

## E-ALERT | Energy

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### **FERC ADOPTS RULE TO INCREASE COMPETITION IN GRID SERVICES MARKETS, AND REQUIRES INTERCONNECTING GENERATORS TO PAY MORE IN A CERTAIN ZONE OF THE MISO RTO**

At its recent public meeting, FERC adopted new rules (Order No. 784) that ease restrictions on selling ancillary (grid balancing) services to transmission providers that may be impeding the development of competitive markets for those services and that establish accounting and reporting requirements for new electricity storage devices, such as flywheels and large batteries, which can be used to provide ancillary services. In a separate order, FERC required the Midcontinent Independent System Operator (MISO) to reform transmission rates in one of its zones to require interconnecting generators to pay more for grid upgrades.

These actions by FERC will be of interest to those with interests in renewable energy resources and in generating and other facilities that participate in wholesale electricity markets in the US.

#### **THIRD PARTY PROVISION OF ANCILLARY SERVICES**

FERC generally allows electricity to be sold at market-based rates (instead of more restrictive cost-based rates) if a seller can demonstrate that it does not have market power. Usually this is done by passing an analytic screen indicating that a seller does not have market power over energy and capacity in a particular market (the “market power screen”). For sales of ancillary services, it can be difficult for generators to show a lack of market power. Ancillary services require certain equipment characteristics, and only generators with these characteristics can be counted as competing suppliers in a market power study. However, detailed information on the pertinent generator characteristics is not always publicly available for use in a study needed to pass the screen.

To address this data limitation, FERC allows generators to sell ancillary services at market-based prices without a study, based on the notion that the availability of ancillary services from transmission providers at cost-based rates places an upper limit on prices. However, this policy does not apply to sales to a transmission provider purchasing the service to satisfy its open access tariff (OATT) obligation to provide ancillary services to its customers at cost-based rates; a study is required for those sales at market-based rates. This restriction does not apply to most RTOs and ISOs because they have developed formal ancillary services markets.

The restriction on market-based sales to transmission providers is seen as a barrier to developing competitive ancillary services markets and the new electricity storage technologies that can provide those services. The most significant likely buyers for ancillary services are transmission providers seeking to meet their OATT obligations.

FERC adopted a Final Rule that, among other things, offers alternative ways for ancillary service suppliers to address concerns about market power in ancillary service markets and thus sell to transmission providers at market-based rates (Order No. 784).

**Sellers that pass the current market power screen.** Providing certain ancillary services does not require any different technical equipment compared to resources that provide capacity or energy. Accordingly, sellers that have passed FERC's market power screen for capacity and energy may:

- Sell imbalance services to transmission providers at market-based rates in any balancing authority area that allows transmission customers to create or modify transmission schedules within the hour (intra-hour scheduling).
- Sell spinning and supplemental operating reserve services at market-based rates to transmission providers in any balancing authority area that allows intra-hour scheduling that supports the delivery of operating reserve resources between balancing authority areas.

However, the current restrictions remain in place for sales of Regulation and Frequency Response service and Reactive Supply and Voltage Control service because the resources capable of providing those services differ significantly from the broader set of resources capable of providing energy and capacity.

**OATT price cap.** Sellers that have not passed the market power screen may sell Regulation and Frequency Response service and Reactive Supply and Voltage Control service at market-based rates to transmission providers at rates that do not exceed the transmission provider's OATT rate for the same service. The OATT rate would already have been found just and reasonable, so rates that do not exceed it would also be just and reasonable.

**Competitive solicitations.** Sales of ancillary services may be made at market-based rates to a public utility that is purchasing ancillary services to satisfy its OATT requirement if the sale is made pursuant to a competitive solicitation that meets certain guidelines, including that the solicitation attracted sufficient seller interest to ensure competitiveness. FERC did not set out standards for the competitiveness showing and will evaluate proposals on a case-by-case basis.

The new rule also establishes requirements aimed at fostering innovation and market entry by newer resources. Transmission providers must take into account the speed and accuracy of regulation resources in determining reserve requirements for Regulation and Frequency Response service and in evaluating whether a customer that self-supplies the service has made alternative comparable arrangements. A transmission provider must explain to self-supplying customers the supporting reasoning and data regarding comparable arrangements, and post certain Area Control Error data on its OASIS site.

Finally, FERC revised its accounting and reporting regulations to add new plant and expense accounts for energy storage devices to accommodate the increasing availability of these resources and to ensure that their activities and costs are sufficiently transparent to allow effective oversight.

Order No. 784 is available [here](#).

## MISO TRANSMISSION RATE

In MISO, transmission rates, and how new transmission facilities are paid for, vary by pricing zones. While generation interconnection customers initially pay all of the costs of upgrades to transmission network facilities (i.e., those facilities that do more than just connect a generation or load to the grid) needed for a generator interconnection, load customers in the zone reimburse the generators for a portion of those costs over time. In all but one zone, customers reimburse the generators for only 10% of the upgrade costs. But in the ITC Midwest zone, customers reimburse 100% of the costs.

Interstate Power and Light Company (IPL), which is located in the ITC Midwest zone, complained to FERC that the 100% reimbursement policy is placing an unfair burden on it and its customers. IPL said that from 2008 to 2011 it paid about \$45 million in generator interconnection network upgrade costs, but that it would have paid only about \$12 million under the cost reimbursement method used in all other MISO zones. FERC granted the complaint and found that ITC Midwest's policy results in an "improper subsidy" because it does not provide for an adequate cost contribution from interconnecting generators or from transmission customers in other MISO zones that access the generators' output. FERC directed MISO to revise its tariff so that the same reimbursement policy applicable in other MISO zones also applies in the ITC Midwest zone.

This case indicates that FERC is attempting to balance its policies in support of wind and other renewable energy with the objective of fairly allocating the costs of transmission upgrades. When it approved ITC Midwest's 100% reimbursement policy a few years ago, FERC beat back some of the same inequity arguments raised in the IPL's complaint, noting that the policy is supported by the widely-recognized need for new generation in the pricing zone. However, as Commissioner Norris noted in a concurring opinion to the IPL complaint order, many of the generators are being developed to export their energy to other zones. It should be noted that the ITC Midwest pricing zone covers areas with favorable wind energy potential. IPL's complaint was opposed by the American Wind Energy Association, Wind on the Wires, Iberdrola Renewables, and EDF Renewable Energy.

FERC's order is available [here](#).

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