

GENERAL COMMENTS ON THE DRAFT RULES, TERMS AND CONDITIONS FOR THE PROVISION OF OPEN ACCESS TRANSMISSION SERVICE

By

Cagayan Electric Power & Light Co., Inc.

Before submitting our comments on specific provisions of the draft “Rules, Terms and Conditions for the Provision of Open Access Transmission Service” (referred to as OATS), we are submitting our comments and suggestions about the draft OATS in general, covering three topics: Direct Connections, Relationship of the OATS to the Grid Code and the WESM Rules, and Rates for Transmission Services. We believe that the general issues should be decided first before looking at the specific provisions, because decisions on the general issues will determine what specific provisions of the OATS should be included and how they should be stated.

Direct Connections

It appears to be the intention of the draft OATS to continue Direct Connections (the provision of Transmission Service to load customers using either customer-owned subtransmission facilities or dedicated subtransmission facilities owned by NAPOCOR). We point out that it is the intent of RA 91136 (the EPIRA) and the Implementing Rules and Regulations (IRR) to eliminate customer-owned subtransmission facilities, and to transfer subtransmission assets of NPC to the distribution utilities. As a consequence of this, in the fully restructured electric power industry the customers for transmission services will be only the distribution utilities and the generation companies. No end-user will be directly connected to the transmission system, and any end-user requiring transmission service will be served through the distribution utilities.

It is possible that those who drafted the OATS agree with us that Direct Connections will be eliminated, and that the OATS does not intend the perpetuation of Direct Connections. If so, we suggest that some of the proposed definitions and related provisions be revised so that it cannot be inferred that Direct Connections will be allowed in the reformed power industry. Examples of definitions that should be revised are the following:

(a) Revise the definition of “Connected Transmission Customer” to read as follows: “Connected Transmission Customer: Any Transmission Customer with Facilities physically connected to the Grid at one or more Points of Connection. For the avoidance of doubt, this includes Generation Plants, Distribution Utilities, and End-Users who have not yet been transferred to the Distribution Utilities.”

(b) Revise the definition of “Direct Connect Customer” to read as follows: “Direct Connect Customer. Any person or entity drawing Electricity directly off the Grid for its own consumption, prior to the transfer of such person or entity to the Distribution

Utilities. Such entities or persons, and this definition, will cease to exist when all have been transferred to the Distribution Utilities.”

(c) Revise the definition of “Load Customer” to read as follows: “Load Customer: Any Transmission Customer taking Electricity off the Grid which, for the avoidance of doubt, includes but is not restricted to Distribution Utilities and Direct Connect Customers, prior to the transfer of the latter to the Distribution Utilities.”

It is probably the case that the National Transmission Corporation (or at least the Corporate Planning Group of the NTC) holds the position that Direct Connections will remain indefinitely as legal customers of the NTC. In this case, considering that the distribution utilities hold the opposite position that RA 9136 and the IRR have eliminated Direct Connections, the ERC will have to make a decision as to the correct position. This may have to be done in a venue other than discussion of the OATS, but the settlement of this issue will have to be done before the OATS can be finalized. In this connection, we point out the following:

(a) Sec. 9(f) of RA 9136 states: “A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, That such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC:...” This is repeated in Rule 5, Sec. 5 of the IRR, where it is also stated that dedicated point-to-point limited transmission facilities “are not used to serve End-users or suppliers directly”. These particular provisions allow ownership of transmission facilities (by entities other than the TRANSCO) and subtransmission facilities (by entities other than the TRANSCO and the Distribution Utilities) only by generation companies, and only for a specific purpose. Ownership of transmission and subtransmission facilities by Load Customers is not allowed.

(b) In Sec. 7 of RA 9136, and in the pertinent sections of the IRR, the TRANSCO is directed to transfer subtransmission assets (which, we contend, include dedicated facilities that serve end-users, i.e., the direct connection facilities) to qualified distribution utilities.

(c) Rule 7, Sec. 4 states: “Any existing End-user within the Franchise Area of a Distribution Utility that is connected to TRANSCO facilities shall be served by the franchised Distribution Utility upon acquisition of the subtransmission facilities.”

Those provisions should make it clear that Direct Connections will be eliminated by the implementation of RA 9136. We are prepared to cite other provisions to this effect in RA 9136 and in the IRR, and to fully argue this issue before the ERC in an appropriate venue if the NTC does not accept that Direct Connections will be eliminated by full implementation of the EPIRA.

Distinction of OATS Rules from Grid Code and WESM Rules

There should be a clear distinction of the purposes of the OATS from that of the Grid Code and the WESM Rules. As drafted the OATS encroaches on what should be the domains of the Grid Code and the WESM Rules. For example, the OATS sets out requirements and procedures for making System Impact Studies, which properly belong to the Grid Code.

We suggest the following:

- (a) The OATS should be limited to specifying the relationships of the Transmission Service Provider and its customers where the actions to be required of the TSP and customers are not covered in the Grid Code and in the WESM Rules.
- (b) Topics covered in the draft OATS, which are not in the Grid Code but belong to the Grid Code, should be submitted to the Grid Management Committee for inclusion in the Grid Code. An example of this is the previously mentioned System Impact Studies, which are part of the Grid Impact Studies that are covered in the Grid Code. Other examples are provisions for System Operations.
- (c) It should be stated in the OATS that where there is a conflict between a provision of the OATS and the provision of the Grid Code or the WESM Rules, the Grid Code or the WESM Rules shall prevail and not the OATS.

In our comments on specific provisions of the OATS, we will point out the sections in the OATS that repeat or contradict provisions in the Grid Code or the WESM Rules, or which are topics that belong to the Grid Code or WESM Rules.

Rates for Transmission Services

Provisions in the draft OATS that significantly affect the effective price paid by customers of transmission services should be taken up in a rate case and not in the OATS. An example is the definition of the Billing Determinant for transmission and related services. The Billing Determinant was established when the unbundled rates of the NAPOCOR were approved by the ERC; no new definitions of the Billing Determinant, which would affect the effective rates paid by customers, should be set out in the OATS, but should be taken up in an application for revision of rates. The OATS sets out the terms and conditions for providing transmission service, but should not change the price of transmission service based on the rates approved by the ERC, and should not impose new charges for transmission service.

End of CEPALCO General Comments