

VIA EMAIL

April 12, 2012

Andrew Taylor
Southern Company Transmission
Southeastern Regional Transmission Planning

Dear Mr. Taylor:

The Southern Environmental Law Center (“SELC”) and Southern Alliance for Clean Energy (“SACE”) are regional nonprofit organizations dedicated to protecting the health and environment of the Southeast, and promoting smart energy policy for our region. The Southern Environmental Law Center represents more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use across its six-state Southeastern region. Southern Alliance for Clean Energy promotes responsible energy choices that create global warming solutions and ensure clean, safe and healthy communities throughout the Southeast. The Sustainable FERC Project is an education and advocacy initiative that coordinates a coalition of environmental and energy policy organizations across the country, including SELC and SACE, around electric regulatory policy. Our groups have a direct interest in the outcome of the Southeastern Regional Transmission Planning (“SERTP”) process currently underway to comply with the recent Order No. 1000¹ from the Federal Energy Regulatory Commission (“FERC”).

SELC attorney Keith Johnston attended the first quarter SERTP meeting on March 14, 2012 and we have reviewed the proposed Order 1000 Strawman (the “SERTP Proposal”) discussed at the meeting. Below please find comments on several aspects of the SERTP Proposal. We greatly appreciate the opportunity to provide feedback and look forward to further collaboration through the SERTP process.²

1. **Public Policy Requirements** – The SERTP Proposal does not currently address the issue of incorporating Public Policy Requirements (“PPRs”) into regional planning efforts. Paragraphs ¶¶ 203 and 206 of Order 1000 require transmission provider (“TP”) tariffs to describe: (i) procedures for identifying local and regional PPR-driven needs, including a process for selecting PPR-driven needs for which potential solutions will be evaluated; and (ii) procedures for conducting solution evaluations of PPR-driven needs in the planning processes. Regional planning processes under Order 1000 should be open to all interested persons and transparent. Specifically, the rule requires TPs in regional planning processes to implement the following planning procedures:

- a) TPs, in consultation with their stakeholders, *must establish procedures* for identifying PPR-driven system needs, allowing all stakeholders to provide input and offer proposals

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051 (July 21, 2011) (“Order 1000”).

² Per our email exchange, we appreciate your comfort in accepting comments on the SERTP Proposal past the initial comment target date listed on the SERTP website – April 10, 2012.

on PPR needs. (¶¶ 206, 207 & 212). The procedures must allow stakeholders to suggest grid needs driven by any PPR, including EPA regulations or any other state or federal regulation or law that drives transmission needs. (¶ 215). Although the rule does not require consideration of initiatives like utility energy efficiency and demand response program goals, it is prudent for TPs to account for them since they will have real impacts on load forecasts and, therefore, future transmission system needs.

- b) The procedures *must establish a process* that is just and reasonable and not unduly discriminatory by which TPs will identify the needs for which solutions will be evaluated. (¶ 209).
- c) TPs *must post* on their web sites an explanation of which identified PPR-driven needs will be evaluated for potential solutions in the local or regional planning process and why other suggested PPR-driven needs will not be evaluated. (¶ 209).
- d) Solutions evaluation processes *must include evaluation* of stakeholder proposals for transmission facilities proposed to satisfy an identified PPR-driven need and may contemplate public policies not captured in existing law or regulation. (¶ 211).

We believe that SERTP's currently proposed process to consider transmission solutions and alternatives that meet the region's needs does not sufficiently address Order 1000's PPR obligations, and we look forward to SERTP's more specific proposal in the near future.

2. **Consideration of Alternatives (including NTAs)** – Order 1000 requires regional planning processes to: (i) provide the opportunity for stakeholders to recommend transmission and non-transmission alternative (“NTA”) solutions to meet grid needs; and (ii) evaluate proposed alternative transmission and NTA solutions comparably. TPs must identify how they will evaluate and select among competing solutions and resources on a comparable basis.

The SERTP Proposal contemplates consideration of alternative transmission proposals by non-incumbent transmission developers but it is not clear that the proposed evaluation process provides for comparable consideration of non-incumbent proposals or that the process makes provision for the consideration of proposed NTA solutions. Further, although SERTP TPs' Attachment Ks contain Order 890-A-compliant provisions for the comparable treatment of NTAs, it is not clear that the provisions required by Order 890-A satisfy the intent of Order 1000's comparable consideration requirement.³ Order 890 emphasized “input” and “participation.” Order⁴ 1000 requires that TPs not just accept input but comparably consider all alternatives. The emphasis in Order 1000 is not merely on stakeholders' opportunity but on transmission providers' obligation for full comparable consideration.

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 73 FR 39092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 74 FR 12540 (Mar. 25, 2009), 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126 (2009) ¶ 454].

⁴ Order No. 890 at ¶ 454.

