

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Market Based Rates for Public Utilities

Docket No. RM04-7-000

SUPPLEMENTAL NOTICE OF AGENDA  
FOR TECHNICAL CONFERENCE

(December 1, 2004)

The attachment to this supplemental notice provides additional information concerning the December 7, 2004 technical conference to discuss issues associated with transmission market power and barriers to entry. (See November 12, 2004, Notice of Technical Conference.) The conference will begin at 9:30 a.m. (EST) and will conclude at approximately 5:00 p.m. and will be convened in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. Members of the Commission will attend the conference. All interested persons are invited to attend. Microphones will be available to enable those in the audience to participate in the discussion.

The topic of the conference will be issues associated with transmission or vertical market power, and barriers to entry in electric markets, which are two of the four prongs the Commission currently uses to determine whether to grant market-based rate authority. The conference will address whether the Commission's pro forma open access transmission tariff adequately mitigates transmission market power, other proposals to identify and mitigate transmission market power, as well as whether and, if so, to what extent there are other barriers to entry that the Commission should consider.

The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202-347-3700 or 800-336-6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection website at <http://www.capitolconnection.org> and click on "FERC."

For more information about the conference, please contact Kelly Perl at 202-502-6421 or [kelly.perl@ferc.gov](mailto:kelly.perl@ferc.gov).

Magalie R. Salas  
Secretary

Technical Conference on Transmission Market Power and Barriers to Entry  
December 7, 2004  
9:30 A.M. – 5:00 P.M.

The purpose of this conference will be to discuss the second and third prongs of the Commission's assessment of an applicant's request for market-based rate authority: transmission market power and barriers to entry. Panelists will each be asked to address issues among the following in an overview prepared statement. The panelists' statements will be followed by questions and general discussion:

**Transmission Market Power and Transmission Barriers to Entry Questions**

1. How should transmission market power be defined? Should it be defined as merely the ownership of generation and transmission in the same relevant market?
2. Can transmission market power be used to foreclose competition or raise prices? If so, how?
3. How does transmission market power impact customer interests? For example, are prices significantly higher than they would have been without transmission market power? Is access to cheaper sources of supply limited? Is flexibility to respond to changing market conditions impaired?
4. How does transmission market power impact power supplier interests? For example, is power plants' energy production constrained by the exercise or suspected exercise of transmission market power?
5. What challenges do owners of uncommitted capacity face in securing long term power contracts or selling power on a short term basis?
6. How does the existence of long term and evergreen firm transmission contracts affect power supplier entry?
7. How important a factor is transmission congestion in the production, scheduling and consumption of power? To what degree can transmission congestion be attributed to physical transmission constraints and what degree to the exercise of transmission market power? How can the Commission distinguish between these two?
8. How can the Commission differentiate between the exercise of transmission market power from legitimate reliability-driven denials of access?
9. Do instances exist where transmission unavailability has led to the abandonment of plans to either build or expand generating capacity or to contract with a merchant supplier?
10. Does the Commission's *pro forma* open access transmission tariff adequately mitigate transmission market power? If not, specify whether there are ways the tariff could be modified or better enforced to achieve this goal.

11. Is it possible to eliminate or mitigate transmission market power apart from structural remedies? If so, how, and are there ways do to it apart from the OATT?
12. Can analytical tools to assess transmission market power be developed to screen out behavior motivated by legitimate business interests and direct the Commission's attention to areas where transmission market power is more likely to be exercised?
13. Does the existence of significant transmission constraints constitute a barrier to entry that should be considered in authorizing market-based rates for a transmission provider?

### **Non-Transmission Barriers to Entry Questions**

1. Can the lack of competition in fuel or other inputs constrain entry in the generation business? If so, how?
2. Can monopolization or attempted monopolization of future generating sites be a significant barrier to entry in generation? If so, how, and what can be done to remedy this problem?
3. Have financial constraints, such as access to capital or creditworthiness issues, been a serious barrier to entry in generation, or any other aspect of the electric power business?
4. Are there other barriers to entry the Commission should consider in granting market based rates? If so, how should the Commission test for the extent of harm to customers of competitors associated with such barriers?
5. Does the lack of an adequate competitive solicitation program by a utility that has monopsony power constitute a barrier to entry?