UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Public Service Company of New Mexico) Docket No. ER13-79-000

PROTEST AND COMMENTS OF CLEAN LINE ENERGY PARTNERS LLC ON PUBLIC SERVICE COMPANY OF NEW MEXICO'S ORDER NO. 1000 COMPLIANCE FILING

Pursuant to Rule 211 of the Federal Energy Regulatory Commission's (the "Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 (2012) and the Notice of Extension of Time issued by the Commission on November 1, 2012, Clean Line Energy Partners LLC ("Clean Line")[1] respectfully submits this Protest and Comments on the October 11, 2012 filing submitted by Public Service Company of New Mexico ("PNM") in purported compliance with the Commission's directives in Order No. 1000[2] [hereinafter "PNM Compliance Filing"].

I. COMMUNICATIONS

All correspondence, communications, pleading, and other documents relating to this proceeding should be served upon:

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[1] Clean Line submitted a Motion to Intervene in this docket on November 1, 2012.
[2] Order No. 1000, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, 136 FERC ¶ 61,051 (2011) [hereinafter "Order No. 1000"].

II. INTRODUCTION

Clean Line is an independent developer of high voltage, long-haul transmission lines. Clean Line is developing four high-voltage direct current ("HVDC") transmission lines that will facilitate the reliable delivery of power generated by renewable resources and will support the national and state efforts to significantly increase renewable electric generation capacity.[3] The addition of this generation capacity will create new jobs, stimulate domestic manufacturing, and reduce pollution and water consumption.

Clean Line has achieved several key milestones in the development of its projects, including signing a Memorandum of Understanding with the Tennessee Valley Authority and obtaining certification as a transmission-only utility in both Kansas and Oklahoma. Two of the Company's projects, the Rock Island Clean Line and the Plains & Eastern Clean Line, have obtained approval from the Commission to charge negotiated rates and enter into negotiated rates with anchor tenant customers. Clean Line's subsidiary, Centennial West Clean Line, entered into an agreement with the Western Area Power Administration ("Western"), pursuant to which Western will perform a National Environmental Policy Act ("NEPA") review and, subject to negotiation and approval of participation and other agreements, acquire right of way. Clean Line's subsidiary, Plains & Eastern Clean Line, entered into a similar agreement for federal

[3] Clean Line Energy Partners LLC presently has four major transmission projects underway in the United States. They are (1) the Rock Island Clean Line, an HVDC transmission line that will connect 3,500 MW of wind power from Iowa, South Dakota, Minnesota and Nebraska with load centers in Illinois and states farther east; (2) the Grain Belt Express Clean Line, an HVDC transmission line that will be capable of moving up to 3,500 MW of renewable power from new generation projects in western Kansas to the Midwest Independent Transmission System Operator Inc., PJM Interconnection, LLC, and the eastern United States; (3) the Plains & Eastern Clean Line, a 750-mile, HVDC line that will transmit up to 7,000 MW of renewable power from the Oklahoma and Texas Panhandles, and potentially Kansas, to Tennessee Valley Authority and the southeastern United States; and (4) the Centennial West Clean Line, an HVDV line that will gather up to 3,500 MW of power from renewable energy generation projects in eastern New Mexico and surrounding areas, and and will transmit it to load centers such as southern Nevada, southern California, Arizona, and other areas in the Southwest.

participation in the project with the U.S. Department of Energy and Southwestern Power Administration.

Clean Line has been an active participant in regional and subregional transmission planning organizations, including the Western Electricity Coordinating Council ("WECC"), WestConnect, as well as the Southwest Area Transmission planning group.

III. BACKGROUND

In Order No. 1000, the Commission established a number of requirements applicable to transmission owning and operating public utilities. In particular, with respect to the transmission planning process, the Commission required 1) participation by public utility transmission providers in "a regional transmission planning process that produces a regional transmission plan and complies with existing Order No. 890 transmission planning principles" and 2) consideration of transmission needs driven by Public Policy Requirements[4] in local and regional transmission planning processes.[5] The Commission concluded that

> These reforms work together to ensure that public utility transmission providers in every transmission planning region, in consultation with stakeholders, evaluate proposed alternative solutions at the regional level that may resolve the region's needs more efficiently or cost-effectively than solutions identified in the local transmission plans of individual public utility transmission providers [footnote omitted]. This, in turn, will provide assurance that rates for transmission services on these systems will reflect more efficient or cost-effective solutions for the region.[6]

For purposes of defining treatment of merchant transmission developers in the regional planning process, Order No. 1000 makes an important distinction between a transmission facility "in a regional transmission plan" and one "selected in a regional transmission plan for purposes of cost allocation:"

[4] Defined in Order No. 1000 at P 2.
[5] Order No. 1000 at P 68.
[6] Id.

> A "transmission facility selected in a regional transmission plan for purposes of cost allocation" is one that has been selected, pursuant to a Commission-approved regional transmission planning process, as a more efficient or cost-effective solution to regional transmission needs. . . . [T]his distinction is an essential component of this Final Rule.[7]

The Commission also recognized that different regions of the country may have different practices in populating their regional transmission plans when considering projects that are cost allocated and those that are not.

