

128 FERC ¶ 61,057
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

United States Department of Energy –
Bonneville Power Administration

Docket No. NJ09-1-000

United States Department of Energy –
Bonneville Power Administration

Docket No. NJ07-8-000

ORDER ON PETITIONS FOR DECLARATORY ORDER

(Issued July 15, 2009)

1. Bonneville Power Administration (Bonneville) submitted two petitions for declaratory order for determinations that certain deviations and revisions to its Open Access Transmission Tariff (tariff) comply with the directives in Order No. 890¹ and qualify as an acceptable reciprocity tariff. In this order, the Commission will grant Bonneville's petitions in part, subject to further modification of its tariff, as discussed below. Bonneville's proposed tariff is incomplete, and therefore does not substantially conform to the Order No. 890 *pro forma* Open Access Transmission Tariff (OATT). We therefore deny Bonneville's request for safe harbor reciprocity status.

I. Background

2. Bonneville is not a public utility within the meaning of sections 201, 205, and 206 of the Federal Power Act.² In Order No. 888, the Commission established a safe harbor

¹*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 (2009).

² 16 U.S.C. §§ 824, 824d, 824e (2006).

procedure for the filing of reciprocity tariffs by non-public utilities.³ This procedure permits non-public utilities, such as Bonneville, to voluntarily submit an open access transmission tariff to the Commission and request a declaratory order on the basis that that tariff satisfies the Commission's comparability (non-discrimination) standards. If the Commission finds that the terms and conditions of such a tariff substantially conform with or are superior to those in the *pro forma* OATT, the Commission will deem it to be an acceptable reciprocity tariff and require public utilities to provide open access transmission service upon request to that particular non-public utility.⁴ Bonneville's tariff was previously determined to be an acceptable reciprocity tariff under Order No. 888.⁵

3. 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. 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. Order No. 890 required any non-public utility with a safe harbor reciprocity tariff to amend its tariff so that its provisions

³ *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, at 31,760 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,281-87, *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).

⁴ In Order No. 888-A, the Commission clarified that, under the reciprocity condition, a non-public utility must also comply with the OASIS standards of conduct requirements, or obtain waiver of them. *See* Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,286.

⁵ *See United States Department of Energy – Bonneville Power Administration*, 80 FERC ¶ 61,119 (1997) (finding reciprocity tariff to be acceptable with modifications); *United States Department of Energy – Bonneville Power Administration*, 84 FERC ¶ 61,068 (1998) (finding reciprocity tariff to be acceptable with further modifications); *United States Department of Energy – Bonneville Power Administration*, 86 FERC ¶ 61,278 (1999) (finding reciprocity tariff to be acceptable).

substantially conform or are superior to the Order No. 890 *pro forma* tariff, if it wishes to continue to qualify for safe harbor treatment.⁶

II. Bonneville's Petitions for Declaratory Order

4. In its petition for declaratory order filed in Docket No. NJ09-1-000 on October 3, 2008, Bonneville requests the Commission grant its petition for declaratory order and find that its proposed tariff deviations and revisions substantially conform with or are superior to the Order No. 890 *pro forma* OATT, so that its tariff will be an acceptable reciprocity tariff. Bonneville also includes its proposed Small Generation Interconnection Agreement (SGIA) and Small Generation Interconnection Procedures (SGIP), and proposes certain revisions unrelated to Order No. 890, among other things. Bonneville requests waiver of the Commission's filing fees.

5. In its petition for declaratory order filed in Docket No. NJ07-8-000 on September 6, 2007, Bonneville seeks a determination by the Commission that its amended tariff provisions satisfy the Commission's standards for an acceptable reciprocity tariff, subject to the Commission's review of the Order No. 890 reciprocity filing.⁷ Bonneville proposes to amend its tariff to revise the procedures under which it redispatches Federal system resources to preserve system reliability⁸ and to change the interest rate on cash repayment amounts advanced for network upgrades under its Large Generator Interconnection Agreement from the rate set forth in the Commission's regulations to a rate that represents Bonneville's cost of capital,⁹ and incorporate certain business practice standards. Bonneville requests waiver of the Commission's filing fees.

III. Notice of Filings and Responsive Pleadings

6. Bonneville's October 3, 2008 filing in Docket No. NJ09-1-000 was noticed in the *Federal Register*, 73 Fed. Reg. 62,493 (2008), with interventions and protests due on or before November 3, 2008. The following entities filed timely motions to intervene: Public Power Council; Public Utility District No. 1 of Snohomish County, Washington;

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 191.

⁷ See Bonneville Transmittal Letter, Docket No. NJ07-8-000 at 1.

⁸ Bonneville states that its reliability redispatch procedures are revised because Attachment M (previously referred to as Attachment K) was expiring on September 30, 2007.

⁹ Bonneville proposes to change the rate to the government agency rate for ten-year bonds as published on Bloomberg L.P., which is the rate Bonneville pays on bonds it sells to the United States Treasury, and which therefore reflects Bonneville's cost of capital.

City of Seattle, Washington; PacifiCorp; Shell Energy North America (U.S.) L.P.; Puget Sound Energy, Inc.; and Calpine Corporation. The following entities filed timely interventions with protests or comments: Northwest and Intermountain Power Producers Coalition; Iberdrola Renewables, Inc.; American Wind Energy Association and Renewable Northwest Project (American Wind); and Portland General Electric Company, PacifiCorp and Puget Sound Energy, Inc., (Pacific Northwest IOUs) and Powerex Corp., (Powerex). Bonneville and American Wind filed answers.

7. Bonneville's September 6, 2007 filing in Docket No. NJ07-8-000 was noticed in the *Federal Register*, 72 Fed. Reg. 53,546 (2007), with interventions and protests due on or before October 9, 2007. Powerex and Portland General Electric Company filed timely motions to intervene. PPM Energy, Inc. filed an intervention and protest out of time. Bonneville filed an answer.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they moved to intervene. We will grant PPM Energy, Inc.'s motion to intervene out of time in Docket No. NJ07-8-000 given the early stage of the proceeding, its interests, and the absence of undue prejudice or delay.

9. Rule 213(a)(2) of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in these proceedings because they have provided information that assisted us in our decision-making process.

10. We grant Bonneville's request for waiver of the filing fees because it is a non-public utility and federal agency, and, therefore, is exempt from the Commission's filing fees.

