

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Tampa Electric Company

Docket No. OA07-3-000

ORDER CONDITIONALLY ACCEPTING PROPOSED VARIATIONS FROM THE
PRO FORMA OPEN ACCESS TRANSMISSION TARIFF

(Issued July 6, 2007)

1. On April 16, 2007, Tampa Electric Company (Tampa Electric) filed with a request to retain certain provisions of its Open Access Transmission Tariff (OATT) that vary from the non-rate terms and conditions of the *pro forma* OATT as modified in Order No. 890.¹ As discussed below, the Commission conditionally accepts Tampa Electric's proposed variations from the *pro forma* OATT to become effective August 1, 2007, as requested.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis.² Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as an independent system operator (ISO) or regional transmission organization (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit FPA section 206 filings that conform the non-rate terms and conditions

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

² *See Id.* at P 26-61.

of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890, within 120 days from publication of Order No. 890 in the *Federal Register*, *i.e.*, July 13, 2007.³

4. The Commission recognized, however, that some of these non-ISO/RTO transmission providers may have provisions in their existing OATTs that the Commission previously deemed to be consistent with or superior to the terms and conditions of the Order No. 888⁴ *pro forma* OATT, but which *pro forma* terms and conditions were modified by Order No. 890. The Commission provided an opportunity for such transmission providers to submit an FPA section 205 filing seeking determination that a previously-approved variation from the Order No. 888 *pro forma* OATT substantively affected by the reforms adopted in Order No. 890 continues to be consistent with or superior to the revised *pro forma* OATT. The Commission directed applicants to make those filings within 30 days from publication of Order No. 890 in the *Federal Register*, *i.e.*, April 16, 2007, and to request that the proposed tariff provisions be made effective as of the date of the transmission provider's FPA section 206 compliance filing, described above, except for imbalance-related provisions, which may become effective on the first day of the billing cycle following that date. The Commission also requested that applicants state that the Commission has 90 days following the date of submission to act under section 205.

II. Tampa Electric's Filing

5. Tampa Electric's current filing is made in response to the first set of compliance filings described above. Tampa Electric states that it seeks to preserve certain features of its existing OATT Schedule 4A (Generation to Schedule Imbalance Service), approved by the Commission in Docket No. ER00-801-000,⁵ that reflect Tampa Electric's specific circumstances by incorporating those features with the new Schedule 9 (Generator Imbalance Service), which will replace Schedule 4A. Tampa Electric states that retaining certain Schedule 4A provisions will not compromise the core principles essential to the *pro forma* Schedule 9.

³ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁴ *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, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *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).

⁵ *Tampa Electric Company*, 90 FERC ¶ 61,330 (2000), *reh'g denied*, 95 FERC ¶ 61,101 (2001).

6. Tampa Electric proposes to replace Schedule 4A with Schedule 9 and incorporate conditions and procedures relating to practical constraints upon guaranteeing generator imbalance service on demand, grandfathered contractual commitments concerning generator imbalance, and obligations imposed under the Florida Public Service Commission's (FPSC's) implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA). Tampa Electric adopts the Schedule 9 pricing scheme in its entirety.

7. With respect to providing imbalance service on demand, Tampa Electric proposes to qualify Schedule 9's provision that "[t]he Transmission Provider must offer this service when Transmission Service is used to deliver energy from a generator located within its Control Area," by making the service obligation "subject to the Transmission Provider's ability to maintain system reliability and to serve other commitments that exist at the commencement of a given hour." Tampa Electric states that this qualification is necessary because it has an independently owned and controlled generating plant with a capacity of over six times greater than the operating reserves that Tampa Electric carries pursuant to regional requirements for such reserves. Tampa Electric explains that under current circumstances, if energy from that plant were scheduled at full capacity or a substantial proportion thereof, and then not tendered for delivery because the plant tripped or for any other reason, Tampa Electric would not be able to cover the imbalance instantaneously from its own resources. Also, Tampa states that there is no reserves market in Florida from which Tampa Electric may buy substantial quantities of energy on a moment's notice to meet such a contingency. Therefore, Tampa Electric explains that maintaining the ability to meet an imbalance at all times would be an expensive proposition, and the Commission should accept Tampa Electric's revision as the optimum practical approach to balancing service commitment in the circumstances of Tampa Electric's system.

