

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Preventing Undue Discrimination and
Preference in Transmission Service

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Dockets Nos. RM05-25-000
RM05-17-000

**SUPPLEMENTAL COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION
AND AMERICAN WIND ENERGY ASSOCIATION ON TRANSMISSION DISPATCH
ADVOCATES' PROPOSAL AND CONDITIONAL FIRM SERVICE**

The Electric Power Supply Association¹ (“EPSA”) and American Wind Energy Association (“AWEA”)² offer these supplemental comments on the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Notice of Proposed Rulemaking (NOPR) issued May 19, 2006 in the above captioned proceedings. On November 15, 2006, the Commission requested Supplemental Comments on: (1) a proposal by the Transparent Dispatch Advocates’ (TDA) for a real-time redispatch service;³ and, (2) the merits of a conditional firm service product.⁴

¹ EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

² AWEA is a national trade association representing a diverse set of over 800 entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

³ See Reply Comments of the Transparent Dispatch Advocates in Docket Nos. RM05-25-000, *et al.* on Sept. 20, 2006.

⁴ In addition to being a signatory to the initial TDA proposal, EPSA and AWEA also addressed conditional firm and long-term redispatch service in both their initial and reply comments in this docket.

I. BACKGROUND

When transmission customers request long-term firm transmission service, they are met with only a “yes” or “no” answer; *i.e.*, unless every element of the request can be met, the request will be denied even if the transmission provider were able to satisfy the service request for all but a few hours of the year. Hence, customers oftentimes are forced to choose between having to invest in costly network upgrades, or doing without service entirely – a choice that the transmission provider itself does not face when required to obtain additional transmission to meet its own load obligations. Insofar, then, as considerably more transmission capacity could be sold as firm, but is not, the failure to make such capacity available shows, at the very least, that much of the system’s existing capacity is not efficiently used; and if the provider does make such capacity available, but only to its affiliated generation, its doing so is unduly discriminatory as well.⁵

In order to make additional firm capacity available and to ensure that transmission service is offered on a transparent and comparable basis, the Commission has proposed one new product, conditional firm service, and has modified another product, redispatch service (the latter although already included in the initial Order 888 Tariff, is seldom used). While perhaps initially thought of as mutually exclusive services, there has been extensive comment to the effect that both of these services should be implemented. Both services can and would be offered in a manner that does not adversely affect reliability or degrade existing customers’ service in any way. Indeed, many transmission providers already utilize redispatch in the service of their native loads for both reliability and commercial purposes, and there is abundant record evidence derived from the

⁵ As the Commission recognized, this bipolar regime also makes it “difficult for alternative suppliers to procure the financing they need for project development.” NOPR at P 303.

experience of the organized markets that even a broad-based redispatch does not impair reliability.

In short, redispatch and conditional firm service are discrete but complementary alternative products that, together, can help to address the current deficiencies in the availability of long-term point-to-point service. As noted by the Western Governors' Association, both are important services to fully utilize the transmission system.

Greater use of the transmission system is a necessary complement to the concerted effort of Western Governors to expand the western transmission system. To build the case for transmission expansion, it is important to demonstrate that the existing grid is being effectively utilized. FERC's approval of conditional firm transmission service and re-dispatch will help make the necessary demonstration.⁶

Maximized and optimized use of the existing system – subject always first to baseline reliability requirements – ensures the optimal economic usage of existing resources and the timely and efficient recourse to new resources. Indeed, the more the system is optimized in the near term, the more information will be gleaned about the system's true capabilities and needs over the long term, which will serve only to enhance long term regional planning as envisioned by the Commission in this rulemaking. For all these reasons, the Commission should retain redispatch, effectuated by the transparent real-time redispatch mechanism proposed by TDA, and adopt conditional firm service in order to both enhance competitive opportunities and to remedy at least some of the discrimination already identified by the Commission in its findings.⁷

⁶ See Letter of the Western Governors Association to Chairman Keliher and Commissioners in Docket No. RM05-25, dated Nov. 28, 2006 at 1.

