

131 FERC ¶ 61,043  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
and John R. Norris.

PacifiCorp

Docket Nos. ER10-745-000  
ER10-745-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISION

(Issued April 16, 2010)

1. On February 12, 2010, as amended on February 17, 2010,<sup>1</sup> PacifiCorp filed a proposed tariff revision to Attachment C (Methodology to Assess Available Transfer Capability) of its Open Access Transmission Tariff (OATT). In this order, the Commission accepts the revised tariff sheet for filing, subject to further compliance, to become effective April 13, 2010, as discussed below.

**I. Background**

2. In Order No. 890,<sup>2</sup> 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 in each transmission provider's Attachment C.

3. On September 11, 2007, PacifiCorp submitted Attachment C to its OATT pursuant to Order No. 890. On March 25, 2008, PacifiCorp's Attachment C was accepted for

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<sup>1</sup> PacifiCorp amended its filing to correct a typographical error.

<sup>2</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 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

filing subject to a further compliance filing.<sup>3</sup> The March 25 Letter Order noted, among other things, that Order No. 890 required each transmission provider to explain in its Attachment C: (1) its definition of transmission reserve margin; (2) its transmission reserve margin calculation methodology (e.g., its assumption on load forecast errors, forecast errors in system topology or distribution factors and loop flow sources) for both the operating and planning horizons; (3) the databases used in its transmission reserve margin assessments; and (4) the conditions under which it uses transmission reserve margin.<sup>4</sup> In addition, in Order No. 890, the Commission stated that if the transmission provider does not use transmission reserve margin, it must so state in its OATT.<sup>5</sup> In the March 25 Letter Order, PacifiCorp was directed to submit a further compliance filing to provide a detailed explanation of its transmission reserve margin calculation methodology and a clear explanation of conditions under which the PacifiCorp uses transmission reserve margin.

4. On April 24, 2008, PacifiCorp submitted its compliance filing to further revise its Attachment C, providing additional information on transmission reserve margin. On October 28, 2008, PacifiCorp's revised Attachment C was accepted for filing effective September 11, 2007.<sup>6</sup>

## II. PacifiCorp's Filing

5. Transmission reserve margin is one component of PacifiCorp's calculation of available transfer capability.<sup>7</sup> PacifiCorp's Attachment C defines transmission reserve margin as the amount of transmission transfer capability on a line or path set aside for,

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<sup>3</sup> *PacifiCorp*, Docket No. OA07-114-000, Mar. 25, 2008 (unpublished letter order) (March 25 Letter Order).

<sup>4</sup> See March 25 Letter Order at P 12, citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at *pro forma* OATT, Att. C.

<sup>5</sup> *Id.*

<sup>6</sup> *PacifiCorp*, Docket No. OA07-114-000, Oct. 28, 2008 (unpublished letter order).

<sup>7</sup> See PacifiCorp OATT, Attachment C. PacifiCorp's Attachment C indicates that PacifiCorp uses the rated system path for calculating available transfer capability. Under PacifiCorp's Attachment C, available transfer capability is derived by first modeling the transmission system in terms of contract paths, and reducing that figure by existing transmission commitments, a margin that recognizes uncertainties with transfer capability (i.e., transmission reserve margin) and a margin that allows for meeting generation reliability criteria (i.e., capacity benefit margin).

among other things, load forecast and load distribution error, variations in facility loadings, loop flow impact, variations in generation dispatch, automatic sharing of reserves, nomograms<sup>8</sup>, and reactive power flows.

6. In discussing its transmission reserve margin component of its available transfer capability methodology, PacifiCorp's Attachment C provides as follows (in pertinent part):

Methodologies in the Western Interconnection to calculate path [total transfer capability]<sup>9</sup> limits include a reliability component that has many of the same characteristics as [transmission reserve margin], such as load forecast and load distribution error, variations in facility loadings, uncertainty in transmission system topology, loop flow impact, variations in generation dispatch, automatic sharing of reserves, nomograms, and reactive power flows.

For purposes of calculating [available transfer capability], [transmission reserve margin] for the aforementioned characteristics is set to zero because those characteristics are included in the determination of the posted path [total transfer capability] limit. As indicated above, PacifiCorp's studies to determine posted path total transfer capability limits are based on applicable NERC or WECC planning and operating criteria for maintaining reliability.<sup>10</sup>

7. PacifiCorp proposes to revise its Attachment C by removing the following sentence: “[f]or purposes of calculating [available transfer capability], [transmission reserve margin] for the aforementioned characteristics is set to zero because those characteristics are included in the determination of the posted path [total transfer capability] limit.”<sup>11</sup> PacifiCorp states that the particular sentence was included in its

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<sup>8</sup> A nomogram is a set of operating or scheduling rules that are used to ensure that simultaneous operating limits are respected.

