

*ORDER NO. 890
PLANNING IN THE ORDER 888
AFTERMATH*

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HISTORICAL CONTEXT - BEFORE & AFTER ORDER 888

❖ Pre-Order 888

- ✓ Vertically integrated utilities
- ✓ Regulation
- ✓ Integrated resource planning
- ✓ No need for Order 890 planning rules

❖ The Order 888 Planning Vacuum

- ✓ Generation/Transmission Bifurcated by
 - Divestiture of generation or transmission assets
 - The Standards of Conduct
- ✓ Competition replaces regulation (some places)
- ✓ Market replaces planning (some places)

HISTORICAL CONTEXT continued

- ❖ RTOs accorded planning and expansion responsibility
 - ✓ but without specific guidance
 - ✓ except to use market mechanisms if possible
- ❖ Upshot
 - ✓ Aside from generalized mandates, no FERC-set planning rules or criteria
 - ✓ Post-Order 888, “No clear planning criteria regarding the transmission providers planning obligation”
 - ✓ The Humpty Dumpty planning dummy falls

ORDER 890 OBJECTIVES

- ❖ Order 890
 - ✓ Putting Humpty Dumpty back together
- ❖ Legal Justification
 - ✓ Eliminate discrimination in transmission planning
- ❖ Other purposes
 - ✓ Facilitate transmission construction
 - ✓ Clarify post-Order 888 planning
 - ✓ Promote reliability
 - ✓ Encourage prudent resource use and conservation

ORDER 890 APPLICATION

❖ Application

- ✓ Each public utility transmission provider
 - RTOs
 - TOs who are not RTO members
- ✓ TOs within RTOs have hazy status
 - RTO not TO is the transmission provider
 - No Attachment K needed if TO has no transmission tariff
 - Nevertheless, all TO planning must be 890 compliant
 - Regional and local planning may be indistinguishable
 - ❖ RTOs do plan regionally, but
 - ❖ TOs plan both locally and regionally
- ✓ FERC expects NJE participation in Order 890 planning

CONSTRUCTION OBLIGATIONS

- ❖ 890 requires planning not construction
- ❖ 890 encourages third parties to construct if “host” utility refuses
- ❖ OATT Sections 13.5 and 15.4 do oblige transmission expansion
- ❖ Uncertain whether FERC can or would use Sections 13.5 and 15.4 to require construction the “plan” shows as needed

THE PLAN

- ❖ The long-term transmission plan
 - ✓ Typically prepared annually
 - ✓ End result: a long-term game plan for system development
 - ✓ Need to consider reliability, economic needs and new generating sources and loads
- ❖ Plan must meet specific service requests and treat all customers comparably
- ❖ Plan is a “still-life” photograph of a constantly evolving system
 - ✓ Subject to numerous changes and variables
 - ✓ Could be obsolete when completed

THE PROCESS RATHER THAN THE PLAN

- ❖ Planning process more important than the plan itself
- ❖ Order 890 concerns the planning process
- ❖ A robust planning process responds to dynamic changes that continuously affect power system development and needs.
- ❖ The process
 - ✓ Who are the participants
 - Neighboring RTOs and utilities
 - TOs
 - LSEs
 - Generators
 - State authorities including municipal and other local entities
 - Other stakeholders

THE PROCESS RATHER THAN THE PLAN

continued

- ❖ Words in a tariff do not guarantee robust planning
- ❖ Planner dedication to a participatory process indispensable
- ❖ Avoid three major sins:
 - ✓ Lip service to stakeholder concerns
 - ✓ Don't bother us, we know what's best attitude
 - ✓ Restricting non-TO stakeholders to after-the-fact review
- ❖ FERC oversight of the planning "culture" may be impossible

STATES AND THE PLANNING PROCESS

- ❖ Sovereignty resides in the State not the planner
- ❖ States (including local authorities) must be consulted
- ❖ FERC will defer to regional state associations
- ❖ State policy concerns
 - ✓ Potential resistance to infrastructure development
 - ✓ Reasonable insistence on conservation and demand response
 - ✓ Control over transmission and generation expansion
 - ✓ Concerns economic prosperity and public welfare
- ❖ Political and utility decision-making different
- ❖ The Babel effect, a state or states may speak with several voices

ORDER 890 MAY NEGLECT GRASS ROOTS

- ❖ Order 890 requires broad based participation
- ❖ But does not mandate grass roots involvement by local property owners and environmental groups for whom attendance at regional and subregional planning meetings may be impracticable
- ❖ FERC treats siting issues as beyond its jurisdiction
- ❖ A plan without a site, like a day without sunshine, may have little value

THE BEST LAID PLANS OF MICE AND MEN...

