

NEWS MEDIA CONTACT:
Barbara A. Connors
(202) 208-0680

FOR IMMEDIATE RELEASE
April 24, 1996
Docket Nos. RM95-8-000,
RM94-7-001, RM95-9-000
and RM96-11-000

COMMISSION ORDERS SWEEPING CHANGES
FOR ELECTRIC UTILITY INDUSTRY,
REQUIRES WHOLESALE MARKET TO OPEN TO COMPETITION

The Federal Energy Regulatory Commission today told the nation's public electric utilities to open their transmission lines to competitors, signaling an historic change in the way electricity is sold at wholesale and paving the way for lower prices for customers.

Commission Chair Elizabeth A. Moler declared, "Today's actions by the Commission will benefit the industry and consumers to the tune of billions of dollars every year. They will give us an electric industry ready to enter the 21st century. These rules will accelerate competition and bring lower prices and more choices to energy customers."

Moler added: "The future is here--and the future is competition. It is a global trend, and in North America, we are at the forefront in embracing it. There is no turning back."

Recognizing this, the Commission today issued two closely related final rules and a Notice of Proposed Rulemaking (NOPR). The first rule, Order No. 888, addresses both open access and stranded cost issues. The second rule, Order No. 889, requires utilities to establish electronic systems to share information about available transmission capacity. It also establishes standards of conduct. The NOPR proposes to establish a new system for utilities to use in reserving capacity on their own and others' transmission lines.

Open Access and Stranded Costs (RM94-7-001 and RM95-8-000)

Order No. 888 opens wholesale power sales to competition. It requires public utilities owning, controlling, or operating transmission lines to file non-discriminatory open access tariffs

(2)

that offer others the same transmission service they provide themselves. This will:

- bring lower cost power to electric consumers;
- ensure continued reliability of the electric power industry; and,
- provide for open and fair electric transmission services by public utilities.

In the open access final rule, the Commission issues a single pro forma tariff describing the minimum terms and conditions of service to bring about this non-discriminatory open access transmission service. All public utilities that own, control, or operate interstate transmission facilities are required to offer service to others under the pro forma tariff. They must also use the pro forma tariffs for their own wholesale energy sales and purchases.

Order No. 888 also provides for the full recovery of stranded costs--that is, costs that were prudently incurred to serve power customers and that could go unrecovered if these customers use open access to move to another supplier.

To be eligible for recovery, stranded costs recoverable under the rule are those associated with wholesale requirements contracts signed before July 11, 1994. After that date, recovery must be specifically provided for in the contract. The Commission ruled that stranded costs should be recovered from a utility's departing customers.

Information Systems and Standards of Conduct

The second rule, Order No. 889, is now known as the Open Access Same-time Information System rule or OASIS rule. It also covers Standards of Conduct. It works to ensure that transmission owners and their affiliates do not have an unfair competitive advantage in using transmission to sell power. This rule requires public utilities to:

- obtain information about their transmission system for their own wholesale power transactions, such as available capacity, in the same way their competitors do--via an OASIS on the Internet; and,
- completely separate their wholesale power marketing and transmission operation functions.

Proposing New Tariffs

In today's NOPR--The "CRT" Capacity Reservation Open Access

(3)

Transmission Tariffs (RM96-11-000)--the Commission proposes that each public utility would replace the Open Access Rule pro forma tariff with a capacity reservation tariff (CRT) by December 31, 1997. Under the proposed CRT, utilities and all other power market participants would reserve firm rights to transfer power between designated receipt and delivery points. The Commission explained that the proposed reservation-based service appears to be more compatible with the open access requirements that market participants know how much transmission is available for electric power purchases and sales. It may also better accommodate competitive changes occurring in the industry, including more flexible transmission pricing.

Further Key Findings

In further findings on stranded costs, the Commission said that if costs are stranded by retail wheeling, utilities should look to the states first for recovery of those costs. The Commission would become involved only if state regulators lack authority under state law to provide for stranded cost recovery. In cases where retail customers become wholesale purchasers, the Commission said it is the primary forum for recovery.

