

1 Q. **Preamble:** IOC seeks to understand the rates and methodology used to  
2 determine the transmission losses applicable to IOC's rates and  
3 invoices.

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5 Also, RFI IOC-NLH-019 was misinterpreted by NLH. In this RFI, "said  
6 transmission loss factor" referred not to the illustration of the Island  
7 loss factor, but to the transmission loss factor of the previous RFI.  
8 IOC therefore restates its RFI.

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10 **References: (i) IOC-NLH-015, page 2, lines 5-6**

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12 You quote Order 888 to the effect that unbundling distribution and transmission  
13 functions is not necessary to ensure non-discriminatory open access transmission.  
14 Please state what conditions are necessary to ensure non-discriminatory open access  
15 transmission.

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18 A. Federal Energy Regulatory Commission (FERC) has articulated the following core  
19 elements to any open access transmission regime in the United States. It is  
20 understood Canadian utilities and regulators have generally adopted these core  
21 elements (also adopted by Hydro and Nalcor):

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- 1           • Provision of network integration transmission service and point-to-point  
2           transmission service;<sup>1</sup>
- 3           • Treatment of all users of the transmission system as customers, regardless of  
4           affiliate or third party status vis a vis the transmission provider;<sup>2</sup>
- 5           • Treatment of all customers (affiliates and third parties) on an equal, non-  
6           discriminatory and non-preferential basis;<sup>3</sup>
- 7           • Application of common terms of services, including comparable rates for  
8           services, within any bilateral transmission service agreements or an adopted  
9           Open Access Transmission Tariff (OATT);<sup>4</sup>
- 10          • Independence of the transmission system operations from affiliate operations,  
11          including clear independence of authority in the transmission provider’s  
12          management, scheduling and provision of transmission service;<sup>5</sup>
- 13          • Functional separation between transmission service operations and other utility  
14          operations, which involves independence in decision-making as a unit,  
15          supported by physical separation of employees within an office, protection of  
16          electronic files and communications, and other similar actions to have the

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<sup>1</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036, at 31,690 (1996), order on reh’g, Order No. 888-A, 62 Fed. Reg. 12,274, at 30,285-86 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), order on reh’g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh’g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff’d sub nom. New York v. FERC, 535 U.S. 1 (2002).

<sup>2</sup> Standards of Conduct for Transmission Providers, Order No. 717, 73 Fed. Reg. 63,796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280, at P 268 (2008), order on reh’g, Order No. 717- A, 74 Fed. Reg. 54,463 (Oct. 22, 2009), FERC Stats. & Regs. ¶ 31,297 (2009), clarified, Order No. 717-B, 129 FERC ¶ 61,123 (2009), order on reh’g, Order No. 717-C, 131 FERC ¶ 61,045 (2010), order on reh’g and clarification, Order No. 717-D, 135 FERC ¶61,017 (2011).

<sup>3</sup> Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh’g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh’g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh’g, Order No. 890-C, 126 FERC ¶ 61,228, order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>4</sup> Order No. 888 at ¶ 31,635.

<sup>5</sup> Order No. 717 at PP 34-40.

- 1           “functions” undertaken by the transmission system employees independent of  
2           other operations;<sup>6</sup>
- 3           • Equal access to information, through a website, by customers regarding the  
4           availability of transmission capacity and terms and conditions of available  
5           transmission service;<sup>7</sup>
  - 6           • Protections against disclosure of non-public transmission system information  
7           and confidential transmission customer information by the transmission  
8           provider;<sup>8</sup> and
  - 9           • Independent regulatory oversight and a process for resolution of disputes  
10          between a transmission provider and transmission customers.<sup>9</sup>

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<sup>6</sup> Order No. 888 at ¶ 31,654.

<sup>7</sup> Order No. 888 at ¶ 31,636.

<sup>8</sup> Order No. 717 at PP 198-204.

<sup>9</sup> Order No. 888 at pro forma OATT section 12.1.