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industry may not occur.(7) Moreover, many entrants may offer customers (wholesale customers in this case) new and innovative terms and services to differentiate themselves from existing generation owners in an area.

The competitive concern is that a vertically integrated transmission owner has incentives to favor its own generation operations by delaying and raising the costs of interconnection for competing independent generators. In most situations, interconnection with the transmission grid is essential for independent generators to serve their actual or potential customers.(8) The objective of interconnection standards is to reduce or eliminate anticompetitive delays and excessive costs associated with interconnection of independent generators to the transmission grid.

II. It Is Appropriate and Timely to Develop Nationwide Interconnection Standards Based on Existing Interconnection Standards

In light of FERC's broad program seeking to promote competitive wholesale electric power markets, FERC's focus on grid interconnection issues is timely and appropriate. Interconnection delays and costs are an important component of entry conditions in wholesale electric power markets. Entry is a key aspect of the competitive response that may aid consumers by constraining the exercise of market power and by displacing outmoded generation technologies. Vertically integrated suppliers with both generation and transmission assets in the same area may have the ability and incentive to stifle competition by delaying interconnection or increasing the costs of interconnection. Delaying and raising the costs of interconnection for competitors may either enhance the profitability of limiting supply or shield inefficient generation assets owned by the vertically integrated supplier. Both are likely to harm consumers by increasing electricity prices relative to the prices that would have prevailed absent the anticompetitive behavior.

In initiating its review of interconnection issues, FERC has elected to use interconnection standards already in place within ERCOT as a benchmark for further development with certain "best practices" designated by FERC. We commend FERC for taking the approach of starting with an established standard and working to improve it, rather than "starting from scratch." The ERCOT standard is the first effort to develop reasonable interconnection procedures based on a consensus among stakeholder groups that has been implemented. To the extent FERC improves the standards based on certain identified "best practices," these practices should rely on objective criteria and fixed deadlines, with little or no administrative discretion to alter them, and sufficiently large and certain penalties to deter parties from failing to comply. Such actions have the ability to focus the parties on preparing to compete in these competitive markets, rather than on seeking to thwart a competitive market.

Exelon, the buyer of the easement within the MichCon local distribution system, was concerned about potential delays and excessive costs in the connections and system enhancements that Exelon might need to serve its new retail customers. Exelon sought assurance that MichCon would not jeopardize Exelon's ability to compete by delaying interconnection work or charging excessive prices for such work. Uncertainty with regard to either the timing or cost of interconnection could make it unprofitable for Exelon to seek to serve some potential EDL c

Project Coordinator in the Bureau of Economics (801-524-4440 or jhilke@ftc.gov) or Michael Wroblewski, Assistant General Counsel for Policy Studies (202-326-2155 or mwroblewski@ftc.gov).

3. Although we generally support structural remedies to eliminate possible discriminatory behavior, in this circumstance, a structural remedy would leave intact incentives to discriminate and, therefore a behavioral approach is reasonable. If transmission owners divested themselves of generation, there would remain the potential for transmission owners to discriminate against the interconnection of distributed resources. Distributed resources have the potential to reduce usage of the transmission grid and therefore, revenues to the transmission provider. Thus a behavioral approach, although less than ideal, should be crafted to create incentives to comply such that it would be self-enforcing and reduce FERC's monitoring and enforcement burden. See discussion in Section III infra.

4. FTC Staff Report: Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform (Jul. 2000) http://www.ftc.gov/be/v000009.htm. This report compiles previous comments that FTC Staff had provided to various state and federal agencies. For example, FTC Staff has commented to FERC on electric power regulation in Docket No. RM01-10-000 (standards of conduct for transmission providers) (Dec. 20, 2001); Docket No. EL-95-000 (remedies for California wholesale electric markets) (Nov. 22, 2000) (California Remedies Comment); Docket No. RM99-2-000 (regional transmission organizations) (Aug. 16, 1999); Docket EL99-57-000 (Entergy transco proposal) (May 27, 1999); Docket RM98-4-000 (Sept. 11, 1998) (merger filing guidelines); Docket No. PL98-5-000 (May 1, 1998) (ISO Policy); Docket Nos. ER97-237-000 and ER97-1079-000 (New England ISO) (Feb. 6, 1998); Docket No. RM96-6-000 (merger policy) (May 7, 1996); Docket Nos. RM95-8-000 and RM94-7-001 (open access) (Aug. 7, 1995). The FTC staff comments are available at: http://www.ftc.gov/be/advofile.htm

5. FTC Staff Report: Competition and Consumer Protection Perspectives on Electric Power Regulat1(e)194-7

11. In the Matter of DTE Energy Company and MCN Energy Group, Inc., File No. 0010067, Analysis of the Proposed Consent Order and Draft Complaint to Aid Public Comment www.ftc.gov/os/2001/03/dreanalysis.htm.

12. For additional description and analysis, see www.ftc.gov/opa/2001/03/michcon.htm and John C. Hilke, "Convergence Mergers: A New Competitive Settlement Model from Detroit," Electricity Journal (Oct. 2001) at 13-18.

13.Amended and Restated Easement Agreement, Attachment D., Section 5. This section also contains other examples of the types of incentives that FERC may want to consider as it identifies and adopts best practices in this area.

14. Subject to compliance with system safety and reliability requirements, including inspection and testing.

15. Amended and Restated Easement Agreement, Attachment D., Section 6.

16. *See also* Kwoka at 13-14, *supra* n. 8.