B. Bonneville's Petition in NJ09-1-000

11. We have compared the non-rate terms and conditions of Bonneville's revised tariff to the Order No. 890 *pro forma* OATT. The discussion and findings below address only those Order No. 890 *pro forma* OATT provisions that Bonneville has not implemented, or that have been protested. The Commission finds that Bonneville has not satisfactorily complied with Order No. 890, because its tariff does not contain all of the provisions of the Order No. 890 *pro forma* tariff, and on that basis we will not grant Bonneville's request for a finding that its tariff is an acceptable reciprocity tariff until it incorporates

into its tariff those provisions that it has not implemented along with certain other modifications, as discussed below.¹⁰

12. Our review of Bonneville's proposed Order No. 890 reciprocity tariff deviations that are not protested, and not specifically discussed herein, indicates that they substantially conform or are superior to the Order No. 890 *pro forma* tariff.¹¹ We also conclude that other proposed revisions to Bonneville's reciprocity tariff unrelated to Order No. 890 that are not protested, and not specifically discussed herein are acceptable.

1. Conditional Firm Service

13. Bonneville proposes to revise section 15.4 of the Order No. 890 *pro forma* tariff (1) to delay implementing conditional firm service until it can develop tools to offer Available Transmission Capability (ATC) on a conditional firm basis and to monitor and curtail conditional firm schedules;¹² (2) to omit the definition of "System Conditions" from section 1.46 of the Order No. 890 *pro forma* tariff as an option for conditional firm service; (3) to require transmission customers taking conditional firm service to identify the generators associated with their points of receipt and delivery in order to reduce the output of the generators when conditional firm schedules are curtailed during conditional curtailment hours, and (4) to submit schedules with the same points of receipt and points of delivery as the transmission customer's reservation. Bonneville states that it will apply the same rules for offering conditional firm service to both network integration transmission service customers and point-to-point customers.¹³

¹⁰ We expect Bonneville's future filing to address all of the modifications discussed in this order.

¹¹ Bonneville proposes a number of changes to the *pro forma* SGIP and SGIA to reflect its status as a non-public utility and a federal agency.

¹² Bonneville states it is developing an automated curtailment system that will assign a transmission customer's conditional firm service schedule a secondary non-firm service curtailment priority for the full amount of its conditional curtailment hours, after which Bonneville will assign the schedules a firm service curtailment priority.

¹³ See sections 28.3, 28.7 and 33.4. Bonneville states that it intends to implement conditional firm service for network and point-to-point services at the same time on Open Access Same-time Information System (OASIS).

14. Bonneville explains that it must be able to identify conditional firm schedules, assign a curtailment priority, and be able to automatically track, monitor and curtail e-tag schedules over all of its network flowgates before it offers conditional firm service.¹⁴ Bonneville states that it is developing tools to provide conditional firm service using a specified number of curtailable hours per year (and later will develop the option of conditional firms service using system conditions as provided under the Order No. 890 *pro forma* tariff). Bonneville states that, later, when it can also offer conditional firm service based on system conditions, it will offer existing conditional firm service customers a one-time option to switch from conditional firm service based on a specified number of curtailment hours per year to conditional firm service that is based on system conditions.

Protests and Answer

15. American Wind requests that the Commission conditionally accept Bonneville's filing contingent upon implementation of conditional firm service by a certain date. The Pacific Northwest IOUs argue that conditional firm service should not become effective until the automated processes that Bonneville describes are in place. In addition, the Pacific Northwest IOUs state that Bonneville should clarify when conditional firm service will be offered based on system conditions.

16. Powerex questions Bonneville's reason for delaying conditional firm service using the system conditions. According to Powerex, forecasting congestion on flowgates (i.e., system conditions) should be driving the number of curtailable hours offered as conditional firm service. Powerex recommends that Bonneville be required to perform yearly assessments of the number of curtailable hours it offers as conditional firm service until it can provide the system conditions option on the same path that it is offering conditional firm service based on curtailable hours.

17. Powerex also argues that section 28.3 of Bonneville's tariff requires it to provide notice to a network service customer of any changes to the curtailment conditions in its conditional firm service agreement no less than 90 days prior to the date of the new curtailment conditions. Powerex asserts that there is no notification provision in the conditional firm service provisions applicable to long-term, point-to-point transmission service.

18. In response to Powerex's concern, Bonneville answers that it is including parallel language addressing changes in curtailment conditions in section 13.4 of the tariff that

¹⁴ Section 15.4(d) of its tariff states that Bonneville's offering of conditional firm service based on a specified number of hours a year will become effective as of the date stated in a notice to be posted on its OASIS.

applies to point-to-point transmission service. Bonneville states that it is offering conditional firm service to network customers as well as point-to-point customers.

Commission Determination

19. Conditional firm service allows for more efficient use of the grid when transmission is projected to be unavailable for a small portion of the year. Order No. 890 states that, in the event that there is insufficient ATC to fulfill a request for long-term, firm transmission service, the transmission customer may request a study for planning redispatch or conditional firm service or both. In studying the conditional firm option, the transmission provider must identify (1) the specific system conditions when conditional curtailment may apply, and (2) the annual number of hours when conditional curtailment may apply. Customers who take conditional firm service must choose one of these options, conditions and hours.¹⁵

20. The Commission finds that Bonneville's proposed deviations from the Order No. 890 *pro forma* tariff for conditional firm service (including the modifications to section 13.4 of the tariff to implement conditional firm service for point-to-point service) using the option of curtailable hours per year substantially conform with, or are superior to the Order No. 890 *pro forma* tariff. However, we recognize that Bonneville also seeks a temporary delay in offering conditional firm service based on specific system conditions. The protesters do not object to this temporary delay, but seek clarification on the timing of implementation. Bonneville should communicate its timeline for offering conditional firm service based on a specified number of curtailable hours per year to its customers in a notice posted on OASIS within 30 days of the date of this order. Bonneville should also further revise its tariff to offer conditional firm service identifying the system conditions when conditional curtailment may apply, consistent with the Order No. 890 *pro forma* tariff.

21. As noted by Bonneville, section 13.4 contains changes in curtailment conditions for long-term point-to-point transmission customers. We find no further modifications are necessary to section 13.4, until such time as Bonneville implements conditional firm service based on system conditions, as noted above.