We recommend that at the beginning of each regional planning process, SERTP complete and post, after consultation with stakeholders regarding modeling assumptions, data inputs and scenarios to be evaluated, an assessment of the region's transmission system needs based on projected loads, generation resources, transmission service and generation interconnection requests and PPRs. The provision of this information is essential for stakeholders to assess system needs and prepare alternative solution proposals (as well as to provide input on and review of alternative transmission and NTA proposals). Individual stakeholders, including most state regulatory commissions, are not in a position to engage in such assessments without the data and analyses available to the TPs. Under Order 1000 TPs are required to consult with their stakeholders, as well as provide opportunity for input, and we believe this means that planning assumptions, data inputs, and scenario analyses used for needs assessments must be developed through a stakeholder process open to all interested persons, including state regulators, market participants, consumer and environmental advocates, and customers, established to work with SERTP TPs to assess system needs.

After identifying system needs through an open and transparent stakeholder process, SERTP TPs again should work with stakeholders to evaluate proposed Sponsor projects and alternative solutions. Order 1000 requires that stakeholders have the opportunity for timely input and meaningful participation in the evaluation of alternative transmission solutions, including NTAs, to meet identified grid needs (§ 148). While the SERTP Proposal provides objectives that proposed transmission projects must satisfy (i.e., whether the proposals are more efficient and cost-effective than those projects proposed by Sponsor TPs), it fails to provide metrics that will allow for comparable consideration of proposed alternative solutions, as required by Order 1000. SERTP should create specific evaluation criteria based on relative costs, implementation risks, and construction timelines, as well as short- and long-term regional benefits and ability to address multiple system needs.

Finally, the current SERTP Proposal does not address specifically how NTA solutions will be considered, or what metrics will be used to evaluate proposed NTA solutions as compared to transmission proposals. As it develops, the Proposal should make clear how NTAs will be proposed and evaluated and whether any special requirements or metrics will be imposed on entities proposing NTA solutions and, if so, how those metrics will apply to NTAs.

3. Other Opportunities for Stakeholder Input – In addition to the stakeholder consultation requirements noted above, Order 1000 requires that stakeholders be provided the opportunity for meaningful input in the Order 1000 compliance process, as well as each component of the ongoing regional planning process.⁵ SERTP TPs are already providing for

⁵ In addition to providing the general opportunity for stakeholders to comment on Order 1000 compliance proposals (§§ 14, 62), the rule specifically ensures the opportunity for stakeholder input and participation in at least the following areas: evaluating alternative transmission solutions to meet identified grid needs (§ 148), developing procedures for TPs to identify and evaluate solutions (§ 149), developing enhancements to the RTPPs (§ 151, 157), developing metrics for comparing NTAs with other solutions (§ 155), determining what constitutes a region for regional planning (§160), determining what info merchant transmission developers should provide (§164), identifying and evaluating public policy requirements (PPRs) that drive grid needs (§§ 167, 203, 206-9, 211-12, 215, 220), developing the framework for participation of non-incumbent transmission providers (§ 227), developing procedures for determining projects eligible for cost allocation (§ 336), and developing interregional transmission coordination procedures (§ 466). Presumably, stakeholders also make up part of the necessary “consensus” that §

stakeholder input in certain aspects of Order 1000 compliance and regional planning, but it is not clear SERTP TPs' process satisfies Order 1000's stakeholder participation obligations in all respects. SERTP TPs have, to date, provided only a general outline for Order 1000 compliance in the SERTP Proposal. Until stakeholders receive more detailed proposals on PPR-drive needs and solutions identification, how comparable consideration of NTAs will be provided for purposes of Order 1000, non-incumbent transmission provider qualification criteria, and metrics for the evaluation of potential solutions to identified needs (and the other Order 1000 compliance requirements), we cannot be sure that the proposed compliance approach will meet FERC's planning requirements. In addition, the current SERTP Proposal does not ensure that TPs' obligation to engage in meaningful stakeholder consultation will be met. At a minimum, SERTP must ensure that stakeholders have opportunity to express their needs and provide information, obtain access to the models and data used by the TPs in developing needs assessments, and help to identify and evaluate regional solutions. To do so, SERTP TPs must provide for a transparent planning process, which includes the provision of relevant analyses and data.

These comments represent our initial feedback on the SERTP Proposal. As we work with SERTP TPs to develop more specific proposals, we look forward to providing additional comments on the issues described above and others that may arise. Again, we look forward to working with SERTP stakeholders to develop desirable compliance outcomes.

Best regards,

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607 requires for approval of regional cost allocation methods. Regardless, "interested parties" are explicitly ensured the opportunity for comment at FERC if the relevant region cannot achieve consensus on regional cost allocation methods in advance of their compliance filings at FERC (§ 608).