

December 6, 2011

Remarks for DOE Workshop Regarding Transmission Congestion Study

Thank you for the opportunity to speak today. I am Ed Finley and I chair the North Carolina Utilities Commission. By way of background, with the exception of a very small portion of the State – the northeast – North Carolina does not participate in a regional transmission organization, or RTO, and our electric utilities remain vertically integrated. North Carolina's electric utilities are required to plan their systems on a least-cost, integrated basis, considering generation and transmission costs, as well as energy efficiency and demand-side management.

There is no retail competition in North Carolina. Regulation in North Carolina follows the "command and control" model. The NC Commission must grant certificates for transmission lines, and the NC Commission can require the electric utilities to build transmission lines where deemed necessary. North Carolina is the first state and perhaps the only one in the Southeast with a Renewable Portfolio Standard – 12 ½% of sales by 2021.

Turning to the question at hand, that is, how DOE should proceed to complete the required transmission congestion study. I believe DOE's study should focus on congestion that is actually occurring today, rather than looking at congestion that might occur under different scenarios for the future, especially since the designation of a congested area could be used to trigger FERC backstop siting authority. The controlling statute states:

After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary [of DOE] shall issue a report, based on the study, which may

designate any geographic area experiencing electric energy transmission constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.¹

The statute uses the words “experiencing...constraints or congestion,” in the present tense. The statute does not ask the DOE to anticipate congestion that might occur in the future. It would appear that Congress intended the designation of a national interest electric transmission corridor, and FERC’s related backstop siting authority, to be used only to address congestion that is actually occurring right now. DOE is required to perform this congestion study every three years and can adequately address future congestion concerns on a timely basis in future reports.

¹ **824p. Siting of interstate electric transmission facilities**

(a) Designation of national interest electric transmission corridors

(1) Not later than 1 year after August 8, 2005, and every 3 years thereafter, the Secretary of Energy (referred to in this section as the “Secretary”), in consultation with affected States, shall conduct a study of electric transmission congestion.

(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section [824o](#) of this title.

(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

(B)

(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

(ii) a diversification of supply is warranted;

(C) the energy independence of the United States would be served by the designation;

(D) the designation would be in the interest of national energy policy; and

(E) the designation would enhance national defense and homeland security.

The notice for this workshop asked how DOE could best use the expertise and insight offered by the Eastern Interconnection States Planning Council, also called EISPC. I have participated in EISPC since its inception, representing the state of North Carolina and more recently serving on the EIPC's Stakeholder Steering Committee. (The EIPC is a related effort which focuses on performing transmission studies based on scenarios agreed to by the EISPC.) I do not believe EISPC has officially offered any expertise or insight to the DOE congestion study effort, as this was not a part of its charter or a requirement of its funding. The EISPC effort and the DOE congestion study are two unrelated activities. EISPC has been working to define three scenarios of what the electric grid might need in 20 years. DOE's congestion study is to address transmission congestion that is occurring right now – a very different task. In addition, the EISPC studies aren't complete yet and won't be for some time. Finally, the EISPC members have never discussed the possibility that the study results would be used in the context of DOE's congestion study. Designation of a national interest electric transmission corridor triggers the potential for the federal government, rather than state and local governments, to site transmission facilities. This potential use of EISPC's studies has not been discussed by the EISPC members, and I believe they would view it as extremely controversial. DOE staff has attended and presented at many EISPC meetings. They have been asked explicitly how DOE intended to use the results of the EISPC studies, and the congestion study was not mentioned. It would be very inappropriate to move in that direction at this time.

The workshop notice also asked each of the speakers to comment as to whether his or her area is experiencing congestion, and sought specific studies and

documentation from which to draw information. We have no evidence to indicate that transmission congestion is a problem in North Carolina, and I believe there is some evidence to the contrary. It should be noted that DOE's 2009 congestion study report, which the NCUC cited to FERC in its rehearing request responsive to Order 1000, states that there was no congestion in the Southeast. The same conclusion is appropriate today. Most of the transmission grid in North Carolina is owned and operated by Duke Energy or Progress Energy, with a small portion owned by Dominion. North Carolina has many municipal and cooperative electric suppliers who rely on the transmission systems that are owned by Duke, Progress and Dominion.