8. Tampa Electric states that one way to address the concern regarding potential imbalances that threaten system reliability and standing commitments is to employ dynamic scheduling to move any such imbalance electronically into the control area where the generator's load is located. Tampa Electric states that it is willing to include in its OATT provisions that either require dynamic scheduling or allow the generator to agree to dynamic scheduling through a prior agreement with Tampa Electric in lieu of accepting the possibility of less than full balancing service.

9. Other provisions that Tampa Electric proposes to retain include procedures for when less than full balancing service is available. Current Schedule 4A contains procedures that provide for the maximum notice to affected transmission customers that is reasonably possible.⁶ Another provision Tampa Electric proposes to retain is the procedure for allocation among concurrent transactions. Tampa Electric states that its current OATT was approved with the understanding that the Order No. 888 provisions

⁶ Transmittal Letter at 8.

would not apply to preexisting agreements with two qualifying facilities (QFs)⁷ that already cover generator imbalance service.⁸ According to Tampa Electric, it is possible that the QFs may enter into separate transactions that require transmission service under Tampa Electric's OATT at the same time that the grandfathered transactions are being served. Tampa Electric states that in order to render generator imbalance service effectively, it is necessary to have a basis for allocating tendered energy between those transactions that are subject to the OATT provisions and those that are not.

10. Tampa Electric also proposes to retain its provisions in Appendix 1 of Schedule 4A, which contains an exception to the applicability of the schedule.⁹ The current Appendix 1 cites Florida regulatory law which Tampa Electric explains is still in effect which requires it to purchase over-deliveries of energy from QFs at a rate based on its hourly avoided energy costs. The exception relates to the OATT generator imbalance service provisions to exclude over-deliveries of energy by QFs.

11. In addition to the proposals discussed, Tampa Electric states that it will make conforming amendments to OATT Schedules 5 and 6.¹⁰ Tampa Electric requests an effective date of August 1, 2007 for Schedules 4 and 9.

III. Notice of Filing and Responsive Pleadings

12. Notice of Tampa Electric's filing was published in the *Federal Register*, 72 Fed. Reg. 20,524 (2007), with comments, protests or interventions due on or before May 7, 2007. None were filed.

IV. Discussion

13. We conditionally find that preservation of the previously approved variations from the Order No. 888 *pro forma* OATT language affected by the *pro forma* OATT revisions adopted in Order No. 890 identified in the instant filing is consistent with or superior to the requirements of Order No. 890, as discussed below.

14. Under the *pro forma* OATT, as modified in Order No. 890, all transmission providers have an obligation to offer generator imbalance service when transmission service is used to deliver energy from a generator within its control area. Tampa Electric, however, proposes to offer generator imbalance service "subject to the Transmission Provider's ability to maintain system reliability and to serve other commitments that exist at the commencement of a given hour." Under the particular circumstances facing

⁷ A QF means a cogeneration facility or small power production facility as defined in Part 292 of the Code of Federal Regulations.

⁸ *Tampa Electric Company*, 90 FERC ¶ 61,330 at 62,108.

⁹ Transmittal Letter at 11.

¹⁰ *Id.* at 12.

Tampa Electric, we find this limitation is consistent with the requirements of Order No. 890 with certain modifications. As Tampa Electric explains, obligating Tampa Electric to resolve a potential imbalance six times greater than the amount of operating reserves Tampa Electric is required to carry could negatively affect system reliability. At the same time, greater clarity is necessary regarding the circumstances under which Tampa Electric will provide generator imbalance service. We therefore direct Tampa Electric to provide additional language in its OATT explaining the objective criteria it will use to determine the level of generator imbalance service it can provide without adversely impacting system reliability. Additionally, Tampa Electric must provide a general standard and explain the coordination procedures that it will undertake to inform customers in the event that it is unable to provide the generator imbalance service. The provision of the reliability guidelines and a description of coordination procedures to be followed if such event occurs will enable customers to better understand when they may be required to purchase generation from other sources. Tampa Electric is directed to include this information in its OATT when it makes its compliance filing, as ordered below.

