

I. MOTION TO INTERVENE & COMMUNICATIONS

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers.

EPSA members own or operate billions of dollars of generating assets and are significant participants in the wholesale electricity market in the Entergy region and, therefore, have a direct interest regarding Entergy market changes and the effectiveness of the Southwest Power Pool (SPP) as the Independent Coordinator of Transmission (ICT) for the Entergy system. Competitive suppliers participated and commented in the proceedings that led to the Commission's April 24, 2006 Order that conditionally approved the ICT and the ongoing evaluation of the SPP and Entergy relationship and related tariff changes. Therefore, competitive suppliers have a direct interest in Entergy's tariff revisions at issue in this proceeding, as well as the manner in which those revisions are implemented by SPP as the Entergy ICT. As a result, EPSA has a direct and substantial interest in the instant proceeding that cannot be adequately represented by any other party, and allowing EPSA to actively participate in this proceeding would be in the public interest. Accordingly, EPSA respectfully requests that the Commission grant this timely motion to intervene.

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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II. INTRODUCTION

Similar to utilities outside of organized markets Entergy uses the revised NERC TLR procedures, recently approved by the Commission.² In that order and the corresponding Notice of Inquiry (NOI)³, the Commission acknowledges that issues raised by the Rehearing Parties'⁴ request for rehearing require more investigation, and that broader industry input is needed. The NOI seeks to answer the key question raised by the Rehearing Parties about whether reliance on the current NERC TLR related reliability standard IRO-006-4 is inconsistent with the OATT curtailment priorities and, if so, what can the Commission do to correct those inconsistencies. The revised TLR procedures Entergy is now proposing would be an approach that purposefully will not change NERC TLR procedures, but rather will make some of Entergy's current business practices part of its OATT, with the explanation that a Section 205 filing was the most

² *Comments of the Entergy Services, Inc.*, See footnote 3, Docket No. ER10-794-000 (February 23, 2010).

³ *Transmission Loading Relief Reliability Standard and Curtailment Priorities*, Notice of Inquiry, 130 FERC ¶61,033 (February 18, 2010). ("TLR NOI")

⁴ *Request for Rehearing and Clarification of the NRG Companies, The Electric Power Supply Association and Constellation Energy Commodities Group*, Docket No. RM08-7-002 (April 20, 2009).

expedient way to address Entergy TLR issues.⁵ Importantly, the Entergy proposal brings to the forefront how the NERC TLR procedure and the OATT can conflict, especially if they are used independently of one another rather than working together.

TLR events have been and still are a significant problem for the Entergy system. As asserted by Occidental Chemical Corporation, TLRs in number, size and severity have not diminished even since the ICT began operation in 2006.⁶ To address this ongoing problem Entergy proposes that when a TLR level 5 or above is called, for all interchange transactions using non-firm point-to-point transmission service, Entergy would curtail these non-firm transactions contributing to a system constraint, along with the firm transactions curtailed as part of the NERC TLR procedures. Entergy contends that this process is consistent with and superior to the pro forma OATT. Additionally, Entergy asserts that it has discussed with stakeholders tariff and business practice language similar to that included in this proposal, and did not opt make any changes. In submitting this proposal, Entergy states this new procedure should be in place before the summer and the Commission's consideration of the issues raised in the TLR NOI.

III. PROTEST

EPSA and its membership appreciate Entergy's acknowledgement that there is an extensive TLR problem on its system and its attempt to craft a solution to that problem. However, while Entergy's proposal at first appears

⁵ Entergy Services Inc., p. 4.

⁶ *Comments of Occidental Chemical Corporation in Response to the ICT's Fourth Quarterly Performance Report for 2009*, Docket No. ER05-1065-000 (February 25, 2010).

viable, the details of the proposal present more questions and/or problems than solutions. The proposal still allows for discrimination among internal and interchange transactions, and does so in a way that only raises the same questions outlined by the Commission in the TLR NOI, but also raises concern about comparability. Therefore, the Entergy filing undermines the Commission's goal to eliminate undue discrimination and preempts the Commission's NOI process. Implementation of the proposal would adversely impact intra-Entergy system resources, while favoring off-system suppliers, giving interchange resources preference over internal resources. Moreover, the proposed Generation Shift Factor (GSF) metric is not the correct metric to address curtailments and thus will not sufficiently address constraints associated with Entergy system load pockets.