<sup>9</sup> Terms contained in brackets were acronyms in the original documents. The Commission uses brackets in this order for clarity.

<sup>10</sup> The WECC criteria for which the transmission reserve margin is calculated are as follows: transmission necessary for the activation of operating reserves; unplanned transmission outages (for paths in which contingencies have not already been considered in establishing the path rating); simultaneous limitations associated with operation under a nomogram; loading variations due to balancing of generation and load; uncertainty in load distribution and/or load forecast; and allowances for unscheduled flow.

<sup>11</sup> PacifiCorp Filing at 2.

Attachment C in error. PacifiCorp states that it used another transmission provider's Attachment C, which had already been accepted, for guidance in complying with the directives of the March 25 Letter Order. PacifiCorp states that the sentence was inadvertently included in its Attachment C transmission reserve margin methodology and does not apply to PacifiCorp's transmission system.

8. PacifiCorp states that it has a number of lines where it sets aside transmission reserve margin and states that the set-aside is essential for reliability reasons and to manage path relationships and constrains on adjoining transmission systems. PacifiCorp states that during the course of a separate proceeding in Docket No. ER09-408-000,<sup>12</sup> it recognized that its Attachment C needed to be revised to eliminate the inapplicable statement from its Attachment C so that the available transmission capability methodology set forth in its tariff is consistent with its actual practice. For this reason, PacifiCorp states that its revision is consistent with or superior to the *pro forma* OATT.

9. PacifiCorp requests waiver of the Commission's prior notice and filing requirements<sup>13</sup> to allow the revised tariff sheet to be effective September 11, 2007. PacifiCorp states that the requested effective date is consistent with Order No. 890,<sup>14</sup> and that good cause exists to grant the requested waiver because the sentence it seeks to delete was mistakenly included in its Attachment C and the deletion of the sentence has no rate impact on PacifiCorp or any of its customers.<sup>15</sup>

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<sup>12</sup> The Docket No. ER09-408-000 (ER09-408) proceeding concerns unexecuted transmission service agreements between PacifiCorp and CEP Funding, LLC. On December 4, 2009, the Commission issued an order conditionally accepting certain service agreements, rejecting others, and requiring PacifiCorp to submit a further compliance filing. *PacifiCorp*, 129 FERC ¶ 61,200 (2009) (December 4 Order). The December 4 Order is pending rehearing.

<sup>13</sup> *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

<sup>14</sup> PacifiCorp Filing at 3 (citing Order No. 890, FERC Stat. & Regs. ¶ 31,241 at P 140).

<sup>15</sup> *Id.* (citing *Otter Tail Power Co.*, 116 FERC ¶ 61,008 (2006) (*Otter Tail*); *Central Hudson Gas & Electric Corporation, et al.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (*Central Hudson*)).

### **III. Notices of Filings and Responsive Pleadings**

10. Notices of PacifiCorp's February 12, 2010 and February 17, 2010 filings were published in *Federal Register*, 75 Fed. Reg. 8689, and 75 Fed. Reg. 8686 (2010), respectively, with interventions and protests due on or before March 5, 2010 and March 10, 2010. On March 10, 2010, CEP Funding, LLC and Columbia Energy Partners, LLC (together, CEP) filed a motion to intervene and protest. On March 19, 2010, PacifiCorp filed an answer to CEP's protest, and on March 26, 2010, CEP filed an answer to PacifiCorp's answer.

11. CEP argues that the Commission should reject PacifiCorp's filing and its request for retroactive application of the proposed tariff revision. CEP argues that the proposed revision is the product of a dispute currently pending before the Commission regarding transmission service requests CEP made to PacifiCorp. CEP argues that accepting the revision effective September 11, 2007, as requested by PacifiCorp, would permit PacifiCorp, by means of a collateral attack, to render a significant portion of the Commission's December 4 Order meaningless.<sup>16</sup>

12. CEP also argues that PacifiCorp has not demonstrated that the proposed tariff change is just and reasonable. According to CEP, PacifiCorp does not offer any technical or policy basis for its change. CEP contends that the only basis PacifiCorp presents in support of its revision is that the OATT is inconsistent with PacifiCorp's actual practice. CEP asserts that what PacifiCorp has chosen to do in the instant proceeding is to seek to change its OATT retroactively to comply with its non-tariff based practices, rather than to change its practices to comply with its OATT.<sup>17</sup>

13. In addition, CEP challenges PacifiCorp's explanation that its Attachment C language provides total transfer capability limits that are similar to transmission reserve margin in the Western Interconnection. However, CEP argues that by its proposed revision, PacifiCorp seeks to remove the reasonable conclusion that transmission reserve margin is set to zero because the transmission reserve margin criteria are included in total transfer capability. CEP contends that in light of the language explaining total transfer capability limits in the Western Interconnection, a transmission reserve margin in an amount other than zero would double count the transmission reserve margin criteria in the calculation of transmission reserve margin and total transfer capability.<sup>18</sup>

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<sup>16</sup> CEP Protest at 4.