On the issue of Independent System Operators (ISOs), the Commission notes that many transmission providers are considering going beyond separation of generation and transmission--functional unbundling--and turning transmission over to an ISO. Although this is not required under the rule, the Commission offers guidelines for the creation of ISOs that are subject to Commission approval. Among other things, management and control of ISOs should be completely independent of generation owners and ensure fair access to the transmission system.

In other findings, the Commission said that:

- the rule does not void any existing requirements contracts and does not require corporate, as opposed to functional, restructuring;
- it will provide an opportunity for a party to an existing contract to seek Commission approval to modify that contract. Review will be case-by-case. If a contract is modified, the utility will be allowed to recover any costs stranded due to the modification;
- it will not set rates for transmission and ancillary services as originally proposed. Instead, public utilities will make rate filings to recover their costs;
- the open access rule's core requirements on transmission access and pricing also apply to power pools and other

(4)

coordination arrangements between and among utilities;

- it will require power pools to restructure their ongoing operations, and open up to non-utility members, by the end of the year; and,
- because it may be a financial burden on some small utilities to comply with aspects of the new regulations, such utilities may seek a waiver, but they must file an open access tariff if there is a request to use their facilities.

In addition to its jurisdiction over wholesale transmission in interstate commerce, the Commission found that it has exclusive jurisdiction over the rates, terms and conditions of unbundled retail transmission in interstate commerce up to the point of local distribution. It found that states have jurisdiction over the service of delivering electric energy to end users. The Commission said it will give deference to state views on which facilities are transmission and which are local distribution. The Commission emphasized that the rule will not change the fundamental role of state regulatory authorities, including authority to regulate the vast majority of generation asset costs, the siting of generation and transmission facilities, and decisions regarding retail service territories. The decision will not encroach upon the legitimate concerns of state authorities as they restructure the way electricity is sold at retail.

In discussing market-based rates for generation from power plants that are not yet constructed, the Commission said that utilities seeking such rates would no longer be required to demonstrate a lack of market power. However, the Commission will still check for other barriers to competition. It said it did not currently have enough evidence to determine whether market power may exist for sales from existing generation.

The open access rule noted that its provisions pose no environmental threat, as evidenced by the Commission's recently issued Final Environmental Impact Statement (FEIS). The environment, it said, will benefit from reduced nitrogen oxide (NOx) emissions if it is cheaper to generate electricity with natural gas than with coal. But even if this is not the case, the effect on the environment would be minor.

Note: See attached fact sheet and timeframe.

April 24, 1996

ELECTRIC UTILITY RESTRUCTURING

Highlights

*The Commission's actions include:

- o Order No. 888, a final rule requiring open access transmission by all public utilities that own, operate or control interstate transmission must file tariffs that offer others the same transmission services they provide themselves, under comparable terms and conditions. Utilities must take transmission service for their own wholesale transactions under the terms and conditions of the tariff.
- o The final rule also allows public utilities and transmitting utilities to recover stranded costs.
- o Order No. 889, a final rule requiring public utilities to implement standards of conduct and an Open Access Same-time Information System (OASIS). Utilities must obtain information about their transmission the same way their competitors do--through the OASIS.
- o A Notice of Proposed Rulemaking (NOPR) requesting comments on whether replacing the single tariff contained in the final open access rule with a capacity reservation tariff that would reveal how much transmission is available at any given time.
- o The new rules go into effect 60 days after being published in the Federal Register.
- o Who is affected: all public utilities subject to the Commission's Federal Power Act (FPA) jurisdiction and their customers. Reciprocity is required for those receiving service under the new tariff. This will affect municipals, electric cooperatives, and federal power marketers.
- * Benefits
 - o The cost savings expected from these actions: approximately \$3.8 to \$5.4 billion per year.

- Other non-quantifiable benefits are also expected and include: (1) better use of existing assets and institutions; (2) new market mechanisms; (3) technical innovation; and (4) less rate distortion.

- * Key Provisions

- The final rule requires public utilities to file a single open access tariff that offers both network, load-based service and point-to-point contract-based service.

- Within 60 days of publication in the Federal Register, public utilities are required to file open access tariffs that contain the pro forma tariffs, terms and conditions; they may propose their own rates.

- The rule provides a single tariff providing minimum conditions for both network and point-to-point services and the non-price terms and conditions for providing these services and ancillary services.

