

May 14, 2012: LS Power Transmission Initial Comments on SCRTP Strawman Proposal

Specific Section of SCRTP Strawman Proposal	Specific Quote from SCRTP Strawman Proposal	LS Power Transmission Stakeholder Comments and Feedback on Specific Section
<p>II.C.1, II.C.2</p>	<p>“Transmission Providers identify and evaluate regional transmission projects that meet the region’s needs.”</p> <p>“Potential alternative regional transmission solutions proposed by a sponsor will be considered for evaluation, and if selected, considered for purposes of regional cost allocation”</p>	<ul style="list-style-type: none"> • This proposal concept implies that the SCRTP Transmission Providers could be the only parties able to identify the initial solutions, thus placing the SCRTP stakeholders in a disadvantaged position of only being able to submit ALTERNATIVES to pre-determined projects and ideas. • SCRTP Transmission Providers and Qualified Transmission Developers should be on equal playing level in order to be able to propose, submit and evaluate solutions. A process that just allows a qualified developer to “react” to proposals with alternatives is not consistent with FERC Order 1000. • SCRTP should propose a process that would provide transparent access to regional modeling and needs, including information for economic project proposals. This information should be made available to both SCRTP Transmission Providers and stakeholders in a non-discriminatory manner. • The evaluation arm of SCRTP should be separate and independent from the proposal submission process of SCRTP Transmission Providers. The proposal submission and project evaluation process for SCRTP Transmission Providers should be non-discriminatory and identical to the process for a qualified developer. • SCRTP and non-incumbent transmission providers are both subject to standard information requirements when submitting proposals. (Paragraph 325 of FERC Order 1000) • Non-incumbents and incumbent transmission owners must both have access to assignment and cost recovery for unsponsored SCRTP projects, in

		accordance with paragraph 336 of FERC Order 1000.
III.B.1	“Sponsors wishing to propose a transmission project for selection in a regional transmission plan for the purposes of regional cost allocation must meet certain qualification criteria.”	<ul style="list-style-type: none"> • Paragraph 324 of FERC Order 1000 states that qualification criteria should be fair and not unreasonably stringent when applied to either the incumbent transmission provider or non-incumbent transmission developers. • SCRTP qualification criteria should apply to both non-incumbents and incumbent transmission owners or their affiliates. The qualification process should allow for the possibility that an existing public utility already satisfies the criteria, and should allow any transmission developer the opportunity to remedy any deficiency if it is determined that the developer does not meet the qualification criteria.
III.B.1.a	“Qualification criteria will depend on whether the entity is 1) only proposing a project or 2) submitting an alternative project and proposing to develop the project. Entities may be required to demonstrate the following, as applicable: financial capability, technical expertise, ability to construct, own, operate and maintain transmission facilities.”	<ul style="list-style-type: none"> • LS Power Transmission agrees that requiring financial and technical qualification criteria is consistent with FERC Order 1000. LS Power Transmission suggests a pre-qualification process, applying to both incumbents and non-incumbents. Once approved, the qualification would be good for three years; however a material adverse change could result in termination of qualification status by independent SCRTP evaluator. The qualification process should allow a remedy process. • LS Power Transmission suggests the following technical criteria: <ul style="list-style-type: none"> ○ “Demonstrated capability of parent company, affiliate, or project company of developing, constructing, operating, and maintaining US energy projects of similar or larger complexity, size and scope of greater than the lesser of \$300 million or the proposed project. FERC hydroelectric and pipeline licensing criteria precedent specifically allows for the technical capability requirement to be met with contracting capability”. • LS Power Transmission suggests the following financial criteria:

		<ul style="list-style-type: none"> ○ “Demonstrated capability of parent company, affiliate, or project company of financing US Energy projects of similar or larger complexity, size, and scope of greater than the <u>lesser</u> of \$300 million or the proposed project. Material degradation of financial strength can be grounds for removal of qualification eligibility.”
III.B.1.b	<p>“Qualification criteria will also require the entity to demonstrate its ability to satisfy all applicable regulatory requirements, as applicable, necessary to acquire rights of way and to construct, operate and maintain the proposed facilities in the associated jurisdictions.”</p>	<ul style="list-style-type: none"> ● LS Power Transmission supports qualification criteria that the entity must be willing to apply for state public utility status and eminent domain authority as part of the transmission line siting or Certificate of Public Convenience and Necessity application (or similar state process) at the appropriate point in the regulatory proceeding, if once a developer is awarded the project. Having state public utility status or eminent domain authority prior to a project being selected in the planning process is a barrier to entry and unduly discriminatory. ● In addition, LS Power Transmission believes that the entity must be willing to comply with NERC requirements when required and eligible.
III.B.1.c	<p>“Owner of project will turn over operational control for open access purposes to the Transmission Providers, integrating the facility into their transmission systems.”</p>	<ul style="list-style-type: none"> ● On a high-level basis, LS Power Transmission would support concept of the project being turned over for operational control to Transmission Provider (in their OATT), as long as LS Power would own the asset (and can use it for collateral for our debt) and get paid for the capacity. A good example of this structure is the ON-LINE transmission line structure between LS Power and NV Energy (FERC Docket ER10-3317). The ON-LINE in Nevada was turned over to NV Energy for operational control, and under their OATT. PATH 15 is another clear example (FERC Docket ERO2-3337). ● The lease agreement structure is key, and LS Power would be happy to discuss (or bring in our folks from the ON LINE project to discuss) lease agreement structures from other markets to consider, and the most recent lessons learned from the 235-mile 500-KV ON-LINE transaction

		<p>between LS Power and NV Energy on this very topic. Our ON-LINE experience could be relevant as South Carolina looks at various options on this important issue.</p> <ul style="list-style-type: none"> The details of this aspect of the proposal are very important, and LS Power would be very interested in opportunities for additional stakeholder feedback on this important topic. We would be happy to discuss specific structuring details on this issue.
<p>III.B.2.a</p>	<p>“A proposed transmission project must be regional in nature.</p> <ul style="list-style-type: none"> The operating voltage of the proposed transmission project must be 230 kV or above. A proposed transmission line must be over 50 miles in length A proposed transmission project must be beneficial to more than one; that is, both systems in the region. A proposed project shall have an estimated cost of \$10 million or above.” 	<ul style="list-style-type: none"> This regional definition is not consistent with FERC Order 1000. FERC Order 1000 retains a ROFR for “local” projects in paragraph 63 of FERC Order 1000. If the project is not local and not an upgrade to existing facilities (defined in FERC Order 1000 as a tower change out or reconductoring), then the project must be open to both incumbents and non-incumbents. Paragraph 63 of FERC Order 1000 is clear that the definition of “local” is tied to <u>cost allocation</u>, not the length of a line, a type of line, or the voltage level of a line. LS Power Transmission believes that if ANY portion of ANY cost of ANY line is allocated between two or more utilities / footprints in a region, then the project is “regional” in nature, consistent with FERC Order 1000. In order for a project to be “local”, it must meet the requirement of “local” in paragraph 63 of FERC Order 1000. “A local transmission facility is a transmission facility located solely within a public utility transmission provider’s retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation.” (Exact language from Paragraph 63) LS Power Transmission recommends the SC RTP strawman language to be replaced with the following language, consistent with paragraph 63 of FERC Order 1000: “The proposed transmission project must be regional in nature: a project that has any portion of any cost of any line allocated between two or more utilities or footprints”