⁷ A useful analogy to underscore the fact that redispatch and conditional firm are complementary rather than mutually exclusive is the difference between a system brownout or rolling blackout, and an interruptible customer. Both are useful interventions employable by a utility to address peak demand issues. In the former, which is analogous to redispatch in that it addresses the utility's entire system, the utility either

II. ANSWERS TO SUPPLEMENTAL NOTICE QUESTIONS

A. Transparent Dispatch Advocates Proposal

1. *Is the TDA proposal required to remedy undue discrimination?*

The transparent redispatch service proposed by the TDA is a critical building block to remedying undue discrimination in transmission service. As the Commission recognized in the NOPR, preventing undue discrimination may require that the Commission adopt several remedies that will need to be implemented together. Redispatch is but one of these interlocking remedies, and one that the Commission already included in its Order 888 OATT. Thus, the service proposed by the TDA was intended both to partially effectuate the existing OATT redispatch provision and to address concerns raised about redispatch implementation during the NOPR proceedings. Many of the comments and concerns expressed over the TDA proposal have been misdirected; they are really collateral attacks on the redispatch provision that is already in the tariff and has been for ten years. EPSA and AWEA support the redispatch requirement in the tariff and the Commission's proposed rule to clarify and modify that provision. Transparent redispatch is a tool to make that tariff provision more workable.

The NOPR recognizes that when a transmission provider considers new resources to serve its *own* bundled retail native load, it is not faced with the choice between the simple yes or no answer that is offered to third parties; *i.e.*, the transmission provider will not eliminate an otherwise economic option merely because the resource may not be

partially reduced electrical voltages in response to high customer demand (brownout), or intermittently halts delivery of electricity entirely to portions of the service territory (rolling blackout) until the demand peak subsides. In the latter, which is analogous to conditional firm in that it is a bilateral rather than system-wide intervention, the utility offers a reduced electric rate to a customer who agrees to be curtailed at certain predicted hours or seasons of expected peak demand. Both interventions address the same underlying problem, but they are not mutually exclusive and indeed can be (and are) employed simultaneously to address periodic shortages caused by unusual peaks.

deliverable during only a few hours of the year. Rather, the transmission provider evaluates whether it can redispatch its own resources in order to free up capacity to deliver the new resource.⁸ Where this occurs, the new resource receives firm service not available to nonaffiliated OATT customers, and plainly, therefore, this constitutes the very type of discriminatory behavior for which the Federal Power Act demands that a remedy be imposed. Redispatch service is such a remedy.

It is for these reasons the Commission found:

1. that “transmission providers may evaluate transmission availability to serve long-term transmission service requests in a manner that is not comparable with the method they use to evaluate transmission needs for bundled retail native load;”⁹
2. that “the lack of transmission access threatens the viability of customer alternatives to their traditional suppliers;”¹⁰ and, therefore,
3. that “maintaining the status quo ... may be insufficient” to ensure comparable access to new generation resources for all transmission customers; or to eliminate entry barriers for new generation resources seeking long-term transmission; or to encourage the efficient and flexible use of the transmission system in a competitive market and otherwise to maximize competitive opportunities.¹¹

EPSA and AWEA fully support these findings and believes that the status quo must be changed to include transparent redispatch and conditional firm service. Lastly, and very importantly, EPSA and AWEA want to emphasize that the enhancements suggested by TDA are intended to supplement, not supplant, the existing OATT requirement that the transmission provider offer to provide firm point-to-point service through redispatch when studies performed in evaluating the initial request indicate that redispatch offers a feasible

⁸ NOPR at P 301.

⁹ NOPR at P 300.

¹⁰ NOPR at P 303.

¹¹ NOPR at P 304.

and more economic option than expansion. As required under the OATT today, customers that are granted firm point-to-point service would be subject to curtailment only on a pro rata basis with all other firm customers.

