

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Standardization of Generator Interconnection
Agreements and Procedures**

Docket No. RM02-1-000

**Comments Of the
Electricity Consumers Resource Council**

The Electricity Consumers Resource Council (“ELCON”) respectfully submits the following initial comments pursuant to the procedures stated in the Commission’s April 24, 2002, Notice of Proposed Rulemaking on Standardizing Generator Interconnection Agreements and Procedures (“NOPR”). These comments are sponsored by ELCON’s Customer Generation Working Group (“CGWG”) that was established to address the unique characteristics of generation that serves retail load over privately funded distribution facilities. However, these comments are supported by the entire ELCON membership.

I. Introduction

ELCON strongly supports the Commission’s justification for initiating this proposed rulemaking:

... [I]nterconnection is a critical component of open access transmission service, and standard interconnection agreements and procedures are essential for providing the right incentives for both transmission providers and generators. Good interconnection standards and procedures will serve several important functions: they will encourage needed investment in infrastructure, limit opportunities for transmission providers to favor their own generation, and ease entry for competitors while ensuring efficient siting decisions. NOPR at 2.

A workably competitive wholesale electricity market requires the elimination of entry barriers to new generation in all its forms, including on-site customer generation that intends to serve all or part of a customer's "behind the meter" load. All end-use consumers benefit from customer generation whether or not they own or operate it. In a competitive wholesale market, the economic viability of some loads to self-generate puts downward pressure on market clearing prices that everyone pays. As it becomes more expensive to self-generate, *i.e.*, as opportunity costs increase, all consumers become vulnerable to higher prices. This is not a new issue or concern. The Public Utility Regulatory Policies Act ("PURPA") was enacted almost 25 years ago. Title II of that Act spawned a new class of generation called "non-utility generators" or NUGs that became the genesis of the modern day independent merchant generation industry. NUGs were predominantly qualifying facilities (or "QFs") in the form of industrial cogeneration, perhaps the most quintessential type of combined heat and power ("CHP") technology. CHP systems at industrial plants or commercial buildings can be three times more energy efficient than conventional central generating stations. The need for increased development of CHP forms of customer generation has been established federal energy policy since PURPA and continues today in the national energy policies of President Bush. The May 2001 *Report of the National Energy Policy Development Group* expressly identified Combined Heat and Power technologies and renewable energy resources for further development as a matter of national policy.¹

The industry transition that is about to commence is daunting. Within the next several years, we anticipate the creation of a few large regional RTOs with a standard market design and new, conforming reliability standards and commercial practices. It is important that during this

¹ Reliable, Affordable, and Environmentally Sound Energy for America's Future, Report of the National Energy Policy Development Group, May 2001.

transition that the unique characteristics and needs of customer generation not be confused with large central station facilities and merchant generation so as not to introduce new barriers—or preserve old barriers—to the development of customer generation. ELCON’s comments on the NOPR are generally directed with that outcome in mind.

II. Comments

A. The Two Proposed Interconnection “Products” Are Inferior To A Single Product Based On The Minimum Interconnection Standard.

The NOPR contemplates adopting two different “interconnection products.” Generators could choose to be interconnected as “Energy Resources” or as “Network Resources.”² Generators would be studied under different study assumptions and subject to different upgrade responsibilities and be accorded different rights to dispatch under these two options. There are several fundamental problems with this approach in the rulemaking.

The underlying assumption of this dual service standard is that the existing capacity of the transmission grid is the property of incumbents rather than a public resource funded by ratepayers to be allocated to those resources who serve ratepayers’ needs at lowest cost. Any standard that requires a new generator to incur additional costs in order to be considered a “Network Resource” perpetuates a preference for incumbent use of the system. This has no basis in the physics of grid operation and is purely a discriminatory preference that is clearly at odds with the Commission’s open access policies. The invention of an alternative service for “Energy Resources” was merely a stopgap effort by the merchant generator industry to avoid this burden.

² Energy Resource Interconnection Service allows the generator to connect its facility to the transmission system, thereby becoming eligible to deliver output using existing firm or non-firm transmission capacity on an “as available” basis. Network Resource Interconnection Service allows the generator to connect its facility in a manner comparable to that which the transmission provider integrates its generating facilities to service native load or, in an independent system operator (ISO) or RTO with market-based congestion management, as in the same manner as other Network Resources. NOPR at 12n.

