

## Executive Summary

FERC's white paper on Standard Market Design signaled the Commission's intent to retreat from several major SMD initiatives while still managing to expand Order 2000's reach in important areas.

In a compromise intended to appease SMD critics in Congress, in regions with historically low energy costs, and among state utility commissions, the white paper said FERC's final SMD rule would:

- ✍ Allow flexibility in regional market designs, implementation timetables, and in the structure of resource adequacy and cost recovery policies;
- ✍ Ensure transmission customers retain existing rights and have the ability to obtain additional rights for future load growth; and
- ✍ Not attempt to expand FERC's jurisdiction into areas already under the jurisdiction of local, state, or regional regulators.

At the same time, the white paper said the final SMD rule would expand the duties of RTOs and ISOs to include new responsibilities for ensuring state participation in RTO/ISO decision-making, and in creating and enforcing market power mitigation measures.

A likely implication for wind interests is that the appropriate forums for resolving many critical issues may remain at regional or state levels including RTOs, state commissions, and local siting authorities.

In other arenas:

- ✍ PJM has begun assigning capacity credits to wind generators, allowing them the potential to earn an additional source of revenue;
- ✍ The Texas Legislature passed legislation that could accelerate transmission projects intended to benefit new wind capacity in the state;
- ✍ A combination coal/wind plant is being proposed in eastern Montana, with the coal plant's generation intended to pay for new transmission lines and the wind plant improving overall environmental performance of the project; and
- ✍ A new report is the first to demonstrate that the presence of large-scale wind farms in a "view shed" does not harm property values.

## Standard Market Design

### FERC Releases SMD White Paper

The Federal Energy Regulatory Commission (FERC) released its promised white paper on standard market design (SMD) issues on April 28. In a 12-page statement and 18-page appendix, the white paper describes features of a final SMD rule FERC expects to release later this year. Specifically, it responds to comments on the rule as originally proposed last year, and details how the final SMD rule will affect RTOs and ISOs beyond existing Order 2000 requirements.

## White Paper Aims to Reassure SMD Critics

Politically, it attempts to mollify concerns about FERC's apparent assertion of jurisdiction over state and regional authority (FERC says its final rule won't supercede existing state authority), and concerns about imposition of a one-size-fits-all approach to unique regional markets (FERC says its final rule will accommodate regional flexibility in design and implementation). It barely mentions the words "Standard Market Design," dropping that controversial acronym for a new uncapitalized moniker "wholesale power market platform."

Separately, FERC's chairman Pat Wood said the Commission would not issue any final rule until after Congress has had a chance to pass electricity rules later this summer. The Senate energy bill in its current form would bar FERC from completing its SMD rules until July 2005. If the bill passes the Senate in late June, it would need to be reconciled with a House version in a process that would likely take several more months.

*White Paper, Wholesale Power Market Platform, and Appendix A: Comparison of the Proposed Wholesale Market Platform with the RTO Requirements of Order No. 2000, Federal Energy Regulatory Commission, April 28, 2003, Docket No. RM-12-000; Transmission Report 5/12/03-5/25/03, Energy Info Source*

FERC's white paper attempted to provide clarification on the most common and controversial issues raised by stakeholders throughout the SMD process. These comments, and FERC's response to each, are summarized below:

**Comment 1: In the SMD proceedings, FERC seemed to have proposed to assert jurisdiction over transmission used to provide retail service to native load customers.**

**FERC's response:** In the final rule, FERC will continue to assert jurisdiction over non-price terms and conditions of transmission service for bundled retail service, but will not assert new jurisdiction over the transmission rate component of bundled retail service.

**Comment 2: Specific features of the proposed rule, such as the resource adequacy and regional transmission planning requirements, could infringe on state jurisdiction.**

**FERC's response:** Nothing in the final rule will change state authority over these matters. The final rule won't impose a minimum level of resource adequacy, but will state that RTOs/ISOs can implement such standards if they choose to. The final rule will direct RTOs/ISOs to develop periodic regional transmission plans for submission to relevant state and local siting authorities and to assist states in evaluating the impact of new generation, transmission, energy efficiency, and demand response measures on regional reliability and resource adequacy.