2. What are the implementation impediments to requiring greater transparency of redispatch cost information? For example, if long-term point-to-point service is granted based on redispatch of the transmission provider's generation, would it be reasonable to require the transmission provider to post its daily or hourly redispatch cost for the constraint implicated by that request?

The essence of the TDA proposal is to require transmission providers to make available on their OASIS real-time information about the cost of redispatch in order to enable more efficient use of the transmission system. As mentioned above, this information already is available and considered today by transmission providers serving their own native load and, therefore, providing this same information on OASIS in a timely, transparent manner will not require any significant effort or adjustment on the part of the transmission provider.

Specifically, the frequency of posting and the redispatch options available for the customer to accept or deny would be consistent with the transmission provider's existing scheduling rules and would offer no more flexibility to non-affiliated customers than presently is enjoyed by the transmission provider itself. Consequently, there should be minimal impediments to providing this available information on a wider, non-discriminatory basis to all OATT customers. Moreover, third party providers also should be permitted to offer redispatch service, and these suppliers should be entitled to update their offers to the transmission provider as frequently as the transmission provider updates the cost information for its own units. Lastly, the final rule also should direct the transmission provider to post an hourly indicative (estimated) price on its OASIS reflecting what it

would charge a transmission customer to provide redispatch service at selected flowgates (although the actual redispatch service should not be limited to service over particular flowgates). This indicative price would be posted sufficiently in advance of the hour in which the price would be effective in order to allow the transmission customer, consistent with the transmission provider's scheduling rules, to change its schedule – including canceling service so as to avoid redispatch charges.

3. *Are there confidentiality or anticompetitive issues associated with requiring posting of this type of information? Are any concerns alleviated or exacerbated if the transmission provider were required to post the differential in costs between redispatched generators?*

EPSA and AWEA do not believe that there are confidentiality or anticompetitive issues associated with posting information about the cost of redispatch. As an initial matter, redispatch costs are not the costs that the transmission provider is incurring to sell energy into the market. Redispatch costs are based on the costs of the units that, but for the redispatch request, would **not** have run, presumably because it would have been uneconomic. In addition, as the Commission recognizes, redispatch costs are the net cost incurred by the transmission provider, e.g., the difference between the cost of ramping down generation at one unit and ramping up generation at another. In any event, when utilities provide service under cost based rates (e.g., imbalance services are typically priced on the basis of incremental costs), they must be prepared to identify the costs that are the basis for these rates. With respect to third party suppliers of redispatch service, there would be no competitive concerns over posting of cost/price information from these suppliers because their names need not be posted. In short, there should be no concerns about the posting of relevant information.

4. *Would the TDA proposal for the transmission provider to provide real-time redispatch using third party resources require the establishment of limited markets and, if so, what are the costs or benefits of doing so?*

The TDA proposal would facilitate obtaining redispatch services from third parties such as competitive generators as well. The transmission provider would consider these independent generators that choose to offer redispatch service the same way it currently considers affiliated generation when seeking to effectuate a point-to-point (“PTP”) reservation that otherwise would be curtailed. The indicative cost of redispatch would be posted on the transmission provider’s OASIS and the provider would accept the competitive generator’s offer if it, alone or in combination with other units, would most cost effectively resolve the constraint without impairing reliability or harming native load. Indeed, the TDA proposal does not require any more information to be reported than what the Transmission Provider currently obtains both from its own units and from independent generating units for purposes of modeling its system and maintaining system security. Thus the proposal would not require the establishment of a separate market, but only that the transmission provider consider, along with its own cost data, such price data as may be offered by independent generators which choose to offer redispatch service.

Accordingly, while requiring only minimal adjustments to a transmission provider’s reporting systems, the redispatch service would be both transparent to all transmission customers and comparable to the redispatch service already being performed by the transmission provider for its own generation. Indeed, the TDA proposal not only would capture many of the benefits associated with the transmission service presently offered by independent transmission providers, but would do so at a fraction of the administrative costs and without requiring any restructuring of, or other significant changes to, those

vertically integrated utilities that have chosen to continue to operate their own control areas. And, instead of consolidating the grid operationally to form fewer but larger control areas under independent governance, the TDA proposal could be implemented simply through coordination agreements allowing generators to submit redispatch bids to relieve those constraints that otherwise would have lead a transmission provider to deny a transmission request outright.

