



**LSP TRANSMISSION HOLDINGS, LLC**

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September 6, 12

Rich Wodklya  
North Carolina Transmission Planning Collaborative

RE: FERC Order 1000 Stakeholder Feedback

Dear Rich,

Thank you for your response to LSP Transmission Holdings' ("LS Power") previously submitted comments. We have reviewed those responses and the recently circulated tariff language in great detail. Despite your responses, LS Power remains highly concerned that the scope of the region envisioned, and the largely black box process identified for selecting regional projects will not achieve the fundamental goal of Order 1000, which is to determine for ratepayers the more efficient and cost effective solution to transmission needs. As such, we continue to view the proposal as not compliant with Order 1000.

LS Power's position, since before Order 1000 was issued, was that so long as there was a level-playing field and a fair chance to compete, let the best project win. What the current NCTPC proposal ensures, is not that the best project will be selected, but that only existing transmission owners will participate because the proposal does not offer a nonincumbent developer any concrete process or assurance that its proposal will be fairly evaluated, any concrete assurance that its project "sponsored" will actually be assigned to the sponsor in a non-discriminatory manner, or any real assurance that the most cost-effective project is selected. All lack of assurances are in clear violation of Order 1000.

LS Power has the following specific concerns. First, the proposal is essentially for a single company region. Although there are other participants to the NCTPC, the tariff revisions make clear that only Duke and Progress are likely to be Transmission Providers under the Transmission Planning Process. As a single company, LS Power questions whether Duke and Progress are an appropriate region under Order 1000, especially in light of the black box process proposed.<sup>1</sup>

As to the Process itself, given that the decision-making authority has been delegated to the OSC, made

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<sup>1</sup> LS Power was originally open to creative thinking on this issue of the North Carolina region, but now after reviewing the black box process proposed and lack of nondiscriminatory process proposed in North Carolina, it has no alternative

up largely by a now-merged Duke and Progress, the process has insufficient clarity as to the nondiscriminatory evaluation of proposals. In essence the Process creates a black box where the incumbent transmission owners with whom entities like LS Power would be competing, decide whether they deem LS Power qualified to even propose a project, and then whether any proposed project should replace a project proposed by those very entities. Order 1000 requires a clear outline and description of a non-discriminatory process, not mere usage of phrases. Even if a process were transparent, it is not the same thing as non-discriminatory. The proposed process identifies factors to be considered but fails to offer prospective participants any understanding as to how its project proposals will actually be evaluated or whether competing proposals will be evaluated on identical terms. **The OCS decision-making process fails to establish any serious measures to ensure a non-discriminatory process.** In addition, the profound reliance on a non-FERC jurisdictional Participation Agreement is also equally as problematic, in addition to non-binding arbitration provisions. This NCTPC proposed process simply does not meet the requirements of Order 1000 that public utility transmission providers develop a transparent and not unduly discriminatory process for evaluating project proposal. A process that does not identify how the proposals will be evaluated, whether each aspect of the proposal will be evaluated on the same terms as incumbent proposals against which it is competing, and a process that does not describe how the decision will be made in a non-discriminatory manner is insufficient. The NCPTPC proposal has woefully failed to establish any safeguards against discriminatory treatment. After-the-fact explanations of the decision do not meet the full requirement for a fair and non-discriminatory process.

LS Power would welcome further conversation, and we look forward to next week's stakeholder meeting in Raleigh. One of our largest legal concerns continues that the proposal fails to establish any safeguards against discriminatory treatment.