**Comment 3: The transition process to the new proposed transmission service would not provide sufficient protection for existing customers.**

**FERC's response:** FERC says it wants to ensure that existing customers retain their existing transmission rights and retain rights for future load growth. The final rule will eliminate any requirement that firm transmission rights (FTRs) be auctioned. Instead, FERC will look to regional state committees to determine how such rights should be allocated to current customers based on current uses of the grid. FERC also recognizes that varying approaches to FTR allocation need not create seams with neighboring regions.

**Comment 4: The proposed rule was too prescriptive in substance and in its implementation timetable, and did not sufficiently accommodate regional differences.**

**FERC's response:** The final rule will allow for phased-in implementation and sequencing tailored to each region. It will not require RTOs/ISOs to implement features whose costs outweigh benefits as demonstrated to FERC. Also, each RTO/ISO will be required to provide a forum for state representatives to participate in decision-making.

**Comment 5: The proposed rule did not sufficiently clarify cost recovery for investment in new transmission.**

**FERC's response:** Appropriate regional policies will be required of each RTO/ISO. Regions may differ on the extent to which they want to rely on participant funded expansions. FERC will allow implementation of such policies once there is a regional planning process through which an independent entity performs all necessary facilities studies and determines cost responsibility for the required transmission upgrades.

*White Paper, Wholesale Power Market Platform, Federal Energy Regulatory Commission, April 28, 2003, Docket No. RM-12-000.*

## **How the Final SMD Order will Expand Order 2000**

Order 2000 specified four characteristics and eight functions of RTOs. FERC's SMD rule will clarify and expand many of these characteristics and functions, and will add several new functions as well. This section describes how these characteristics and functions will be affected by the final SMD rule.

### **Order 2000 RTO Characteristics**

**1. Independence.** The SMD Final Order will expand the independence characteristic to include ISOs as well as RTOs, and add overarching principles on how to structure independent governance.

**2. Scope and Regional Configuration.** The SMD Final Order will exempt new and existing ISOs from having to satisfy this characteristic, but require ISOs to actively pursue interregional coordination to minimize creation of seams.

**3. Operational Authority.** No change.

**4. Short-term Reliability.** No change.

### **Order 2000 RTO Functions**

**1. Tariff Administration and Design.** The SMD Final Order will:

☞ Clarify jurisdictional consequences that result when a public utility that owns, controls, or operates transmission facilities in interstate commerce joins an RTO/ISO. When this occurs, the RTO/ISO is to become the sole provider of transmission services for the facilities it controls, and transmission-owning members of the RTO/ISO become wholesale customers of the RTO/ISO.

☞ Clarify FERC jurisdiction over non-price terms and conditions of transmission used by wholesale transmission customers to serve bundled retail customers

☞ Not affect state authority over retail choice decisions, transmission siting, or local issues associated with transmission or distribution.

☞ Clarify that RTOs/ISOs may use license plate or postage stamp rates.

## **Order 2000 RTO Functions (continued)**

### **2. Congestion Management.** The SMD Final Order will:

- ✍ Modify Order 2000's requirement for market mechanisms to manage congestion, requiring each ISO/RTO to operate congestion markets itself.
- ✍ Allow multiple ISOs/RTOs to coordinate congestion management over larger areas as long as this function is carried out by an independent entity approved by the Commission (an endorsement of the congestion management proposal being developed in the West through SSG-WI).
- ✍ Add general principles that a good market congestion management system must satisfy.
- ✍ State that FERC's preferred approach is through locational pricing, but that it will allow other methods to be proposed as long as they meet general principles.
- ✍ Say that RTOs/ISOs using locational pricing must ensure existing firm customers have the opportunity to obtain FTRs equivalent to those customer's existing firm rights and rights for future load growth.
- ✍ Drop the requirement that FTRs be auctioned.

### **3. Parallel Path Flows.** No change.

### **4. Ancillary Services.** The SMD Final Order will:

- ✍ Require RTO/ISO itself to operate a security-constrained real time market for balancing energy and a day-ahead market for energy. Forbids use of a separate power exchange to perform this function.
- ✍ Require RTO/ISO itself to operate a market for various ancillary services unless it is demonstrated that the costs exceed the benefits of such markets.
- ✍ Require that load-serving entities (LSEs) be able to schedule transmission for generation owned by or contracted for that LSE to meet a service obligation.
- ✍ Say buyers and sellers, including intermittent resources, may procure or offer power through these spot markets to meet their short-term energy needs or sell excess supplies.