But the broader industry and marketplace deserves a cleaner and more sustainable solution based on single interconnection service.³

ELCON recommends that there be only one standard for generator interconnection serve based on the Minimum Interconnection Standard as established by the Commission in its Order in Bucksport.⁴ All generators should be interconnected to the system on a basis that preserves the reliability and stability of the system and does not degrade the total transfer capability available to serve consumers. Thereafter, each generator must be free to compete on the basis of price with other generators, whether incumbent or new entrants, to utilize the capacity of the existing system. Expansions to the transmission system to increase transfer capability should not be undertaken or required pursuant to a generator interconnection standard.⁵ Expansions to common facilities should be undertaken as part of an overall system planning process, preferably conducted by an RTO, which balances the costs and benefits of system expansion in light of all factors. Such factors should include load growth, the siting decisions of individual generators, transmission constraints and the costs vs. benefits to consumers of relieving the same. Confusing the issue of overall system planning with the requirements for generator interconnection leads to economic inefficiency, barriers to entry, subsidies of incumbent generators,⁶ interferes with

³ The NOPR lacks any policy justification or otherwise to support the two interconnection services. The NOPR stated that a “majority” of the parties to the consensus documents appeared to support the two standards, but that was to be expected given the economic incentives of the majority of the parties (utilities and merchant generators).

⁴ Champion International Corporation and Bucksport L.L.C. v. ISO-New England Inc., New England Power Pool and Central Maine Power Company, 85 FERC ¶ 61,142 (1998).

⁵ We acknowledge that on some occasions the upgrades necessary to assure continued stability and reliability may result in increased transfer capacity being added to the system. However, the generator should be required to do no more than necessary to assure the continued reliability and stability of the existing system while preserving existing transfer capability. Increasing transfer capability should only be mandated where necessary to achieve these objectives.

⁶ Under some allocation methodologies, the subsidy runs not only to incumbents, but also to new entrants whose siting decisions cause uneconomic expansion of facilities.

rational planning and expansion by the RTO, delays needed expansion of the transmission system and/or runs the risk of redundant and unnecessary investment.

The NOPR provides no policy or engineering rationale for the adoption of the two standards. A review of the product descriptions provides no engineering or policy basis for the economic consequences attributed to the different “levels” of interconnection. The description of the Network Resource product is either inherently self-contradictory or leaves significant discretion in the transmission owner—who may well have affiliate generation—to manipulate the interconnection study and upgrade requirements to its economic advantage. Further, if it is presumed such discretion is removed, then it is unclear why a single product based on the Minimum Interconnection Standard would, as a matter of engineering and reliability, be insufficient to meet the “Network Resource” test. Conversely, adoption of an “Energy Resource” standard less robust than the Minimum Interconnection Standard would endanger the reliability, stability and economic value of the transmission grid to consumers. For all of these reasons, we conclude that the adoption of two interconnection service products is both unnecessary to reliability and harmful to competition. At a minimum, it creates the potential for contention, confusion and economic manipulation in a process that ought to be driven strictly by concerns of reliability.

The Minimum Interconnection Standard, coupled with a rational independent planning and expansion process overseen by an RTO, is the most efficient and equitable interconnection cost allocation methodology available. It minimizes barriers to entry while preserving reliability, stability and existing transfer capacity; it maximizes price competition between resources, and minimizes the risk of uneconomic expansion; and finally, it creates the proper incentives for

consumers, generators, vertically integrated utilities and RTOs to maximize efficiency in generation siting and transmission expansion.

The Minimum Interconnection Standard, by allowing a clear separation between the interconnection and transmission expansion processes, is workable within all existing regulatory and system planning and expansion regimes. The Minimum Interconnection Standard, because it is a purely engineering-based reliability standard, does not prejudice or foreclose any state or federal cost allocation, resource acquisition, transmission planning, or stranded cost recovery regulations or requirements. The Minimum Interconnection Standard is compatible with retail competition and will therefore permit the smooth transition to retail access and RTO-based wholesale markets in any jurisdiction that chooses to move in that direction. However, the standard does not mandate or require competition where state law restricts it. Thus, in all respects, the Minimum Interconnection Standard preserves to different states, ISOs or RTOs maximum flexibility to adopt the transmission expansion and resource acquisition policies best suited to their particular circumstances. By contrast, the dual product approach prejudices major transmission expansion and market issues, limiting the flexibility of various states and regions to conduct transmission expansion and generation siting in the manner best suited to their individual circumstances.

