

To: Andrew Taylor, Joshua Pierce
From: Sustainable FERC Project, Natural Resources Defense Council, Southern Environmental Law Center and Sierra Club
Date: January 3, 2014
Re: Public Interest Organizations' Comments on Public Policy Requirement Considerations in Current SERTP Proposal

Public Interest Organizations (“PIOs”) appreciate the opportunity to comment on the SERTP Transmission Providers (“SERTP TPs”) December 13, 2013 draft tariff language (the “current proposal”) to satisfy outstanding regional planning obligations imparted by FERC in its July 18, 2013 Order (144 FERC ¶ 61,054) (the “July 18 Order”).

Based on our review to date, PIOs most significant concern is that the current proposal fails to address the deficiencies the Commission identified in paragraph 115 of the July 18 Order. There, the Commission wrote, “we are concerned that Filing Parties’ proposal could have the effect of categorically precluding consideration of whether a regional transmission solution may meet transmission needs driven by public policy requirements more efficiently or cost-effectively than one or more local transmission projects. Even if a transmission need driven by public policy requirements is already being addressed under the current transmission expansion plan, there may be another more efficient or cost-effective transmission solution to that need to be considered.”

The current proposal removes the language at the end of Section 10.2.1.2 that FERC specifically ordered be removed, but newly proposed language does not resolve the issue. Under Section 10.3.1 of the current proposal, the SERTP TPs will assess whether “the potential Transmission Need(s) driven by the Public Policy Requirement is already addressed or otherwise being evaluated in the then-current planning cycle.” But even if a Public Policy Requirement (“PPR”)-driven need already is addressed in a previous regional transmission plan or is being evaluated in some manner in the then-current planning cycle (presumably the latter occurring in the Transmission Provider’s local transmission planning process?), there may still be a more efficient or cost-effective regional solution to the identified need. In the July 18 Order, FERC made clear that the SERTP tariff should not categorically bar consideration of more efficient or cost-effective regional solutions simply because an identified need was addressed in a past regional plan or is being addressed at the local level.

To the extent SERTP TPs are relying on Sections 11.1 and 11.3.1 in the current proposal attempt to address this concern, even taken together – they fall short. Proposed Section 11.1 states that regional planning analysis will “include assessing whether there may be more efficient or cost effective transmission projects to address Transmission Needs than transmission projects included in the *latest* regional transmission plan.” Section 11.3.1 states that the SERTP TPs “will look for potential regional transmission projects that may be more efficient or cost effective solutions to address Transmission Needs than transmission projects included in the *then-current* regional transmission plan.” But as applies to projects to address PPR-driven or reliability or economic-driven transmission needs, Order 1000 requires consideration of more efficient or cost-effective regional solutions to identified transmission needs. PIOs recommend that the

SERTP TPs revise or delete the language proposed at the end of 10.3.1 and Section 10.3.2 and clarify how the planning process satisfies FERC's finding in paragraph 115 of the July 18 Order.

In addition, PIOs are concerned about the arrangement of criteria for the consideration of transmission project alternatives in Section 11.3.1. First, the section states that consideration of alternatives "will be based upon their effectiveness in addressing Transmission Needs." While this is of course the critical basis, in order to satisfy Order 1000, the analysis must also be based on the relative costs of proposed solutions. However, the current proposal includes "relative transmission costs" only as one of several factors that the Transmission Provider "may consider." PIOs believe the relative cost should be a required complement to effectiveness in solutions evaluation and comparison. Second, while transmission development and construction will be subject to state laws in any case, making regional planning subject to state-specific transmission ownership, siting and construction as a tariff requirement as proposed in Section 11.3.1 could impermissibly preclude sufficient consideration of the most efficient or cost effective solutions. Moreover, since many of these laws and rules result in fact-specific determinations through proceedings that cannot be predicted at the time of regional transmission planning, including the proposed language in 11.3.1 unnecessarily and prematurely restricts the process in a manner that runs counter to Order 1000 obligations and the July 18 Order.

Finally, in Section 10.3.1 the current proposal defines Transmission Needs as "physical transmission capacity requirements that [the TP] must fulfill on a reliable basis to satisfy long-term (*i.e.*, one year or more) firm transmission commitment(s)." While in most cases PPR-drivers will be determined to increase the need for transmission capacity, the consideration of PPRs may decrease or defer the need for additional transmission capacity. For example, a state energy efficiency standard that gets factored into transmission planning may defer or avoid the need for a given transmission infrastructure upgrade. The SERTP TPs' planning process should allow for consideration of PPR-drivers that decrease the need for transmission, in addition to those drivers that increase the need for capacity.

Sincerely,

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