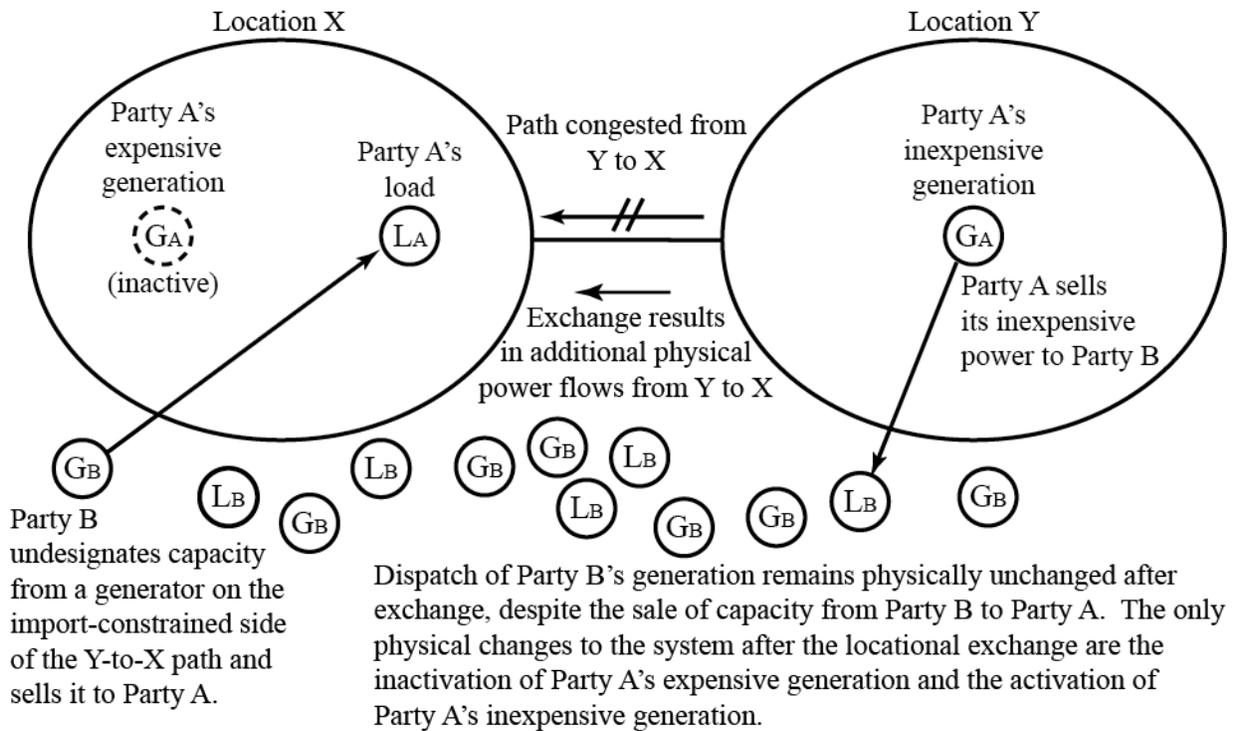
<sup>18</sup> In this example, Party B undesignates as a network resource the capacity it sells to Party A, and instead uses the generation at Location Y it has purchased from Party A.

Figure 1

**Before locational exchange:**



**After locational exchange:**



**E. Potential Discriminatory Effects**

18. The Commission seeks comment as to whether locational exchanges allow some parties to obtain the functional equivalent of transmission service on more favorable terms or rates than those available to other parties. The Commission also seeks comment regarding the potential distortive effects of locational exchanges on billing determinants and how such distortions may affect transmission rates. Transmission rates are determined by distributing transmission costs among different transmission services (such as point-to-point and network service) and dividing those costs by billing determinants calculated based upon the power amounts served by each transmission service.<sup>19</sup> If locational exchanges are not considered transmission service and are therefore not included in the billing determinants used to set transmission rates, locational exchanges that serve as an alternative to transmission service may increase transmission rates for remaining customers. Thus, the Commission seeks comment as to whether locational exchanges could increase charges for remaining transmission customers while allowing those entering into locational exchanges to avoid transmission charges.

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<sup>19</sup> Network service is priced based on the load ratio allocation method. “Because network service is load based, it is reasonable to allocate costs on the basis of load for purposes of pricing network service.” Order No. 888, FERC Stats. & Regs. at 31,736. *Pro forma* OATT, section 34. For firm and non-firm point-to-point service, the transmission customer will be billed for its reserved capacity under terms of schedule 7 and 8, respectively. *Pro forma* OATT, section 25; schedules 7 and 8. The transmission customer’s reserved capacity is the maximum amount of capacity and energy that the transmission provider agrees to transmit for the transmission customer between the point of receipt and the point of delivery. *Pro forma* OATT, section 1.42.

19. The Commission seeks comments as to whether and, if so, how locational exchanges affect billing determinants or create other such potential market distortions. Moreover, if locational exchanges have an effect on billing determinants and the distribution of costs, the Commission seeks comment on whether certain types of customers are less likely to be able to enter into locational exchanges and thus may be forced to pay potentially increased transmission costs that result from the distorted billing determinants.