2. Transmission Capacity Reassignment Provisions

22. Bonneville states that it is not adopting the Order No. 890 *pro forma* tariff revisions to section 23.1 under which the transmission provider charges or credits the reseller for the difference between the price reflected in the reseller's service agreement with the transmission provider and the price reflected in the reseller's service agreement

¹⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 958.

with the assignee. Bonneville explains that it receives a large number of transmission reassignments per month that cannot be accounted for on a manual basis.¹⁶ In order for it to act as the financial intermediary for reassignments, as required by Order No. 890, additional software functionality would be needed, prior to implementing its new billing system, which would add costs and delay its completion. Therefore, Bonneville states that it is electing to delay acting as a financial intermediary until it is determined whether the price cap for transmission capacity reassignments will be lifted permanently.¹⁷ Because Bonneville will not be performing the credit and surcharge function, it has omitted Attachment A-1, the form of service agreement for resale of transmission.

Protests

23. Powerex requests the Commission to provide guidance on how transmission customers should approach transmission capacity reassignments where non-jurisdictional transmission providers do not intend to integrate the financial intermediary services contemplated by the Order No. 890 *pro forma* tariff.

Commission Determination

24. Order No. 890 lifted the price cap for transmission capacity assignments to facilitate a secondary market for transmission capacity and made clear that sales of reassigned capacity take place under the transmission provider's OATT.¹⁸ This requires the assignees to execute a service agreement with the transmission provider governing reassignments, prior to scheduling use of that capacity.¹⁹ Bonneville represents that because of software limitations in its billing system, it has elected to delay its decision to act as a financial intermediary for transmission capacity assignments. In so doing,

¹⁶ Bonneville states that it processes as many as 1,800 reassignments per month because it offers hourly firm transmission service.

¹⁷ Bonneville adopted the Order No. 890 *pro forma* tariff provision removing the price cap on the resale of transmission service prior to October 1, 2010. In addition to the studies that the Commission staff will undertake to determine whether to remove the price cap permanently, Bonneville states that it will perform its own monitoring of the market for secondary transmission in the Pacific Northwest before deciding whether to lift the cap permanently.

¹⁸ In Order No. 890-A, the Commission considered it appropriate to lift the price cap on reassignments of capacity to accommodate a study period through October 1, 2010, and determine whether it is appropriate to continue to allow reassignments of capacity above the price cap beyond that date. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 390.

¹⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 816.

Bonneville has omitted the Order No. 890 requirement that transmission capacity reassignments be conducted under its tariff. We find that by its omission, Bonneville's tariff is incomplete and, therefore, does not meet the safe harbor reciprocity requirements without the transmission capacity reassignment provisions under *pro forma* OATT section 23.1. Bonneville should submit a compliance tariff filing detailing its plan for compliance with Order No. 890, and communicate its timeline to its customers. As a result of this deviation, those public utility customers holding rights to Bonneville's transmission capacity may need to file a separate tariff in order to transfer, sell, or reassign transmission capacity rights on Bonneville's transmission system.

3. Generator Imbalance Service

25. Bonneville indicates that it is omitting schedule 9 and that portion of section 3 of the Order No. 890 *pro forma* tariff addressing generator imbalance service. Instead, Bonneville states generator imbalance service is offered under its rate schedule to all generators located within its control area.²⁰ Bonneville explains that the increase in wind generation in its control area has introduced new operational issues that affect its ability to provide imbalance service. Bonneville states that, because of wind's variable output and the associated scheduling errors, deviations have become more significant, and that it must set aside considerable capacity to ensure it can address imbalances and maintain reliability. Bonneville asserts that it is assessing both the reserve capacity of the Federal Columbia River Power System and the availability of reserve capacity on the market. Bonneville states that it must complete these assessments before it can determine how to address generator imbalance under its tariff.

26. Bonneville notes that it has engaged in a two-year long public process with its stakeholders to determine the terms and conditions of its revised tariff. Bonneville argues that, because the magnitude of the generation imbalance came to light only recently, it has not fully engaged its stakeholders on this issue. Bonneville states that, once its assessments and stakeholder process is complete, it will file tariff modifications to address generator imbalance service.

²⁰ Bonneville's proposed rates for transmission service are considered under a separate process than rates proposed for transmission service under the FPA. If Bonneville has satisfied the standards of the Northwest Power Act, the Commission is required to confirm and approve these rates. Bonneville's transmission and ancillary service rates are separately reflected in separate "rate schedules" rather than its open access transmission tariff to reflect the different statutory process.

Protests and Answer

27. Iberdrola Renewables and American Wind argue that, without schedule 9, Bonneville's tariff is incomplete and, therefore, does not substantially conform to the Order No. 890 *pro forma* tariff. American Wind asserts that Bonneville should complete those assessments it claims are necessary. Powerex requests that Bonneville provide the Commission with a deadline by which it will file revised tariff provisions incorporating generator imbalance service.

28. American Wind requests the Commission to clarify that Bonneville may not indefinitely deviate from executing large generator interconnection agreements because of concerns Bonneville may have regarding its provision of generation interconnection service. Pacific Northwest IOUs support the delay and raise specific concerns related to the timing and specifics of Bonneville's process including a timeline for filing tariff modifications, contemplated alternatives to generator imbalance service, the impact of new proposals on existing large generator interconnection agreements and grandfathered agreement obligations. Pacific Northwest IOUs also question the study Bonneville contemplates as part of its "assessment" of the reserve capacity of the Federal Columbia River Power System. Finally, the Pacific Northwest IOUs seek interim guidance as to how generator imbalance will be implemented in conjunction with other penalties in its rate schedule.

29. Power Producers Coalition and American Wind assert that Order No. 890-A provides that, where it is not physically feasible for transmission provider to provide generator imbalance service using its own resources, and where it cannot acquire additional resources, "the transmission provider must accept the use of dynamic scheduling to the extent a transmission customer has negotiated appropriate arrangement with a neighboring control area. If a customer chooses to use dynamic scheduling ... it is the option and responsibility of the transmission customer to seek out and negotiate dynamic scheduling with a neighboring control area." American Wind argues that Bonneville does not allow third parties to supply generation imbalance service or generators to self supply this service, and has allowed only limited use of dynamic scheduling of resources to other balancing authorities.

30. Bonneville states that it supports implementation of dynamic scheduling on a case-by-case basis in order to address operational and reliability issues. American Wind does not object to Bonneville's proposal to evaluate dynamic scheduling requests on a case-by-case basis, but seeks additional information from Bonneville with regard to how it will assess requests to implement dynamic scheduling.

Commission Determination

31. Order No. 890 adopted a separate *pro forma* tariff schedule, schedule 9, for generator imbalance service²¹ to formalize generator imbalance provisions and standardize treatment of imbalances provisions that exist in various interconnection agreements. In fact, the Commission adopted in Order No. 890 imbalance provisions proposed by Bonneville in the Order No. 890 proceeding.²² In its petition, Bonneville states that it is omitting generator imbalance provisions, i.e., schedule 9 and a portion of section 3 from its tariff, because of operational issues due to the influx of wind energy on its system requiring further study and stakeholder process.