B. Conditional Firm Service

1. *Should conditional firm be offered as an alternative to redispatch or are they complementary services? For example, if redispatch is not available, should the transmission provider nevertheless be required to offer conditional firm service if available?*

In their Initial and Reply comments, EPSA and AWEA urged the Commission to adopt both redispatch and conditional firm services in its final rule. Conditional Firm Service (CFS) and redispatch – whether styled as the redispatch service required under the current OATT or a real-time transparent redispatch service as proposed by the TDA – are separate services and in no way mutually exclusive or co-dependent. Both services are required to ensure that access to OATT service is in fact “comparable with the method [transmission providers] use to evaluate transmission needs for bundled retail load,”¹² and each service, therefore, should be made available whether or not the other is available at a particular time or on a particular system. EPSA’s and AWEA’s position has not changed notwithstanding the ensuing informal outreach discussions among stakeholders. However, it does appear that as a result of such outreach, CFS has garnered additional support, suggesting that the Commission should implement at least

¹² NOPR at P 300.

some kind of CFS products, or at the very least require on a case by case basis that CFS be made available absent a sound basis for its denial.

As some market participants have pointed out, it is possible that operational realities and configurations of different transmission systems in different regions may allow for (or require) one or the other service be offered to ensure that system capability is efficiently utilized.¹³ It is for this reason that several panelists at the October 12 Technical Conference recommended that transmission providers be required to look at both of these options when offering transmission service. Natalie McIntire, Senior Policy Analyst of the Renewable Northwest Project summarized this view:

In some cases conditional firm may be less costly than redispatch and may provide a solution to a customer's needs where redispatch is not an option. And for many utilities conditional firm may be simpler to implement. But ultimately, for both of these products to enable the financing of new generation resources, it's essential that customers be able to predict with as much certainty and transparency as possible the cost of obtaining these products before they sign contracts.¹⁴

Similarly, different customers may desire or tolerate different sets of conditions or costs – either based on redispatch or conditional firm service products. In short, both services should be offered given the different capabilities of both the transmission provider and customer in particular circumstances.

¹³ For instance, because of the preponderance of bilateral market transactions and hydroelectric generation in the Northwest, BPA believes that redispatch will be less suitable and conditional firm service based on monthly limitations can increase long-term ATC in the Pacific Northwest. See, e.g., Transcript of Technical Conference, Docket Nos. RM05-25-000, *et al.*, ("Transcript"), Comments of Lauren Nichols-Kinas, Public Utilities Specialist, Bonneville Power Administration at pp. 188-189 (Oct. 12, 2006).

¹⁴ Transcript at pp. 198-199.

2. Should conditional firm service be available for all long-term requests (including those of 20-30 years) or should it be offered only as a “bridge” service where the customer agrees to pay for transmission system upgrades and conditional firm service is provided until those relevant upgrades are constructed? For example, for a 20-year request for service, should the transmission provider be required to offer conditional firm service only during the first few years until relevant upgrades are constructed?

As a result of the stakeholder meetings and discussions on CFS that occurred since the NOPR’s issuance, and the participants’ further efforts to define a CFS acceptable to both transmission providers and transmission users, two types of long-term CFS are being discussed.¹⁵ One type of service would be of a shorter duration (“Limited Term CFS”) that is not subject to rollover rights by the customer. Limited Term CFS would be a firm product offered for a period no shorter than the minimum term necessary in order to qualify for a rollover (e.g., five years under the Commission’s current rollover proposal). Because of the limited duration of the service, the transmission customer would not be obligated to build the upgrades necessary for the customer to receive unconditional firm transmission services; *i.e.*, Limited Term CPS would not be a “bridge” service.

