

140 FERC ¶ 61,024
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Public Service Company of New Mexico

Docket No. ER12-1800-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued July 13, 2012)

1. On May 16, 2012, Public Service Company of New Mexico (PNM) filed a new Attachment R – Reliability Redispatch Costs and Methodology – to its Open Access Transmission Tariff (OATT). The proposed Attachment R provides the methodology for calculating and assigning cost responsibility for the redispatch of designated network resources of both PNM and PNM’s Network Integration Transmission Service (Network) Customers to ensure the reliability of PNM’s transmission system. In this order, we conditionally accept PNM’s modifications to its OATT, effective July 16, 2012, as discussed below.¹

I. Background

2. PNM asserts that it serves load by transmitting power from its own and its Network Customers’ designated network resources, including the Four Corners Power Plant (Four Corners) and the San Juan Generating Station (San Juan) located in

¹ PNM requests an effective date of July 15, 2012, for its proposed tariff revisions. However, absent a waiver, July 16, 2012 is the earliest date that PNM’s proposed tariff revisions 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).

northwestern New Mexico, to load centers in northern and southern New Mexico.² PNM explains that Four Corners and San Juan are the northern injection points into its balancing authority area for power transmitted over Path 48, a constrained transmission path as defined by the Western Electricity Coordination Council (WECC).³ PNM states that Path 48 is the transmission path used to serve a substantial portion of PNM's native load and the network loads of most of PNM's Network Customers. PNM further states that during peak load periods or system outage conditions, import capabilities over Path 48 can become limited, and PNM is required to operate load-side generation resources in order to avoid curtailments to its native load and its Network Customers' loads.⁴

3. According to PNM, section 33.1 of its OATT conforms to the *pro forma* OATT, and provides that PNM and the Network Customer will establish load shedding and curtailment procedures pursuant to the Network Operating Agreement with the objective of responding to contingencies on the transmission system.⁵ PNM states that its curtailment practices are posted on its OASIS and asserts that section 33.2 of its OATT provides that PNM will take whatever actions, consistent with Good Utility Practice, reasonably necessary to maintain the reliability of its system, including redispatching Network Resources and its own resources on a least-cost basis, and on a nondiscriminatory basis.⁶ Further, PNM states that section 33.3 of its OATT provides that the PNM and Network Customers will each bear a proportionate share of the total redispatch costs based on their respective load ratio shares.⁷

² PNM Transmittal at 2.

³ *Id.*

⁴ *Id.* at 2-3 (defining load-side resources as those PNM and Network Customer designated network resources that relieve congestion or other system conditions that would otherwise result in curtailment).

⁵ *Id.* at 2 (citing *Duke Energy Carolinas, LLC*, 126 FERC ¶ 61,226, at PP 22-24 (2009) (finding proposed tariff revisions to be consistent with or superior to the *pro forma* OATT) (citing *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))).

⁶ *Id.* at 2-3.

⁷ *Id.* at 3.

4. PNM states that it may exercise several options to facilitate least-cost reliability redispatch to maintain the reliability of its transmission system, explaining that it either owns or purchases the output of generating stations on the load side of Path 48.⁸ PNM also states that its 200 MW Blackwater Converter Station (Blackwater Station), which interconnects the Southwest Power Pool (SPP) and WECC grids together, provides access to additional resources on the load side of Path 48. PNM asserts that at the time of this filing, no designated network resources are delivered to PNM or its Network Customers at Blackwater Station.

II. PNM's Proposed Attachment R

5. PNM asserts that proposed Attachment R does not add a new service, but instead describes how PNM will calculate and assign the cost responsibility for the redispatch of Network Resources as necessary to maintain the reliability of its transmission system, as required by its OATT.⁹ PNM designates this type of service as Reliability Redispatch Service and asserts that details of that service, as set forth in, Attachment R are consistent with or superior to the *pro forma* OATT.