15. In addition, we agree that Tampa Electric should offer dynamic scheduling as an option to address the concerns regarding potential imbalances that threaten system reliability and standing commitments. Dynamic scheduling will automatically schedule the output of each generator in the system for optimal operation and allow any resulting imbalance to be moved electronically into the control area where the generator's load is located. Therefore, as Tampa Electric agrees in its transmittal letter,¹¹ we direct Tampa Electric to include in its tariff and submit in its compliance filing, a provision allowing a generator to agree to dynamic scheduling through a prior agreement with Tampa Electric in lieu of accepting less than full generator imbalance service.

16. Tampa Electric also includes language that allows flexibility for a customer with the potential for concurrent transactions from a generator to prearrange for allocation of its aggregate share of service among those transactions on other than a *pro rata* basis when less than full balancing service is available. Tampa Electric explains that it has a continuing need for such OATT provisions due to existing grandfathered agreements with different generator imbalance provisions. We find that the continued use of the previously approved language is consistent with the intentions of Order No. 890 and may be retained.

17. Tampa Electric also explains that it has an obligation under FPSC Rule 25-17.80 to purchase over-deliveries of energy from QFs at a rate based on its hourly avoided energy costs and, therefore, Tampa Electric is prohibited from applying the OATT generator imbalance service provisions to these purchases. The previously approved variation is included in the appendix to Schedule 4A and Tampa Electric proposes to incorporate this variation in an appendix to new Schedule 9. We find that this variation remains consistent with the Order No. 890 provisions and may be retained.

¹¹ Tampa Electric Transmittal at 7.

18. As discussed above, we find that the proposed revisions are consistent with or superior to the Commission's *pro forma*. Accordingly, we will conditionally accept Tampa Electric's proposed amendments for filing to become effective August 1, 2007, subject to Tampa Electric making a compliance filing within in 30 days of the date of this order as discussed above.¹²

The Commission orders:

(A) Tampa Electric's proposed amendments to its OATT, are hereby conditionally accepted for filing to become effective August 1, 2007, as discussed in the body of this order.

(B) Tampa Electric is hereby directed to file a compliance filing incorporating the changes discussed above within 30 days of the date of this order.

By the Commission. Commissioner Wellinghoff concurring with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

¹² The Commission has considered only those previously-approved variations from the *pro forma* OATT that Tampa Electric contends in its transmittal letter are consistent with or superior to the reforms adopted in Order No. 890. The conditional acceptance of these proposed variations to the *pro forma* OATT does not relieve Tampa Electric of the obligation to make a section 206 compliance filing for requirements of Order No. 890 not addressed in the instant filing on or before July 13, 2007.

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WELLINGHOFF, Commissioner, concurring:

Tampa Electric has included in its proposed variations to the pro forma OATT for generator imbalance service a provision that would allow a transmission customer to use non-generation resources to satisfy generator imbalance requirements. I commend Tampa Electric for being one of the first transmission providers to make this option available to customers. As provided for in Order No. 890, Tampa may itself use non-generation resources for supplying this service. Accordingly, Tampa Electric, in its Order No. 890 tariff compliance filing should provide for the use of non-generation resources to furnish generator imbalance service. It is recognized that Tampa Electric will have the discretion to determine the mix of generation and non-generation resources that it will use to provide generator imbalance service. Tampa Electric should also propose a method for cost recovery for such non-generator based services. Doing so would provide the tools for implementation and cost recovery in Tampa Electric's tariff if it decides to use non-generation resources in providing this service. In fact the particular generation resource circumstances facing Tampa Electric in this order, upon which we base determination here to limit its obligation to offer generator imbalance services, also support an argument for Tampa Electric to avail itself of the option of using non-generation resources for servicing generator imbalance requirements.

For these reasons, I respectfully concur with the Commission's order.

Jon Wellinghoff
Commissioner