32. We find Bonneville's tariff is incomplete and, therefore, does not meet the safe harbor reciprocity requirements given the absence of a standardized generator imbalance service offered through its tariff. Bonneville should submit a compliance filing to incorporate standardized imbalance provisions under Schedule 9 of its tariff, consistent with Order No. 890. Bonneville should communicate to its customers, through a notice posted on OASIS within 30 days of the date of this order, its timeline for completing necessary assessments, and explain how generator imbalance service will be provided in its rate schedule in conjunction with, or to the exclusion of, penalties in accordance with Order No. 890.

4. Undesignation of Network Resources for Sales to Third Parties

33. Order No. 890 requires network customers and the transmission provider's merchant function to undesignate network resources or portions thereof in order to make certain third party power sales from those resources.²³ Order No. 890-A retained the requirement, but noted that, if the particular ATC methodology used by the transmission provider allows for flexibility in implementing the requirement, the transmission provider may propose a variation to the Order No. 890 *pro forma* tariff.²⁴ Order No. 890-A further states that any such request must adequately address the Commission's concern that network customers may have an incentive to designate unlimited generation resources, given that network transmission service is billed on a load ratio basis.²⁵

²¹ Previously, the Commission permitted the transmission provider to include provisions for generator balancing service arrangements in individual interconnection agreements. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 633.

²² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 667.

²³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1539.

²⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 951.

²⁵ *Id.*

34. Bonneville proposes deviations from the Order No. 890 *pro forma* tariff in order to permit undesignation of network resources for third-party sales only if the sale is for one year or more.²⁶ Bonneville states that its ATC methodology allows for such flexibility because it relies on load forecast data instead of network resource designations to determine ATC. Bonneville explains that the amount of generation designated as network resources does not affect the ATC analysis. Under its ATC methodology, transmission capacity to serve load is based on Bonneville's forecast of load for each season rather than on the capacity that would be needed to transmit all the generation of the designated network resources. Bonneville states that each year it makes a load forecast for each season, and when the load forecast is reduced (for example, from winter to spring), Bonneville reduces the transmission capacity set aside to serve load, even if the amount of designated resources is unchanged.²⁷ Therefore, with regard to short term undesignations, Bonneville explains that the methodology, in effect, calculates ATC as if the resources have been undesignated.

35. Bonneville explains that it establishes ATC calculations for each season, determining four generation patterns for the year. It factors undesignations of more than one year into the assumed resource dispatch for the following year's ATC calculations, and reduces or eliminates the amount of transmission capacity set aside for a resource that has been undesignated. Therefore, Bonneville proposes to retain an undesignation requirement for third-party sales of one year or more.

36. Bonneville argues that its proposal substantially conforms, or is superior to, the Order No. 890 *pro forma* tariff given that requiring the undesignation of network resources on a short-term basis would not increase ATC. Bonneville also states that the requirement to undesignate network resources for short-term firm sales undermines the liquidity of the Pacific Northwest spot market because the transaction costs for undesignations, in the form of staff time, would make many spot market transactions uneconomic.

37. Lastly, in addressing the Commission's concern regarding the potential for overdesignation of generation by customers, Bonneville states that even if customers did designate excess resources, the same amount of ATC would be available to the market because the transmission capacity set aside to serve loads is based on forecasts of peak load, and is unaffected by an increase in designated resources. In addition, Bonneville

²⁶ See proposed sections 29.2(viii), 30.1, 30.2, 30.4, 1.26, and 1.29.

²⁷ For example, assume that Bonneville's network customers have designated 7,000 MW of network resources and that Bonneville forecasts a peak winter load of 6,000 MW and a peak spring load of 5,000 MW. Under the ATC methodology, Bonneville will set aside 6,000 MW of transmission capacity to serve load during the winter and 5,000 MW of transmission capacity during the spring.

states that there is little incentive for the customer to build or commit to purchase generation not needed to serve load because of the financial risk involved.

Protests

38. Pacific Northwest IOUs seek clarification with regard to the process Bonneville will use to ensure that transmission is available to schedule third party short-term sales from designated resources. Specifically, Pacific Northwest IOUs state that Bonneville should specify how network transmission that is set aside to deliver energy from the resource to network loads will be made available for point-to-point transmission use to make a third party sale from the same resource.

Commission Determination

39. Bonneville's proposed deviations from the Order No. 890 *pro forma* tariff to permit undesignation of network resources for third-party sales, for sales of one year or more, are acceptable, subject to further clarification. Bonneville explains that its ATC calculations are based on load forecasts and seasonal adjustments, and are not based on the capacity that would be needed to transmit all the generation of the designated network resources. Bonneville should specify the process by which capacity set aside for network service and freed up as a result of seasonal adjustments, will be made available for point-to-point, third-party use. Bonneville should submit a compliance tariff filing to provide this clarification.

5. Simultaneous Window Process

40. In Order No. 890, the Commission required transmission providers that provide "no earlier than" time frames for submission of transmission requests to treat all requests received within a specified time period as having been received simultaneously (simultaneous window process).²⁸

41. In its petition, Bonneville states that it is adopting business practices under which short-term transmission requests may be submitted no earlier than specified deadlines that depend upon the term of the request. Bonneville further states that it plans to adopt a simultaneous window process for short-term requests. However, Bonneville asserts that it is not able to implement a simultaneous window process at this time, because it must modify certain software.

42. Bonneville explains that it plans to adopt a simultaneous window pilot program similar to one adopted by the Mid-Continent Area Power Pool (MAPP).²⁹ Bonneville

²⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1419.

²⁹ See *Mid-Continent Area Power Pool*, 123 FERC ¶ 61,177 (2008).

explains that it has access to the software that supports MAPP's simultaneous window process, but it must be modified to work with Bonneville's OASIS. After customizing MAPP's software, Bonneville must test the software to ensure that it interacts with the software Bonneville uses for tracking and posting short-term firm and hourly firm ATC, and to ensure that the software will not cause Bonneville's OASIS to crash. Bonneville states that it will develop its simultaneous window process as soon as possible.

Protests

43. Powerex acknowledges the difficulties that Bonneville faces in modifying software to implement a simultaneous window process, but requests the Commission to direct that, prior to the implementation of a simultaneous window process, Bonneville must file tariff revisions with the Commission to reflect the simultaneous window process, and show that it is consistent with or superior to the Order No. 890 *pro forma* tariff. PacifiCorp IOUs argue that Bonneville should be required to provide the specifics of how the simultaneous window process will be conducted to ensure that it is fair and not discriminatory or unduly preferential.

