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:

Although states have jurisdiction over the interconnection and costs of DERs interconnecting to state jurisdictional distribution facilities, sometimes those interconnections can necessitate upgrades to the transmission system. Those transmission upgrades and the cost recovery for those upgrades, trigger FERC jurisdiction. Currently, there is no FERC-approved process for sharing interconnection upgrade costs among generators, with the limited exception of instances where ISO New England Inc. (ISO-NE) initiates a cluster study and those cluster study results can be shared among participating interconnection customers. However, this provision only applies to generators that are in the ISO-NE interconnection queue.

The absence of a FERC-approved tariff mechanism is not a bar to a state pursuing a unique cost recovery method for state-jurisdictional interconnection customers. FERC precedent holding FERC-jurisdictional interconnection customers to a strict cost causation principle should not be a bar to FERC approval of a different cost sharing methodology, since the interconnections at issue would be state jurisdictional. Theoretically, FERC's main concern should be an examination to prevent any cross-subsidization by transmission customers in other states that may not benefit from the upgrades. One mechanism to implement a state-approved cost sharing proposal for transmission costs would involve a FERC-filing to approve the payment for the transmission asset through creation of a regulatory asset. Another possible mechanism, applicable where circumstances support it, may be by recovering costs of Transmission through the incumbent Transmission Owner's Local System Plan.

Transmission Owners in New England perform Local System Planning in accordance with Attachment K of the tariff. As part of the local system planning process, each Transmission Owner lists the identified transmission needs driven by reliability as well as state, federal, or local Public Policy Requirements. Further, Attachment K specifically states that generation resources that could impact local planning shall be taken into account when developing the Local System Plan, consistent with Good Utility Practice. The LSP undergoes Planning Advisory Committee review but is not be subject to approval by the ISO-NE or the ISO-NE Board.

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That said, under any funding mechanism, a practical consideration that could be difficult to overcome is to preserve transmission capacity created by EPS upgrades or LSP upgrades for DER interconnection customers. Those upgrades, once constructed, would create available interconnection capacity on the system and would be available on a first-come, first served basis to any interconnection customer regardless of the queue it is in. Utilities cannot withhold this capacity, creating the potential for a free rider problem in cases where state jurisdictional interconnection customers may contribute toward to cost of the upgrades but an ISO-NE queued interconnection customer would not be subject to the cost sharing mechanism and would be able to interconnect without any contribution where the interconnection capacity exists.