

**Presenter: Charlotte Glassman**

**For Duke Energy Carolinas, LLC and speaking for Edison Electric Institute**

Good morning Honorable Commissioners and members of the Commission Staff. Thank you for the opportunity to participate in this conference on behalf of Duke Energy Corporation. I am the Transmission Contracts Manager at Duke Energy Carolinas, LLC. Part of my job is the development of new Open Access Transmission Open Access (OATT) processes as well as administration of existing OATT processes. Additionally, I am also appearing here today on behalf of the Edison Electric Institute (EEI) to provide the views of EEI members regarding Designated Network Resources (DNRs) with respect to the Sellers' Choice issues. As you know, EEI and its member companies have worked long and hard to bring the industry together on many issues raised by Order 890 and we appreciate the efforts by the Commission and its Staff to gain ongoing input from those involved in the implementation of the Final Rule. EEI believes this commitment of time and resources is well spent.

I would like to start out by giving you the views of EEI members on off-system DNRs and how the differences between the Eastern and Western Interconnection transmission grids are affected by the off-system DNR provisions of the Final Rule. Following those remarks, I would like to make some additional comments and pose some questions. First, Speaking for EEI:

There is a consensus among EEI members that the Final Rule on this issue should acknowledge that there are really two transmission grids that have two very different physical configurations as well as different operating modes with different planning modes that have implications for the Commission's rules on DNRs. Based on these real differences, the Commission should allow for different information requirements for determining eligibility of off-system DNRs. I will speak first of the two different grids and the issue of off-system DNRs:

The Eastern Interconnection is tightly interconnected and contract paths such as PJM to Duke Energy Carolina have little bearing on how electrons actually flow. A transaction that is scheduled from PJM to Duke Energy Carolinas might flow through Dominion, Progress Energy, TVA and/or Southern Company and the magnitude of flow in each will depend on where the generation source is located. It is thus critical for transmission planners to know the location, at least at the control area level, of the generation in reviewing DNR requests.

Those of us operating in the Eastern Interconnection, applaud the Commission for requiring that the control area for an off-system DNR request be identified. With this information, our transmission planner's model typically can ramp up the generation in the designated control area, ramp down generation in the load's control area and conduct a load flow study to determine the actual flows. In this manner, we can identify potential overloads on lines and other system components. In the Eastern Interconnection this approach will keep our grid reliable.

On the other hand, in the Western Interconnection, identification of the source generation for an off-system DNR is not important. This is because the physical layout of the Western Interconnection's grid and the methods used to calculate ATC are very different from the Eastern Interconnection. One might think of the Western Interconnection as a bicycle wheel with a hub and spokes while the Eastern Interconnection would appear to be more like a spider web with many different ways for generation to get to load. The spoke and hub model does not need to know where the generation is located, and needs only to know the point at which power is delivered, which is often a trading hub.

The point the EEI members would like to make is that while Order 890 requires the identification of a control area for the designation of an off-system resource, a different requirement should be found to be acceptable for the Western Interconnection.

A good example is the Seller's Choice type of contract. A Seller's Choice contract is one that uses language like "into Southern, sellers election" when describing the delivery point. This means that the third party who is selling the energy to a Network Customer promises to deliver the energy into the Southern control area when called upon but that at the time the contract is executed, the source generator(s) are unknown. It is only at the time the energy is actually scheduled that the source of the generation becomes apparent. A Seller's Choice contract, thus is not appropriate for DNR status in the Eastern Interconnection because the necessary modelling cannot be performed.

In contrast, such a contract will work well in the Western Interconnection, if it specifies only delivery at a particular trading hub, because that is the only information needed.

Next, I would like to discuss the designation of on-system DNRs in unconstrained control areas or zones vs. the designation of on-system DNRs in constrained control areas or zones. It is the view of EEI members that if the on-system generation is located in an unconstrained system or zone, i.e., there are no internal paths for which ATC is calculated, then there is no need to designate individual units to serve system load. Conversely, if a system or zone has congestion, i.e., internal ATC paths, then unit designation becomes necessary to be able to correctly calculate ATC.

