

Overview of Order 2023 and NHA et. al. Comments on NOPR

August 7, 2023

Background

- Order 2023 was released on July 28, 2023. ([link](#))
 - Rye, rPlus, Nelson Energy, Advanced Hydro Solutions, Hydro Green Energy, Natel, Sorenson Engineering, Cat Creek, and NHA filed comments on the Notice of Proposed Rulemaking ([link](#)).
 - Referenced hereafter as NHA*.
- Some reforms include:
 - Adopts a first come, first served cluster study process.
 - Creates guardrails (10-50% on a per capita basis, 50-90% on pro rata by MW) for transmission planners to allocate study costs.
 - Network upgrades are allocated based on proportional impacts.
 - Single deposit based on MW size.
 - Requires 90% site control at the interconnection request stage; 100% site control by facilities study.
 - Creates withdrawal penalties for developers and penalties on transmission planners for missing deadlines.
 - Requires interconnection customers requesting interconnecting nonsynchronous generating facilities to submit dynamic models. Will also require ride-through capability to the extent possible.
 - Transmission planners have 90 days to submit compliance filings.

FERC Response to NHA* Comments to Interconnection Proposed Rule

- NHA* Generally supported the reform to transition from a serial queue study process to a first-ready, first-served cluster study process for generator interconnection projects.
 - FERC adopts proposal.
- NHA* requested that the Commission consider additional changes to the interconnection process that are specific to the challenges and opportunities experienced by the hydropower industry.
 - FERC adopts certain of the proposals. More discussed in the slides.

NHA* Proposals Specific to Hydropower Challenges: Commercial Readiness

- Supported Commercial Readiness requirements, including Commercial Readiness Deposits in lieu of demonstrating Commercial Readiness.
- NHA* requested the Commission allow evidence of a FERC License as sufficient for the demonstration of Commercial Readiness at both the cluster study/cluster re-study phase and the facilities study phase. Recommend a commercial readiness deposit of \$2,000 per MW.
- NHA* opposed, but did not provide a recommendation, on withdrawal penalties.
- FERC – declined to adopt the non-financial commercial readiness demonstrations. Adopted a modified commercial readiness deposit structure based on network upgrade cost estimates (P 690) (e.g., a deposit structure where the commercial readiness deposit to enter the cluster restudy is the amount required to bring the total amount of the interconnection customer's commercial readiness deposit to 5% of the interconnection customer's network upgrade cost assignment identified in the cluster study).
- FERC did adopt withdrawal penalties that decline as an interconnection customer moves through the process.

NHA* Proposals Specific to Hydropower Challenges: Fast Track

- Asked FERC to consider increasing the threshold to participate in the fast-track process from 5 MW to 20 MW for projects interconnecting at the distribution level (i.e., under 69 kV). Or, in the alternative, FERC should direct transmission planners to create a new fast track process for 20 MW or less generation facilities interconnecting under 69 kV with few or no expected reliability impacts.
- FERC – Deemed out of scope (p. 1737 and 1743).

NHA* Proposals Specific to Hydropower Challenges: Site Control

- Requested alternatives to the NOPR's site control proposal of requiring 100% site control at the time a project enters the interconnection queue: (1) hydropower projects at NPDs should be deemed to have met the site control requirement if they have obtained a FERC License; (2) Lease of Power Privilege (LOPP) should be sufficient to demonstrate site control; (3) small hydro project subject to FERC exemption order
- FERC - clarifies that certain documentation can be used to demonstrate site control under the *pro forma* LGIP definition of site control: (1) for interconnection customers developing generating facilities at non-powered dams, a FERC license can serve as a demonstration of site control; however, neither a Memorandum of Agreement with the U.S. Army Corps of Engineers dam regarding a proposed hydropower project at a U.S. Army Corps of Engineers dam nor a preliminary permit for a pumped storage project or other hydropower generating facility to be located on Tribal lands would be sufficient to demonstrate site control; (2) for hydropower projects that are not subject to the Commission's hydropower permitting jurisdiction, such as projects on Bureau of Reclamation lands, a lease of power privilege can serve as a demonstration of site control under the site control definition; (3) providing a written statement as evidence of an exemption from licensing under the FPA can serve as a demonstration of site control. P. 591.

NHA* Proposals Specific to Hydropower Challenges: Payment

- Requested the standard interconnection procedures be modified to provide additional time for payment of interconnection costs (e.g., extended to one year). Explained that period for execution of the agreements and fifteen business days after receipt of the signed agreement for the applicant to demonstrate site control or post a non-refundable additional security deposit to cover the interconnection costs may well occur long before a new project is fully funded.
 - FERC (P 350) - Declines to adopt Hydropower Commenters' request to modify the *pro forma* LGIP to provide additional time for payment of interconnection costs after the conclusion of the interconnection study process. Unpersuaded that interconnection customers should have additional time beyond that already provided, especially given the number of generating facilities that have been developed using the existing process and the added transparency that we adopt in this final rule that will only serve to improve the ability of interconnection customers to secure financing.

NHA* Proposals Specific to Hydropower Challenges:

Pumped Storage: Operating Assumptions

- NHA requested that if an interconnection customer fails to operate its electric storage resource in accordance with the operating assumptions as memorialized in the IA, the interconnection customer may be considered in breach and the transmission provider may pursue termination of the IA is too restrictive. FERC should provide for a standard cure period to address deviations, and penalties in the event of failure to cure, to protect the generator from unreasonable termination of the IA. FERC should permit a pumped storage hydropower project to amend its operating parameters through this procedure to the extent the transmission system is available. NOPR was focused on charging behavior.
 - FERC, at P. 1513, did help slightly by allowing operating assumptions to be captured in interconnection studies at the request of the interconnection customer.
 - At P 1521-1523 - If the owner of the generating facility fails to operate the generating facility in accordance with its operating assumptions, as memorialized in Appendix H of the *pro forma* LGIA, the transmission provider may pursue termination of the LGIA through the breach and cure provisions. Agrees interconnection customers should be given the opportunity to cure a breach of the LGIA if possible. Clarifies that if done so at the direction of the transmission provider to maintain the reliable and efficient operation of the transmission system, an electric storage resource that operates contrary to the operating assumptions specified in its LGIA in this instance must not be considered in breach of its LGIA by the transmission provider.

NHA* Proposals Specific to Hydropower Challenges: Pumped Storage – Fee Structure

- Suggest that FERC revise its allocation of study costs to a 50 percent pro rata and 50 percent per capita calculation. This 50/50 allocation will result in just and reasonable rates and is currently in use by a number of transmission providers across the country.
- FERC - modifies its proposal to allow each transmission provider to propose its own study cost allocation ratio for allocating the shared costs of cluster studies between a per capita basis and pro rata by MW, provided that: between 10% and 50% of study costs must be allocated on a per capita basis, with the remainder (between 90% and 50%) allocated pro rata by MW. Under this revised provision, a transmission provider may propose to retain its existing study cost allocation ratio if it falls within this range and meets the requirements of this final rule (P. 412 and 416).

NHA* Proposals Specific to Hydropower Challenges: Pumped Storage – Hydro as G/T Asset

- Hydro as Generation or Transmission Asset - Request that FERC direct transmission providers to revise their tariffs to allow for electric storage resources such as pumped storage hydropower to participate as transmission-only or dual-use assets that provide both generation and transmission services.
- FERC - deemed out of scope (P. 1740 and 1743).