Commission Determination

44. We find that Bonneville's tariff is incomplete and, therefore, does not meet the safe harbor reciprocity requirements given the absence of a simultaneous window process offered through its tariff. Bonneville will need to file tariff revisions reflecting the simultaneous window process when it has its pilot program based on MAPP's simultaneous window process ready for implementation, and, at that time, show that its simultaneous window process substantially conforms, or is superior to, the Order No. 890 *pro forma* tariff.

6. Application Procedures for Long-Term Transmission Service

45. Bonneville is deleting from its application procedures, the requirement under sections 17.1 and 29.2 to submit a written application requesting long-term transmission service because such requests for transmission service are made over its OASIS. Bonneville explains that, because its OASIS cannot accept all information that must accompany an application,³⁰ the application procedures are being modified to allow the submission by telefax or mail delivery service, of required information that OASIS cannot accept. In addition, Bonneville states that, for small customers without access to OASIS, it will continue to permit written applications.

³⁰ Bonneville states that its OASIS is not able to accept information regarding the supply characteristics of the capacity and energy to be delivered and certain additional information required by the planning process.

Protests and Answer

46. Powerex argues that, for purposes of queue priority, it is unclear how Bonneville will integrate written applications for long-term transmission service requests with those requests that are submitted through OASIS. If Bonneville accepts transmission service requests through a written application, Powerex requests that it post the requests on its OASIS on behalf of those customers, and clarify that customers will be given queue priority based on the time of the posting on OASIS, rather than based on the time Bonneville receives the written request.

47. In its answer, Bonneville clarifies that the queue priority for customers who submit written applications for transmission service will be based on the time of the OASIS posting rather than the time Bonneville receives the written request.

Commission Determination

48. We find Bonneville's proposed deviation from the Order No. 890 *pro forma* OATT, as clarified, substantially conforms, or is superior to, the Order No. 890 *pro forma* tariff; it is reasonable and beneficial to its customers.

7. Purchase of Ancillary Services

49. Bonneville is adding a provision that requires the transmission customer to state in its application for transmission service which ancillary services it will purchase from the transmission provider.³¹ According to Bonneville, the statement is included under section 3 of its tariff, but Bonneville is adding the requirement to the sections that list the information that must be included in applications for point-to-point transmission service and network service, respectively.

Protests

50. Powerex requests the Commission to direct Bonneville to verify that this election may be modified in accordance with the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) Business Practice Standards approved by the Commission. According to Powerex, standard 5.5 of the Version 001 of the NAESB WEQ business practice standards states that a transmission customer may change its designation of preferred supplier of ancillary service for those ancillary services that provide a choice at a later date, so long as this change is made prior to the transmission provider's scheduling deadline.

³¹ See proposed tariff sections 17.2(xi) and 29.2.

Commission Determination

51. Bonneville's proposed deviation from the Order No. 890 *pro forma* OATT to require a transmission customer to identify in its application which ancillary services it will purchase from Bonneville for point-to-point transmission service and network service, respectively, substantially conforms, or is superior to, the Order No. 890 *pro forma* tariff. Transmission providers are required to provide, or offer to arrange for, ancillary services under the Order No. 890 *pro forma* tariff; therefore, the identification of the provider of ancillary services in the application process is appropriate.³² We note that Bonneville should clarify for its customers whether it will permit a transmission customer to change its third party supplier of ancillary services from that which is reflected in its application, prior to Bonneville's scheduling deadline.

8. Attachment J - Procedures for Addressing Parallel Flows

52. Bonneville did not include Attachment J, Procedures for Addressing Parallel Flows, in its petition. Nor does Bonneville indicate in its transmittal letter how it is going to incorporate Attachment J into its tariff. Powerex argues that the Commission should direct Bonneville to include the attachment with language similar to the Attachment J language required by the Commission for other transmission providers in Western Electricity Coordination Council (WECC).

Commission Determination

53. The Order No. 890 *pro forma* OATT includes a blank Attachment J entitled "Procedures for Addressing Parallel Flows" that is to be "filed by the Transmission Provider." The Commission, in the North American Electric Reliability Corporation (NERC) Transmission Loading Relief Order amended the *pro forma* tariff to incorporate NERC's Transmission Loading Relief (TLR) procedures.³³ The Commission also required that every transmission-operating public utility adopting NERC's TLR procedures file with the Commission a notice that its tariff should be considered so modified to reflect the use of such procedures. That order addressed the NERC TLR procedures for public utilities in the Eastern Interconnection. Later, in Order No. 693,³⁴

³² See Order No. 890 *pro forma* tariff, section 3.

³³ *North American Electric Reliability Council*, 85 FERC ¶ 61,353, at 62,362 and Ordering Paragraph (B) (1998), *order on reh'g*, 96 FERC ¶ 61,079 (2001) (NERC Transmission Loading Relief Order).

³⁴ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 961-65 (2007), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

the Commission approved, as mandatory and enforceable, the IRO-006-3 Reliability Coordination --Transmission Loading Relief Reliability Standard, which includes the NERC TLR procedures and, by reference, the equivalent interconnection-wide congestion management methods used in the Western Electricity Coordinating Council (WECC) Unscheduled Flow Mitigation Plan and Electric Reliability Council of Texas (ERCOT) (section 7 of the ERCOT Protocols) regions. As a result, all transmission providers must complete Attachment J by incorporating either of the NERC TLR procedures, WECC Unscheduled Flow Mitigation Plan, or ERCOT protocol, and must provide a link to the applicable procedures. Bonneville has not filed any procedures in Attachment J. Bonneville should submit a compliance filing incorporating a completed Attachment J, including the following statement:

The North American Electric Reliability Corporation's ("NERC") Qualified Path Unscheduled Flow Relief for the Western Electricity Coordinating Council (WECC), Reliability Standard WECC-IRO-STD-006-0 filed by NERC in Docket No. RR07-11-000 on March 26, 2007, and approved by the Commission on June 8, 2007, and any amendments thereto, are hereby incorporated and made part of this Tariff. See www.nerc.com for the current version of the NERC's Qualified Path Unscheduled Flow Relief Procedures for WECC.

9. Clustering

54. In Order No. 890, the Commission required transmission providers to adopt tariff language that describes how the transmission provider will process requests for cluster studies, and how it will structure a customer's obligations when it joins a cluster. The Commission gave transmission providers discretion to determine whether a transmission customer can opt out of a cluster study and to develop its own clustering procedures.

