

January 4, 2001

Office of Policy
Office of Economic, Electricity and Natural Gas
PO-21

Attention: Electric Reliability Comments

U.S. Department of Energy
Forrestal Building
Room 7H-034
1000 Independence Avenue S.W.
Washington, D.C. 20585

Subject: Electric Reliability Comments

International Transmission Company's Response to D.O.E. Inquiry

The International Transmission Company, a subsidiary of DTE Energy, commends the Department of Energy for requesting comments on the important issue of interstate transmission reliability. DTE Energy is committed to electric industry restructuring. It demonstrated this commitment by forming the International Transmission Company (ITC) in June, 2000, and placing its' transmission assets in this company as a first step in a planned divestiture. ITC believes that the key to what made our country a leader in economic growth will also lead to a reliable and competitive electric industry. That key is making transmission a "for profit business". A coordinated effort by legislators, the Federal Energy Commission (FERC), Department of Energy (DOE) and the industry is necessary to set the foundation for the economics of a viable marketplace to develop and flourish. With the proper ground rules, an independent transmission business is the only choice that provides the incentives to both achieve a reliable system and promote energy commerce.

Position Statement

The International Transmission Company believes that a robust transmission system is a prerequisite to a reliable electric grid and to the continued creation of a fully competitive industry. It is critical that legislation and the FERC rules and orders support a viable

market that will transform the electric industry into a competitive arena such as we have seen with other industries throughout our country. The competitive risk reward concept is what drives behaviors such as innovation and prudent risk taking and makes an industry flourish. A market-based system is largely self-regulating and does not require onerous mandates and regulation. A market-based system must be supported by a consistent, uniform set of market rules, along with appropriate pricing methodology that in turn provide the appropriate incentives. The appropriate incentives are the inherent self-policing mechanisms that will ensure reliability. Because it has the incentives to do so, an independent transmission company will work diligently to process and sustain as many transactions as possible.

Reliability is the assurance that all customers will be served under a reasonable set of conditions. Basic reliability becomes the "price of admission". Without it, transmission companies will not survive. Therefore, a reliable grid is a prerequisite. If the market forces are put in place properly the market will self-correct and reliability problems will not exist.

ITC believes that incentives need to be in place to go beyond the basic reliability standard. The transmission system must be able to support a reasonable level of commercial activity, so that the market can be efficient. FERC has the ratemaking authority, which can provide independent transmission companies the incentives necessary to encourage expansion of the transmission grid and to encourage full utilization of the grid's capabilities. Congress has the legislative power to enact tax reform language, which will facilitate and promote the development of independent transmission companies. Investor owned utilities should not suffer financial penalties when divesting their transmission assets that may occur under the current tax code. FERC and Congressional action is needed to encourage movement to a competitive viable energy market that supports business physically transacted over independently owned transmission assets. A coordinated effort between the government, FERC and the industry participants is mandatory to create an environment supporting transmission as a business. The goal should be comprehensive legislation that establishes the business framework required for the electric industry to develop into a competitive marketplace.

Following is the International Transmission Company's response to the specific questions in the Department of Energy's Notice of Inquiry.

1.) Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power transmission system? If not, why not, and has reliability been jeopardized by violations of the existing bulk power reliability standards?

Voluntary compliance with industry reliability rules has served the industry well and will continue to do so if a business oriented, market based system is allowed to develop. The voluntary compliance has resulted in stakeholders developing a robust set of rules that considers the numerous points of view of those impacted by the rules. Given the changes occurring throughout the industry, the market place needs to further evolve with corresponding changes in the reliability rules achieved through the process that considers all stakeholders. The industry will need some time to progress through this evolutionary process.

As independent transmission companies form and take over control of the transmission system, the potential internal corporate conflicts between the operators of the transmission system and the suppliers of electrical energy no longer exist. Under an independent for-profit structure, an independent transmission company would want to enter into contracts with other market participants that would ensure that the market participants have contractual obligations to act in a manner that support reliability. These contracts are the “teeth” that many feel are missing from the voluntary compliance reliability rules. FERC oversight and tariff control over the independent transmission companies provides the independent transmission companies with ample incentives to maintain adequate bulk system reliability. ITC views maintaining bulk system reliability as a given and a requirement for being a viable stand-alone transmission company.