<sup>17</sup> *Id.* at 6, 7.

<sup>18</sup> *Id.* at 9.

14. In response, PacifiCorp states that CEP's request for the Commission to reject PacifiCorp's filing and thereby require PacifiCorp to be held to the application of an inapplicable sentence is illogical. PacifiCorp states that transmission reserve margin set-asides are essential for reliability reasons and to manage path relationships and constraints on adjoining systems. PacifiCorp states that the sentence it seeks to remove is in error because it has in the past and continues to set aside transmission reserve margin on its transmission system. Furthermore, PacifiCorp notes that the Commission has previously accepted similar filings to correct errors.<sup>19</sup>

15. In addition, PacifiCorp argues that the proposed tariff change does not affect the ER09-408 proceeding and is not a collateral attack on the Commission's December 4 Order, as CEP suggests. PacifiCorp states that the sole intention of the proposed revision is to correct an erroneous statement. PacifiCorp argues that although the erroneous statement was discovered when PacifiCorp was responding to a Commission request in the ER09-408 proceeding, the sentence is inapplicable and needs to be deleted despite the ER09-408 proceeding. Moreover, PacifiCorp notes that throughout the ER09-408 proceeding CEP was aware that PacifiCorp sets aside transmission reserve margin on its Midpoint-Summer Lake line (i.e., the line at issue in the ER09-408 proceeding).

16. PacifiCorp also argues that the requested effective date is appropriate and consistent with the effective date of PacifiCorp Attachment C, prior Commission orders, and Order No. 890.<sup>20</sup> PacifiCorp reiterates that good cause exists in this case to grant the requested effective date.

17. In its March 26, 2010 reply, CEP contends that PacifiCorp erred in relying on *Otter Tail Power Co.*<sup>21</sup> and *Duke Energy Carolinas, LLC*<sup>22</sup> in arguing for an effective date of September 11, 2007. CEP argues that *Otter Tail* is distinguishable from the instant filing in that *Otter Tail* was an uncontested proceeding. Furthermore, CEP contends that in *Otter Tail* the requested retroactive effective date was a number of days prior to the Commission's order, rather than years as is the case here. In addition, CEP argues that *Duke Energy* is distinguishable because Duke's revisions were in the nature

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<sup>19</sup> PacifiCorp states that, for example, the Commission accepted various Attachment C revisions submitted by Duke Energy Carolinas, LLC, to correct inconsistencies with its OATT and typographical errors. PacifiCorp Answer at 5 (citing *Duke Energy Carolinas, LLC*, 126 FERC ¶ 61,226 (2009) (*Duke Energy*)).

<sup>20</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 140.

<sup>21</sup> 116 FERC ¶ 61,008 (2006) (*Otter Tail*).

<sup>22</sup> 126 FERC ¶ 61,226 (2009) (*Duke Energy*).

of a compliance filing correcting a deficiency that the Commission had discovered. CEP also notes that *Duke Energy* was also an uncontested proceeding.

#### **IV. Discussion**

##### **A. Procedural Matters**

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by PacifiCorp and CEP because they have provided information that assisted us in our decision-making process.

##### **B. Substantive Matters**

19. We will accept PacifiCorp's proposed revision, subject to a further compliance filing, to become effective April 13, 2010, as discussed below.

20. PacifiCorp proposes to remove the sentence from its Attachment C indicating that PacifiCorp sets the transmission reserve margin component of its available transfer capability methodology to zero. PacifiCorp states that during the course of another proceeding it became aware that this sentence was inaccurate. PacifiCorp explains that it does in fact set aside transmission reserve margin for some of its lines and that the sentence in question was included inadvertently in its Attachment C when PacifiCorp submitted its compliance filing in response to the March 25 Letter Order. We agree that the sentence should be removed because it is an inaccurate statement of how PacifiCorp calculates transmission reserve margin on its transmission system. It would be confusing to customers for the Commission to require PacifiCorp to maintain language in its OATT that does not reflect its actual practice.<sup>23</sup> In Order No. 890, the Commission recognized that "[available transfer capability] calculations have a direct and tangible effect on the granting of open access transmission service," and thus, "a detailed statement of the

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<sup>23</sup> Unless PacifiCorp obtained a waiver from the Commission, it would also be a violation of the Commission's regulations for PacifiCorp's OATT to contain language that is not consistent with PacifiCorp's actual practice. 18 C.F.R. 35.28 (c) and (d) (2009).

methodology and its components that define how the transmission provider determines [available transfer capability] belongs in the transmission provider's OATT."<sup>24</sup> Therefore, it is only appropriate for PacifiCorp's OATT to reflect the available transfer capability methodology PacifiCorp actually uses.