The Commission should reject Entergy's TLR proposal and require a more comprehensive non-discriminatory solution. The current proposal attempts a partial fix without sufficient deference to the NOI and efforts by NERC and NAESB to enhance the interchange distribution calculator (IDC) and revise the TLR business practices that are intended to accomplish a more complete solution. Also, the proposal is contrary to the Commission's regulations about a utility's obligation to purchase Qualifying Facility (QF) energy and capacity. The Commission should only accept a proposal that eliminates discrimination between internal and interchange transactions; has protocols that treat internal and external transmission the same; and, ensures that constraints in load

pockets are measured in a way that facilitates the elimination of constraints in a non-discriminatory manner.

A. THE ENTERGY PROPOSAL DOES NOT ELIMINATE UNDUE DISCRIMINATION AMONG INTERNAL AND EXTERNAL TRANSACTIONS

In NERC's TLR Procedures Section 1.6, the administration of the NERC TLR Procedure uses as guidance information from the IDC which is defined in the NERC Glossary as the

"mechanism used by Reliability Coordinators (RC) in the Eastern Interconnection to calculate the distribution of Interchange Transactions over specific Flowgates. The IDC includes a database of all Interchange Transactions and a matrix of the Distribution Factors for the Eastern Interconnection."⁷

However, certain non-firm transmission transactions are not seen by the RC, and as such are not considered Interchange Transactions. Because of this classification these transactions are not curtailed using the IDC under the current NERC TLR Procedures. The categories of non-firm transactions that are not curtailed under the NERC TLR Procedures involves transmission transactions from secondary network resources that have a non-firm priority (NN-6 and NH-2) and are delivered as internal transactions in the balancing authority area. Consequently, these internal non-firm transmission transactions do not cross balancing authority area boundaries and thus are not considered Interchange Transactions.

As Entergy recounts in the instant filing, it contemplated NERC's suggested approach to consider non-interchange transactions along with IDC identified Interchange transactions, but opted instead to pursue considering the

⁷ See TLR NOI, Section 1.6.

interchange transactions with the NERC TLR process and having a different process for considering internal non-firm transactions.

Entergy is proposing to look at interchange transactions differently from internal transactions. Importantly, while the ICT as the RC will be implementing the NERC TLR process to resolve congestion, if and when the new Local Area Procedures (LAP) are engaged, Entergy will be responsible for implementing the procedure⁸ and making decisions about curtailments.

Since the inception of the ICT, questions have been raised about the sufficiency of the ICT's independence from Entergy under the current ICT Contract. Currently issues associated with the ICT, and its relationship with Entergy, are under review by the Commission and Entergy's retail regulators.⁹ There are several proposals being considered that would enhance the ICT and bolster its responsibilities and authorities. Consequently, competitive suppliers are participating in that process in an effort to improve upon the status quo for transmission service in the Entergy region. Anything less than an independent RC having responsibility for curtailing Entergy system transactions is of concern for competitive suppliers. Therefore EPSA members look forward to the resolution of the Commission and the Entergy Regional State Committee enhancing SPP's authorities as the Entergy RC.

In the meantime, proposals that could hinder future ICT enhancements and foster discrimination should not be allowed to go forward. In the proposal, as

⁸ Entergy Services Inc. filing, p. 11.

⁹ *FERC Notice of Conference on the Independent Coordinator of Transmission Arrangement and Transmission Access Issues on Entergy's Transmission System*, Docket Nos. ER05-1065 and ER09-555-000 (April 17, 2009). ("Notice")

part of the LAP, Entergy has the discretion and responsibility for cutting internal transactions. Hence the independent entity that is supposed to protect market participants from discrimination is no longer part of the process. The ICT should not cede its RC responsibility to Entergy at any point in the TLR process.