- Ancillary services are defined and rules are fixed detailing who must provide these services and when customers will be required to take these services.

- The new rule does not prescribe rates for network, point-to-point or ancillary services. Instead, public utilities may charge current rates, or apply for new transmission rates.

- Special provisions cover power pools, public utility holding companies, and bilateral coordination arrangements. The Commission is requiring these to be restructured. The Commission is allowing additional time (until December 31, 1996) for transactions under these arrangements to comply with open access requirements.

- Market-based rates for generation. The rule codifies the Commission's earlier determinations that utilities seeking market rates for sales from new capacity do not need to demonstrate lack of generation dominance in new capacity.

- Contract reform. Parties to requirements contracts executed on or before July 11, 1994, may seek modification of such contracts on a case-by-case basis.

- o Independent Systems Operators (ISOs). The rules do not require an ISO. However, the rules do establish principles as to how an ISO should be properly constructed.
- o The rule does not require corporate unbundling or divestiture of assets. Instead, public utilities are required to separate their transmission and power marketing functions. Standards of conduct are imposed to ensure this functional unbundling.
- o A separate rule requires that public utilities develop an OASIS--a system to electronically communicate information about their transmission systems and services to all potential customers at the same time.
- o Public utilities must be in compliance with the Standards of Conduct and OASIS requirements within 180 days of the rule being published in the Federal Register.
- o Waivers: a public utility required to act under the rule, or a non-public utility required to act because of reciprocity, may apply for a waiver of the rules.

Important Provisions of the Open Access and Stranded Costs Rule
(Order No. 888)

Eligibility

- o Any entity engaged in wholesale purchases or sales of energy or retail purchases is an eligible customer.
- o Transactions that would violate the prohibition against wheeling directly to an ultimate retail customer and sham wholesale transactions are not eligible.
- o Foreign entities that otherwise meet the eligibility criteria may obtain transmission services. They would be subject to all the terms and conditions of the applicable open access tariff, including the requirement that they provide reciprocal transmission service.
- o If a public utility voluntarily offers unbundled retail access in interstate commerce or a state retail access program results in unbundled retail access in interstate commerce by a public utility, the affected retail customer is an eligible customer and must obtain its unbundled transmission service under a transmission tariff on file with the Commission.

- o The Commission will give deference to state recommendations regarding rates, terms and conditions for retail transmission service as long as state recommendations are consistent with Commission open access policies.

Services to be Offered

- o A public utility must offer transmission services that it is reasonably capable of providing, not just those services that it is currently providing to itself and others.
- o A public utility must offer these transmission services whether or not other utilities may be able to offer the same services and whether or not such services generally are available in the region.

Who Must Provide Service

- o All public utilities under the Commission's FPA jurisdiction must provide the service. The Commission will require any public utility that owns interstate transmission facilities jointly with another entity to offer service over its share of the joint facilities. If the joint ownership contract prohibits service to third parties, it must be reformed.

Pro forma Tariff--Key Provisions

- * Provisions affecting price: Although not specifying any rates, the final rule allows transmission providers to propose recovering opportunity costs and expansion costs. It also permits crediting for customers' transmission facilities on a case-by-case basis.
- * Priority for Obtaining Services
- o Reservation Priority for Firm Point-to-Point and Network Service.
 - The final rule's pro forma tariff provides that reservations for short term firm point-to-point service (less than one year) will be conditional until one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service.
 - These conditional reservations may be displaced by competing requests for longer-term point-to-point service.

- Reservation Priorities for Non-firm Service.
 - Network customers' economy purchases have a higher priority than non-firm point-to-point transmission service.
 - The final rule adopts a reservation priority for non-firm point-to-point service based on duration of the non-firm service with price as a tie-breaker for competing service requests of an equal duration.
 - If there is insufficient transmission capacity to accommodate all non-firm transmission requests, the reservation of longer duration will displace the reservation of shorter duration.
 - A firm point-to-point customer's use of transmission service at secondary points of receipt or delivery will continue to have the lowest reservation priority.
- * Reserving Transmission Capacity
 - Firm transmission customers, including network customers, will not lose their rights to firm capacity simply because they do not use that capacity for certain periods of time.
 - In the absence of evidence of hoarding or other anticompetitive practices, the Commission will not limit the amount of transmission capacity that a customer may reserve.
 - A utility is free to schedule and sell any unscheduled firm point-to-point transmission capacity on a non-firm basis to any entity eligible to receive such service under the utility's tariff.
 - Any substantial allegations that indicate that a transmission customer is withholding scarce capacity in an anticompetitive way will be addressed by the Commission under Section 206 of the FPA. If the allegations are true, the Commission can order the customer to return the capacity reservation right to the transmission operator.
 - Public utilities may reserve existing transmission capacity needed for native load growth and network transmission customer load growth reasonably forecast within the utility's current planning horizon.