<p>III.B.2.b</p>	<p>“The proposed transmission project must be both a green-field facility and materially different than projects that are currently in the regional transmission expansion plan or have been previously considered in the regional transmission expansion planning process.”</p>	<ul style="list-style-type: none"> • SCRTP strawman should clarify that the transmission facility proposed should not be an update to an existing facility (as defined as a “tower change out or reconductoring” in FERC Order 1000), and a green-field facility as referenced in the SCRTP strawman is defined as “not an upgrade to an existing facility as defined in FERC Order 1000”. • In Paragraph 95 of the Proposed Notice of Rulemaking (see footnote 308 of FERC Order 1000), FERC originally proposed that a transmission developer could maintain for a defined period of time its right to build and own a transmission project that it proposed but was not selected in the planning process. In Paragraph 338 of FERC Order 1000, FERC declines to adopt that a sponsor of a project could “maintain for a defined period of time its right to build and own a transmission project that it proposed and was not selected” in the regional planning process. • The SCRTP proposal seeks to provide the SCRTP Transmission Providers a “right” to projects that have been previously considered in the SCRTP expansion planning process. This right is inconsistent with paragraph 338 of FERC Order 1000 and FERC’s directive to not provide ongoing sponsorship rights to projects that were proposed, but not selected in the regional planning process.
<p>IV. B.1.c.</p>	<p>“A capital cost estimate of transmission project”</p>	<ul style="list-style-type: none"> • LS Power Transmission believes independent cost estimates are appropriate for both new entrant and SCRTP proposals. There should be a comparable method of evaluating cost estimates from both incumbents and non-incumbents.
<p>IV. B.1.e</p>	<p>“Supporting documentation of the technical analysis performed to demonstrate that the proposed transmission project is a more efficient and cost-effective project than specific projects in the latest transmission expansion plans”</p>	<ul style="list-style-type: none"> • As noted above, this section of the submission and evaluation process appears to assume that the Transmission Providers of the SCRTP have arrived at a pre-determined plan before non-incumbents or other stakeholders are permitted to propose projects and that the non-incumbents bear a burden of demonstrating that their alternative is better than the pre-determined plan. LS Power Transmission believes that the supporting documentation should reflect the project

		<p>proposer’s rationale and technical analysis to justify why the project is a solid proposal. However, it should not be the project proposer’s burden to prove why the solution is better than other alternatives. The independent review process should highlight this finding, and there should be no partiality toward projects proposed by Transmission Providers in the process. Thus, all proposed projects should be submitted in the same submission window and evaluated following the same evaluation process. In fact, Paragraph 315 of FERC Order 1000 requires that the public utility transmission provider (SCRTP) evaluate the relative economics and effectiveness of performance for each alternative offered for consideration.</p>
<p>V.C.1.a-b.</p>	<p>1. As described in Section II, the Transmission Providers will evaluate potential regional transmission solutions proposed by sponsors in the expansion planning process, in conjunction with those identified by the Transmission Providers. Utilizing coordinated models and assumptions, each Transmission Provider will utilize their respective planning guidelines and criteria to evaluate submittals and determine the following:</p> <ol style="list-style-type: none"> a. Whether the proposal addresses transmission needs that are currently being addressed with projects in the latest transmission expansion plans and if so, which projects in the plans could be canceled or postponed by the proposed regional transmission project. b. Whether any additional projects, are required 	<ul style="list-style-type: none"> • LS Power is concerned that the regional planning process, although using “coordinated models and assumptions” is delegated to “each Transmission Provider” to conduct individual evaluations and individual planning guidelines to evaluate potential projects and therefore is not a regional planning process at all for regional projects. Individual evaluation should be reserved only for those projects that are “local” in nature and which will not be regionally cost allocated. All other projects must be evaluated on a regional basis. • As noted in previous comments, LS Power Transmission is also concerned that the planning process proposed here is only geared to evaluate alternatives to “transmission needs that are currently being addressed with projects in the latest transmission expansion plans” An objective of Order 1000 was to permit non-incumbent developers to play a role, including project construction and ownership, in the development of the “latest transmission plan” rather than simply propose alternatives to a pre-determined plan.