- ❖ Proactive outreach essential
- ❖ Local concerns must be addressed and construction undertaken only as necessary and compatible with local interests to the maximum extent possible
- ❖ Recipe for failure
 - ✓ The planning process makes enemies not friends
 - ✓ Risk that local opposition will delay or preclude projects
 - ✓ Clamshell Alliance effect
- ❖ Local support, or at least understanding, a necessity not a luxury

THREE BASIC 890 PRINCIPLES

❖ Coordination

- ✓ Requires two-way consultation and exchange of information
- ✓ Consultation must be early in the planning cycle
- ✓ Planners must know system needs and be sensitive to local concerns

❖ Openness: meetings must be open to all stakeholders

❖ Comparability prohibits discrimination and requires a plan to

- ✓ Meet customer specific service requests
- ✓ Treat all loads on a comparable basis

NEED FOR TRANSPARENCY

❖ Transparency promotes

- ✓ Non-discrimination
- ✓ Broad based participation
- ✓ Trust
- ✓ Effective planning

❖ Transparency through required documentation

- ✓ Planning assumptions and methods must be reduced to writing in terms understandable to stakeholders
- ✓ Must include studies and data enabling stakeholders to replicate planning process results
- ✓ Apparently required at outset of each planning cycle

NEED FOR TRANSPARENCY continued

- ❖ Other useful documents and notices would be
 - ✓ Identification of planning cycle milestones
 - ✓ Notification of missed milestone dates and effect on subsequent milestones and plan completion
 - ✓ Include with preliminary draft of plan
 - Explanation for rejection of any projects
 - Changes in planning assumptions
 - ✓ Ongoing registry showing:
 - Treatment of disputes and how they affected the plan
 - Stakeholder comments

RTO & NON-RTO IMPACTS

❖ RTO Impacts

- ✓ Each RTO is the transmission provider and planner for its region
- ✓ TOs continue to plan both locally and regionally in conjunction with the RTO
- ✓ TOs without generation and load responsibility plan for third parties
- ✓ Vertically integrated TOs also plan to serve their own loads

❖ TOs who are not RTO members

- ✓ Must plan without discrimination for all customer needs
- ✓ Planning regions encouraged

ORDER 890 & GENERATION

- ❖ Order 890 plans directly for transmission and indirectly for generation since the function of transmission is to connect load with generation
- ❖ Order 890's pro-competitive attributes
 - ✓ Ban on planning discrimination
 - ✓ Plan must satisfy independent generator service requests
 - ✓ All service requests have equal status
- ❖ Challenges to competitive markets in Order 890 environment
 - ✓ Queue bottlenecks affect planning which must accommodate realistic expansions not all requested expansions

ORDER 890 & GENERATION continued

- ✓ In theory, the generator finds the sites
 - but the long-term plan may incorporate assumptions regarding generator size, type and locations
 - possibly causing generators to compete for scarce plan-determined sites
- ✓ Special status of demand response and new technologies
 - FERC mandates inclusion in the transmission plan
 - Unclear whether demand response and new technologies are
 - ❖ mandatory “regulated” initiatives, or, as more likely
 - ❖ merely entitled to comparable treatment with other generation
 - ❖ If “regulated,” would other sources, wind and other renewables, obtain regulated status

ORDER 890 & GENERATION continued

- ❖ Order 890 would not allow the transmission planner to impute externality “value” to different generation modes; but state policy or statute could require the planner to include and prioritize in the planning process particular types of projects based on environmental and other impacts
- ❖ Need to plan for capital intensive nuclear and clean coal plants plus mandatory reliance on renewables could chill the competitive market

