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December 23, 2011


SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM11-18-000 - Transmission Planning
Reliability Standards

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,


David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Planning Reliability) Docket No. RM11-18-000
Standards)

NOTICE OF INTERVENTION AND COMMENTS
OF THE NEW YORK STATE
PUBLIC SERVICE COMMISSION

INTRODUCTION

On October 20, 2011, the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Proposed Rulemaking (NOPR) seeking comments on the Commission's proposal to remand the North American Electric Reliability Corporation's (NERC) proposed modifications to a Transmission Planning Reliability Standard. This standard recognizes the availability of load shedding in certain circumstances when planning to address a single contingency. NERC proposed that "[w]hen interruption of Firm Demand is utilized within the planning process to address [Bulk Electric System] performance requirements, such interruption is limited to circumstances where the use of Demand interruption are documented, including alternatives evaluated; and where the Demand interruption is subject to review in an open and transparent stakeholder process

that includes addressing stakeholder comments."¹ The Commission proposes to remand this proposed language, which it believes is "too undefined to provide assurances that the process will be effective in determining when it is appropriate to plan for interrupting Firm Demand, does not contain NERC-defined criteria on circumstances to determine when an exception for planned interruption of Firm Demand is permissible, and could result in inconsistent results in implementation."²

The New York State Public Service Commission (NYPSC) appreciates this opportunity to provide comments on the Commission's NOPR. While the NYPSC shares the Commission's interest in avoiding load shedding, it is essential to recognize that transmission system upgrades may not be cost effective, or even feasible, in certain circumstances.³ In these types of situations, it is necessary to allow transmission planning for single contingencies to reflect the availability of load shedding. The NYPSC respectfully recommends that the Commission

¹ Proposed Transmission Planning (TPL) Reliability Standard TPL-002-0a, Table 1, footnote b.

² NOPR at ¶11.

³ For example, upstate New York is characterized by several load centers served by radial lines. Given that these loads are located within the Adirondack State Park, additional transmission facilities would be subject to stringent environmental regulations and may even require an amendment to the New York State Constitution in order to occupy lands held in public trust.

focus on ensuring that any such load shedding would not cause a violation of bulk-power system reliability standards, rather than delving into matters that affect distribution service to retail customers. This approach would ensure the reliability of the bulk-power system, without interfering with matters reserved to the States, such as local distribution facilities and end-use sales.

NOTICE OF INTERVENTION

The NYPSC hereby submits it's Notice of Intervention and Comments pursuant to the NOPR published in the Federal Register on October 20, 2011, and Rule 214 of the Commission's Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

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DISCUSSION

I. The Commission Should Ensure That The Reliability Standards Will Not Interfere With Matters Reserved To The States, Including Local Distribution Facilities And Retail Sales

In the NOPR, the Commission identifies a number of options that NERC could employ to address the Commission's concerns. For example, the NOPR requests comments on whether the loss of a certain amount of load within a set timeframe, which "may include distribution level load shedding" could serve as a "basis for setting limits on when an entity can plan to interrupt Firm Demand on the Bulk-Power System."⁴ The NOPR also suggests that NERC may allow for "the planned interruption of Firm Demand in circumstances where the transmission planner can show that it has customers or community consent and there is no adverse impact to the Bulk-Power System." The Commission indicates that the terms customer or community would need to be defined, but that this approach would "presumably not require affirmative consent by every individual retail customer."⁵

Because these options would involve determinations regarding what level and type of load shedding is acceptable when serving retail customers over local distribution facilities, the NYPSC is concerned that the NOPR goes too far by

⁴ NOPR at ¶26.

⁵ NOPR at ¶28.

inappropriately implicating matters reserved to the States under the Federal Power Act (FPA). In particular, the Commission's jurisdiction is limited under the FPA to "the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce."⁶ As a result, States retain authority over retail sales of energy. Likewise, FERC's jurisdiction is limited "over facilities used in local distribution,"⁷ and those matters are reserved to the States. This reservation of authority is also recognized under Section 215 of the FPA, which allows FERC to regulate the "reliable operation" of "the bulk power system."⁸ However, the term "bulk power system" is specifically defined to exclude "facilities used in the local distribution of electric energy."⁹

Given these limitations under the FPA and the broad scope of the NOPR, the Commission should ensure that the NOPR does not run afoul of matters reserved to the States. Instead, we recommend that the Commission only prescribe acceptable load shedding as it pertains to wholesale customers that are in a position to select interruptible or conditional firm

⁶ 16 U.S.C. §824(a).

⁷ 16 U.S.C. §824(b)(1).

⁸ 16 U.S.C. §824o(i)(1).

⁹ 16 U.S.C. §824o(a)(1).

transmission service under FERC-approved tariffs. To the extent additional load shedding is identified at the State and local level, we suggest that the Commission focus on the reliability impacts on the bulk system, as discussed in the following section.

II. The Commission Should Ensure That Any Identified Load Shedding Will Not Cause A Violation of Bulk-Power System Reliability Standards

As noted above, the availability of load shedding should be recognized in transmission planning studies where transmission system upgrades may be cost prohibitive or may not be feasible. Where the load shedding falls within the States' purview (i.e., for retail or local distribution purposes), the Commission should focus on how that load shedding impacts the reliability of the bulk-power system. The Commission's suggestion, however, that it may be appropriate to demonstrate that "there is no adverse impact to the Bulk-Power System" is overly broad and undefined.¹⁰ For instance, any increased power flow on the bulk-power system, and almost any activity on the distribution system, could be considered an adverse impact.

The NYPSC recommends that the Commission utilize the reliability standards themselves as an objective and well-defined criteria for analyzing the impact of load shedding. Therefore, the Commission should require NERC to demonstrate that any load shedding

¹⁰ NOPR at ¶28.

or interruptions of load used for transmission planning purposes will not cause instability, uncontrolled separation, cascading failures, or any other violations of reliability standards for the bulk-power system. The Commission should limit its inquiry accordingly.

CONCLUSION

The Commission should revise the NOPR in accordance with the foregoing discussion.

Respectfully submitted,



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Public Service Commission
of the State of New York

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Albany, New York