### **5. OASIS.** No change.

### **6. Market Monitoring.** The SMD Final Order will:

- ✍ Change the name and scope of this function to Market Monitoring and Market Power Mitigation, and expand and further define the role of market monitoring.
- ✍ Require the RTO/ISO and its market monitor to file market power mitigation measures.
- ✍ Require tariffs to include clear and enforceable rules to define and police market manipulation and gaming.
- ✍ Require that each RTO/ISO have an independent monitor either for itself or its larger region.

## **Order 2000 RTO Functions (continued)**

### **6. Market Monitoring (continued).** The SMD Final Order will:

- ✍ Say the tariff must include a clear set of rules governing market participant conduct with consequences for violations. Such rules are to include provisions regarding:
  - Consequences for economic and physical withholding of supplies;
  - Reporting on availability of units;
  - Accuracy of information submitted to the RTO/ISO;
  - Obligations of market participants to provide information to market monitor;
  - Cooperation of market participants in investigations or audits conducted by monitor; and
  - Requirements that all bids that designate specific resources are physically feasible.

### **7. Planning and Expansion.** The SMD Final Order will:

- ✍ Require this function to be present when the RTO/ISO begins operation, rather than after three years of operation.
- ✍ Not change previous rulings on the role that independent transmission companies (ITCs) can have in the regional planning process. (Says transmission owners and others can propose transmission improvements, but the RTO/ISO will assess the impact of these proposals in the regional plan.)
- ✍ Say the RTO/ISO may assess plans for transmission enhancements in view of opportunities for energy efficiency, demand response, new generation technologies consistent with policy direction from regional state committees.
- ✍ Permit regional flexibility in determining types of enhancements that would be recovered through an access charges. (FERC acknowledges that some regions may choose an expansive definition while others may choose to rely more on participant funding.)

**8. Interregional Coordination.** The SMD Final Order will expand this function to include ISOs and require that RTOs/ISOs with an electrical interconnection coordinate to resolve seams issues, and coordinate to eliminate export fees where there is no significant trade imbalance between the regions.

## **New RTO Functions to be Proposed in the SMD Final Order**

### **1. Transmission Pricing.** The SMD Final Order will...

- ✍ Provide that both RTOs and ISOs would be eligible for the rate reforms identified in Order 2000 (performance-based, returns on equity, nontraditional methods of determining depreciation schedules, etc.).
- ✍ Provide further clarification on when incremental pricing could be used. Cost of projects determined by regional planning process to be necessary to reliably and economically serve load in the region will be recovered through the access charge assessed to load.

- ✍ Allow regional flexibility in determining the types of enhancements that would be recovered through the access charge.

**New RTO Functions to be Proposed in the SMD Final Order (continued)**

**2. State Participation.** The SMD Final Order will:

- ✍ Require ISOs/RTOs to provide a forum for state participation.
- ✍ Permit recovery of cost of this forum in ISO/RTO annual budget.
- ✍ Say regional state forums can take lots of forms, such as the MMSC model in the Midwest, an MOU model being proposed in the mid-Atlantic region, or others.
- ✍ Say regional state committees would have primary responsibility for determining regional proposals.

**3. Resource Adequacy.** The SMD Final Order will:

- ✍ Not require a uniform approach to resource adequacy.
- ✍ Place responsibility for determining regional approach with regional state committees.
- ✍ Allow choice in resource adequacy enforcement mechanism - by state regulation of utilities, through RTO/ISO tariff, or other measures.

**4. Limiting Liability.** The SMD Final Order will include tariff provisions that limit liability of RTO/ISO and transmission owners so they are not liable for any damages arising out of ordinary negligence, and limit liability for gross negligence to direct damages, but not for consequential or indirect damages.

**5. Cyber Security.** The SMD Final Order will adopt NERC standards on cyber security.

*Appendix A: Comparison of the Proposed Wholesale Market Platform with the RTO Requirements of Order No. 2000, Federal Energy Regulatory Commission, April 28, 2003, Docket No. RM-12-000.*

**SMD Technical Conferences Announced for Southeast and Midwest**

FERC announced it would hold two technical conferences on wholesale market design issues.

The first, to be held June 5 in Atlanta, will provide a forum for airing state views on the SeTrans RTO proposal, formation of a SeTrans regional state committee, as well as other market design, process, and implementation timeline issues.