**This concludes my discussion of the consensus views of EEI members.**

I would now like to discuss in more detail, the concept of on-system system purchases on unconstrained systems and the issues that have been raised by Order 890 in regard to such contracts and their designation as Network Resources.

### **Background**

Some wholesale customers that take network transmission service in the control area of a Transmission Provider have entered into “On-System System Purchases” with the Transmission Provider’s merchant arm. The merchant arm of the Transmission Provider will be referred to as Seller. Paragraph 1483 and the definition of Native Load Customers raise many questions about such On-System System Purchases with regard to how DNRs must be designated both in network service transmission agreements and for purposes of posting each network customers’ DNRs. I would note that in Order No. 890 FERC calls some or all of these contracts “on system seller’s choice” contracts, but that is

not a term the industry uses for such contracts, thus I am using On-System System Purchases.

Before identifying the questions raised by Paragraph 1483 and the definition of Native Load Customers, however, I would note that the network transmission service for such wholesale customers making On-System System Purchases may be arranged in any of the following manners:

- For pre-Order 888 contracts, the transmission service may be bundled; that is, there is no network service agreement (“NITSA”) exists.
- The On-System System Purchase contract may place the delivery burden on Seller, in which case the Transmission Provider and the Seller may enter into a NITSA.
- In some cases, a three-party NITSA with the Seller and the Wholesale Customer both listed as customers may be an option.
- Finally, the delivery may be the responsibility of the Wholesale Customer and it and the Transmission Provider may have a two-party NITSA.

I would also note that where there is a NITSA, there are several ways the DNRs might be listed in the NITSA for an On-System System Purchases. Typically, as a Transmission Provider, I see designations such as:

- “Contract with Seller”
- “Seller Generation System”

I would finally note that there are several types of wholesale customers that may have entered into On-System System Purchases with the Transmission Provider’s Seller division. There are, for example:

- Full requirements customers for which Seller has an open-ended obligation to meet energy requirements.
- Partial requirements customers for which Seller has an open-ended obligation to meet residual energy requirements.

- Full or partial requirements customers for which Seller has an obligation only for a set time period to meet energy requirements and has no obligation thereafter.
- Non-requirements customers buying a specific number of MWs for a set time period with no obligation thereafter.

I would note that all the wholesale customers we are discussing making On-System System Purchases are network customers and thus the Transmission Provider does have an obligation to maintain and construct its Transmission System to serve these customers.

### **Order No. 890 Has Caused Confusion**

I will not read Paragraph 1483 of Order No. 890 or the definition of Native Load Customer, which are included in my written comments, but would note that the definition of Native Load Customers includes wholesale customers and that Paragraph 1483 prohibits the designation as a DNR of a seller's choice power purchase agreement which is sourced by generating units internal to the transmission provider's control area on the grounds that "evaluating the effect ATC would be problem."

### **Paragraph 1483 and the definition of Native Load**

¶ 1483 of Order 890. "In response to Entergy's request, we clarify that a customer may not designate as a network resource a seller's choice power purchase agreement which is sourced by generating units internal to the transmission provider's control area, since evaluating the effect on ATC would be problematic. We disagree with Entergy that a customer should be able to designate such a resource, even without specifying the location of the specific generating units, provided that the customer's network service from those units is contingent upon confirming resource deliverability prior to actually scheduling the service, because such a policy would still significantly obscure the

evaluation of ATC. If a customer wishes to have a choice of resources that are internal to the particular transmission provider's control area from which to dispatch power, it must designate each of the resources as network resources.

**Native Load Customers:** The wholesale and retail power customers of the Transmission Provider on whose behalf the Transmission Provider, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Provider's system to meet the reliable electric needs of such customers”.

