



Protecting the Nation's Transmission Grid

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As part of the Energy Policy Act of 2005 (and in response to the 2003 Midwest blackout), Congress created a new legal and regulatory regime to protect the nation's transmission grid. The new regime was intended to create mandatory standards, designed by the non-federal National Electricity Reliability Council (NERC) and the regional reliability councils – with the Federal Energy Regulatory Commission (FERC) providing oversight. This structure was intended to provide consistent and effective national standards, while also allowing for variations that reflect regional differences of geography and system operation. Public power systems in the Northwest – and the entire electric utility industry – place a high premium on ensuring the reliable operation of the transmission grid.

Unfortunately, recent FERC initiatives threaten to tip the carefully crafted balance between NERC and FERC, impose significant and unnecessary expenses on smaller electric utilities, and potentially divert resources and attention from efforts to prevent significant threats to the nation's transmission grid.

Defining the Bulk Electric System

The first area of concern is a pending Notice of Proposed Rulemaking (NOPR) issued by FERC that seeks to define the bulk electric system. This definition is critically important, since facilities defined as part of the bulk electric system are held to a very high operational standard. Utilities owning or operating such facilities are subjected to significant administrative burdens to keep records regarding those facilities, and they face penalties if they fail to demonstrate compliance with standards. Even small utilities with no ability to impact bulk electric system reliability can be subjected to these burdens if they simply interconnect with bulk electric system facilities, whether or not they own or operate those bulk facilities.

The utility industry has already gone through a lengthy process through the regional reliability organizations to identify those facilities that are central to the operation of the inter-connected transmission grid (*e.g.*, those where a failure would impact neighboring utilities and potentially beyond). In the West, the WECC is developing a mechanism to exclude transmission facilities that are not integral to the operation of the nation's electric grid, even though they are rated at higher voltage. In contrast, FERC's NOPR suggests inclusion of all transmission facilities rated at 115 kv or above, with the only opportunity for de-designation being a case-by-case review at FERC. FERC's proposal poses a number of significant problems:

- ❖ ***Overbroad definition brings in facilities with no impact on the grid.*** Because of the distance being covered, many higher voltage facilities in the West operate only as distribution facilities, serving a utility's retail consumers. Utilities place the highest priority on the reliable operation of their distribution system; however, oversight and enforcement appropriately rests with the entity that understands and regulates retail service for that area – state commissions and public power governing boards, not FERC.
- ❖ ***Exemption process cumbersome and unworkable.*** The NOPR would allow for case-by-case review by FERC. This tedious and time-consuming process creates a no-win situation. Either thousands of filings seeking exemptions will overwhelm FERC and distract its staff from reviewing the operations of truly critical facilities, or utilities will decide to forgo an appeal and assume the significant time and expense of ensuring compliance for facilities that should not be included.
- ❖ ***Rigid system could unintentionally reduce reliability.*** During certain operating conditions – like hot summer days – utilities will sometimes intentionally shed load in order to preserve the reliability of the larger system (since failure to act could result in uncontrolled and cascading blackouts). Because the NOPR contemplates penalizing utilities for any load loss, a perverse incentive is created to avoid taking prudent utility management actions.

Penalties Should be Reasonable

The second area of concern is a recently released policy statement from FERC on penalties for violation of the reliability rules. The policy paper envisions significant fines for violations. PPC agrees that utility failures that result in threats to the nation's transmission grid need to be sanctioned in order to send a strong message and encourage the highest level of compliance. However, severe fines for minor infractions – or for failures at facilities that don't impact the interconnected grid – are simply punitive and may be beyond FERC's jurisdiction in some cases. Moreover, they are likely counter-productive, since a key feature of the current reliability protocol is self-reporting of violations – a practice that will certainly decrease if utilities face unreasonably high fines.

FERC should revisit its reliability policies and ensure proper focus on those facilities that truly impact the nation's transmission grid.