- o Any capacity that a public utility reserves for future growth that is not currently needed must be posted on the OASIS and made available to others through the capacity reassignment requirements, until such time as it is actually needed and used.
- o Existing customers should have a right of first refusal to capacity they previously used if they are willing to match the rate offered by another potential customer, up to the transmission provider's maximum filed transmission rate at that time, and to accept a contract term at least as long as that offered by another potential customer.
- * Curtailment Provisions
 - o Pro-rata Curtailment Provisions.
 - The transmission provider has discretion to curtail service, whether firm, or non-firm, to relieve a constraint.
 - Curtailment must be made on a non-discriminatory basis, including curtailment of the transmission provider's own use of the system.
 - o Curtailment Provisions for Non-firm Service.
 - The final rule's pro forma tariff allows the transmission provider to curtail non-firm service for reliability reasons, or economic reasons.
- * Reciprocity
 - o The rule requires that those who own, control or operate transmission facilities and receive open access service must, in turn, provide open access service to the transmitting utility.
 - This rule applies to all customers, including non-public utility entities such as municipally-owned entities and RUS cooperatives that own, control or operate interstate transmission facilities and take service under the open access tariff.
 - And it also applies to any affiliates of the customer that own, control or operate interstate transmission facilities.
 - o Reciprocal service is limited to service to the transmission provider.

- Where a non-public utility is a member of an RTG or a power pool, it also would have to provide service to the other members of the RTG or power pool.
- The requirement is limited to corporate affiliates. Thus, if a G & T cooperative seeks open access transmission service, only the G & T cooperative and not its member distribution cooperatives would be required to provide transmission service.
- "Safe Harbor" Provisions.
 - Non-public utilities would be allowed to voluntarily submit an open access transmission tariff to the Commission and a request for declaratory order that the tariff meets the Commission's comparability standards.
 - If the tariff contains terms and conditions that substantially conform to the final rule's pro forma tariff, the Commission would deem it a tariff of general applicability and public utilities would have to provide open access service to that particular non-public utility.
 - A non-public utility that is a member of an RTG or power pool can meet the Commission's comparability standards through the RTG or power pool agreements.
- Tax-exempt Financing and Local Furnishing Bonds
 - Reciprocal transmission service would not be required if providing such service would jeopardize the tax-exempt status of the transmission customer's or its corporate affiliate's bonds used to finance transmission facilities. Such entities should file such a declaration with the Commission.
 - Any public utility subject to the open access rule that has financed transmission facilities with local furnishing bonds may make a similar declaration with the Commission to preserve those bonds.

- * Reassignment Allowed
 - o Point-to-point transmission service, because it sets forth clearly defined capacity rights, must be reassignable. As for network transmission service, the Commission concludes that there are no specific capacity rights associated with such service, and, thus, network transmission service is not reassignable.
 - o A public utility's tariff must explicitly permit the voluntary reassignment of all or part of a holder's firm transmission capacity rights to any eligible customer.
 - o The assignor does not have to return its capacity entitlement to the original transmission provider, but may deal directly with an assignee without involvement of the transmission provider. However, an assignee must meet the eligibility standard established by the rule and must comply with the reliability criteria of the original transmission provider.
 - o Assignors and assignees may contract directly with each other, but the assignor will remain obligated to the transmission provider.
 - o The rate for any capacity reassignment must be no greater than (1) the original transmission rate charged to the purchaser (assignor), (2) the transmission provider's maximum stated firm transmission rate in effect at the time of the reassignment, or (3) the assignor's own opportunity costs capped at the cost of expansion, whichever is the highest of the three.
- * Regional Practices
 - o Provisions are made to allow public utilities to tailor their tariffs to meet regional practices.
 - o Where public utilities are permitted to follow regional practices, and elect to do so within 60 days of the publication of the final rule in the Federal Register, they should identify the regional practices in their tariff compliance filings.
- * Ancillary Services
 - o The Commission finds that six ancillary services must be included in an open access transmission tariff.

