

135 FERC ¶ 61,073  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Arizona Public Service Company

Docket No. ER11-2949-000

ORDER ACCEPTING PROPOSED TARIFF REVISION  
AND DENYING REQUEST FOR WAIVER

(April 26, 2011)

1. On February 25, 2011, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Arizona Public Service Company (APS) filed a proposed revision to the *pro forma* Large Generator Interconnection Agreement (LGIA) in its Open Access Transmission Tariff (OATT), and a request for waiver of the Commission's filing requirements. The revision to the LGIA removes Appendix H, which consists of the Western Electricity Coordinating Council (WECC) Reliability Management System requirements (RMS Appendix). The waiver request pertains to APS's plea not to have to file non-conforming interconnection agreements amended for the same purpose of removing Appendix H. In this order, we accept the proposed tariff revision, to be effective April 27, 2011,<sup>2</sup> and reject, without prejudice, APS's request for waiver of Commission requirements to file revisions to non-conforming interconnection agreements, as discussed below.

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> APS requests an effective date of April 26, 2011 for its proposed tariff revision. However, absent a waiver, April 27, 2011 is the earliest date that APS's proposed tariff can be made effective (i.e., on the 61st day after filing, after 60 days' notice). *See Utah Power & Light Co.*, 30 FERC ¶ 61,015, at 61,024 n.9 (1985) (stating that proposed changes in rates, terms, and conditions cannot become effective (absent waiver) earlier than 60 days' notice to the Commission and that the 60-day notice period required by the Commission's regulations starts to run the first day after the date of the filing); *Central Hudson Gas & Electric Co.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

## **I. Background**

2. RMS was initially established by WECC for the purpose of maintaining the reliable operation of the transmission grid. The RMS Appendix required all LGIA customers to comply with the applicable WECC reliability criteria. However, WECC recently notified its member transmission operators with executed agreements under the WECC RMS, including APS, that the imposition of certain mandatory reliability standards instituted in response to section 215 of the FPA<sup>3</sup> rendered the RMS requirement obsolete. As a result, WECC began the process of cancelling RMS and subsequently requested that all parties terminate the RMS Appendix within one year of WECC's notification.<sup>4</sup>

## **II. Filing**

3. APS states that, in accordance with WECC's notification, it proposes to remove the RMS Appendix from its OATT. APS asserts that the revision will not affect the reliability of the transmission grid. APS explains that because its interconnection customers use the bulk electric transmission system, APS and its customers must comply with the applicable reliability standards of the North American Electric Reliability Council and WECC, the regional coordinator for the APS balancing authority area. Therefore, APS states that these standards will apply in the absence of the RMS Appendix.

4. APS states that it is in the process of identifying executed interconnection agreements that contain a RMS Appendix and will work with customers to amend those agreements as necessary. APS requests, however, that the Commission waive any filing requirements with respect to those non-conforming agreements amended for the sole purpose of removing the RMS Appendix. APS explains that filing the amended non-conforming agreements will create an administrative burden on APS, and possibly on the Commission, with no benefits to the public in terms of transparency.<sup>5</sup>

5. APS further argues that the revision is not agreement-specific and arises out of a change to the APS OATT, which essentially constitutes a conforming amendment that

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<sup>3</sup> 16 U.S.C. § 824o (2006).

<sup>4</sup> On October 12, 2010, WECC filed a notice of cancellation of the RMS Appendix with the Commission, in Docket No. ER11-91-000, which was accepted for filing by the Commission on December 6, 2010. *Western Electricity Coordinating Council*, Docket No. ER11-91-000 (Dec. 6, 2010) (unpublished letter order).

<sup>5</sup> APS Transmittal Letter at 2.

applies to all interconnection customers. APS asserts that all counterparties will receive direct notice as it works to amend the affected agreements. APS argues that the administrative burden of filing all amended non-conforming interconnection agreements, each with the same amendment, outweighs any incremental benefit.<sup>6</sup>

### **III. Notice of Filing**

6. Notice of APS's filing was published in the *Federal Register*, 76 Fed. Reg. 21,888 (2011), with interventions, protests, and comments due on or before March 18, 2011. None was filed.

### **IV. Discussion**

#### **A. Proposed Tariff Revision**

7. We accept APS's proposal to remove Appendix H from its LGIA because we find that the proposal is in accordance with WECC's action to terminate the RMS requirements with all contracting parties. Also, we find that the proposed tariff revision will not affect the reliability of the transmission grid since, as APS states, APS and its customers must continue to comply with the applicable reliability standards of the North American Reliability Council and WECC, the regional coordinator for the APS balancing authority area.

#### **B. Request for Waiver**

8. APS requests a waiver of any Commission filing requirements with respect to any non-conforming interconnection agreements amended solely to remove the RMS Appendix. The Commission historically has granted certain waiver requests involving an emergency situation or an unintentional error.<sup>7</sup> Waiver, however, is not limited to those circumstances. When good cause for a waiver of limited scope exists, there are no

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<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (granting limited and temporary change to tariff to correct an error); *Great Lakes Transmission Limited Partnership*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event for good cause shown); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

undesirable consequences, and the resultant benefits to customers are evident, we have found that a one-time waiver is appropriate.<sup>8</sup>

9. Here, the Commission denies APS's request for waiver because APS fails to demonstrate good cause for the request. While APS argues that the filing requirements will create an administrative burden on APS, it fails to demonstrate the magnitude of this burden. For example, APS does not explain how many of these non-conforming agreements are subject to the proposed revision, nor does it explain how this requirement will impose an undue burden on APS's resources. APS also fails to proffer any evidence that no undesirable consequences would occur, that it is limited in scope or that other factors should be considered. Accordingly, we reject APS's request for waiver, without prejudice to APS submitting a filing to demonstrate that a waiver is appropriate.

The Commission orders:

(A) The proposed revision to APS's *pro forma* Large Generator Interconnection Agreement in its Open Access Transmission Tariff is hereby accepted to be effective April 27, 2011, as discussed in the body of this order.

(B) APS's request for waiver of Commission requirements to file revisions to non-conforming interconnection agreements is hereby rejected, without prejudice, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>8</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132 (2010) (granting limited waiver of the large generator interconnection procedures for projects in the transition cluster when a participating transmission owner has committed to up-front fund all or a portion of the customer's share of network upgrades); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008) (granting waivers of CAISO's large generator interconnection procedures to allow CAISO to create three study groups in order to streamline interconnection requests); *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 24 (2007).