B. SIMULTANEOUS USE OF MULTIPLE PROCESSES USING DIFFERENT METRICS WILL NOT ENSURE COMPARABILITY

By segregating the TLR and LAP processes, the Entergy proposal creates two processes using different measures to determine which transactions will be curtailed. The LAP and the TLR processes use different metrics for deciding which transactions to cut -- under the LAP they propose to use Generator Shift Factors, while under the TLR they will use Generator to Load Distribution Factor (GLDF). The use of different metrics by different decisional authorities will not bode well for consistent non-discriminatory decisions. After the ICT uses the NERC TLR process and congestion is not resolved, the ICT will then cede responsibility to Entergy to engage the LAP process which uses a series of progressive steps. However, the progressive steps of the LAP seek to resolve intra BA congestion without any reconsideration of interchange transactions.

While Entergy has used the LAP as a business practice, it now proposes to make it part of the tariff with language changes that will allow it to cut intra BA transactions. However, as described in the filing, the LAP is an intricate six step process for resolving congestion. The Entergy system has long been and continues to be plagued by congestion and, as a business practice the LAP did not prove to be an effective method for alleviating constraints. Consequently, the

language change proposed does not provide competitive suppliers with sufficient confidence that Entergy's congestion problems will be resolved by merely moving the LAP into the tariff rather than retaining it as a business practice.

The LAP process as proposed still has steps that will make firm transactions subordinate to non-firm transactions. Under LAP Step 4 Entergy will curtail firm point to point internal transactions and redispatch network resource schedules with a Service Priority of 7 sourced from any generator that has a GSF equal to or greater than 3.0 percent and that adversely impacts a constrained flowgate. If this process does not work, LAP steps 1, 2 and 4 are repeated using a GSF of 1.5 percent. Therefore, the LAP continues to cycle using different GSFs, without any reconsideration of the impact that interchange transactions are having on the constraint.

The proposal purports to be equal to or better than Entergy's existing OATT provisions. However, there seems to be no demonstrable evidence that the proposed metrics will provide non-discriminatory congestion management. GSFs are a key metric that would be used to determine which transactions would be curtailed using the LAP procedures under the proposed OATT revisions. Entergy is proposing to implement the use of the GSF under the LAP to make curtailments, contending that something must be done before the summer season. However, the proposal suggests that the GSF metric will be studied in the absence of more information about what is the right metric. Moreover, the proposal is less than conclusive about the appropriateness of the GSF, outlining plans to evaluate the GSF compared to GLDF during the upcoming summer

season.¹⁰ EPSA urges the Commission not to approve a metric during a “test” phase. Transmission customers cannot support an untested mechanism during a peak season. Entergy should provide comparable data of the metrics it is evaluating as part of any proposal.

Entergy proposes to revise its LAP Attachment X to the filing. Pursuant to Entergy’s proposed LAP, curtailment priorities are established that authorize Entergy to curtail transactions when Entergy determines that a constraint exists. In Step Two of the process, Entergy has the discretion to curtail QF deliveries.

Entergy provides no justification for including QF energy in its LAP curtailment priorities. The Commission’s regulations allow a utility to limit or cease purchases from QFs in certain circumstances, but Entergy’s LAP proposal does limit QF curtailments to these limited circumstances.¹¹ The Commission should direct Entergy to explain why it’s proposed procedures are not in violation of the Commission’s regulations regarding a utility’s obligation to purchase QF energy and capacity.

¹⁰ Entergy Services Inc., p. 6, footnote 12.

¹¹ See 18 C.F.R. §§ 292.304, 307, 309-10.

IV. CONCLUSION

Wherefore, EPSA respectfully requests that the Commission grant its motion for leave to intervene in this proceeding and consider the comments herein that recommend rejecting Entergy's TLR proposal.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments by via email or postal mail upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., March 16, 2010.



Nancy Bagot, VP Regulatory Affairs