However, should a customer request long-term firm service (service with a term longer than the term required to qualify for rollover), the transmission provider would offer Long Term CFS, in which case, the service would be conditional, but only until the relevant upgrades are completed, at which time it would convert to fully Firm Service.¹⁶ However, if the provider does build the upgrades (as opposed to continuing the

¹⁵ Constellation Energy has developed a CFS proposal which reflects the two types of CFS discussed in these comments. EPSA and AWEA endorse Constellation’s approach in defining and delineating these two forms of CFS.

¹⁶ Alternatively, the transmission provider could elect to provide the conditional service over the entire term of the service request.

conditional service), it would not be permitted to charge an incremental rate in excess of the OATT rate for Firm Transmission Service because there was no threat to reliability stemming from the conditional service.¹⁷

Lastly, it is critical that the conditions be defined on a long term basis. In our discussions with Transmission Providers, many have said that their systems only allow them to define conditions for one year. As a result, they would want to guarantee conditions one year at a time and to be able to then change the conditions such as by adding new contingencies or time periods for the conditional service. But the risk of having new or expanded conditions placed on the service would render it useless for the financing of new projects. On the other hand, if required to commit upfront to the conditions, and to continue them for the entirety of a long-term service agreement, transmission providers would take on no greater risk than they do today committing to long term (unconditional) firm transmission service. While they may need to modify some business practices, our understanding of the Commission's tariff reform proceeding was that changing some business practices would be acceptable. It would certainly not amount to much of a reform proposal if no business practices were changed. Accordingly, the Commission should require that the applicable conditions be codified in the service agreement and that they not be modified over the term of the transaction. This is no different than is required today when a transmission provider provides a firm

¹⁷ In the unlikely event that the cost of implementing conditional firm service, e.g., the cost of installing a special protection scheme, were higher than the Firm OATT rate over the transaction term, the transmission provider would be able to charge this incremental cost instead. In other words, in implementing the Commission's "higher of" policy, the transmission provider could charge the higher of the Firm OATT rate or the incremental cost of providing a conditional firm service. It could not charge an even higher incremental cost rate based on the cost of the upgrade that is elected to build instead of continuing to provide CFS through the transaction term. There is no reason to require a customer to pay for a better upgrade than it needs unless required by reliability considerations.

(unconditional) service, i.e., it is not permitted to introduce limitations on the firmness of the service at a later date.

3. Do limitations on system modeling present problems in offering conditional firm service over long periods (e.g., 10-30 years)? For example, do standard modeling techniques make it easier to analyze system conditions in the near term (e.g., 1-5 years) than over the long term (e.g., 10-30 years)?

Limited Term CFS should pose no problems based on system modeling. Nor should the risk assumed by the transmission provider when offering Long Term CFS be any greater than its risk in offering an equally long firm network or point-to-point service today, or when providing such service in conjunction with a special protection system. As noted by Anthony Taylor at the October 12 conference,

NERC certified system operators are used to dealing with multiple operating guides, standards and complex procedures to ensure the integrity of the grid in the balancing of load and generation in the provision of transmission service...The provision of conditional firm service is fundamentally no different to the interruptible services historically offered industrial customers.¹⁸

4. If conditional firm service is considered as a “bridge” product, should special rules apply when the necessary upgrades are extremely expensive (e.g., 10 times the embedded cost rate)?

In those circumstances where the Long Term CFS is provided as a bridge product, it is essential that upgrade costs be well-defined and transparent at the outset.¹⁹ Any rules propagated by the Commission must ensure that upgrade costs are identified with certainty before the customer has reserved the service. If a Long Term CFS product is

¹⁸ Transcript at pp. 195, 196.