	due to the proposed project	
V.C.2.b	“The inclusion of the proposed transmission project must yield a regional benefit to cost ratio of at least 1.25 and not adversely impact reliability or an individual Transmission Provider.”	<ul style="list-style-type: none"> • LS Power Transmission is concerned that there is not clear direction in the SCRTP strawman on the process for reliability and public policy projects to be awarded to a new entrant. LS Power Transmission believes that FERC Order 1000 directives on new entrants apply to not only economic projects, but reliability and public policy projects as well. • LS Power Transmission believes the regional benefit to cost ratio of at least 1.25 (for economic projects) is consistent with FERC Order 1000. • However, LS Power Transmission believes that the additional evaluation criteria of “not adversely impact reliability or an individual Transmission Provider” is impossible for an economic project. In economic transmission projects, there are clearly individual winners and losers on the generation side; however, the region as a whole benefits. LS Power Transmission believes this phrase should be removed. • Greater market transparency is needed in SCRTP in order to encourage thoughtful economic transmission proposals.
V.C.3.a.	“Is determined to be more efficient and cost effective than projects in the existing transmission plans”	<ul style="list-style-type: none"> • LS Power Transmission has the same comment as above regarding the reference to the “existing transmission plans.” • LS Power Transmission believes that when comparing cost estimates of various projects that independent cost estimates should be performed on both the incumbent and non-incumbent proposals. The comparisons should be an apple-to-apple comparisons on cost estimates. • For example, PJM hires Burns and McDonnell (and other qualified firms) to prepare independent cost estimates on competing proposals. Attached is a sample of an independent PJM cost analysis – http://www.pjm.com/~media/committees-groups/committees/teac/20111103/20111103-mep-a-1-byron-cherry-valley-pleasant-valley.ashx

V.C.3.b.	<p>“Continues to remain more efficient and cost effective as assessed in subsequent expansion planning processes that reflect ongoing changes in forecast conditions”</p>	<ul style="list-style-type: none"> • Any appropriate ongoing review process should apply to both incumbent and new entrant projects, not just new entrant projects. • There should be a reasonable period that is clearly defined on when incumbent and non-incumbent projects are no longer subject to re-evaluation. The same rules for both incumbents and non-incumbents should apply here. Once a project is assigned, the development costs should be eligible for abandonment recovery in the event of project termination.
V.C.3.c.	<p>“Is approved by the Transmission Providers whose transmission expansion plans would be altered with the inclusion of the proposal and their relevant jurisdictional and/or governmental authorities:</p> <ul style="list-style-type: none"> • Santee Cooper: Senior Management and/or Board of Directors of the South Carolina Public Service Authority • SCE&G: South Carolina Public Service Commission and Office of Regulatory Staff who have jurisdiction over retail rates and related facilities. 	<ul style="list-style-type: none"> • LS Power Transmission is unclear as to the SC RTP Transmission Providers intent with regard to individual entity approval process. LS Power Transmission again objects to the reference to parties whose “transmission expansion plans would be altered with the inclusion of the proposal.” The purpose of transmission planning in compliance with Order 1000 is to determine the regional transmission plan. To the extent that the referenced “transmission expansion plans” are local, with their costs borne solely by the respective load zone, LS Power Transmission does not object to individual approval process before a regional project would displace those projects, which under Order 1000 could retain a right of first refusal. However, to the extent that the reference is to “transmission expansion plans” which include projects whose costs are to be allocated regionally, those plans must be developed on a non-discriminatory basis and no party which has signed on to be part of the “region” for purposes of compliance with Order 1000 should then be permitted to carve out an individual veto right to the regional plan. Nothing in the forgoing is intended to suggest that those statewide or local entities charged in each respective state with authority to approve the construction and routing of individual lines would be restricted in any way from undertaking their statutory duty. Any projects approved in the regional plan, whether incumbent or non-incumbent would remain subject to all state or local Certificate of need type processes currently mandated once the project is included in the regional plan.

		<ul style="list-style-type: none">• Any SCRTP approval process for a non-incumbent project for a non-incumbent project versus an incumbent project should look identical and be non-discriminatory.
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