- o The six services must be provided as follows: (1) scheduling, system control and dispatch; (2) reactive supply and voltage control from generation sources service; (3) regulation and frequency response service; (4) energy imbalance service; (5) operating reserve -- spinning reserve service; and (6) operating reserve -- supplemental reserve service.
- o The requirement that the six services be included in an open access transmission tariff does not preclude the transmission provider from offering voluntarily to provide other interconnected operations to the transmission customer along with the supply of basic transmission service and ancillary services.
- o Pricing for ancillary services will be considered on a case-by-case basis, under enumerated pricing principles.
- o Accounting for revenues a transmission provider receives from providing ancillary services must be recorded by type of service in Account 447, Sales for Resale, or Account 456, Other Electric Revenues, as appropriate.

Provisions for Coordination Agreements

- * The open access final rule's core requirements on transmission and pricing apply to power pools and other coordination arrangements between and among utilities.
- * Power pools and similar organizations must remove transmission access and pricing provisions that favor members of the group or discriminate against outsiders. The same holds true for bilateral arrangements that permit preferential treatment in transmission pricing or access.
- * Members of power pools and other multi-lateral arrangements and holding companies must file either an individual or a joint pro forma tariff within 60 days after the rule is published in the Federal Register.
- * No later than December 31, 1996, intra-pool or intra-system transactions for power pools, some holding companies and other multi-lateral agreements must be under a joint, pool-wide or system-wide pro forma tariff.

- * For sales and purchases under existing bilateral economy energy coordination agreements, there is an extension until December 31, 1996 for public utilities to take transmission service under the same tariff used by others. Bilateral, non-economy energy transactions under existing coordination arrangements do not have to be unbundled.
- * Implementation
 - o Implementation of the rule will vary slightly for those public utilities that tendered open access tariffs for filing before the date of issuance of the rule (including newly-tendered applications that have not been accepted for filing before the issuance of this rule) (Group 1) and those that did not tender open access tariffs before the rule (Group 2).
 - o Group 2 utilities--those without open access tariffs tendered before the rule--will be treated the same as Group 1 utilities with regard to non-rate terms and conditions but will be treated slightly differently on rates since they have not filed any proposed rates.
 - o Group 1 utilities, those that tendered tariffs before the rule goes into effect, will be required, within 60 days following publication in the Federal Register, to make Section 206 compliance filings that contain the non-rate terms and conditions set forth in the final rule pro forma tariff and identify any terms and conditions that reflect regional practices.
 - A transmission tariff rate is already in effect for all Group 1 public utilities except for the few with recently-tendered applications not yet accepted for filing.
 - Should a Group 1 utility determine that certain rate changes are necessitated by the revised non-rate terms and conditions, it may file a new rate proposal under FPA Section 205.
 - If the final rule tariff's non-rate terms and conditions do not in the opinion of the utility necessitate a change in current rates, those rates will continue under whatever refund conditions, if any, that now apply.

- o Group 2 utilities are required to either: (1) within 60 days following publication in the Federal Register to make Section 206 compliance filings that contain the non-rate terms and conditions set forth in the final rule pro forma tariff and identify any terms and conditions that reflect regional practices; and (2) within 60 days, make Section 205 filings to propose rates for the services provided for in the tariff, including ancillary services; or (3) make a "good-faith" request for waiver.
- o All rate filings must meet the standards for conforming proposals set out under the Commission's Transmission Pricing Policy Statement and must be made no later than 60 days after publication of the rule in the Federal Register. (A conforming proposal is one that meets the traditional revenue requirement and reflects comparability.)
- o The Commission will require public utilities to serve copies of their compliance filings via overnight delivery with all interested parties.
- o Intervenors may raise any concerns with the filings within 15 days after such filings.
- o The Commission is imposing a blanket suspension for any filings by Group 1 and Group 2 public utilities proposing rate changes necessitated by the new non-rate terms and conditions. These rates will go into effect, subject to refund, 60 days after publication of the rule in the Federal Register.
- * Future Filings
 - o Once the compliance tariff and conforming rates go into effect, all public utilities may file pursuant to Section 205 a tariff with terms and conditions that differ from those set forth in the final rule.
 - o They may do so provided they (1) serve a copy of their filings on all wholesale customers for whom they have provided transmission since March 29, 1995, and on the state agencies that regulate public utilities in the states where those customers are located; (2) identify all deviations from their compliance tariff in their letters of transmittal; (3) provide, to the extent practicable, a redlined version of the tariff; and (4) demonstrate that such terms and conditions are consistent with, or superior to, those in the compliance tariff.

