

FERC Requests Comments on Rate Treatment for New Electric Storage Technologies

By Cheryl Feik Ryan, Jay Ryan, and Doug Smith

On June 11, 2010, the Office of Energy Policy & Innovation at the Federal Energy Regulatory Commission (FERC) issued a “Request for Comments Regarding Rates, Accounting, and Financial Reporting for New Electric Storage Technologies.” The Request for Comments is a response to: (1) increasing interest in building and owning electric storage assets; and (2) the lack of precedent and a divergence of practice with regard to rate treatment for electric storage facilities.

According to FERC Staff, the primary uses of electric storage that implicate FERC’s jurisdiction are: (1) maintaining service to unbundled transmission customers; (2) enhancing the value of generation; and (3) providing ancillary services.

Noting there are a number of compensation structures available for these services, Staff seeks comment on the following issues:

- The circumstances in which a storage provider can be classified and receive compensation as a transmission asset.
- The circumstances, if any, under which a storage project should be permitted to receive compensation as a transmission asset and also receive compensation for enhancing the value of merchant generation or providing ancillary services.
- Whether creation of a stand-alone contract storage service should be considered (i.e., whether a storage asset should provide only the service of electricity storage and allow customers to determine how to use their contracted share of the storage device).
- Whether accounting and reporting requirements need to be created in order to facilitate cost of service ratemaking for new storage technologies.

FERC Staff are also seeking comment on the following criteria that could be used to determine the mechanisms by which a storage facility would recover its costs:

- *Intended use and capability of the facility.* Should recovery of storage costs in transmission rates be conditioned on a demonstration that the intended use of a storage asset is for transmission purposes?



- *Commitment to address cross-subsidization and competitive concerns.* What measures are needed to address cross-subsidization, competition, and discrimination issues while allowing for the full utilization of storage assets?
- *Maintaining the independence of market operators.* Can an RTO/ISO's operation of a storage facility be deemed to include responsibility for the asset's participation in the energy market without jeopardizing its independence?
- *Application of the "Avista Policy."* Should the *Avista Policy* – which prohibits, subject to case-by case waivers, the third-party provision of ancillary services at market-based rates to transmission providers seeking to meet their own ancillary services requirements – be revised to remove a potential barrier to the development of storage facilities?

Comments are due no later than 45 days after the Request for Comments is published in the Federal Register.

FOR ADDITIONAL INFORMATION

For additional information, a copy of the Request for Comments, or assistance in filing comments, please contact Cheryl Feik Ryan (cfr@vnf.com), Jay Ryan (jtr@vnf.com), Doug Smith (dws@vnf.com), or any other member of the firm's Electricity Practice.

© 2010 Van Ness Feldman, P.C. All Rights Reserved.

This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.