6. According to PNM, section III of proposed Attachment R describes how PNM will determine when Reliability Redispatch Service is needed, and how it will identify the resources to provide the service. Section III of the proposed Attachment R provides that PNM will determine on a day-ahead basis, the expected transmission use of its transmission system based on hourly estimates of the requirements of its native load and its Network Customers' load.¹⁰ PNM explains that this determination must be made on a day-ahead basis because PNM and the owner/operators of Load-Side Resources do not purchase natural gas on a long-term firm basis since these resources rarely run. PNM asserts that it will evaluate the availability of its transmission system to meet the anticipated transmission system use, and determine the system's maximum transfer capability without load-side resources.¹¹ PNM maintains that this evaluation will assume zero output from wind generation resources and zero transfers for PNM's Blackwater Station. PNM states that if this analysis forecasts a deficiency of transfer capability, PNM will initiate Reliability Redispatch Service. PNM states that if Reliability Redispatch Service alone will not suffice to address a transfer deficiency, PNM will

⁸ *Id.*

⁹ *Id.* at 1.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 3.

follow the Curtailment Practice posted on its OASIS in order to ensure its transmission system's integrity.¹²

7. PNM explains that section IV of its proposed Attachment R describes how it will determine the costs of providing Reliability Redispatch Service on a monthly basis.¹³ PNM commits to tracking cost data for its own load-side resources and states that Network Customers must provide cost data on an hourly basis for resources used to provide Reliability Redispatch Service, and must also provide PNM with estimates of costs for their load-side resources at the beginning of each month. PNM asserts that it will use the cost data to allocate and assign the costs to itself and to its Network Customers based on their respective load ratio share of transmission utilization for the hours in which PNM provides Reliability Redispatch Service.¹⁴

8. PNM states that section V of Attachment R describes how PNM will bill Network Customers for Reliability Redispatch Service and compensate Network Customers whose resources were used.¹⁵ Specifically, PNM will bill Network Customers on a monthly basis on the Network Customer's monthly load ratio share for the month in which service is provided.¹⁶ PNM explains that since it may not be able to complete a final determination of actual costs for monthly invoices immediately following the month in which Reliability Redispatch Service is provided, section V includes a true-up process to finalize monthly invoices on an ongoing basis including any necessary corrections.¹⁷ PNM states that it will render a single payment to the Network Customer providing load-side resources upon receipt of payment from all Network Customers owing for Reliability Redispatch Service in a billing period. In its filing, PNM also requests an effective date of July 15, 2012.

III. Notice of Filing

9. Notice of PNM's filing was published in the *Federal Register*, 77 Fed. Reg. 30,519 (2012), with interventions, comments and protests due on or before June 6, 2012.

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Id.*

Navopache Electric Cooperative, Inc. (Navopache) filed a timely motion to intervene and protest. On June 19, 2012, Tri-State Generation and Transmission Association, Inc. (Tri-State) filed an out of time motion to intervene and protest. On June 21, 2012, PNM filed an answer to Navopache's protest (PNM June 21 Answer). On June 22, 2012, Xcel Energy Services Inc. (Xcel) filed an out of time motion to intervene. On June 28, 2012, Western Area Power Administration (Western) filed an out of time motion to intervene and protest. On July 5, 2012, PNM filed an answer to Tri-State's and Western's protests (PNM July 5 Answer). On July 6, 2012, Navopache filed an answer to PNM's June 21 Answer (Navopache July 6 Answer). On July 10, 2012, Tri-State filed an answer to June 21 and July 5 answers (Tri-State July 10 Answer).

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), Navopache's timely, unopposed motion to intervene serves to make it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), the Commission will grant Tri-State, Xcel and Western's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PNM's answers and Navopache's July 6 Answer because they have provided information that assists us in our decision making process.

B. Requests for PNM to Provide Additional Information and Assertions of Unduly Discriminatory Tariff Provisions

1. Navopache, Tri-State and Western's Protests

11. Navopache, Tri-State and Western argue that PNM's proposed Attachment R lacks specificity, may be unduly discriminatory, and they request that the Commission direct PNM to make a number of revisions.¹⁸ Specifically, Navopache and Tri-State contend that PNM's proposal is unclear as to how PNM will determine when Reliability Redispatch Service is needed and does not explain how it will determine the maximum transfer capability or even define the term.¹⁹ Navopache contends that the proposal does

¹⁸ Navopache, Tri-State and Western are PNM Network Customers.