STANDARDS OF CONDUCT

- ❖ No relaxation of Standards of Conduct for planning
- ❖ Problem affects all LSE/TOs but especially non-RTO members
- ❖ Independent planning coordinator mechanism proposed but not adopted
- ❖ Recognition that LSE/TOs must plan to serve their own loads
- ❖ FERC's suggestions for Standards of Conduct compliance:
 - ✓ Simultaneous disclosure of planning information to all stakeholders
 - ✓ Use of public information

STANDARDS OF CONDUCT continued

- ❖ Tension between the Standards and LSE/TO self-planning
 - ✓ Planning requires collaboration of market and transmission functions
 - ✓ Public disclosure may jeopardize economics
 - ✓ Thin line between permissible and prohibited behavior
 - ✓ Standards of Conduct restrictions could discriminate against LSE/TOs impairing ability to provide reasonably priced service

RELIABILITY PLANNING

❖ Reliability planning

- ✓ Assure connections between supply and load
- ✓ Identification of projects
- ✓ Virtually all reliability projects produce economic benefits
- ✓ Include cost allocations in reliability planning

❖ Subjectivity of the reliability standard

- ✓ One outage in ten years a common standard
- ✓ Alternative standards
 - Curtailments can maintain reliability if they can avoid:
 - ❖ Unanticipated outages
 - ❖ Equipment damage and cascading outages

ECONOMIC EXPANSIONS

- ❖ Order 890 requires planning for economic expansion projects to address congestion and the integration of new loads and generating sources but only specifies that cost allocations
 - ✓ Be addressed in the planning process
 - ✓ Must be equitable
 - ✓ Comport with cost causation
 - ✓ Are preferable if determined regionally
- ❖ Economic project characteristics
 - ✓ Alleviate transmission congestion and constraints
 - ✓ Not needed for reliability
 - ✓ Do yield some reliability benefits

ECONOMIC EXPANSIONS continued

- ❖ Little consensus on cost allocation
 - ✓ Identifying project beneficiaries not necessarily an easy task
 - ✓ Who is the incremental transmission customer
- ❖ Postage stamp pricing within RTOs
 - ✓ Obviates cost allocations among TOs
 - ✓ Facilitates construction
 - ✓ Fosters sense of a single regional system
- ❖ License plate pricing within RTOs avoids cost allocation disputes but may discourage new construction and promote TO insularity
- ❖ Pricing issues also affect non-RTO/TO treatment of transmission service requests

DISPUTE RESOLUTION

- ❖ Planning-specific dispute resolution process required
- ❖ Limited to FERC jurisdictional issues
- ❖ Disputes must be resolved within planning cycle to affect the plan

EVALUATION OF PLANNING ACTIVITY

- ❖ Annual self-evaluation of planning activity desirable
- ❖ Difficult to perform given long lead-time of major projects
- ❖ Stakeholder satisfaction highly subjective
- ❖ Some metrics could include:
 - ✓ Project completions and projects newly entering construction
 - ✓ Compliance with service requests
 - ✓ Treatment of disputes
 - ✓ Granted versus denied ARR/FTR requests
 - ✓ Status of constrained areas
 - ✓ Achievement of reliability objectives

ORDER 890's UNUSUAL NATURE

- ❖ The “regulation” is a one-page statement of placeholders providing no guidance or behavioral rules
- ❖ Virtually the entirety of the Order 890 mandate exists in its preamble containing nearly 300 lucidly written but in some instances deliberately ambiguous paragraphs
- ❖ FERC did not want to hamstring the planning process with detailed regulations, but, as a result,
- ❖ Order 890 creates extensive planning latitude or invites extensive litigation or both

FURTHER FERC GUIDANCE

- ❖ Critical areas for further FERC guidance
 - ✓ Cost allocation for economic projects
 - ✓ Enhanced transparency in the planning process
 - ✓ Regional planning for non-RTO TOs
 - ✓ Standards of Conduct
 - ✓ Integration of Order 890 and related FERC initiatives such as reliability, demand response, renewable energy, and carbon reduction

- ❖ Major question: Will FERC exercise proactive surveillance of utility planning or restrict review to *ad hoc* stakeholder complaints; probably the latter but only time will tell