> In some regions, transmission facilities not selected for purposes of regional or interregional of cost allocation nonetheless may be in a regional transmission plan for informational purposes, and the presence of such transmission projects in the regional transmission plan does not necessarily indicate an evaluation of whether such transmission facilities are more efficient or cost-effective solutions to a regional transmission need, as is the case for transmission facilities selected in a regional transmission plan for purposes of cost allocation. By focusing in parts of this Final Rule on transmission facilities selected in a regional transmission plan for purposes of cost allocation, we do not intend to disturb regional practices with regard to other transmission facilities that also may be in the regional transmission plan.[8]

The Rule also requires that Public Policy Requirements be considered in the "regional transmission planning process, as well as the underlying local transmission planning processes of public utility transmission providers"[9]

> We conclude that requiring each local and regional transmission planning process to provide this opportunity is necessary to ensure that transmission planning processes identify and evaluate transmission needs driven by relevant Public Policy Requirements, and support more efficient and cost-effective achievement of those requirements.[10]

In summary, Order No. 1000 requires public utility transmission providers to participate in regional transmission planning processes to support efficient and cost effective transmission development, as well as the development of a not unduly discriminatory regional process for

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[7] Id. at P 5.
[8] Id. at P 64.
[9] Id. at P 6.
[10] Id.

transmission project submission, evaluation, and selection. The Rule also creates two categories of projects included in regional and interregional transmission plans: those that seek cost allocation and those that do not seek cost allocation. Finally, the Rule requires that needs driven by Public Policy Requirements be considered in regional and inter-regional transmission planning.

IV. PROTEST AND COMMENTS ON PNM COMPLIANCE PLAN FILING

Pre-Order No. 1000, WestConnect membership was limited to a group of FERC-jurisdictional and non-jurisdictional electric utilities working together to assess stakeholder and market needs and to develop cost-effective enhancements to the Western wholesale electricity market. WestConnect parties have also collaborated to oversee the subregional transmission planning process.

Through extensive negotiation among existing WestConnect members and many interested stakeholders, WestConnect's Order No. 1000 transmission planning and cost allocation processes are proposed to be organized under and governed by a new Planning Management Committee ("PMC"). As proposed, the PMC will be comprised of representatives from five membership sectors: (1) Transmission Owners with Load Serving Obligations; (2) Transmission Customers; (3) Independent Transmission Developers and Operators; (4) State Regulatory Commissions; and (5) Key Interest Groups. The PMC responsibilities will include approving a regional transmission plan that includes cost allocation processes, developing and approving budgets for WestConnect's Order No. 1000 planning functions, and creating or dissolving ad hoc workgroups and/or subcommittees under the PMC. The proposed governance structure also includes two subcommittees reporting to the PMC: (1) Planning Subcommittee, tasked with establishing base cases and producing the regional transmission plan and, (2) Cost

Allocation Subcommittee, tasked with making recommendations to the PMC on transmission project benefits and beneficiaries and the associated cost allocation methodologies. Additional subcommittees may be created as needed.[11] Clean Line applauds the effort expended by the WestConnect member companies, as well as the result as filed. In particular, the open submission process for projects to be considered in the regional plan could serve as a model for other compliance plans. Despite a commendable effort, as discussed in Clean Line's comments a below, a few changes are needed to bring the process into full compliance with Order No. 1000's requirements.

1. Inclusion in the WestConnect regional plan

WestConnect's provision of a reasonable means for merchant and independent transmission developers to submit projects for inclusion in the regional plan, whether for purposes of cost allocation or not, is a welcome example of "a regional transmission plan…that complies with the transmission planning principles of Order No. 890" as mandated by Order No. 1000.[12] The WestConnect governance structure also features a diverse representation of stakeholders, providing "an opportunity to participate in [the regional planning] process in a timely and meaningful manner."[13] Clean Line is concerned, however, that the enhanced voting power[14] afforded within the governance structure to the Transmission Owners with Load Serving Obligations (TOLSO) sector could undermine the openness, transparency and overall fairness of the process, as well as the spirit of Order No. 1000. As such, Clean Line requests that the Commission require that this enhanced voting power be eliminated.

[11] PNM Compliance Filing at 6.
[12] Order No. 1000 at P 146.
[13] Id. at P 150
[14] The TOLSO sector must be one of the three sector majority required to approve the WestConnect regional plan, but support of 67% of TOLSO members (as opposed to the normal 75%) is required if all other sectors support a plan.

2. Selection in regional and interregional plans

Order No. 1000 states that "an interregional transmission facility must be selected in both of the relevant regional transmission plans for the purposes of cost allocation in order to be eligible for interregional cost allocation pursuant to an interregional cost allocation method required under this final rule."[15] This requirement would be problematic for a facility in which the benefits overwhelmingly or exclusively flow to one region, as is often the case with proposed HVDC lines. A region that receives no benefits, or even receives a small portion of the benefits from a facility would not have much incentive to select that facility for purposes of cost allocation in its regional plan, even if the method of interregional cost allocation would eventually allocate costs commensurate with benefits.