¹⁹ Navopache Protest at 5.

not explain how PNM will ensure that Reliability Redispatch Service costs are not collected under both the OATT and its Power Sale Agreements with its requirements customers.²⁰ Tri-State and Western contend that Attachment R should be revised to make it applicable to constraints anywhere on PNM's transmission system, and not just to Path 48.²¹

12. Navopache, Tri-State and Western also argue that PNM's proposal does not provide adequate information on PNM's methodology for identifying load-side resources on a least-cost and non-discriminatory basis. Navopache states that PNM should be directed to issue a periodic report to Network Customers and the Commission demonstrating that its choice of resources is not unduly discriminatory and results in a least-cost dispatch.²² Western contends that Attachment R contains no methodology and inadequately provides for the disclosure of information necessary for customers to evaluate whether the units chosen will result in least-cost redispatch.²³

13. Navopache, Tri-State and Western contend that some of the terms of the proposed Attachment R are unclear. For example, Navopache states that there should be specific response times for operators of Load-Side Resources to respond to being notified by PNM for redispatch.²⁴ Tri-State and Western note that section IV indicates that Reliability Redispatch costs will be allocated on an hour-by-hour basis, but section V indicates that costs will be allocated based on monthly load shares.²⁵ Tri-State states that PNM should clarify the first paragraph under "Load-Side Generation Identification & Notification Process" in section III to replace the word "others" with "Network Customers."²⁶ Western states that PNM should clarify whether it will pay only the costs

²⁰ *Id.* at 4 (noting that a revised Power Sale Agreement between it and PNM was set for hearing and settlement judge procedures by the Commission, *Public Service Company of New Mexico*, 137 FERC ¶ 61,119 (2011), and that the parties are currently engaging in settlement discussions).

²¹ Tri-State Protest at 5; Western Protest at 10.

²² Navopache Protest at 8.

²³ Western Protest at 9-11.

²⁴ Navopache Protest at 10.

²⁵ Tri-State Protest at 9-10; Western Protest at 11.

²⁶ Tri-State Protest at 11.

which have been provided at the beginning of the month or the actual costs incurred by its Network Customers.²⁷

14. Navopache, Tri-State and Western also contend that some terms of the proposed Attachment R appear to unduly discriminate against Network Customers. Navopache states that section IV requires Network Customers to provide all associated costs on an hourly basis and to provide estimates of costs at the beginning of each month, while allowing PNM to true up its own redispatch costs in subsequent invoices.²⁸ Navopache also states that the Commission should require PNM to establish a reasonable period for true ups, such as two months. Tri-State argues that the Commission should require PNM to revise Attachment R to require PNM to make information on its own Network Resources available in the same manner as it requires of Network Customers.²⁹ Western states that Attachment R fails to treat PNM's own resources and Network Customers' resources in the same manner in determining units that should be redispatched.³⁰

15. In addition to these assertions, Western asserts that PNM did not give its Network Customers the opportunity to negotiate the terms for reliability redispatch as required by PNM's OATT.³¹ Western contends that language in sections 33.1, 33.2 and 35.2 of PNM's OATT clearly provides that PNM and its Network Customers will negotiate and agree on redispatch procedures under the Network Operating Agreement rather than filing the procedure with the Commission and requiring Network Customers to contest the filing.³² Western adds that in April 2010, PNM provided a power point presentation to Network Customers related to redispatch service, but never followed up with negotiations. Western states that the Commission should suspend PNM's filing and allow the Network Customers and PNM to negotiate the proposed new terms for redispatch under the Network Operating Agreement.

²⁷ Western Protest at 12.

²⁸ Navopache Protest at 9.

²⁹ Tri-State Protest at 7-9.

³⁰ Western Protest at 11.

³¹ *Id.* at 7.

³² *Id.* at 8-9.

2. PNM's Answer

16. PNM states that its current OATT, which is modeled on the *pro forma* OATT, provides for PNM to charge its Network Customers for the costs of redispatch for reliability purposes, and that those provisions do not provide any detail on how units are selected and how charges will be calculated.³³ PNM argues that its proposed Attachment R provides more detail and specificity than is required, and should be accepted as an improvement of the *pro forma* OATT.

