

Draft White Paper –
**CONTRACT CUSTOMER PARTICIPATION
IN CATALOGUING & CONVERSION
OF TRANSMISSION RIGHTS**

Marilynn Semro 10/28/02

BACKGROUND:

The Stage 2 filing does not contemplate participation by transmission Contract Customers (TCC) in the cataloguing process and only in the conversion process after the PTO has done the following:

- 1) Unilaterally determined the “eligible” contracts for conversion to RTO service,
- 2) Unilaterally compiled contract information in the catalogue (including all terms and conditions),
- 3) Assigned CMAs to RTO to cover catalogued commitments and the RTO has tested and approved the sufficiency of the CMAs.

At this point the PTO makes a good faith offer to the TCC for the TCC to convert their transmission service or the TCC can “voluntarily” initiate the conversion process. If at this point an error is discovered, perhaps a missed or misinterpreted contract provision, a contract provision that is no longer applicable, a practice that is accepted but not included in the contract, a requirement to get customer approval for transfer of responsibility, any of a thousand things and no matter the magnitude, the PTO would have to agree to redo some or all the process (including the recalculation of the sufficiency test) or the TCC can take the matter to arbitration. Neither of these solutions seems particularly appealing and both have significant downside including alienation of business relationships, and burdensome, costly and time-consuming processes.

In addition, the Stage 2 FERC Order at paragraph 104 appears to indicate some involvement by the TCC in determining Catalogued Rights.

WORKING ASSUMPTIONS:

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PROPOSAL:

PTO Process:

1. The PTO provides notice to the TCC identifying the existing contracts and how it has “catalogued” the rights.
2. The PTO offers to the TCC an opportunity to discuss the PTOs finding before they are submitted to the RTO for sufficiency testing. If differences are found that can be reconciled, so much the better.
3. If differences are found that cannot be reconciled, the TCC may submit a report to the RTO in advance of the RTO testing for sufficiency explaining their concerns.
4. If the TCC chooses not to participate in this process, this will be noted to the RTO with the PTO’s submittal and may be taken into consideration in any future arbitration.

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RTO Sufficiency Testing Process:

1. The RTO will review the contracts and how the rights have been catalogued, taking note of the TCC report in areas of agreement and disagreement.
2. The RTO may engage the PTO and TCC to understand and resolve differences.
3. If differences arise between the RTO and PTO that cannot be resolved regarding the appropriateness of the catalogued contract rights, the RTO may initiate dispute resolution with PTO.

TCC Election:

1. The PTO is required to make a good faith offer although the TCC may initiate the conversion process before such an offer is made. In either case the PTO is required to provide updated CTR Catalogue information (post sufficiency test) to the TCC. The TCC may make a counteroffer to the PTO. If the PTO refuses the counteroffer, the TCC may withdraw the counteroffer, decide not to convert or elect to convert and take the dispute to arbitration.
2. If the TCC takes the dispute to arbitration and has refused the opportunity offered through the PTO Process or the RTO Sufficiency Testing Process noted above, the refusal to participate will be appropriately considered by the arbitrator(s).

OUTSTANDING ISSUES:

1. Details of how to keep this a manageable process.
2. How to encourage the TCC to participate early on in the process and not wait until the “last minute” to get involved potentially adding extra costs and burdens to the process.
3. How to encourage all parties to make a good faith effort to resolve issues short of arbitration and discourage parties from continuing to dispute findings at every opportunity provided for in the process.