

FERC Technical Conference Docket No. AD11-11-000 – Priority Rights to New Participant Funded Transmission Independent and/or Merchant Transmission Lines

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Policy Implications and OATT Reforms Required for the Development of Export Transmission

Thank you for the opportunity to participate in this panel today before the Commission.

The Commission has asked panelists to consider whether non-incumbent/independent developers should be allowed flexibility in the allocation of priority rights to the use of transmission facilities and if so how much flexibility.

NorthWestern Energy respectfully suggests that the business structure of the entity proposing the new or expanded development should not be the gating issue with regard to the effective expansion of the grid or priority rights to transmission use. Rather, Open Access Transmission Tariff (“OATT”) and other policy reforms that allow any type of developer, whether independent or traditional utility, an opportunity to provide transmission service on a non-discriminatory basis should be pursued. Limiting or prioritizing such development only to independent transmission developers, would be by itself, a form of discrimination. Of even more paramount concern is the potential erosion to the reliability of the bulk electric system if further balkanization of the system is promoted.

Many of the reforms that the Commission has entertained such as Open Seasons, Anchor Tenants and Cost based vs negotiated rates have been the discussed primarily in individual orders on independent developer’s projects.

NorthWestern suggests that a third section of the OATT (“Section III Transmission Service”), applicable to all types of developers, traditional and non-traditional, be developed which would clearly identify policies and procedures for development of transmission facilities that are not for the traditional load service. Section III of the OATT could address transmission development for “export” lines and transmission collection systems. In the west and particularly in NorthWestern’s footprint, there is significant potential new variable generation development that

must be “collected” through new transmission facilities and “exported”, again, likely on new transmission facilities, to other, distant markets.

This third section of the OATT would outline the requirements for projects to perform, from start to finish, Open Seasons, describe how Anchor Tenants can be utilized, and to what extent, in the development of these facilities that are not for load service in the balancing authority in which they would reside. Section III of the OATT should also allow either cost-based or negotiated rate authority with appropriate criteria defined for each. For example, it should be acceptable to allow cost-based rates, but allow the “negotiation” of contract term and quantities in order to offer flexibility to customers and assurance of reasonable cost recovery over a period of time to developers. Rules for setting rates purely on a market or “bidding” basis should also be included in the reforms and new Section III of the OATT.

New Section III of the OATT should also describe the responsibilities for ancillary services associated with Section III Transmission Service. Section III should also recognize and establish rules around the obligation for doing “non-commercial” or the ancillary services that are an integral to the reliable deliver not only of the Section III service, but to maintain the reliability of service to customers served under Sections I and II of the OATT. So that rights to develop transmission and obligations to provide associated ancillary services do not get out of balance (i.e. the “merchant or independent” entity with the right to develop transmission, but the traditional utility with the obligation to provide ancillary services), Section III of the OATT should require transmission services and all required ancillary services to be made available by the same transmission developer or that in the alternative that if the obligation to provide such ancillary services falls to traditional provider of these services and not the independent, than it is critical to assure that those with the obligation to provide, aren’t unduly burdened with additional costs, risks or exposure to sanctions or penalties caused by third parties.

Section III of the OATT should be structured such that the customers requiring the transmission service pay for the service (“Participant Funded”) and that costs are not shifted to network customers otherwise not utilizing the new transmission facility.

In summary, NorthWestern Energy strongly feels that reforms are required to promote development of transmission facilities and service that is not for traditional load service. We have referred to this as “export” and “export collection” transmission. NorthWestern also respectfully submits to the

Commission that the business structure of the developer proposing such transmission should not limit the ability to develop and build this type of transmission facility. Policy reforms and an additional Section of the OATT could clearly be a vehicle to lay out the “rules of the road” for all potential developers and one transmission developer should not be given a priority over another.