17. PNM contends that Navopache is dissatisfied with the additional detail that PNM proposes to add to the required provisions, and proposes a lengthy list of further details it wants added. PNM argues Navopache's protests are tantamount to a collateral attack on the underlying reliability redispatch requirements of the *pro forma* OATT.³⁴ PNM states that the Commission has already addressed transparency arguments in Order No. 890 including the requirement to post redispatch cost on the OASIS, and that PNM will meet those requirements.³⁵ PNM also asserts that its OATT is in accordance with the Commission's requirement that proposed tariff revisions are consistent with or superior to the *pro forma* OATT.³⁶ Therefore, PNM states that it will not address many of the arguments for additional details, but limit its response to arguments that are inaccurate for other reasons.

18. PNM responds to Navopache's concern that Reliability Redispatch Costs may be collected under the OATT and Power Sale Agreements with requirements customers, stating that these costs are only incurred in the provision of transmission service and are separate and distinct from Power Sale Agreement costs.³⁷ In response to Tri-State and Western, PNM states that Attachment R will apply to relief of congestion on PNM's entire system, not just Path 48.³⁸ In response to Tri-State and Western's concern that the

³³ PNM June 21 Answer at 1 (asserting that PNM never previously charged its customers for Reliability Redispatch Service that it provided to them).

³⁴ *Id.* at 2.

³⁵ *Id.* at 2-3.

³⁶ *Id.* at 2 (citing *Duke Energy Carolinas, LLC*, 126 FERC ¶ 61,226, at PP 22-24 (2009) (finding proposed tariff revisions to be consistent with or superior to the *pro forma* OATT) (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241(2007))).

³⁷ *Id.* Answer at 4.

³⁸ PNM July 5 Answer at 3.

provisions of sections IV and V of Attachment R regarding whether Reliability Redispatch Costs are allocated based on hourly or monthly load data are inconsistent, PNM states that the language is not as clear as it intended. PNM explains that it will allocate all costs that have been tracked hourly to all Network Customers and native load on the basis of monthly load ratio share, and offers to make a revision to Attachment R to clarify this.³⁹ PNM agrees to make the change requested by Tri-State in first paragraph under “Load-Side Generation Identification & Notification Process” in section III to replace the word “others” with “Network Customers.”⁴⁰ PNM responds to Western’s question whether PNM will pay only the costs which have been provided at the beginning of the month or the actual costs incurred by Network Customers, stating that the true-up process will ensure that payments will reflect the final actual costs.⁴¹ Furthermore, PNM objects to Western’s assertion that PNM did not provide Network Customers the opportunity to negotiate the terms of Attachment R before filing it with the Commission, arguing that it first introduced the provisions in a November 5, 2009, Network Operating Committee meeting, and has distributed multiple drafts of the developing provisions since then.

3. Navopache and Tri-State’s Answers

19. In its July 6 Answer, Navopache states that it agrees with Western’s arguments that PNM is required to negotiate with its Network Customers to agree upon a redispatch procedure to be part of the Network Operating Agreement.⁴² Navopache requests that the Commission reject PNM’s filing and direct PNM and its customers to negotiate the terms of Reliability Redispatch Service before re-filing a proposed Attachment R.⁴³ In its July 10 Answer, Tri-State argues that the Commission should direct PNM to modify Attachment R to state that PNM will determine least-cost redispatch based on the unit's variable cost and its impact on the constraint.⁴⁴ Tri-State argues that it is still unclear whether Attachment R will apply to PNM's entire system and not only Path 48.⁴⁵

³⁹ *Id.* at 8.

⁴⁰ *Id.* at 10.

⁴¹ *Id.* at 8-9.

⁴² Navopache July 6 Answer at 6.

⁴³ *Id.*

⁴⁴ Tri-State July 10 Answer at 2.

⁴⁵ *Id.* at 3.

20. In addition, Tri-State argues that the Commission should not accept Attachment R conditioned on PNM making a compliance filing to correct errors acknowledged in its answers. Tri-State contends that this route is administratively efficient if the corrections that must be made are few and can be specified explicitly in the order. Tri-State asserts that this is not the case here as intervenors have raised a number of issues that will require significant revisions to Attachment R. Accordingly, Tri-State requests that the Commission suspend PNM's filing and set it for hearing and settlement judge procedures.⁴⁶

4. Commission Determination

21. As a preliminary matter, we disagree with Western and Navopache that PNM was obligated or limited to negotiating the terms of reliability redispatch service under the Network Operating Agreement. Although the OATT and Network Operating Agreement provides that a transmission provider and customers may negotiate terms of redispatch, it does not foreclose a transmission provider's right under section 205 to make a filing to propose revisions to its OATT. Also, we will not suspend PNM's filings and set it for hearing as requested by Tri-State.