¹⁹ Furthermore, for the CFS to be at all useful in removing barriers to developing new generation, the transmission customer must know, at the commencement of service, exactly what the condition(s) is that would entitle the provider to curtail the service should the condition occur. Periodic changes in the condition(s) will not allow projects using CFS to be financed.

offered and the provider elects to build upgrades that, if to be paid for by the customer, would be so prohibitive as to make the transaction uneconomic, presumably the customer will not wish to proceed with the service. On the other hand, customers should not be forced to abandon a CFS and leave valuable capacity unused and required to pay for an uneconomic upgrade. This fundamental problem with the bridge option must be addressed. There may be different ways to address it. AWEA and EPSA believe that a good way to address the problem of a mandatory bridge is by requiring that the customer not have to pay any rate that exceeds the CFS rate. Stated differently, this is the true incremental rate for purposes of applying the “higher of” policy.

5. If any necessary upgrades produce “lumpy” capacity (e.g., a request for 100 MW of point-to-point service results in upgrades that create 1,000 MW of additional flowgate capacity), how should the lumpy capacity be handled? Should the costs be assigned exclusively to the requesting customer or, alternatively, be shared with other customers? If costs are assigned to the requesting customers, should it obtain rights to the lumpy capacity that can be resold in the marketplace? Alternatively, could a “bridging” application of conditional firm service even out the “lumpiness” of the upgrade requirement by permitting deferral of the upgrade until load growth or new customers are prepared to absorb and help pay for the excess capacity from the upgrade and, if so, how could the transmission provider implement such a mechanism?

The Commission’s questions about “lumpy investments” are not unique to CFS, and they arise directly from the Commission’s pricing policies which require the firm customer to pay the higher of the standard OATT rate or the incremental expansion cost. Thus, customers requesting firm services today may be required initially to pay for an upgrade that benefits customers that request service at a later date. In EPSA’s and AWEA’s view the initial transmission customer should be required to pay only for what is technically required to build those upgrades associated with the service request. Any

other lumpiness costs (such as sizing the line to accommodate future users) should be borne by the provider until such time as the new users can be identified. In any event, the Commission should establish consistent rules to address its concerns with lumpy investments for both firm service and CFS, and not try to resolve this issue for CFS alone.

6. *In responding to a request for conditional firm service, should the transmission provider be required to provide customers with a choice between conditional curtailment based on specified system conditions and the maximum number of hours per year?*

Yes. From the comments already submitted on how to define conditions for a CFS product, there appear to be transmission providers that believe that only a defined system contingencies approach would work on their systems, and others that believe that only a defined number of hours per year or seasonal period approach would work. Partially for this reason and partially because different customers operate under different physical and commercial constraints, EPSA and AWEA believe that neither option should be arbitrarily excluded by the Commission. Rather, in consultation with the customer, transmission providers should determine in their system studies which defining conditions could form the basis of a CFS product. Based on these findings, a customer could then assess the merits of the offered conditional firm service offerings and either contract for service or not.

7. *Should conditional firm service qualify as a network resource when the associated resource is imported by a network customer on an adjacent system?*

Network customers should be allowed to designate as a “Network Resource” any resource that is delivered from an adjacent system using CFS, assuming of course it meets the other non-transmission criteria for being a Network Resource. No network resources are available 100% of the time, e.g., hydro resources are available only when

water conditions permit; wind resources are available only when the wind is blowing; fossil resources are available only when not experiencing a planned or unplanned outage; resources with restrictive air permits may be available only for a limited hours per year; resources that are subject to Special Protection Systems may be interruptible during defined contingencies; and nuclear units may be unavailable for significant periods for refueling. Yet, none of these resources are denied network resource status. Unlike resources relying on nonfirm services, which are interruptible at the transmission provider's discretion for economic reasons, resources relying on CFS will be unavailable only under certain predefined and largely predictable reliability-based conditions and should therefore, be eligible to be network resources, just as the other resources identified above.

III. Conclusion

EPSA and AWEA strongly support the Commission's efforts to make transparent redispatch and conditional firm service part of a new OATT. The availability of both

services will lead to a more efficiently utilized transmission system and help to ensure that transmission service is offered on both a transparent and non-discriminatory basis to all transmission customers.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 15th day of December 2006.

/s/ Larry F. Eisenstat
Larry F. Eisenstat