55. In its petition, Bonneville notes that, as part of its network open season filing in a separate docket, it submitted its cluster study provisions, which were conditionally approved by the Commission.³⁵ Bonneville notes that, in that order, the Commission requested additional details to inform customers when Bonneville will process requests to cluster transmission service studies outside of an open season.³⁶ Bonneville states that it is amending sections 19.10 and 32.6 of its tariff in this docket to address those concerns.

³⁵ Bonneville Transmittal Letter, Docket No. NJ09-1-000 at 37 (citing *Bonneville Power Administration*, 123 FERC ¶ 61,264 (2008)).

³⁶ *Bonneville Power Administration*, 123 FERC ¶ 61,264 at P 47.

56. Specifically, Bonneville states that its cluster study procedures provide that it may conduct cluster studies on its own initiative or upon customer request. Bonneville states that, if customers request a cluster study, it will determine whether it can accommodate the request. When Bonneville performs a cluster study, customers will be required to sign either a precedent transmission service agreement, which applies when Bonneville conducts a network open season, or a cluster study agreement, which applies to a cluster study performed outside of a network open season. Bonneville states that the Commission accepted its tariff provisions regarding precedent transmission service agreements³⁷ that require Bonneville to bear the cost of the cluster study. When Bonneville performs a cluster study outside of a network open season, customers bear a share of the cluster study costs based on the proportion of the customer's requested capacity to the total capacity requested by all customers in the cluster.

57. In its petition, Bonneville states that it is adding language in sections 19.10(ii) and 32.6 specifying that it will require customers to sign cluster study agreements unless it requires them to sign precedent transmission service agreements. Bonneville notes that it is also adding criteria specifying when it will conduct a cluster study outside a network open season, such as when Bonneville has completed an economic study under Attachment K and constructs the new facilities that the study identifies would facilitate providing service to multiple pending service requests, and when preliminary analysis indicates that the cluster study would benefit the integration of new renewable resources.

58. Bonneville states that, under its cluster study provisions, a customer may opt out of a cluster study either before or after signing a cluster study agreement. If Bonneville notifies the customer that it will perform a cluster study that will include the customer's request, the customer may opt out of the cluster by requesting an individual study within 10 days of Bonneville's notice. If the customer has already signed a cluster study agreement, it must withdraw its request on OASIS, and it remains liable for its share of the study costs.³⁸ Bonneville asserts that, given the response to its first open season and the benefits of cluster studies, it intends to perform individual studies only when a customer requests an individual study.

59. Bonneville notes that, at this point, it has a process to conduct open seasons only with respect to requests for service over its network facilities. Bonneville notes that its transmission system includes the network segment, which consists of facilities that

³⁷ Bonneville Transmittal Letter, Docket No. NJ09-1-000 at 38 (citing *Bonneville Power Administration*, 123 FERC ¶ 61,264 at P 37).

³⁸ Bonneville states that customers that have signed precedent transmission service agreements, however, may not withdraw from a cluster study. *See* Bonneville Transmittal Letter, Docket No. NJ09-1-000 at 39.

provide service within the Pacific Northwest, and several interties, which connect the Pacific Northwest with other regions. Bonneville states that it does not yet have an open season process for the interties but is planning a stakeholder process to implement an open season process for the interties. In the interim, Bonneville intends to study requests for transmission service over the interties in clusters.

Protests

60. Powerex points out that Bonneville's revised section 17.5, Response to a Completed Application, does not indicate that Bonneville may require a customer to sign a precedent transmission service agreement. Powerex requests the Commission to direct Bonneville to further revise section 17.5 to reflect that Bonneville may require a customer to sign such an agreement. Powerex also argues that it is unclear how the precedent transmission service agreement fits into the cluster study process reflected in revised sections 19.10(i) and (ii). Powerex requests the Commission to direct Bonneville to provide further specificity, and identify the circumstances that would trigger Bonneville to process the cluster study with a precedent transmission service agreement. Finally, Powerex expresses concern that the expenses Bonneville would assess against a customer who decides to opt out of the cluster study procedures established in the revised section 19.10(ii) may be burdensome. Powerex notes that, even if Bonneville intends the opt out proposal only to require the opting out customer to pay a share of the newly incurred re-study costs, it is unclear how Bonneville will determine the opting out customer's share of such costs, and communicate the cost to the customer in advance of its withdrawal from the cluster study.

Commission Determination

61. We conditionally find that Bonneville's revised cluster study provisions in sections 17.5, 19.10 and 32.6 substantially conform with, or are superior to, the Order No. 890 *pro forma* tariff, subject to Bonneville submitting a compliance filing with further modifications to its cluster study process to indicate the following: (1) to provide that Bonneville may require a customer to sign a precedent transmission service agreement in the cluster study process; (2) to provide further specificity and identify the circumstances that will trigger its decision to require a customer to sign a precedent transmission service agreement in order to participate in a cluster study; and (3) to provide further specificity regarding how it will determine the opting out customer's share of the cluster study costs, and how it will communicate that cost to the opting out customer in advance of the customer's withdrawal from the cluster study.

10. Penalties for Failure to Meet Transmission Study Deadlines

62. In Order No. 890, the Commission required transmission providers to track their performance in processing System Impact Studies and Facilities Studies associated with

requests for transmission service and to post on their OASIS sites certain metrics relating to their performance.

63. Sections 19.9 and 32.5 of Bonneville's revised tariff provide that it will use due diligence to meet study completion deadlines for System Impact Studies, Facilities Studies, and Cluster Studies.³⁹ Bonneville's revised tariff omits the provision under which the transmission provider is subject to penalties for failing to complete transmission studies within 60 days, as well as the notice that is filed with the Commission with respect to late studies.

Protest

64. Powerex asserts that it is not clear how Bonneville will track its performance on completing System Impact Studies and Facilities Studies that are combined into one study for Cluster Study purposes. Powerex points out that Bonneville omitted a provision, in sections 19.9(i) and (ii) of the Order No. 890 *pro forma* tariff, requiring transmission providers to notify the Commission in the event that more than 20 percent of the studies completed for non-affiliates are not completed within the applicable completion deadlines. Powerex argues that, although Bonneville has not adopted the penalty provisions the Commission is requiring for jurisdictional transmission providers, it would increase transparency on Bonneville's transmission system if it posted a notice on its OASIS whenever it fails to complete more than 20 percent of non-affiliates' requested transmission studies within the applicable deadlines and to post the additional metrics regarding the average number of hours expended on, and the number of employees dedicated to System Impact Studies and Facilities Studies.