- o Utilities may not seek to litigate fundamental terms and conditions set forth in the final rule.
- o In addition, utilities may file whatever rates they believe are appropriate, consistent with the Transmission Pricing Policy Statement.

Federal and State Jurisdiction

- * The Commission finds that any change in state or federal jurisdiction over physical transmission assets and related costs will not affect the traditional tasks of state or federal regulators.
- * The Commission asserts its jurisdiction over the rates, terms and conditions of unbundled retail transmission in interstate commerce by public utilities.
- o In doing so, the Commission in no way asserts jurisdiction over retail transmission directly to an ultimate consumer.
- o Nor does the jurisdictional determination change historical state franchises areas or interfere with state laws governing retail marketing areas of electric utilities.
- * Nothing adopted by the Commission today, including its interpretation of its authority over retail transmission or how the separate distribution and transmission functions and assets are discerned when retail service is unbundled, is inconsistent with traditional state regulatory authority.
- o States have authority over local distribution and over the service of delivering electric energy to end users.
- o The rule will not affect or encroach upon state authority in such traditional areas as the authority over local service issues, including reliability of local service; administration of integrated resources planning and utility buy-side and demand-side decisions, including DSM; authority over utility generation and resource portfolios; generation transmission siting; and authority to impose non-bypassable distribution or retail stranded cost charges.

- * Determining where to draw the jurisdictional line for facilities used in unbundled retail wheeling transactions will involve case-specific determinations that evaluate the seven local distribution indicators that the Commission is adopting.
- o These seven indicators are:
 - (1) Local distribution facilities are normally in close proximity to retail customers. (2) Local distribution facilities are primarily radial in character. (3) Power flows into local distribution systems; it rarely, if ever, flows out. (4) When power enters a local distribution system, it is not reconsigned or transported on to some other market. (5) Power entering a local distribution system is consumed in a comparatively restricted geographical area. (6) Meters are based at the transmission/local distribution interface to measure flows into the local distribution system. (7) Local distribution systems will be reduced voltage.
- o The Commission will take advantage of state regulatory authorities' knowledge and expertise concerning the facilities of the utilities that they regulate.
- o In instances of unbundled retail wheeling that occur as a result of a state retail access program, FERC will defer to recommendations by state regulatory authorities concerning where to draw the jurisdictional line under the Commission's technical test for local distribution facilities, and how to allocate costs for such facilities to be included in rates, provided that such recommendations are consistent with the essential elements of the final rule.
 - In order to give deference, we expect state regulators to specifically evaluate the seven indicators and any other relevant facts and to make recommendations consistent with the essential elements of the rule.
 - The Commission will consider jurisdictional recommendations by states that take into account other technical factors that the state believes are appropriate in light of historical uses of particular facilities.