**F. Price Reporting**

20. The Commission seeks comment as to whether the current EQR procedures and requirements are sufficient to ensure appropriate locational exchange data reporting. Under § 35.10b of the Commission's regulations, sellers of power are required to report data to the Commission's EQR system covering all services provided under part 35 of the Commission's regulations. The EQR data dictionary provides for a category of services called "exchanges" within which "the receiver accepts delivery of energy for a supplier's account and returns energy at times, rates, and amounts as mutually agreed if the receiver is not an RTO/ISO."<sup>20</sup> However, there is no rule describing whether an exchange transaction *must* be reported in EQR as an exchange, or whether an exchange transaction

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<sup>20</sup> *Revised Public Utility Filing Requirements for Electric Quarterly Reports*, Order No. 2001-I, 125 FERC 61,103, at Appendix A. The Commission has stated that the definition of "exchange" includes simultaneous trades at different locations. *Revised Public Utility Filing Requirements for Electric Quarterly Reports*, Order No. 2001-G, 120 FERC ¶ 61,270, at P 53, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007).

may alternatively be reported in EQR as two separate power sale transactions (one report by each seller).

21. Because of the structure of a locational exchange, the price per megawatt hour at each side of the transaction does not appear to be of any immediate financial interest to the parties, except as those prices determine the price of the entire locational exchange position (or the spread). Thus, if an exchange were reported in EQR as two separate power sale transactions, parties may not have any financial incentive to establish and report realistic prices for the power at each location. For instance, parties would be indifferent between reporting prices of \$5 and \$10 versus \$400 and \$405, since in both cases the spread is \$5. As a result, such reports could have the effect of distorting price data in the Commission's EQR system. With respect to this issue, we encourage parties to respond to the following questions:

- 1) How are locational exchanges typically reported to the EQR today?
- 2) Are additional rules needed to ensure that locational exchanges are reported in EQR as exchanges, and not reported as two separate power sales?<sup>21</sup>

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<sup>21</sup> We note that the Commission's rules provide that data for exchange transactions are *not* to be reported to developers of price indices. As such, there appears to be no concern related to locational exchanges affecting the accuracy of price indices. See 18 CFR 35.41(c) and *Commission's Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121, at P 34 (2003).

**G. System Reliability**

22. The Commission inquires as to whether locational exchanges affect the ability of system operators and any other relevant entities to obtain information or perform other functions necessary to maintain adequate system reliability. The Commission also seeks comment on the effects and implications of locational exchanges on the transmission system(s) and the operator's ability to comply with Commission approved North American Electric Reliability Corp. (NERC) reliability standards.

23. Parties should describe (1) the potential effect of locational exchanges on system performance including inadvertent power flows and the availability of information regarding power flows to the transmission provider and other reliability entities; (2) how locational exchanges interact with scheduling and tagging requirements; and (3) how locational exchanges affect short-term and long-term system planning. The Commission also seeks information associated with the relationship between locational exchanges and curtailment issues and procedures.

24. As parties provide this information, the Commission urges them to consider scenarios where a locational exchange is effectuated, including but not limited to, (a) within one balancing authority area; (b) within more than one balancing authority area; (c) over short distances as compared to long distances; (d) involving small amounts of MWs as opposed to large amounts of MWs; and (e) involving more than two points of exchanges in the context of the different scenarios listed in (a) through (d).

## **H. Pricing of Locational Exchanges**

25. If the Commission determines that a locational exchange is transmission service subject to an OATT, the Commission seeks comment as to whether there is an appropriate existing transmission pricing policy that should apply specifically to these types of arrangements. In the alternative, the Commission urges parties to propose a pricing mechanism that would efficiently price those exchanges that make use of the transmission system.

## **I. Commission Review of Locational Exchanges**

26. In addition, the Commission seeks comment regarding the potential effect of requiring parties to seek prior Commission approval for locational exchanges on a case-by-case basis.<sup>22</sup> In particular, the Commission urges parties to comment as to whether such a requirement would impose undue delays and other administrative burdens affecting the ability of market participants to use locational exchanges.

27. The Commission seeks comment regarding circumstances in which locational exchanges of electric power should be permitted generically. In this regard, the Commission seeks comment regarding criteria that might define a safe harbor within which a locational exchange would be deemed a permissible wholesale power transaction without prior Commission review of that transaction. Under this approach, those parties seeking to enter into exchanges that do not satisfy the safe harbor criteria could seek

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<sup>22</sup> For example, in *El Paso*, the Commission accepted a particular locational exchange after the parties filed the agreement and provided additional data to the Commission. *El Paso*, 115 FERC ¶ 61,312.

Commission approval on a case-by-case basis. To the extent that there are circumstances in which locational exchanges are permitted on a generic basis, the Commission seeks comment regarding any additional rules that may be necessary to regulate the exchanges.

**J. Comment Procedures**

28. The Commission invites interested persons to submit comments, and other information on the matters, issues, and specific questions identified in this notice.

Comments are due [Insert date that is 60 days from publication in the **FEDERAL REGISTER**]. Comments must refer to Docket No. RM11-9-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

29. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

30. Commenters that are not able to file comments electronically must send an original copy of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. The current copy requirements are specified on the Commission's website, see, e.g., the "Quick Reference Guide for Paper Submissions," available at <http://www.ferc.gov/docs-filing/efiling.asp>, or via phone from FERC Online Support at 202-502-6652 or toll-free at 1-866-208-3676.

31. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

**K. Document Availability**

32. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington DC 20426.

33. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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By direction of the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.