As you likely know, Duke Energy and Progress Energy have proposed a merger, and their merger requests are pending before several regulatory bodies, including the FERC and the North Carolina Commission. It would be inappropriate for me to comment on the merits of the pending merger request itself at this time. I would note, however, that the cooperatives that rely on Duke and Progress for transmission service have been active participants in the various merger proceedings. In one of their submittals to the FERC, the North Carolina Electric Membership Corporation, which represents most of the State's electric cooperatives, stated that unilaterally-determined i.e. FERC transmission upgrades would be disruptive to the Duke/Progress Order 890-transmission planning process known as the North Carolina Transmission Planning Collaborative. This collaborative transmission planning effort is now finalizing its fifth annual round of transmission planning. Last year's plan called for 14 transmission projects each costing more than \$10 million, for a total of \$473 million of planned transmission investment in North Carolina over ten years. This year's draft plan shows

many of those projects as being underway, with some completed, and calls for \$296 million of investment by 2021. All indications are that North Carolina's transmission owners are moving ahead to plan and build the transmission that is needed to serve both the retail and wholesale customers of North Carolina.

I would also note that North Carolina's transmission planning collaborative expressly includes in its goals to "include analysis of increasing transmission access to supply resources inside and outside" of the Duke and Progress control areas. This year the two companies studied 11 different hypothetical scenarios for importing large amounts of power (600- and 1200-MW increments) into North Carolina, as well as a scenario for moving 1200 MW north into PJM. The study found that five of the increased import scenarios could be accomplished without any additional transmission investment. The remaining six import scenarios would require investments ranging from \$12 million to \$32 million. And the scenario for exporting another 1200 MW north to PJM would not require any additional transmission investments.² Through the collaborative process this information is available to the utilities that must work to serve customers reliably and at reasonable prices.

If building transmission is part of a least-cost supply plan, it is incumbent on the utilities to include it in their integrated resource plans, which the Utilities Commission reviews annually. The market power concerns of the type that are being addressed in the Duke/Progress merger proceeding before FERC potentially implicate the need for additional transmission facilities to upgrade the transmission interfaces between regions. However, such discussions about market power do not necessarily indicate

² The scenario studied was at system peak, with all generation and transmission components available and operating. There are times when "transmission loading relief" or TLR must be activated to curtail transmission deliveries north to PJM – these occur when certain facilities are out of service.

that transmission congestion is currently a problem. The transmission needed to serve wholesale and retail customers in North Carolina is being adequately addressed through the transmission planning collaborative process.

As you may also be aware, NC has extensive off-shore wind potential; some have said that our State has the largest off-shore wind potential on the East Coast. For the last two years North Carolina's transmission planning collaborative has studied various scenarios for off-shore wind development and what kind of transmission investment would be required to move off-shore wind power inland to serve our state's larger population centers such as Charlotte, the High Point-Winston-Salem-Greensboro Triad and the Raleigh-Durham-Chapel Hill Triangle regions. We now know that it would cost on the order of \$1.3 billion in transmission investments in North Carolina to integrate 5,000 MW of off-shore wind generation.

I mention this to illustrate that the Order 890 study processes required by the FERC have been in place long enough now to have produced useful information and to have resulted in transmission projects that have been built, are under construction, or are being planned and budgeted. And in some cases, building transmission is quite expensive and not in the public interest. I would encourage the DOE to seek out the transmission planning documents that have been produced by the various Order 890 study processes. Some transmission projects that would alleviate congestion might be extremely expensive, and the national interest might be better served with other solutions.

In closing, while there might be times when the national interest would be served by federal intervention to license and site transmission, I believe these instances are

few and far between. This tool should be used sparingly and only as a last resort. It also should be noted that North Carolina is within the jurisdiction of the Federal Court of Appeals for the Fourth Circuit, which has held that if a state orders that a transmission line not be built, that such an order does not trigger FERC's backstop authority. Therefore, the DOE's congestion study should focus on areas that are actually experiencing congestion. It's highly likely that state officials know whether their states are experiencing such congestion, and if they believe a corridor designation would help bring a more reasonably priced and reliable power supply to their citizens and businesses. I applaud you for reaching out to state officials, and thank you for the opportunity to be here today.