Recovering Stranded Costs

- * The Commission will permit a public utility or transmitting utility to seek recovery of wholesale stranded costs from departing customers by direct assignment.
- * For stranded costs associated with new wholesale requirements contracts (that is, any wholesale requirements contract executed after July 11, 1994), the regulations will allow recovery of stranded costs only if the contract contains an explicit stranded cost provision that permits recovery.
 - o By "explicit stranded cost provision" the Commission means a provision that identifies the specific amount of stranded cost liability of the customer and a specific method for calculating the stranded cost, charge or rate.
 - o Provisions in requirements contracts executed after July 11, 1994, but before the date on which the final rule is published in the Federal Register, that explicitly reserve the rights to stranded cost recovery pending the outcome of the rule will be considered "explicit stranded cost provisions."
- * For existing wholesale requirements contracts (that is, any wholesale requirements contract executed on or before July 11, 1994), a utility may not recover stranded costs if recovery is explicitly prohibited by the contract (including associated settlements) or by any power sales or transmission tariff on file with the Commission.
- * For existing wholesale requirements contracts that do not address stranded costs through an exit fee or other explicit stranded cost provisions, a public utility may seek recovery of stranded costs only as follows:
 - o if the parties to the existing contract renegotiate the contract and file a mutually agreeable amendment dealing with stranded costs, and the Commission accepts or approves the amendment;
 - o if either or both parties seek an amendment to the existing contract under section 205 or 206 of the FPA, before the contract expires, and the Commission accepts or approves it; or,

- o if the public utility files a request, before the contract expires, to recover stranded costs through a departing generation customer's transmission rates under FPA Sections 205-206 or 211-212.
- * If the selling utility under an existing wholesale requirements contract is a transmitting utility but not a public utility, and the contract does not address stranded costs, the transmitting utility may seek to recover stranded costs through a surcharge to a departing generation customer's transmission rates under sections 211-212 of the FPA.
- * For a retail-turned-wholesale customer, a public utility or transmitting utility may file a request to recover stranded costs from the newly-created wholesale customer through that customer's transmission rates under FPA Sections 205-206 or 211-212.
- * For customers who obtain retail wheeling, a public utility or transmitting utility may seek recovery through Commission-jurisdictional rates only if the state regulatory authority had no authority under state law to address stranded costs when retail wheeling is required.

Final Rule Establishing OASIS and Standards of Conduct Requirements (Order No. 889)

Summary:

- * The OASIS rule applies to any public utility that offers open access transmission services under the open access final rule pro forma tariff, including both wholesale transmission customers and retail transmission customers that are able to receive unbundled retail transmission.
- * Under the OASIS rule, transmission providers are required to: (1) establish or participate in an OASIS (formerly known as RIN) that meets certain requirements and (2) comply with prescribed standards of conduct.
- * The OASIS rule becomes effective 60 days after publication, but compliance is not required until November 1, 1996.

- * Standards of Conduct:
 - o The standards of conduct are designed to prevent employees of a public utility (or any of its affiliates) engaged in marketing functions from obtaining preferential access to OASIS-related information or from engaging in unduly discriminatory business practices.
 - o Companies are required to separate their transmission operations/reliability functions from their marketing/merchant functions and prevent system operators from providing merchant employees and employees of affiliates with transmission-related information not available to all customers at the same time through public posting on the OASIS.
- * OASIS Implementation Issues:
 - o The rule describes what information must be posted on the OASIS, what procedures must be followed in responding to requests for transmission service and references standards and protocols for information posted on an OASIS to ensure uniformity among different OASIS sites.
 - The standards and protocols largely rely on consensus recommendations presented to the Commission by industry working groups.
 - The Commission finds that the standards and protocols need further revision to be complete and invites the industry "How" working group to submit an additional report by May 28, 1996.
 - The Commission also will hold a technical conference on June 17, 1996, to resolve any remaining issues and will issue a revised Standards and Protocols document as soon as possible thereafter.

Other Key Provisions and Findings

- * Information Reporting
 - o The Commission will not change its information reporting requirements for public utilities. As the industry becomes more competitive, it will monitor the requirements to make sure they are needed, are fair to all segments of the industry, and consistent with the workings of a competitive environment.

* Waivers

- o The Commission will permit public utilities to file within 60 days of the rule's publication in the Federal Register requests for waivers from some or all of the rules.
- o The filing of a request in good faith for a waiver from the requirement to file an open access tariff will eliminate the requirement that the filing public utility make a compliance filing unless ordered to do so by the Commission.
- o The Commission will not, however, exempt such public utilities from providing, upon request, transmission services consistent with the requirements of the final rule.
- o Waivers will be considered if a utility shows that (1) it does not own transmission facilities; (2) it has turned control of its facilities over to someone else (such as the control area operator); (3) no one is likely to ask to use its facilities (e.g., because they are radial lines) and it commits to file an open access tariff within 60 days of a request to use its facilities and to comply with the final rule in all other ways.
- o Because the possible conditions under which entities may seek waivers from the final rule are diverse, they are not susceptible to resolution on a generic basis and the Commission will require applications and fact-specific determinations in each instance.
- o Non-public utilities may seek a waiver of the tariff reciprocity conditions at any time.