Interregional projects may also be at a disadvantage if the WestConnect component of the project exists within only one West Connect member's service territory. The PNM Compliance Filing provides that:

> Single system transmission projects may be electrically connected to, and only impact one utility system; and therefore, only a single entity will be allocated the cost. In many areas of the West, transmission facilities may physically span multiple service geographic territories or footprints, but only provide service to a single entity's electric distribution service territory or footprint. These projects will be considered single system transmission projects, which are outside the scope of the WestConnect regional cost allocation procedure and are not eligible for regional cost allocation unless they provide benefits to other systems.[16]

A project that exists in both West Connect and a neighboring region could be excluded from WestConnect regional cost allocation procedures due to the fact that is a "single system transmission projects" from the point of view of WestConnect's region. If the project cannot be

[15] Order No. 1000 at P 400.
[16] PNM Compliance Filing at p. 17.

included in the WestConnect regional plan for purposes of cost allocation, then it cannot, per Order No. 1000, be eligible for interregional cost allocation.

To address projects that are inherently interregional but may overwhelmingly benefit one region or one transmission system within one region, the Commission should require WestConnect to develop, and transmission owners like PNM to include in their compliance filings, a new category of projects that are included in the regional plan, but explicitly identified as candidates for interregional cost allocation. These projects should not be subject to the same regional benefits test as projects seeking cost allocation at the regional level only. If projects on this "interregional track" are not selected for interregional cost allocation, they would need to re-submit for consideration as regional cost allocated projects only or proceed as participant funded projects seeking no cost allocation any level. As discussed above, it is important for projects that do not seek cost allocation to be included in the regional plan and PNM's compliance plan allows for this. Modifying its regional compliance plan to include an "interregional track" would more easily enable PNM and WestConnect to meet Order 1000's interregional coordination provision requiring "public utility transmission providers to identify and jointly evaluate interregional transmission facilities that may more efficiently or cost-effectively address the individual needs identified in their respective local and regional transmission planning processes."[17] Comparing projects based on their benefits at the regional level unduly discriminates against projects designed primarily to address needs inter-regionally.

3. <u>Partial cost allocation</u>

Clean Line supports the ability of regions to partially cost allocate transmission lines if benefits can be shown to support a region. If a transmission project is proposed as a merchant line with plans to sell capacity directly to customers, but is also found by a region or regions to

[17] Order No. 1000 at P 393.

satisfy some public policy, reliability or economic need, some of its cost should be considered for allocation commensurate with the regional benefit it provides. As an example, anchor tenant customers could purchase and utilize some percentage of capacity on a line with the remaining capacity benefitting, and the remaining cost of the line being cost allocated to, the region as a whole. This follows the Commission's finding in Order No. 1000 that "there is merit in allowing for flexible planning criteria to mitigate the possibility that bright line metrics may exclude certain transmission projects from long-term transmission planning."[18] Partial cost allocation has the potential to meet identified transmission needs at lower cost to ratepayers, and more closely aligns with the Commission's preference for allocating costs commensurate with benefits. For example, if a merchant project could be up-sized to satisfy additional identified needs, it may be more economical to allocate only the cost of the up-sizing as opposed to building a separate, entirely cost-allocated project.

The Commission should require PNM to modify its compliance filing to allow for partial cost allocation of facilities instead of treating all facilities as either cost allocated or not cost allocated. This has the potential to reduce rates by allowing anchor tenant customers for a project to fund some portion of the line. If a project is submitted for inclusion in the WestConnect Regional Transmission Plan, it should be assessed for its potential to meet public policy requirements or other transmission needs even if the project developer plans to pay for the project partially through negotiated rates or other non-cost allocated means. Such projects would still need to meet all applicable criteria for cost allocation as set forth in the WestConnect procedures and listed in the PNM Compliance Filing Exhibit A under III.C.5.

4. Appeal

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[18] Id. at P 223

Order No. 1000 requires "each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan that complies with the transmission planning principles of Order No. 890."[19] If a project is excluded from a regional transmission plan in such a manner as may violate the openness principle of Order No. 890, Clean Line requests the opportunity to appeal a project's inclusion in a regional plan to FERC.

VI. CONCLUSION

WHEREFORE, Clean Line appreciates the Commission's consideration of its Protest and Comments, and respectfully requests that Commission require PNM to modify its tariff and planning process as discussed above.

Respectfully submitted,

/s/ Kathryn L. Patton

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[19] Id. at P 146

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person listed on the Official Service List compiled by the Secretary in these proceedings.

Dated in Houston, Texas, this 26th day of November, 2012.

/s/ Kathryn L. Patton
Kathryn L. Patton

Document Content(s)