2.) What can FERC do under existing authorities to address reliability concerns?

FERC needs to ensure that consistent market rules and incentives are in place so that truly independent transmission companies can flourish. With the proper market forces applied to the industry, reliability will inherently follow. FERC should use its ratemaking authority to approve performance-based rates and innovative pricing methods, which will provide incentives to encourage transmission investment and full utilization of the transmission grid’s capabilities. FERC should grant companies adequate returns on equity to attract capital for expansion and technological improvements as well as providing incentives for transmission owners to take prudent risks with their existing assets. All FERC orders and rules need to support transmission as a business. Transmission must be allowed to become a viable stand-alone business.

3.) *If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulating reliability organization? Should it do so?*

In the past, FERC has not been involved in regulating reliability issues. Setting up the marketplace so that there are consistent rules and appropriate pricing methodologies is critical and will naturally result in reliability. This structure, supported by contractual obligations between independent transmission companies and market participants, will ensure that the industry and all affected stakeholders will work together to ensure a reliable grid. The Regional Transmission Organizations (RTOs) introduced by FERC in Order 2000, can provide the overall coordination and oversight of reliability. This structure of the RTOs should remain flexible especially for utilities that choose to remain vertically integrated. RTOs can be modified to fit the needs of independent companies and the developing market.

4.) *Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in rulemaking?*

Electric reliability legislation alone will not ensure that basic reliability is maintained. The restructuring of the electric industry requires comprehensive legislation along with a coordinated effort of all stakeholders. Legislation that clarifies FERC and state authority, FERC siting authority, FERC authority over bundled and unbundled transmission, tax reform language that does not penalize utilities divesting their transmission assets, and language that sets the groundwork for a competitive free market place must be developed. Reliability legislation alone will not ensure that customers will be provided with quality electric service at a competitive rate.

5.) *What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31, 089 (2000), and an Electric Reliability Organization as proposed in CECA?*

The International Transmission Company believes that if national rules are implemented, the RTOs could handle overall coordination and oversight. There is no need for duplicative oversight committees as proposed in legislation. Again, the process is self-policing if the right market rules, incentives, and pricing methodology are put in place.

6.) *How should the responsibilities and roles of FERC and the States be addressed in rulemaking?*

Responsibilities and roles of FERC and the States need to be addressed and clarified in rulemaking and legislation. Transmission does not fall under State jurisdiction; therefore, the States should have no responsibility for reliability other than to report "issues" to the FERC. FERC should have jurisdiction over siting authority so that building of new transmission will not be held up by any disagreements between the FERC and the State. It is critical for FERC to have this authority to provide the approvals needed to build more transmission. FERC's ability to encourage and provide incentives for transmission investment is greatly diminished without this authority.

We support FERC's jurisdiction over all transmission (bundled and unbundled), but do not support expanding the definition of interstate commerce to include consumption in a foreign country. Sales into foreign countries are currently under Department of Energy authority. These sales need to be negotiated by the parties involved – the transmission entities and the foreign country. The Canadian government is currently developing an open market and it is counter productive to provoke the obvious opposition to expanding the FERC's regulation to impact this effort.

7.) *Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?*

The problem alluded to in this question is one of the reasons that, to the extent possible, reliability standards should continue to be developed through a stakeholder process and implemented on either voluntary or contractual basis. Contractual based reliability rules and agreements are enforceable across such boundaries. Furthermore, independent transmission companies that are focused on increasing transactions will actively manage their "seams" with foreign transmission providers, thereby ensuring reliability across interconnections. International interconnections, if subject to the appropriate market rules, incentives, and pricing methodology, should take care of themselves.

As requested by D.O.E. in the Federal Register, enclosed is three copies of the International Transmission Company's comments along with a diskette containing an electronic version, ITC Reliability Response.doc. Please refer questions to Anne Jinks at 313-235-7957 or email at jinksa@dteenergy.com.

Respectfully submitted,

Joseph L. Welch,
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International Transmission Company
Subsidiary of DTE Energy

Enclosures:
3 Copies of Comments
3.5 Diskette: ITC Reliability Response.doc