The next conference, to be held June 11 in Omaha, will feature discussion of the proposed Midwest Multi-State Committee (MMSC), the timeline and key decisions needed for developing MISO market rules, tariff structure, FTR allocation, market mitigation, and other issues.

*Notice of Technical Conference Agenda, FERC Docket No. RM01-12-000 May 23, 2003 (Midwest) and May 30, 2003 (Southeast).*

**The West**

**FERC White Paper Clarifies BPA's Jurisdiction in NW**

In its SMD white paper, FERC attempted to clarify its intended jurisdictional relationship with the Bonneville Power Administration (BPA), which controls the vast majority of hydro generation and transmission assets in the Northwest and is subject to international treaties, federal environmental laws, and regional

regulations in how it operates these assets. FERC said:

“Any decision of BPA to meet its obligations and operational responsibilities with respect to such matters as irrigation, flood control, treaties, environmental rules, and the like is solely BPA’s to make and is not jurisdictional to the Commission. While the Commission has limited jurisdiction over BPA’s rates...the contracts between BPA and its customers do not require Commission approval or review. With respect to concerns about the merits of locational pricing and a day-ahead market in a region dominated by hydroelectric resources, our commitment is to work with interested parties, including state commissions, to find solutions that are appropriate to the unique needs of the Pacific Northwest.”

*White Paper, Wholesale Power Market Platform, Federal Energy Regulatory Commission, April 28, 2003, Docket No. RM-12-000.*

### **Montana Progresses on Coal/Wind Partnership**

Great Northern Power Development and Kiewit Mining Group announced their intention to proceed with 500 MW, \$900 million coal and wind project near Miles City in eastern Montana. A lignite mine nearby would supply fuel for the power plant, while a co-located wind plant would benefit from a new transmission line built to serve the coal plant. Project sponsors say the coal plant would support upgrades to the transmission grid that would be difficult to justify solely to serve wind projects, while the wind plant would improve overall environmental performance of the project. The proposed transmission upgrades would link the WAPA and Northwestern Energy transmission systems and improve flow along two existing transmission paths, enhancing reliability and stability of the regional grid. Sponsors are hoping for the project to come online in 2008.

*Great Northern and Kiewit to develop linked coal/wind power project in Montana, PennWell Power Engineering online edition, May 7, 2003, pe.pennwellnet.com.*

### **Wyoming Initiates Consumer Advocate Office**

The state of Wyoming has created a new office to represent consumer interests in electricity matters. The new office opened with 6 cases pending, including cases dealing with utility participation in RTOs and other regional transmission issues. The agency says it will participate in talks with FERC and other Western states on changes in wholesale electricity markets and the need for additional transmission lines.

*Western Energy Report 5/5/03-5/18/03, Energy Info Source*

### **Nevada Commission Asks for Comments on RTOs**

The Public Utility Commission of Nevada (PUCN) is asking interested parties to submit comments on a draft order concerning participation of the state’s two investor-owned utilities (Nevada Power of Las Vegas and Sierra Pacific Power of Reno) in an RTO. The draft order:

- ✍ Presents considerations for joining one or more of the three western RTOs;
- ✍ Mentions that it would save personnel time if both of Sierra Pacific’s subsidiaries joined the same RTO;
- ✍ Cites reasons why it would be more advantageous for Nevada Power to join WestConnect, and why Sierra Pacific should join RTO West; and
- ✍ Expresses concern that WestConnect would be a for-profit.

The draft order also asks for comments on a list of proposed principles for RTO participation. Among them:

- ✍ State regulatory bodies, such as the PUC, should retain authority over

transmission costs that are included in retail rates paid by end use customers.

- ✍ States should have regulatory authority over transmission planning and the adequacy of power plant and transmission stations.
- ✍ Customers of Nevada Power and Sierra Pacific should retain their rights to transmission line capacity for their customers' benefit.
- ✍ New merchant power plant developers should be required to pay for transmission projects needed to serve their new plants.
- ✍ Joining and leaving an RTO should be voluntary for utilities subject to regulation by the PUCN.
- ✍ Utilities should not sell transmission assets.
- ✍ The state should retain its jurisdiction over retail transmission assets and consumer interests should be protected.

