BLANK ROME LLP
COUNSELORS AT LAW

www.BlankRome.com June 2011

FERC Issues Order Requiring Wind Generation Facilities to Comply with Certain Transmission Owner and Transmission Operator Reliability Standards

Introduction

On June 16, 2011, the Federal Energy Regulatory Commission (the "Commission" or "FERC") issued an Order denying the appeals of two wind generating facilities—Cedar Creek Wind Energy, LLC ("Cedar Creek") and Milford Wind Corridor Phase I, LLC ("Milford")—of the North American Energy Reliability Corporation's ("NERC's") determinations that Cedar Creek and Milford must each be registered as a transmission owner and transmission operator on the NERC Compliance Registry (the "Order"). Moreover, the Commission directed NERC to work with Cedar Creek and Milford to develop and submit to the Commission a list of transmission owner and transmission operator Reliability Standards and Requirements that apply to Cedar Creek and Milford based on the factual circumstances underlying the proceedings.

Background

Cedar Creek and Milford are both located in the Western Electricity Coordinating Council ("WECC") region. Cedar Creek owns and operates a 300 megawatt ("MW") wind generation facility. Moreover, it owns 72 miles of a 76-mile, 230 kilovolt ("kV") radial generation tie-line that extends from the interconnection point with Cedar Creek to the Bulk-Power System ("BPS"). Milford owns a 203.5 MW wind generation facility and an 88-mile overhead 345 kV line, which connects the Milford facility to the BPS. Cedar Creek and Milford appealed the decisions by WECC and NERC to register each facility as a transmission owner and transmission operator, arguing that their respective tie-lines are not integrated transmission elements and, therefore, do not fall within NERC's registration criteria as transmission owners and operators.

FERC Decision

In the Order, FERC did not address whether the Cedar Creek or Milford tie-lines are integrated transmission elements. Instead, FERC determined that the Cedar Creek and Milford facilities should each be registered as a transmission owner and transmission operator because the tie-line facilities have a material impact on BPS reliability and a gap in reliability would occur if the owner and operator of the tie-lines were not registered as such. Specifically, the Commission stated that there would be reliability gaps in the: (1) coordination of protection systems; (2) operations and operating credentials; and (3) restoration and development and communications of system operating limits if Cedar

Creek or Milford were not required to comply with certain Reliability Standards applicable to a transmission owner and operator.

Therefore, at a minimum, FERC determined that Cedar Creek and Milford must comply with the following standards:

1. PRC-001-1, requirements R2, R2.2, R4;
2. PRC-004-1, requirement R1;
3. TOP-004-2, requirements R6, R6.1, R6.2, R6.3, R6.4;
4. PER-003-1, requirements R1, R1.1, R1.2;
5. FAC-003-1, requirements R1, R2;
6. TOP-001, requirement R1; and
7. FAC-014-2, requirement R2.

Moreover, FERC directed NERC to negotiate with Cedar Creek and Milford to develop and submit for the Commission's review a list of additional transmission owner and transmission operator Reliability Standards and requirements, if any, that apply to Cedar Creek and Milford, based on the factual circumstances underlying the proceeding.

If you have questions concerning the material contained in this alert, please contact any of the following members of Blank Rome's Energy Industry Group:

Nicholas A. Giannasca
212.885.5018
NGiannasca@BlankRome.com

Carlos E. Gutierrez
212.885.5095
CGutierrez@BlankRome.com

James M. Burlew
215.569.5587
Burlew@BlankRome.com