Commission Determination

65. We find that sections 19.9 and 32.5 of Bonneville's tariff, as revised, substantially conform with, or are superior to, the Order No. 890 *pro forma* tariff. As noted by Bonneville, we have approved other reciprocity tariffs that omit the requirement to file notice with the Commission regarding late studies.⁴⁰ Bonneville is a non-public utility, and, as such, the Commission's penalty authority regarding late studies cannot be applied to Bonneville.

³⁹ See Bonneville's revised tariff, sections 19.3, 19.4, 19.9, and 19.10(i).

⁴⁰ See, e.g., *East Kentucky Power Cooperative, Inc.*, 121 FERC ¶ 61,012 (2007).

11. Attachments A and F, Point-to-Point and Network Integration Service Agreements

66. In its filing, Bonneville deletes a number of deviations that existed between its point-to-point service agreement and the Order No. 890 *pro forma* point-to-point service agreement. Bonneville makes similar deletions in its network integration service agreements where the same deviations occur. Bonneville also incorporates by reference section 202 of Executive Order No. 11246, as amended, that would require transmission customers, as government contractors, to show that they do not discriminate against employees or applicants for employment on the basis of race, color, religion, sex, or national origin.

Protests

67. Powerex argues that Executive Order No. 11246 does not apply to workers hired outside of the United States for work to be performed outside the United States. Powerex requests the Commission to require Bonneville to revise its equal employment provisions to make clear that they apply only to those transmission customers who are not otherwise exempted from compliance with Executive Order No. 11246, as amended.

Commission Determination

68. We accept Bonneville's incorporation by reference of Executive Order No. 11246 in Attachments A and F. As noted by Bonneville, Federal contracting agencies are required to include this provision in all of their contracts. We decline to address the issue of the applicability of Executive Order No. 11246 to transmission customers who operate outside the United States. A proceeding before this Commission is not the appropriate forum in which to raise this issue.

12. Attachment C - Methodology to Assess Available Transfer Capability

69. Bonneville is submitting a revised version of Attachment C to its tariff as required by Order No. 890.⁴¹ Bonneville states that its revised Attachment C provides a description of its ATC methodology and links to its website which provides the methodology in detail. Bonneville also states that it intends to revise its Attachment C when the NERC ATC reliability standards and NAESB business practices are finalized.

⁴¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323.

a. ATC Methodology

70. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs (e.g., contract path, network ATC, or network Available Flowgate Capacity (AFC)).⁴² The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for its scheduling, operating and planning horizons. Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.

71. Powerex states that Bonneville does not provide a detailed description of its ATC/AFC mathematical algorithms in its Attachment C, as required by Order No. 890.

72. Although Order No. 890 required each transmission provider's Attachment C to include this level of detail, we find that Bonneville's Attachment C providing a general description of its ATC methodology including links to its website for additional detail and the actual mathematical algorithms, substantially conforms, or is superior to, Order No. 890 *pro forma* tariff.⁴³ Our review indicates that Bonneville's Attachment C provides website links to mathematical algorithms for long-term and short-term ATC. However, its Attachment C does not provide a link to the mathematical algorithm for non-firm ATC. Bonneville should submit a compliance filing to include this information in its Attachment C, as required in Order No. 890.⁴⁴

b. Process Flow Diagram

73. In Order No. 890, the Commission required a transmission provider to include a process flow diagram in its Attachment C that illustrates the various steps through which ATC/AFC is calculated.⁴⁵

74. Powerex states that Bonneville's Attachment C does not include a process flow diagram outlining the steps Bonneville will take to calculate ATC/AFC.

75. We have reviewed Bonneville's filing, and agree that Bonneville's revised Attachment C does not contain a process flow diagram. Bonneville should submit a compliance filing to include a process flow diagram in its Attachment C.

⁴² *Id.* P 323 and *pro forma* OATT, Att. C.

⁴³ Bonneville also indicates that a link to its website is also included on OASIS.

⁴⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 207.

⁴⁵ *Id.* P 323 and *pro forma* OATT, Att. C.

c. **Detailed Explanation of the ATC Components**

i. **Total Transfer Capability (TTC)**

76. In Order No. 890, the Commission required a transmission provider to: (1) explain its definition of TTC; (2) explain its TTC calculation methodology for both the operating and planning horizons; (3) list the databases used in its TTC assessments; and (4) explain the assumptions used in its TTC assessments regarding the load levels, generation dispatch, and the modeling of both planned and contingency outages.⁴⁶

77. Powerex argues that Bonneville does not describe its TTC calculation methodology, and does not list any particular databases it uses in its TTC assessment. Powerex argues, further, that Bonneville does not explain the assumptions used in assessing TTC regarding load levels, generation dispatch, and modeling of both planned and contingency outages.

Commission Determination

78. Bonneville's Attachment C provides a link to its website containing its TTC methodology. Although jurisdictional transmission providers are required, under Order 890, to include the definition of each ATC component including TTC in its Attachment C,⁴⁷ it is acceptable for Bonneville to provide a link in its Attachment C to the TTC methodology located on its website. Our review of Bonneville's description of its TTC methodology, however, indicates that the methodology does not describe the difference, if any, between Bonneville's methodology for calculating TTC for the operating and planning horizons and does not provide the databases used in the assessments.⁴⁸ Bonneville should submit a compliance filing to include this information, as required by Order No. 890.⁴⁹

ii. **Existing Transmission Commitments (ETC)**

79. In Order No. 890, the Commission required a transmission provider to explain: (1) its definition of ETC; (2) the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load) and non-

⁴⁶ *Id. pro forma* OATT, Att. C.

⁴⁷ *Id.* P 323.

⁴⁸ *See*

[http://www.transmission.bpa.gov/business/Customer Forums and Feedback/ATC Methodology/documents/TTC_NT_Flowgates_V4_5_27_08.pdf](http://www.transmission.bpa.gov/business/Customer%20Forums%20and%20Feedback/ATC%20Methodology/documents/TTC_NT_Flowgates_V4_5_27_08.pdf).

⁴⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323 and *pro forma* OATT, Att. C.

Tariff customers (including, if applicable, an explanation of assumptions on the selection generators that are modeled in service) for both the operating and planning horizons; (3) how point-to-point transmission service requests are incorporated; (4) how rollover rights are accounted for; and (5) its processes for ensuring that non-firm capacity is released properly (e.g., when real-time schedules replace the associated transmission service requests in its real-time calculations).⁵⁰

80. Powerex argues that Bonneville does not explain its calculation methodology used to determine transmission capacity set-aside for native load and non-OATT customers, nor does it explain how it incorporates point-to-point transmission service requests or accounts for rollover rights.

