

II. INTEREST OF AWEA AND SEIA

AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

SEIA is the national trade association for the solar industry. As the voice of the industry, SEIA works to make solar a mainstream and significant energy source by expanding markets, strengthening research and development, removing market barriers, strengthening the industry, and improving education and outreach for the public on the benefits of solar energy. SEIA represents solar companies across a variety of solar energy technologies, including photovoltaic, solar water heating, and concentrating solar power, and solar hybrid lighting industries. SEIA members include manufacturers, distributors, contractors, installers, financiers, and project developers of solar energy.

AWEA, SEIA, and their members have a vital interest in ensuring that the Commission's policies properly promote the integration of renewables and transmission development. AWEA and SEIA thus have a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

III. MOTION TO INTERVENE

Intervention is appropriate where the movant has or represents an interest that may be directly affected by the outcome of the proceeding. *See* 18 C.F.R. § 385.214(b)(2)(ii). AWEA and SEIA request that their motion for leave to intervene be granted pursuant to Rule 214 because, as discussed above, the outcome of this proceeding will directly and materially affect their members.

IV. COMMENTS

In light of the important policy goals served by renewable energy, President Obama has called for doubling the nation's renewable energy production in the next three years and for renewable resources to account for at least 25 percent of the nation's electric supply by 2025. To meet those goals, significant amounts of renewable resources, such as wind and solar, will need to be developed across the country. The lack of transmission infrastructure is particularly harmful to developing wind, solar, and other renewable resources given that they are often located far from population centers and, therefore, require new or increased

transmission capacity to reach load. As such, without a more robust transmission grid, our country will fail to realize the immense environmental, economic, and energy security benefits that would come from putting our country's renewable resources to use.¹

Notwithstanding this almost universally acknowledged predicament, various regions of the country still face significant challenges in securing anything close to the level of transmission investment necessary to integrate the ever-growing amount of energy generated by renewable resources. To meet these future challenges, it is critical that this nation develop a national interstate extra-high voltage ("EHV"), or other high-capacity transmission, backbone grid that would permit large volumes of renewable energy resources to be integrated and delivered to load. In addition, it is equally important for the Commission to adopt policies that encourage the development of generator lead lines that would serve to access power from renewable energy resources and deliver it to the backbone grid. This case presents one such policy that would facilitate the construction of those needed lead lines.

As with constructing EHV transmission facilities, there are considerable barriers to getting lead lines built. For instance, much regulatory uncertainty surrounds the treatment of generator leads and significant backlogs exist with respect to getting transmission providers to construct them. In fact, over 300,000 MW of wind and 30,291 MW of solar projects are waiting in line to connect to the grid. Although the issue presented in this case (the right for a generator to have firm priority rights over its sole-use lead line) represents only one of many needed steps to facilitate the integration of large amounts of renewable generation, this step could serve as a critical tool to facilitate the interconnection of renewable projects into the integrated transmission system and to reduce the existing logjam of interconnection requests.²

While the Commission requires transmission providers to interconnect generation projects, there are reasons related to timing and costs that can cause renewable developers, in some circumstances, to want the option to develop, finance, construct, and own lead lines, rather than take transmission service from a transmission provider. In particular, if renewable generators are required to wait for their lead lines to be constructed by a transmission provider, they would have to wait for the proposed line to move through the interconnection queue process, which in some cases can take many years of study and restudy, and to be accommodated with respect to a transmission providers other obligations to build,

¹ The lack of transmission capacity is also hindering the ability of states and utilities to meet their renewable energy goals and standards.

² AWEA and SEIA note that we do not take a position with respect to the specific merits of Milford's project.

which may take precedence. As demonstrated by the petitioner in this case, a renewable generator may be able to complete construction of generator leads on a faster schedule and at less cost than would be the case if the generator relied on the local transmission provider to construct the line.

Developers of multi-phase renewable projects will also often want a lead line that is sized with the capacity to handle the full output of the entire project because that is the most cost-effective approach and can diversify risk related to the development of the project. This is especially true when compared to the options of building separate leads for each phase of a project or initially sizing the lead to the needs of just one or more phases of a project and then upgrading the line to increase capacity to reflect the ultimate size of the project. In fact, it is optimal both from the perspective of a developer's bottom line and from an environmental perspective to develop a single line that can handle the entire planned capacity of a project, due to the significant economies of scale that relate to the lower cost and land use, on a per megawatt basis, of higher capacity lines.