Further, any attempt to solve the problem of capacity deliverability through the interconnection process is discriminatory. The output of incumbent generators in existing pools is not universally deliverable to all areas and loads. Thus, imposing such requirements on new entrants would be discriminatory and would not solve the problem of deliverability for the vast bulk of resources. And changing patterns of load growth, generator bidding behavior, generator

siting decisions, merchant transmission expansion, and resource retirements will all contribute to changing patterns of congestion and deliverability for various units over time.

Finally, adoption of an “Energy Resource” interconnection standard is likely to harm consumers either by creating a discriminatory and anti-competitive standard for capacity, an unreliable interconnection standard for energy, or both.

For these reasons, the “multiple product” approach to interconnection is inferior to a single, unified standard based upon the Minimum Interconnection Standard. No generator should be permitted to interconnect to the system in a manner that threatens reliability or stability of the system. Conversely, every generator which interconnects to the system in a fashion which preserves the reliability and stability of the system (and does not decrease transfer capability) should be permitted the same rights and privileges to use the system as every other generator owned by any party or used for any purpose. Generators should not be foreclosed from investing voluntarily in expanding the transfer capability of the system where they believe it is in their interest to do so. However, requiring new entrants to expand transfer capability on common facilities in order to achieve economic parity (or capacity rights) with incumbents is economically inefficient and anti-competitive.

B. The Final Rules Must Acknowledge State Authority Over Interconnection Under PURPA.

The Commission should address the question of jurisdiction in its final rules to limit uncertainty and delay in the interconnection process and to focus any challenge of the rules on a single generic proceeding. In broadly applying the rules adopted in this NOPR, the Commission should expressly address the unique circumstances of customer generators operating under PURPA. Regulations promulgated under PURPA delegate responsibility to the states to provide for interconnection of QFs. To the extent the QF either (i) sells the majority of its output under a

PURPA based power sales agreement to a utility or (ii) elects to consume all energy generated on-site and not to export energy to the wholesale market, state jurisdictional interconnection rules should remain available to the QF. To the extent, however, that the predominant character of the facility is to generate electricity for sale in the wholesale markets under non-PURPA agreements, the agreements and rules adopted in this NOPR should be applied.

C. Transition Rules Should Ensure the Retention of Existing Interconnection Arrangements.

Existing interconnection agreements should remain in place for their specified term, consistent with long-standing Commission policy on the sanctity of contracts

Generators facing expiration of existing interconnection agreements should retain the benefits of the facilities constructed on their behalf and at their expense upon renewal of an agreement or project expansion. Absent any material change in interconnection, generators should retain the right to grid access using existing facilities without additional interconnection facilities studies, queuing or increased cost. Presuming the generator has returned the original cost of the facilities to the transmission owner over time, ongoing costs upon renewal should be limited to variable operation and maintenance costs and reasonable replacement costs.

Modification of existing interconnections for capacity expansion should preserve existing interconnection arrangements. If a modification is necessary, generators should retain their previous “queue” position for the existing interconnection and be able to rely on existing facilities and arrangements for deliveries to the grid within the scope of the original interconnection. Any expanded interconnection should recognize prior financial contribution for existing facilities and not result in re-categorizing of the entire interconnection as “new” and subject to queue procedures.

D. The Final Rules Should Recognize the Unique Operating Characteristics of Customer Generation.

The Commission should adopt rules that address the unique operating characteristics of generation built to serve and integrated with industrial processes. The Standard Generator Interconnection and Operating Agreement (SGIOA) must strictly limit the potential for curtailment and forbid redispatch of a generator integrated with an industrial process. Such utility- or RTO-directed redispatch is unnecessary for system reliability and would seriously impair a manufacture's ability to control their industrial processes resulting in economic losses and potentially unsafe manufacturing conditions.

Onerous conditions and costs imposed on self- generation, create a disincentive to invest in these efficient resources, put American industry at a competitive disadvantage, and result in higher prices for all consumers.

III. Conclusion

For all of the foregoing reasons, ELCON requests that the Commission adopt the proposals discussed herein.

Respectfully submitted,

John A. Anderson

Dr. John A. Anderson
Executive Director
Electricity Consumers Resource Council
1333 H Street, NW
West Tower, Suite 800
Washington, DC 20005
Phone: 202-682-1390
Fax: 202-289-6370
Email: janderson@elcon.org
jhughes@elcon.org

Dated: June 17, 2002