Commission Determination

81. Bonneville's Attachment C provides a link to its calculation methodology used to determine transmission capacity set aside for native load and non-OATT customers, and explains how Bonneville incorporates point-to-point transmission service requests.⁵¹ Although jurisdictional transmission providers are required, under Order No. 890, to include the definition of each ATC component including ETC in Attachment C,⁵² it is acceptable for Bonneville to provide a link in its Attachment C to the ETC methodology. We have reviewed Bonneville's calculation methodology, and agree with Powerex that Bonneville does not explain how it accounts for rollover rights, nor does it explain how its process for ensuring that non-firm capacity is released for use by third-parties. Therefore, Bonneville should submit a compliance filing to provide a description of how rollover rights are accounted for and an explanation of its processes for ensuring that non-firm capacity is released as non-firm ATC.⁵³

C. Bonneville's Petition in Docket No. NJ07-8-000

82. In this petition, Bonneville submits three amendments to its tariff: (1) a revised Attachment M; (2) a change to the interest rate paid to interconnection customers that have advanced funds for the construction of network upgrades under its Large Generation Interconnection Agreement; and (3) the addition of a provision incorporating NERC Wholesale Electric Quadrant Version 000 business practice standards into its tariff.

⁵⁰ *Id. pro forma* OATT, Att. C.

⁵¹ See <http://www.transmission.bpa.gov/includes/get.cfm?ID=1311>.

⁵² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323.

⁵³ *Id.* P 244.

83. Specifically, Bonneville is revising Attachment K, redesignated as Attachment M to its tariff, to provide the procedures under which it will redispatch Federal system resources to preserve system reliability. Under the revised Attachment M, Bonneville's transmission business line (Transmission Services) will have the right to request the following types of redispatch from Bonneville's power business line (Power Services): (1) Emergency Redispatch, that Transmission Services requests after declaration of a system emergency as defined by NERC; (2) NT Firm Redispatch, that Transmission Services requests for the purpose of maintaining firm network transmission (NT) schedules and secondary network schedules; and (3) Discretionary Redispatch, that Transmission Services requests when it has not yet curtailed non-firm point-to-point and secondary network schedules. Bonneville notes that it is adopting a new compensation mechanism for this redispatch service, but points out that it is taking care to ensure that transmission customers are protected from any unexpected costs.

84. Bonneville asserts that its Attachment M substantially conforms, or is superior to, the Order No. 890 *pro forma* tariff because it ensures that Bonneville's Transmission Services has reasonable access to redispatch when reliability of the transmission system is at risk; it provides a cost-effective means of acquiring redispatch while ensuring that the provider of redispatch is paid its actual cost; and it provides rate certainty to customers because Transmission Services has included a fixed cost for redispatch in transmission rates. Bonneville also points out that Attachment M is the product of a regional settlement with its transmission customers.

85. Bonneville is also revising the interest rate used in Large Generation Interconnection Agreements to be included in repayments of amounts advanced for network upgrades from the rate calculated under Commission regulations to the government agency rate for ten-year bonds as published on Bloomberg, L.P. Bonneville notes that this is the rate that it pays on bonds it sells to the United States Treasury, and, therefore, reflects Bonneville's cost of capital. Bonneville asserts that its revised interest rate satisfies comparability.

86. Finally, Bonneville notes that the Commission required public utilities to include in their next unrelated tariff filing certain business standards promulgated by NERC's Wholesale Electric Quadrant.⁵⁴ Bonneville is including the new standards in section 4 of its tariff.

⁵⁴ See *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216 (2006).

Protests and Answer

87. PPM Energy points out that, beginning October 7, 2007, Bonneville's transmission customers will pay for a portion of their ancillary service costs under its wholesale power rates. PPM Energy argues that this action contravenes Order No. 888. According to PPM Energy, Bonneville's action results in the discrimination that the functional unbundling requirement in Order No. 888 was intended to eliminate because those tariff customers that also purchase power from Bonneville will pay for Reactive Supply service, while those tariff customers that do not purchase power from Bonneville will not. PPM Energy notes that it raised this concern in Docket No. EL07-66-000.

88. PPM Energy argues that the fact that Order No. 2003 and Order No. 890 codified a change in Commission policy with respect to compensation to third party suppliers for Reactive Supply service within-the-deadband is irrelevant to whether a public utility or non-jurisdictional utility, such as Bonneville, must unbundle its Reactive Supply service from its power rates, and provide that service to transmission customers only through its open access transmission tariff. PPM Energy requests that the Commission deny Bonneville's petition for declaratory order in this docket because it no longer satisfies the reciprocity requirements of Order No. 888. In the alternative, PPM Energy requests that, if the Commission grants Bonneville's petition, it be subject to the condition that Bonneville either recovers its Reactive Supply costs in its tariff (and continue to compensate third party suppliers of Reactive Supply services in accordance with Commission policy), or forgo recovery of Reactive Supply service costs through its wholesale power sale rates.

89. In its answer, Bonneville argues that the Commission should reject PPM Energy's protest because it is unrelated to the issues in this docket, and because PPM Energy is litigating the same issue in a separate proceeding. Bonneville argues that the issue PPM Energy raises is irrelevant to whether Bonneville's redispatch protocol and LGIA interest rate form part of an acceptable reciprocity tariff. Bonneville notes that PPM Energy does not complain about, question, or comment on its proposed tariff amendments. Bonneville asserts that PPM Energy is litigating the same issue in two proceedings, and its protest in this docket is a collateral attack on the Commission's order in Docket No. EL07-65-000. Bonneville, therefore, requests the Commission to reject PPM Energy's protest in this docket.

Commission Determination

90. We find that Bonneville's revisions substantially conform with, or are superior to, the Order No. 890 *pro forma* tariff. We find that PPM Energy's protest represents a collateral attack on our order in Docket No. EL07-65-000.⁵⁵

The Commission orders:

(A) Bonneville's petitions for declaratory order in the above-referenced dockets are hereby granted, in part, as discussed in the body of this order.

(B) Bonneville's request for safe harbor reciprocity status is denied.

(C) Bonneville's request for exemption from the filing fee is hereby granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵⁵ *Bonneville Power Administration v. Puget Sound Energy, Inc.*, 120 FERC ¶ 61,211 (2007), *order on reh'g*, 125 FERC ¶ 61,273 (2008).