January 19, 2016

Southern Company Formal Comments

RE: 2015 AP Item 2.a.i.2 Long-Term Firm Rollover Rights Competition (OATT Section 2.2)

Committee Members:

Southern has reviewed the proposed recommendation, the 890 Orders, and the industry request R05019 and cannot find any mandates that make the changes made to the NAESB Business Practice Standards for long-term transmission service required. The OASIS Subcommittee has proposed changes to the NAESB standards in response to perceived direction received from the Federal Energy Regulatory Commission (FERC) in Orders 890 and the industry request R05019.

FERC has stated that it **does not** require a particular process to handle rollover requests/competition under Section 2.2 of the OATT.  Here are the pertinent cites (note that the Cargill order was issued in the interim between Order No. 890-A and Order No. 890-B):

***Cargill v SPP*, 122 FERC P61,068 (1-30-2008), EL08-9**

The dispute in this proceeding related to rollover and competing requests.  FERC stated:

17. Cargill’s attempt to rely on the Commission’s treatment of Midwest ISO’s processing of rollover rights is misplaced. As we noted in *Tenaska*, ***we have never found that there is only one way to process rollover requests***.  We also stated that we would not specify the mechanics by which a transmission provider exercises its rollover provisions.  The mechanics of Midwest ISO’s Commission-approved rollover process differ from those of SPP’s Commission-approved rollover process.  The Commission has approved deviations to Order No. 888’s *pro forma* OATT based on the characteristics of a transmission provider’s transmission service. In this case, we accepted SPP’s rollover provision in section 2.2, as modified.

***Tenaska Power v MISO*, 106 FERC P61,230 (3-8-2004), ELO04-43, EL04-46**

The dispute in this proceeding related to processing of rollover and competing requests.  FERC stated:

48. Section 2.2 of the pro forma OATT and Midwest ISO’s OATT does not contain a process for handling rollover rights.  In fact, the ***Commission has never found that there is only one way to process rollover requests***.  Rather, in Order No. 888-A, the Commission explained that it would not specify the mechanics by which the right of first refusal mechanism would be exercised, but would address the issue on a case-by-case basis.  However, the Commission did encourage utilities and their customers to include specific procedures for exercising the right of first refusal in future transmission service agreements executed under the pro forma tariff.  And of course, utilities are free to make Section 205 filings to propose additions to the pro forma tariff to generically specify procedures for dealing with the issue.  Thus, we agree with Split Rock that it cannot be determined from section 2.2 whether a competing request can be prior to a renewal request, subsequent to a renewal request, or both, and it is in this context that we address the complaints.

***Order No. 888-A*, 62 Fed Reg. 12274, p 12288 (1997)**

CSW Operating Companies asked the Commission to clarify the mechanics of exercising the right of first refusal.  ***We have determined not to specify in this order the mechanics by which the right of first refusal mechanism******will be exercised*** for existing firm transmission arrangements. Instead, we intend to address such issues on a case-by-case basis, if and when a dispute arises.  However, we encourage utilities and their customers to include specific procedures for exercising the right of first refusal in future transmission service agreements executed under the pro forma tariff.  And of course, utilities are free to make section 205 filings to propose additions to the pro forma tariff to generically specify procedures for dealing with the issues.

Also, Southern did not see anywhere in Order No. 890 and its progeny where FERC directed NAESB to address competing requests related to long-term transmission service.  FERC did say in Order No. 890-B that transmission providers could address the right of first refusal for ***short-term*** requests if they want.

***Order No. 890-B*, 123 FERC P61,299 (6-23-2008), RM05-17, RM05-25**

161. The Commission declines to address in this rulemaking proceeding how transmission providers should resolve complicated and fact-specific scenarios such as the cascading rights of first refusal described by Duke.  Sections 13.2 and 14.2 of the pro forma OATT provide adequate guidance for transmission providers to fairly administer the vast majority of competing requests, including priorities for determining which reservations or requests trump one another as well as the timeframes for eligible customers to respond to competing requests.  As the Commission explained in Order No. 890-A, we expect that more complex circumstances such as those suggested by Duke will be relatively limited and, therefore, are best addressed on a case-by-case basis [citing Order No. 890-A at P 816].  ***Transmission providers remain free, however, to develop through the NAESB process standard procedures for processing complicated request scenarios***.

Southern has included proposed language to WEQ-001-20 Opening Paragraph that if applied will offer the Transmission Providers a way to choose which process to use. Thank you for the opportunity to submit formal comments to the requested recommendation.

J T Wood

Southern Company Services, Inc.

Reliability Standards Project Manager