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On behalf of Western Independent Transmission Group

FERC Technical Conference on Priority Rights to New Participant-Funded Transmission

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Introduction

I want to thank the Commissioners and Commission staff for the opportunity to participate in today's conference on behalf of the Western Independent Transmission Group (WITG). Today, both independent and merchant transmission developers are anxious to build efficient, much-need transmission facilities, particularly facilities needed to move renewable power to load centers. WITG believes that some of the Commission's policies may be hindering that development.

Key Impediments to the Development of Independent and Merchant Transmission Projects

Much of the transmission investment needed today is more complicated to develop, and riskier, than in prior years when incumbent traditional utilities built within their service territories. Transmission needs to be built to move location-constrained generation across long distances, or across multiple service territories, and the Commission's policies need to adapt to recognize these difficulties.

The members of WITG have come to realize two primary impediments. First, in the organized markets of the ISOs and RTOs, there is unequal treatment between independent and incumbent transmission owners, both in the transmission planning process itself and in the right of first refusal contained in existing transmission tariffs. This gives incumbent transmission providers a priority in building new transmission lines. Since these issues are being considered by the Commission in its pending rulemaking docket, I will reserve further comment on them.

However, the second major impediment is in the "non-organized" markets, in other words, markets outside the ISOs/RTOs. In these markets, independent developers do not have access to the traditional cost recovery models that incumbent developers have. This is the situation in most of the Western Electric Coordinating Council (WECC). There is no pre-existing set of cost-of-service customers from whom to recover the costs of building a new transmission line, no rate base funding, no defined rate of return on equity, and no ability to seek prudently incurred abandonment costs. Building transmission projects in in these circumstances is not only expensive, but it presents a "merry-go-round" or "chicken and egg" problem when it comes to financing and cost recovery. The merry-go-round has three parts:

(1) Most independent transmission companies need creditworthy, firm commitments from generators in order to obtain construction financing for a project.

(2) Most generators will not provide a firm commitment until after they have a purchase power agreement from a load-serving entity.

(3) Most load-serving entities will not award a purchase power agreement to a generator unless the generator already has firm transmission rights.

Steps That Could Help Remove Impediments to Independent Transmission Development

WITG does not believe there is a "one-size-fits-all" solution to the impediments identified. However, the Commission should allow independent and merchant transmission developers, in appropriate circumstances, to negotiate with anchor tenants up to 100% of the rights to transmission capacity on a new transmission line. While the Commission has allowed anchor tenants to reserve up to 50% of capacity, its precedent is unclear as to whether it is willing to consider higher percentages. The need to increase the anchor tenant percentage is driven by the significant development risk of long-line projects: siting, permitting, land acquisition, and multiple regulatory jurisdictions. In light of these development risks, independent projects may need 75% to 80% "contract cover" to satisfy lenders. Further, lenders may want several anchor tenants in order to spread risk. Without flexibility on the anchor tenant rights to capacity, it may not be possible in many situations to build projects.

A second recommendation is that the Commission encourage traditional incumbent transmission providers to partner with independent developers in building new long-distance transmission lines. This would help address the financing problems facing independents (lack of a rate base, cost-of-service mechanism through which customers will pay for construction). Because the risks associated with these lines are much higher than most lines within traditional utility service territories, and thus would merit a rate of return in the higher end of the range of reasonable returns, traditional incumbent utilities may be willing to join partnerships if the Commission encouraged them to do so. The Commission should also encourage incumbents to contract for capacity on new merchant lines where the economics make sense.

Summary

In summary, WITG asks the Commission to consider greater regulatory flexibility to accommodate independent and merchant transmission projects. Thank you again for the opportunity to participate today. WITG would be happy to provide any additional information for the record to assist the Commission in its consideration of these issues.