21. However, we find that by removing the sentence "[f]or purposes of calculating [available transfer capability], [transmission reserve margin] for the aforementioned characteristics is set to zero because those characteristics are included in the determination of the posted path [total transfer capability] limit," PacifiCorp's Attachment C will no longer meet the requirements of Order No. 890.

22. As noted above, in Order No. 890, the Commission required each transmission provider to explain: (1) its definition of transmission reserve margin; (2) its transmission reserve margin calculation methodology (e.g., its assumption on load forecast errors, forecast errors in system topology or distribution factors and loop flow sources) for both the operating and planning horizons; (3) the databases used in its transmission reserve margin assessments; and (4) the conditions under which the transmission provider uses transmission reserve margin.<sup>25</sup> In addition, the Commission stated that if the transmission provider does not use transmission reserve margin, it must so state.<sup>26</sup>

23. PacifiCorp's Attachment C includes a definition of transmission reserve margin, the databases PacifiCorp uses to assess transmission reserve margin, and the conditions under which PacifiCorp uses transmission reserve margin.<sup>27</sup> In addition, PacifiCorp's existing Attachment C references the Western Electricity Coordinating Council (WECC) criteria by which transmission reserve margin is calculated. The Commission previously found PacifiCorp's explanation describing the transmission reserve margin criteria established by the WECC to be an adequate explanation, because PacifiCorp's Attachment C indicated that transmission reserve margin was set to zero (thus there was no explanatory methodology required). However, because PacifiCorp proposes to revise its Attachment C to reflect that it does set aside transmission reserve margin, PacifiCorp must now provide a definitive explanation of its calculation methodology for transmission reserve margin. Although PacifiCorp's Attachment C reflects the WECC criteria for calculating transmission reserve margin, it fails to identify which of the

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<sup>24</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 328.

<sup>25</sup> Order 890, FERC Stats. & Regs. ¶ 31,241 at *pro forma* OATT, Att. C.

<sup>26</sup> *Id.*

<sup>27</sup> *See* PacifiCorp OATT, Original Sheet Nos. 318F and 318G.

criteria PacifiCorp actually uses in its calculation of transmission reserve margin. In addition, because PacifiCorp's calculation methodology for transmission reserve margin indicates that methodologies in the Western Interconnection include a reliability component, PacifiCorp must also ensure that its calculation of transmission reserve margin does not account for reliability components already accounted for in establishing total transmission capability.

24. In summary, PacifiCorp's tariff in Attachment C, when combined with information provided by WECC documents, provides enough information that fairly addresses the Commission's concerns regarding possible double-counting. However, the Commission requires it be clearly stated in one place in the tariff. Accordingly, PacifiCorp must file, within 30 days of the date of this order, a further compliance filing that revises its Attachment C to delineate clearly which of the WECC criteria PacifiCorp uses to calculate transmission reserve margin and an affirmative statement indicating that its transmission reserve margin calculation methodology does not account for reliability components used to establish total transmission capability.

25. Additionally, we will deny PacifiCorp's request to make the revision effective September 11, 2007. In *Central Hudson*<sup>28</sup> the Commission provided guidance as to when it would be likely to grant waiver of the 60-day prior notice requirement.<sup>29</sup> Specifically, the Commission stated that it will not grant waiver for contested filings, even if they do not have an impact on rates.<sup>30</sup> We will therefore deny waiver of the 60-day prior notice requirement, and consistent with section 205 of the FPA and section 35.3 of our regulations, we will allow the provision to become effective April 13, 2010, 60 days from the date of PacifiCorp's February 12, 2010 filing.<sup>31</sup>

The Commission orders:

(A) PacifiCorp's revised tariff sheet is hereby conditionally accepted, effective April 13, 2010, as discussed in the body of this order.

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<sup>28</sup> *Central Hudson*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>29</sup> *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

<sup>30</sup> PacifiCorp cites *Otter Tail* and *Duke Energy* as two filings where the Commission granted waiver of the 60-day notice requirements. We note that both of those filings were uncontested.

<sup>31</sup> 16 U.S.C. § 824d (2006); 18 C.F.R. § 35.3 (2009).

(B) PacifiCorp's request for waiver of the Commission's notice and filing requirements is hereby denied, as discussed in the body of this order.

(C) PacifiCorp is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.