The statement that “evaluating the effect on ATC would be problem” for on-system purchases is somewhat confusing to me because the generation source of an On-System System Purchase has no effect on ATC where there are no internal constraints.<sup>1</sup> It also is inconsistent with FERC's longstanding practice of accepting NITSA's with DNRs such as “Seller's Generation System” or “Contract with Seller” with no concern about Transmission Providers calculating ATC. Finally, Paragraph 1483 is inconsistent with the fact that FERC allows at least some wholesale customers to be classified as Native Load Customers and permits the Seller to serve such wholesale Native Load Customers from a choice of all of its DNRs without having concerns about ATC.

As long as the wholesale customer designates the “Contract with Seller” or the “Seller's Generation System” as the DNR, the Transmission Provider has all the information it needs on a transmission system or zone that lacks constraints. Thus, where there is no

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<sup>1</sup> The reason that an On-System System Purchase has no effect on ATC calculations in an unconstrained system is because an unconstrained system or zone, has no internal paths and therefore no internal ATC calculations. In at least one unconstrained system, all the on system generation is deliverable anywhere within the control area and therefore there are no internal constraints.

internal ATC issue, there is no reason not to permit customers' current designation practice to continue. I hope that the Commission will clarify Paragraph 1483 and the definition of Native Load Customers as a result of this conference to that effect. If such a clarification is not made, there are several questions that need to be answered as to existing DNRs that predated Order No. 890. And, whether or not Paragraph 1483 is clarified as suggested, there is a need to explain whether and how the Seller should, in its DNR postings, reflect the fact that a portion of its DNRs are being used for On-System System Purchases.

### **Implementation Guidance Is Needed**

Given the confusion caused by Order No. 890 and the definition of Native Load Customers, I have developed a list of questions and clarifications, answers to which would be helpful to the industry.

## QUESTIONS AND CLARIFICATIONS

### **Existing DNR Designations by Unbundled Wholesale Customers**

1. Can a wholesale customer that entered into “On-System System Purchase” contract with a Transmission Provider prior to July 13, 2007 continue to designate “Contract with Seller” as a DNR?
2. Can a wholesale customer that entered into an On-System System Purchase contract with Seller prior to July 13, 2007 continue to designate “Seller’s Generation System” as a DNR?
3. If not, what should the wholesale customer do?

### **Seller’s DNR Posting/Undesignation Requirements**

4. Confirm that for any wholesale customer that falls into Native Load Customer definition, the Seller need not separately designate any DNRs. That is, all Seller DNRs may be used to serve wholesale Native Load Customers, as well as retail customers. FERC should confirm whether wholesale Native Load Customers need to be identified by name as being included in the Seller’s DNR posting.
5. FERC should clarify which wholesale customers qualify as Native Load Customers.
  - Are there any grandfathered, bundled wholesale customers that do not qualify as Native Load Customers?
  - What types of unbundled, wholesale customers qualify as Native Load Customers?
  - Does the identity of the Transmission Customer (i.e., the Seller or the wholesale customer) make a difference?

- Does the nature of energy obligation under the On-System System Purchase make a difference?
  - Does the date the DNR was “entered in” (i.e., pre-Order 890/post-Order 890) matter?
6. If there are wholesale customers that make On-System System Purchase that are not Native Load Customers in FERC’s view, how does the Seller reflect the fact that a portion of its generation system will be used to serve such wholesale customers?
- Is a MW approach permitted? (I.e., the Seller lists the MW total of its on-system sales and deducts the total MW it from its total MW of DNRs).
  - Instead, does the Seller actually undesignate MW from particular units (includes the option of undesignating some MW from all potential units)?
7. If there are wholesale customers that make On-System System Purchase that are not Native Load Customers in FERC’s view, and FERC is going to require that specific units be undesignated by Seller to serve such customers, what should the Seller do if in real-time the designated unit trips or otherwise becomes unavailable? I.e., can the Seller continue to serve the load from another DNR that has not been undesignated?