Information Request EDC-5

Request:

Are there any federal law implications that should be considered concerning sharing costs of EPS upgrades with interconnecting customers over an extended period of time and in particular after the EPS upgrade has been constructed?

Response:

National Grid believes there could be federal law implications concerning the sharing of costs of EPS upgrades with interconnecting customers over an extended period of time after those upgrades have been constructed. National Grid envisions that such implications could arise if certain DG interconnection customers in the queue ultimately utilize the constructed EPS upgrades to engage in wholesale sales of electricity (as opposed to participating solely in retail-level programs), or subsequent interconnections are made to the EPS upgrades by resources that engage in wholesale transactions. It seems likely that FERC would consider such EPS upgrades to be subject to its jurisdiction with respect to transmission service used to facilitate wholesale energy purchases, or sales to third-parties, as well as certain interconnections to those facilities for DG intending to engage in wholesale sales.[1] This could limit the Department's ability to implement a sharing of costs of such EPS upgrades with all interconnecting DG customers, because DG customers that interconnect pursuant to ISO-NE's tariff might not be subject to Massachusetts-jurisdictional retail tariffs and charges through which EPS upgrade costs would be allocated and recovered.

Also, while National Grid understands that the purpose of the proposal is to identify distribution system infrastructure investments needed to facilitate the interconnection of DG, the proliferation of these resources is also causing, and will likely continue to cause, the need for upgrades to higher-voltage FERC-jurisdictional transmission facilities. The allocation of costs for such

[1] Under FERC's "first use" policy, if a facility becomes subject to wholesale open access under a FERC-approved tariff (e.g., ISO-New England's OATT), and a subsequent interconnection will result in connecting a generator to that facility that would be used to facilitate a wholesale sale, the interconnection is subject to FERC jurisdiction. With respect to Qualifying Facilities ("QFs"), when such facilities intend to sell all of their output to their interconnected electric utility under PURPA, their interconnections are state-jurisdictional. However, when the electric utility interconnecting with a QF does not purchase all of the QF's output and instead transmits the QF's power in interstate commerce, FERC exercises jurisdiction over that interconnection. In Order No. 2222, FERC declined to exercise jurisdiction over the interconnections of distributed energy resources ("DER") participating in wholesale markets exclusively as part of a DER aggregation, and FERC clarified in Order No. 2222-A that this limitation applied to QFs as well.

transmission facilities would be subject to FERC jurisdiction. As such, any sharing mechanism adopted by the Department for how the costs of such transmission facilities are passed through and recovered from retail customers or DG customers would only apply to those costs allocated under FERC rules to Massachusetts entities (e.g., Massachusetts distribution utilities). Finally, any higher-voltage FERC-jurisdictional transmission facilities required to be constructed to effectuate this proposal would be subject to the open access requirements of FERC Order 888 and the ISO-NE Tariff, and therefore, the capacity of such transmission facilities could not be reserved solely for the benefit of DG customers within the MA state interconnection queue, but instead would need to be made available to any generator seeking interconnection, including generators within the ISO-NE interconnection queue. This could result in DG customers, or all distribution customers depending on how costs are allocated as between DG customers and all distribution customers, paying for any higher-voltage FERC-jurisdictional transmission facilities required to be constructed to effectuate this proposal but not being able to utilize some or all of the constructed capacity of such transmission facilities. To enable such a reservation of capacity, similar to what the DPU is considering for distribution level upgrades, modifications to the OATT will need to be developed and adopted by ISO-NE and approved by the FERC.