

## Energy Regulatory Alert

January 18, 2013

### FERC Proposes Reforms to Small Generator Interconnection Procedures and Agreement

On January 17, 2013, the Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NOPR) proposing to modify its *pro forma* Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA), which establish the terms and conditions under which public utilities must provide interconnection service for electric generating facilities of 20 megawatts (MW) or smaller.<sup>1</sup>

The FERC states that the proposed reforms stem from market changes, such as higher volumes of small generator interconnection requests and increases in solar photovoltaic installations, and are intended to (i) ensure that the time and cost of processing small generator interconnection requests, particularly those for distributed solar generating facilities, will be just and reasonable and not unduly discriminatory, and (ii) allow for more efficient interconnection of resources to the benefit of customers while maintaining grid reliability, increasing energy supply and removing barriers to the development of new energy sources.<sup>2</sup>

The NOPR arose from a February 2012 petition for rulemaking filed by the Solar Energy Industries Association (SEIA), in which SEIA asserted that certain aspects of the existing SGIP are costly, burdensome and restrictive to, in particular, wholesale distributed solar generation and, thus, represent unreasonable and unduly discriminatory barriers to market access for small solar generation project developers.<sup>3</sup> While the NOPR does not cover all of the issues SEIA raised in its petition, Rhone Resch, president and CEO of SEIA, applauded the FERC “for recognizing the challenges facing wholesale distributed generation development, which is one of the fastest-growing segments of the solar energy industry.”<sup>4</sup> Resch also stated that the reforms could “roughly double the amount of solar generation capacity eligible to be fast-tracked in the U.S.,” while maintaining electric system safety and reliability.<sup>5</sup> Numerous generation developers, industry groups, utilities and government agencies filed comments in the SEIA petition proceeding. The majority of these comments supported the SEIA’s proposed reforms, but some commenters argued, among other things, that certain of the changes the SEIA proposed and the FERC included in the NOPR could unjustifiably reduce reliability and safety standards for solar generation interconnections, or, contrary to the FERC’s intentions, produce unnecessarily higher

<sup>1</sup> *Small Generator Interconnection Agreements & Procedures*, 142 FERC ¶ 61,049 (2013).

<sup>2</sup> *Id.* at PP 2, 18–25.

<sup>3</sup> See *Solar Energy Indus. Ass’n*, Petition for Rulemaking to Update Small Generator Interconnection Rules and Procedures for Solar Electric Generation, filed Feb. 16, 2012, FERC Docket No. RM12-10-000.

<sup>4</sup> Press Release, Solar Energy Industries Association, Federal Energy Regulatory Commission Proposes Key Interconnection Rule, SEIA Applauds (Jan. 17, 2013), <http://www.seia.org/news/federal-energy-regulatory-commission-proposes-key-interconnection-rule-seia-applauds>.

<sup>5</sup> *Id.*

interconnection costs, additional disputes and additional delay in the interconnection process. Others asserted that the existing SGIP are not a barrier to access to the small solar generation market and that the framework the FERC established in Order No. 2006 remains adequate. Similar opposition could arise in response to the NOPR.

The NOPR proposes the following four principal reforms:

- **New Interconnection Customer “Pre-Application Report” Option:** The FERC proposes to allow prospective small generator interconnection customers to request from transmission providers a “pre-application report,” for a fee of \$300, which would provide existing information regarding system conditions at a potential interconnection point. The “pre-application report” option is intended to enable interconnection customers to better evaluate potential interconnection points and make siting decisions before submitting a formal interconnection request (or multiple requests for the same generating facility). According to the FERC, the availability of such information should reduce the volume of interconnection requests and promote transparency and efficiency in the interconnection process for both interconnection customers and transmission providers.<sup>6</sup>
- **Expanded Fast Track Interconnection Process Eligibility:** The FERC proposes to base eligibility for participation in the “Fast Track” interconnection process under Section 2 of the SGIP, which currently is limited to generating facilities of 2 MW or smaller, “on individual system and resource characteristics, up to a limit of 5 MW.” Such characteristics include voltage level, distance from the interconnection point to the nearest substation and generator capacity. According to the FERC, this modification seeks to balance interconnection customers’ need for a faster, less costly interconnection process with transmission providers’ need to ensure electric system safety and reliability.<sup>7</sup>
- **Changes to the Customer Options Meeting Process and Supplemental Review Process:** The FERC proposes to revise the customer options meeting process for proposed small generating facilities that fail any of the ten Fast Track processing screens. According to the FERC, this proposed reform seeks to clarify the outcome of the customer options meeting and would, among other things: (i) require that transmission providers offer to perform certain system modifications, provide a good faith cost estimate for such modifications, and, if the interconnection customer agrees to pay for such modifications, provide an SGIA within five business days of the customer options meeting; (ii) require that transmission providers offer a “supplemental review” of the proposed interconnection, including minimum load, power quality and voltage, and electric system safety and reliability screens, at the discretion and cost (\$2,500) of the interconnection customer; or (iii) require that transmission providers obtain the interconnection customer’s agreement to continue evaluating the interconnection request under the non-Fast Track study process.<sup>8</sup>

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<sup>6</sup> NOPR at PP 26–29.

<sup>7</sup> *Id.* at PP 30–32.

<sup>8</sup> *Id.* at PP 33–40.

- **New Opportunity to Review and Comment on Required System Upgrades:** The FERC proposes to provide interconnection customers, under a revised pro forma SGIP Facilities Study Agreement, with an opportunity to review and submit written comments on system upgrades the transmission provider determines are necessary to complete a requested interconnection. The FERC also proposes to require transmission providers, upon request, to provide supporting documentation, work papers and other data developed during the preparation of facilities studies. The FERC maintains that transmission providers “should make the final decision regarding required upgrades,” but is concerned that failing to allow interconnection customers to review and comment on such upgrades could result in unjust and unreasonable interconnection costs. These reforms, the FERC asserts, will encourage dialogue between transmission providers and interconnection customers regarding required system upgrades and facilitate meaningful review and comment on such requirements.<sup>9</sup>

The FERC also proposes to clarify or correct certain other aspects of the pro forma SGIP and SGIA, including: (i) requiring that if an interconnection customer wishes to interconnect a small generating facility using Network Resource Interconnection Service, it must do so under the Large Generator Interconnection Procedures and execute a Large Generator Interconnection Agreement; and (ii) requiring that interconnection customers design, install, maintain and operate their small generating facilities in accordance with the latest version of applicable industry standards to prevent automatic disconnection during over- or under-frequency events and to ensure that rates remain just and reasonable.<sup>10</sup>

Finally, in light of the technical nature of the proposed reforms and to facilitate discussion of them, including possible refinements, by the public, electric industry participants, and federal and state agencies, the FERC will convene a stakeholder workshop before the end of the comment period (120 days from publication of the NOPR in the Federal Register). The FERC will issue a separate notice regarding that workshop.

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<sup>9</sup> *Id.* at PP 41–44.

<sup>10</sup> *Id.* at PP 45–46.

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