*Western Energy Report 5/5/03-5/18/03, Energy Info Source*

### **California PUC Approves Energy Action Plan**

The California Public Utility Commission (CPUC) voted 3-2 to approve the Draft Energy Action Plan for the state. The California Power Authority and Energy Commission already had approved the plan, and CPUC's was the final approval needed before implementation can begin. The plan calls for the addition of up to 600 MW per year of renewable energy to the state's supply resources, requires California's three IOUs to increase their purchases of renewable energy, and provides for expansion and upgrade of transmission lines that serve renewable energy projects.

*Western Energy Report 5/5/03-5/18/03, Energy Info Source*

## **The Midwest**

### **PJM Awards Capacity Credits for Wind**

As of June 1, wind generators operating in the PJM transmission system are eligible obtain an additional source of revenue by selling capacity credits to load serving entities. The capacity credit assigned to wind generators is based on a three-year rolling average of a unit's actual output during PJM's peak-use hours, which are from 3 to 6 p.m. in June, July, and August. For units that do not have three years operating experience, a rating that balances the unit's operational data and a "class average" of 20 percent of the unit's rated capacity (the class average is based on operating experience of wind farms in the PJM region, and is expected to be updated from time to time as more operating data is collected).

*Recommendations for Capacity Credit Factor Calculations for Wind Turbines, Intermittent Capacity Working Group, April 10, 2003, PJM, available at <http://www.pjm.com/committees/raa-rc/downloads/20030410-recommendations-for-capacity-credit-calculations-for-wind.pdf>; Transmission Report, 4/13/03-4/27/03, Energy Info Source.*

### **MISO, PJM, TVA to Work on Seams**

MISO, PJM, and TVA executed a memorandum of understanding (MOU) to develop a multi-regional approach to seams issues. The MOU marks the first step toward creation of a seamless market covering the three transmission systems, which together account for 43 percent of load in the Eastern Interconnection.

*Transmission Report, 4/13/03-4/27/03, Energy Info Source*

### **ComEd Announces Timetable for Joining PJM**

ComEd and PJM have released a timetable for transferring control of ComEd's transmission assets to PJM. On June 1, PJM will begin to administer ComEd's

OASIS and transmission service request process, and full control over the system will be transferred to PJM by fall 2003. FERC approved the requests of ComEd and AEP to join PJM in April 2003, but since then AEP's plans have been delayed. Now ComEd's timetable is being opposed by a group of Midwest utilities, who say that without AEP following the same timetable, ComEd's transmission system will become an island without any direct connection to PJM, subjecting it to "tolls" and "inappropriate market behavior" contrary to its purpose of joining the ISO.

*Transmission Report, 4/13/03-4/27/03 and 5/12/03-5/25/03, Energy Info Source*

### **Midwest Market Initiative Startup Delayed**

MISO announced it would delay startup of its Midwest Market Initiative (MMI) by four months to March 31, 2004. Market trials are now scheduled to run from November 2003 through February 2004. The delay will allow MISO to work longer on software integration and testing, and to provide additional training to market participants.

*Transmission Insight, April 2003, Energy Info Source*

## **Texas**

### **Legislative Session Ends with Victories for Wind**

The Texas Legislature approved HB 2548 on its final day, and the bill now awaits the Governor's signature. The bill expands the Texas Public Utility Commission's authority to compel construction or enlargements of transmission facilities not only to ensure safe and reliable service for the state's electric markets, but to "meet the State's RPS goal for renewable capacity" as well. The provision was supported by Texas' wind and renewable energy industries, as well as by a number of environmental organizations, but was opposed by some energy consumers groups over its potential impact on transmission costs.

Another victory for renewable energy came in the defeat of a bill proposing to carve out 50 MW of the state's 2,000 MW RPS and reserve it for municipal solid waste generating facilities.

*Interview w/ Russel Smith, Executive Director of the Texas Renewable Energy Industries Association, June 6, 2003.*

## **Other News**

### **REPP Report Shows Wind Turbines Don't Harm Property Values**

A new report by the Renewable Energy Policy Project shows that the presence of commercial-scale wind turbines does not harm property values. It is the first study to quantify the effects of wind plant development on nearby property values. It looked at nine wind projects in seven states and found no evidence that property values decreased as a result of the wind farms.

*The Effect of Wind Development on Local Property Values, Renewable Energy Policy Project, May 2003, available at [www.repp.org](http://www.repp.org). Wind Farms do not Hurt Property Values, Study Finds; AWEA News Release, May 20, 2003, available at <http://www.awea.org/news/news030520prp.html>.*