22. In Order No. 890, the Commission required transmission providers to provide redispatch service for reliability purposes on a least cost, nondiscriminatory basis, and to allocate the costs based on load ratio shares. The Commission also required transmission providers to post the monthly average cost of redispatch on OASIS each month.⁴⁷ In addition, the Commission held that proposed tariff revisions that are consistent with, or superior to the *pro forma* OATT are generally acceptable.⁴⁸ Order No. 890 did not, however, require transmission providers to detail the mechanisms employed to identify Reliability Redispatch Service costs. Section 33 of PNM's OATT conforms to PNM's *pro forma* OATT and the instant filing does not propose any changes to those provisions, or propose any new service or rate. Instead, PNM's proposed Attachment R provides more detail on how PNM will implement the service. Accordingly, we find PNM's proposed Attachment R, with some modifications discussed below, to be consistent with or superior to the *pro forma* OATT.

23. We are satisfied with PNM's explanation that Reliability Redispatch Service costs are not collected under both the OATT and its Power Sale Agreements with its

⁴⁶ Tri-State July 10 Answer at 5-6.

⁴⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1156-1164.

⁴⁸ *Id.* P 135.

requirements customers. We are also satisfied with PNM's clarification that that Attachment R will apply to relief of congestion on PNM's entire system, not just Path 48. Section III of Attachment R states that PNM will evaluate the expected use and capability of its transmission system in order to determine the need for Reliability Redispatch Service. Attachment R does not limit the evaluation to Path 48. In addition, Order No. 890 does not require transmission providers to issue periodic reports to network customers demonstrating that a given provider's choice of resources is not unduly discriminatory and results in a least-cost dispatch. Accordingly, we will not require PNM to submit periodic reports to its Network Customers and the Commission.

24. We are persuaded by PNM's assertion that the proposed Attachment R, as modified below, is consistent with or superior to the *pro forma* OATT.⁴⁹ We do, however, direct PNM to make the modifications that PNM agreed to make in its July 5 Answer. In addition, as discussed below, we find that PNM must modify or further explain certain provisions in Attachment R to ensure that its Reliability Redispatch Service, and calculation and assignment of costs for that service, will conform with the Commission's requirements for redispatch service.

C Coordination with Curtailment Procedures

1. Navopache, Tri-State and Western's Protests

25. Navopache and Tri-State further argue that Attachment R does not clearly describe how Reliability Redispatch Service will be coordinated with curtailment procedures. Navopache states that the Commission should direct PNM to revise Attachment R to ensure that non-firm transmission is curtailed before Reliability Redispatch Service is used.⁵⁰ Tri-State and Western maintain that if PNM intends to implement Reliability Redispatch Service before curtailing firm point-to-point service, it should take firm point-to-point service into consideration when evaluating potential congestion, and include firm point-to-point customers in the allocation of Reliability Redispatch Service costs.⁵¹

⁴⁹ PNM June 21 Answer at 1-2 (citing *Duke Energy Carolinas, LLC*, 126 FERC ¶ 61,226, at PP 22-24 (2009) (finding proposed tariff revisions to be consistent with or superior to the *pro forma* OATT) (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241)).

⁵⁰ Navopache Protest at 7.

⁵¹ Tri-State Protest at 7, Western Protest at 11.

2. PNM's Answer

26. In response to Navopache, PNM asserts that pursuant to its curtailment priorities posted on its OASIS, firm network load will only be curtailed after Priorities 1-6 (non-firm service) are invoked.⁵² PNM states that it agrees that Network and native load should not subsidize point-to-point service, but believes that the best approach is to ensure that point-to-point service shares in neither the costs nor the benefits of Reliability Redispatch Service.⁵³ PNM states that, in Order No. 890, the Commission rejected a proposal that would have required the expansion of reliability redispatch provisions to point-to-point customers. PNM agrees that it is appropriate to consider congestion caused by firm point-to-point service when making its day-ahead evaluation of the need for Reliability Redispatch Service, and proposes to clarify that in a compliance filing if so directed. However, PNM contends, it would be unreasonable and inconsistent with Order No. 890 to reduce point-to-point curtailment due to redispatch of native and Network Customer resources, since point-to-point service does not share in the cost and is not intended as the beneficiary of redispatch. Thus, PNM states, it proposes to treat congestion alleviated by redispatch as a credit to native and Network Load's load-ratio share of curtailment.⁵⁴