For these reasons, AWEA and SEIA believe the Commission should allow the reservation of capacity on lead lines funded by a generator on a case-by-case basis. The Commission has previously indicated support for the general proposition that a generator should have priority rights over the planned capacity on a generator lead line that it has funded.³ In addition, the concept of allowing a generator to have such priority use over a line that it has funded has been supported by recent Commission orders.⁴ Furthermore, Commission precedent also acknowledges that the concept of priority rights for participant-funded lines is consistent with the Commission's open access policies.⁵

³ See generally *Aero Energy, LLC*, 115 FERC ¶ 61,128 (2006) (initially awarded transmission rights to party who funded the line), *order granting modification*, 116 FERC ¶ 61,149 (2006), *final order directing interconnection and transmission service*, 118 FERC ¶ 61,204 (2007), *order denying reh'g.*, 120 FERC ¶ 61,188 (2007).

⁴ See *Chinook Power Transmission, LLC, and Zephyr Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) (allowing an anchor tenant to pre-subscribe capacity to a transmission line before holding an open season); *Northeast Utilities Service Company, NSTAR Electric Company*, 127 FERC ¶ 61,179 (2009) (*NSTAR*) (approving a model in which a transmission customer that agreed to fund the development of a new transmission line was entitled to firm priority rights over the line).

⁵ See *NSTAR*, 127 FERC at P 27 (stating "[p]roviding for participant funding of a transmission facility with priority rights to use that facility is fully consistent with long-standing open access policies"); *Entergy Services, Inc.*, 115 FERC ¶ 61,095 (2006), *order on reh'g.*, 116 FERC ¶ 61,275 (2006), *order on reh'g and clarification*, 119 FERC ¶ 61,013 (2007), *order on reh'g and compliance filing*, 119 FERC ¶ 61,187 (2007), *order on reh'g and clarification*, 122 FERC ¶ 61,216 (2008); *Western Area Power Administration*, 99 FERC ¶ 61,306, *reh'g denied*, 100 FERC ¶ 61,331 (2002), *aff'd sub nom. Public Utilities Comm'n of the State of CA v. FERC*, 361 U.S. App. D.C. 302, 367 F.3d 925 (D.C. Cir. 2004) (approving a transmission project that grants exclusive transmission rights to the funders and no obligation of expansion); *Transbay Cable LLC*, 112 FERC ¶ 61,095, (2005), *order on reh'g.*, 114 FERC ¶ 61,031 (2006) (awarding of rights for transmission funding of line).

If the Commission confirms priority rights over a generator lead line, AWEA and SEIA encourage the Commission to require the petitioner (and others in the future) to set forth a reasonable period of years over which its affiliated generation facilities (or phases of a single project) will be built. Following the conclusion of this "safe harbor" period, third parties could seek interconnection and transmission service over the line if the petitioner's projects have not been constructed. Such a rule would serve two important purposes. First, it would provide the petitioner a reasonable opportunity to construct its planned projects over a specified period of years -- a period akin to a transmission provider's native load priority that was established in Order No. 888 and confirmed in Order No. 890. Second, such a rule would promote the economically efficient transmission and generation of electricity as required by section 211 of the Federal Power Act.

In short, due to the nature and the realities of financing related to renewable resources, it will often be a sub-optimal choice for renewable generators to have a local transmission provider build a lead line to a renewable resource. Accordingly, in light of the policy goals that would be served, AWEA and SEIA urge the Commission to allow renewable generators the flexibility to use their own resources, at their own risk, to construct generator lead lines that could serve the entire capacity of their projects.⁶

V. CONCLUSION

AWEA and SEIA respectfully request that the Commission accept these comments and urge it to consider, on a case-by-case basis, authorizing generation developers to retain priority rights over generator lead lines that they have funded. Permitting such specific proposals subject to a case-by-case review will strike the right balance between the Commission's general open access policy and the need to integrate renewable resources.

Respectfully submitted,

By: _____/s/ _Gene Grace_

Dated: October 2, 2009

⁶ AWEA and SEIA do not suggest that this precedent necessarily be limited to renewable resources. However, since it is primarily renewable projects that would be developed in phases in which increased levels of capacity would be used on a lead line at each consecutive stage in the development of a project, we think the nature of the concept is mostly relevant to those resources.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this October 2, 2009.

_____/s/ Gene Grace_____
Gene Grace