* Regional Transmission Groups

- o To encourage the development of RTGs, the Commission will accept regional open access transmission tariffs developed by RTGs that are consistent with the objectives of the final rule.
- o The Commission will give deference to the planning, dispute resolution and decision-making processes of RTGs.

- * Independent System Operators (ISOs) Principles
 - o The ISO's governance should be structured in a fair and non-discriminatory manner.
 - o An ISO and its employees should have no financial interest in the economic performance of any market power participant. An ISO should adopt and enforce strict conflict-of-interest standards.
 - o An ISO should provide open access to the transmission system and all services under its control at non-pancaked rates pursuant to a single, unbundled, grid-wide tariff that applies to all eligible users.
 - o An ISO should have the primary responsibility in ensuring short-term reliability of grid operations. Its role should be well defined and comply with applicable standards set by the North American Electric Reliability Council and the regional reliability council.
 - o An ISO should have control over the operation of interconnected transmission facilities within its region.
 - o An ISO should identify constraints on the system and be able to take operational actions to relieve those constraints within the trading rules established by the governing body. These rules should promote efficient trading.
 - o An ISO should have appropriate incentives for efficient management and administration and should procure the services needed for such management and administration in an open competitive market.
 - o An ISO's transmission and ancillary services pricing policies should promote the efficient use of, and investment in, generation, transmission, and consumption. An ISO or an RTG of which an ISO is a member should conduct such studies as may be necessary to identify operational problems or appropriate expansions.
 - o An ISO should make transmission system information publicly available on a timely basis via OASIS.
 - o An ISO should develop mechanisms to coordinate with neighboring control areas.

- o An ISO should establish an Alternative Dispute Resolution (ADR) process to resolve disputes in the first instance.
- * Environmental Issues
- o The Commission adopted the Final Environment Impact Statement (FEIS) on the consequences of the final rule. It found no threat to the environment from the rule and no need for mitigation in the rule.

Capacity Reservation Tariff Notice of Proposed Rulemaking

- * The Commission proposes the replacement of the network and point-to-point single tariff in the open access rule with a capacity reservation tariff.
- * All transmission customers would specify the amount of power received and delivered at multiple delivery points.

TIMEFRAME FOR THE OPEN ACCESS/OPEN ACCESS SAME-TIME INFORMATION
SYSTEM (OASIS) RULES AND PROPOSED RULE ON CAPACITY RESERVATION
OPEN ACCESS TRANSMISSION TARIFF

30 Days*

- Small utilities and transmission operators may seek waiver from all or part of the regulations.

60 Days

- Effective date of open access rule, stranded cost rule and OASIS rule.
- Jurisdictional utilities must have conforming tariffs on file.
- Tariffs are effective and utilities must take service under them for their own use.
- Power pool members must file pro forma tariff for their individual systems.
- Registered holding company, operating companies must jointly file a holding company-wide pro forma tariff.
- Standards of Conduct that require transmission operator and wholesale marketing functions to be separated.

61 Days

- Jurisdictional utilities and customers may file changes to pro forma tariff rates, terms and conditions.

180 Days

- Requirements of the OASIS rule (standards of conduct and information systems) must be complied with.
- * Days refer to period after the rule is published in the Federal Register.

12/31/96

- Members of power pools and other multi-lateral trading arrangements (other than holding companies) must file joint pool-wide or system-wide pro forma tariffs.
- Intra-pool and intra-system trading for power pools and holding companies must be under a pool-wide or system-wide pro forma tariff.

- Transactions under existing bilateral economy energy agreements must be bundled and taken under the pro forma tariff.

June 17, 1996

- A technical conference will be held on OASIS issues.

August 1, 1996

- Comments on the Capacity Reservation Open Access Transmission Tariff (CRT) proposed rule (NOPR) are due.

September, 1996

- A two-day technical conference on the CRT-NOPR will be held.

