



July 19, 2012

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Docket Nos. AD12-9-000, AD11-11-000

FERC Proposes Policy Reforms on Capacity Allocation for Merchant Transmission Projects

The Federal Energy Regulatory Commission (FERC) today proposed to clarify and refine its policies governing capacity allocation for new merchant transmission projects and new nonincumbent, cost-based, participant-funded transmission projects. The proposal allows developers to negotiate with potential customers on the key terms and conditions for obtaining transmission capacity, while ensuring transparency to protect market participants from undue discrimination.

Under current policy FERC considers individual requests from merchant transmission developers to solicit interest through bilateral negotiations for portions of their projects' capacity, and requires the remainder of the available capacity to be offered through an open season. Under this policy, FERC has granted individual requests to allocate up to 75 percent of a project's capacity to such anchor customers.

Under the proposal, a developer of a new merchant transmission project or a new nonincumbent, cost-based, participant-funded transmission project could allocate up to 100 percent of the project's capacity through bilateral negotiations if the developer broadly solicits interest in the project from potential customers and submits to FERC a report describing its approach for allocating capacity. The proposed policy statement outlines a process for conducting the solicitation and identifies the types of information that should be included in such report.

FERC says in the proposed policy statement that it remains concerned that new capacity not be allocated in a discriminatory or preferential way. Based on its experience evaluating new merchant transmission projects, and industry input provided through the March 2011 technical conference and February 2012 workshop, the Commission now proposes to clarify and refine its capacity allocation policies in a manner that provides developers with the ability to bilaterally negotiate the terms for capacity allocation, while ensuring transparency in the capacity allocation process.

The Commission also proposes to continue its case-by-case approach for reviewing requests for cost-based, participant-funded transmission projects by incumbent transmission providers.

Comments on the proposed Policy Statement are due 60 days after publication in the *Federal Register*.

R-12-26

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