

Regulatory Considerations for Developing Generation Projects on Federal Lands

Federal Energy Regulatory Commission

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**NOTE: Comments herein do not represent the views of the
Federal Energy Regulatory Commission or its Commissioners**



Purpose of this Presentation

- Describe the types of transactions that fall under FERC jurisdiction
- Describe pertinent federal laws and how they apply
 - What does it mean to be a “public utility” or “transmitting utility” under federal law?
 - How does ownership and usage of a generation facility impact regulatory considerations?
 - When are parties required to register with NERC?



FERC-Related Statutes

- Federal Power Act
 - Section 205: rates, terms and conditions of transmission and wholesale sale of electricity by **public utilities**
 - Sections 210/211: interconnection and wheeling by **transmitting utilities**
 - Section 215: certification of the Electric Reliability Organization; review and enforcement of reliability standards applicable to **registered entities**
- Public Utility Regulatory Policies Act (PURPA)
 - Section 210: obligations to purchase from **qualifying cogeneration and small power production facilities**



Federal Agency Owns Project and Uses All Electricity Produced

- No sale of electricity within the meaning of the FPA
- Transmission of electricity within the meaning of the FPA is unlikely
- Potential state/local interconnection issues if generation is interconnected with the local utility's distribution grid
- Potential state/local rate issues regarding fixed cost recovery



Third Party Owns Project and Federal Agency Uses All Electricity Produced

- No sale or transmission of electricity within the meaning of the FPA
- Transmission of electricity within the meaning of the FPA is unlikely
- Potential state/local interconnection issues if generation is interconnected with the local utility's distribution grid
- Potential state/local rate issues regarding fixed cost recovery and use of the distribution grid for delivery
- Potential state/local franchise issues



Federal Agency Owns Project and Sells Some Electricity to Third Parties

- Sale of electricity within the meaning of the FPA more likely, but federal agencies are not “public utilities” so no FERC approval [caveat: sales in RTO and ISO markets are subject to FERC-approved tariffs]
- Transmission of electricity within the meaning of the FPA more likely, with interconnection and transmission service subject to FERC-approved tariffs
- Potential state/local interconnection issues if generation is interconnected with the local utility’s distribution grid
- Potential state/local rate issues regarding fixed cost recovery and use of the distribution grid for delivery
- Potential state/local franchise issues



Third Party Owns Project and Sells Some Electricity to Third Parties

- Sale of electricity within the meaning of the FPA more likely, requiring FERC authorization
- Transmission of electricity within the meaning of the FPA more likely, with interconnection and transmission service subject to FERC-approved tariffs
- Potential state/local interconnection issues if generation is interconnected with the local utility's distribution grid
- Potential state/local rate issues regarding fixed cost recovery and use of the distribution grid for delivery
- Potential state/local franchise issues



NERC Registration

- Registry Criteria for generator owners/operators:
 - Individual generating unit > 20 MVA (gross nameplate)
 - Generating plant > 75 MVA (gross aggregate)
 - Blackstart resources
 - Determined to be material to system reliability
- Exceptions:
 - Compliance responsibility transferred by written contract
 - Behind the meter generation – serves retail load on customer side of retail meter



Questions?

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