



**Federal Energy Regulatory Commission**  
**July 20, 2006**  
**Open Commission Meeting**  
**Discussion Item E-2**

Mr. Chairman and Commissioners, good morning. My name is Jeff Dennis, from the Office of General Counsel. With me this morning are Bud Earley, Udi Helman and Roland Wentworth from the Office of Energy Markets and Reliability, and Harry Singh from the Office of Enforcement. E-2 is a draft Final Rule on Long-Term Transmission Rights in Organized Electricity Markets.

This draft Final Rule is responsive to section 1233 of the Energy Policy Act of 2005, which adds a new section 217 to the Federal Power Act concerning native load service obligations. New section 217(b)(4) of the FPA requires the Commission to exercise its authority in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations, and enables load-serving entities to secure firm transmission rights on a long-term basis for long-term power supply arrangements made or planned to meet their service obligations. The Energy Policy Act requires the Commission to, within one year of enactment, implement new section 217(b)(4) by rule or order in transmission organizations with organized electricity markets.

On February 2nd of this year, the Commission issued a Notice of Proposed Rulemaking in this proceeding. Generally, the NOPR proposed to require that transmission organizations with organized electricity markets make long-term firm transmission rights available to all market participants consistent with eight proposed guidelines.

The draft Final Rule before you largely adopts the flexible approach to developing long-term firm transmission rights proposed in the NOPR. Specifically, the draft Final Rule requires transmission organizations with organized electricity markets to make long-term firm transmission rights available to all market participants. The draft rule adopts seven guidelines for the development of long-term firm transmission rights. These guidelines are intended to provide flexibility to transmission organizations and their stakeholders to develop specific designs for long-term firm transmission rights that will fit their prevailing market design and meet the needs of load-serving entities in their region, while also ensuring that such rights have certain fundamental properties that are essential to satisfy the intent of Congress in section 217(b)(4) of the FPA.

Highlighting a few of the important features of the Draft Final Rule, particularly the guidelines, first, the draft maintains proposed guideline (2), which as proposed in the NOPR, states that the financial coverage of long-term firm transmission rights, once allocated or awarded, may not be modified during their term except in extraordinary circumstances. In other words, guideline (2) requires that long-term firm transmission rights be "fully-funded." The draft preamble to the Final Rule contains some guidance on methods for funding the rights in the event of a revenue shortfall.

Second, the draft Final Rule revises proposed guideline (5) in two ways. As proposed in the NOPR, guideline (5) would have given load-serving entities with long-term power supply arrangements priority to long-term firm transmission rights over existing capacity. The draft replaces this proposed preference with a broader preference for load-serving entities vis-à-vis non-load-serving entities. Also, the draft adds language to guideline (5) to permit transmission organizations to place reasonable limits on the amount of existing capacity they will make available for



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long-term transmission rights.

Third, the draft Final Rule adopts proposed guideline (4), regarding the length of terms that transmission organizations must offer for existing capacity, with revisions to require that transmission organizations offer coverage for at least a 10-year period. Transmission organizations have the flexibility under this guideline to offer terms of other lengths to meet the needs of load-serving entities with long-term power supply arrangements.

Fourth, with regard to transmission system planning and expansion and long-term firm transmission rights, the draft Final Rule requires that each transmission organization with an organized electricity market implement planning and expansion procedures that will accommodate long-term firm transmission rights once they are allocated or awarded, to ensure that such rights remain feasible over their entire term. Each transmission organization subject to the rule is also required to make its planning and expansion practices and procedures publicly available, including both the actual plans and any underlying information used to develop the plans.

The draft Final Rule also eliminates proposed guideline (8), which stated that the allocation of long-term firm transmission rights should balance adverse economic impact between participants receiving and not receiving the right. The comments received on this guideline indicated that it could be misinterpreted to require long-term firm transmission rights proposals to meet a different or higher standard than the just and reasonable standard of the FPA, which neither the Commission nor Congress intended.

The draft Final Rule will become effective 30 days after publication in the Federal Register. Transmission organizations subject to the Final Rule will be required to submit compliance filings within 180 days of the date of publication in the Federal Register. Proposals to comply with the Final Rule must satisfy each of the seven guidelines.

We are available for any questions you may have. Thank you.