3. Commission Determination

27. Pursuant to PNM's Curtailment Practice, non-firm services are curtailed in Priorities 1-6, and firm point-to-point, native and network transmission service are curtailed at Priority 7.⁵⁵ PNM states that Reliability Redispatch Service will occur after Priorities 1-6 curtailments have occurred. We therefore disagree with Navopache's claim that PNM needs to revise Attachment R to ensure that non-firm transmission service is curtailed before Reliability Redispatch Service is used. PNM also states that it agrees with Tri-State and Western that it is appropriate to consider congestion caused by firm point-to-point service when making its day-ahead evaluation of the need for Reliability Redispatch Service. We will direct PNM to modify Attachment R to reflect this commitment. In Order No. 890, the Commission rejected requests to require the

⁵² PNM June 21 Answer at 5.

⁵³ PNM July 5 Answer at 4.

⁵⁴ *Id.* at 5.

⁵⁵ See PNM's Curtailment Practice, accessible at:
http://www.oatioasis.com/PNM/PNMdocs/2-17-12_Curtailment_Practice.pdf.

extension of the reliability redispatch obligation to point-to-point customers.⁵⁶ It is therefore consistent with Order No. 890 that firm point-to-point customers will not be redispatched for reliability purposes, and that redispatch costs are allocated only to native load and Network Customers. However, as the Commission also noted in Order No. 890,⁵⁷ if a reliability problem does arise, any curtailment of firm point-to-point transmission service must be on a nondiscriminatory and pro rata basis with the treatment of network service and native load customers.⁵⁸

D. Exclusion of SPP Load-Side Wind Resource Imports

1. Navopache, Tri-State and Western's Protests

28. Navopache and Tri-State argue that PNM's proposal to exclude load-side wind resources and SPP imports from the Blackwater Station when evaluating whether a deficiency in transfer capability exists on a day-ahead basis may result in over-scheduling of Reliability Redispatch Service in real-time. They contend that PNM should revise Attachment R to explain how it will adjust its day-ahead assumptions in real-time to reflect actual conditions.⁵⁹ Western states that PNM needlessly limits units that may be redispatched, such as wind generation.⁶⁰

2. PNM's Answer

29. PNM argues that excluding load-side wind resources and imports via the Blackwater station will not result in intentional over-commitment or artificial increase in the costs of Reliability Redispatch Service. PNM states that any over-commitment would

⁵⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1138.

⁵⁷ *Id.*

⁵⁸ *Id.* at n. 695 (citing *North American Electric Reliability Council*, 88 FERC ¶ 61,046 at 61,123-24 (1999) (explaining that pro rata curtailment is consistent with comparability even if network/native load reduction is accomplished by redispatch and point-to-point customer reduction is not); *Northern States Power Co.*, 83 FERC ¶ 61,338 at 62,369 (1998) (the existence of redispatch options is not a criterion under the *pro forma* OATT for disproportionate curtailments), *reh'g, clarification and stay denied*, 84 FERC ¶ 61,128 (1998), *remanded on other grounds sub nom. Northern States Power Co. v. FERC*, 176 F.3d 1090 (8th Cir. 1999)).

⁵⁹ Tri-State Protest at 6.

⁶⁰ Western Protest at 10.

result due to the operating characteristics of the units on the PNM system and the need to ensure that those units can be reliably committed day-ahead. PNM explains that the gas-fired units that would most likely be committed need 24 hours notice to procure fuel, and once that fuel is procured, the units must run because of a lack of storage capacity and no market for the resale of the gas. Accordingly, PNM contends, costs associated with any over-commitment will be prudently incurred and should be recovered.⁶¹

3. Commission Determination

30. We find that PNM has failed to demonstrate that its proposal to exclude load-side wind resources and SPP imports via the Blackwater Station is just and reasonable. We agree with Navopache, Tri-State and Western that PNM's proposal to exclude load-side wind resources and SPP imports from the Blackwater Station may result in over-scheduling of Reliability Redispatch Service in real time. In PNM's answer, PNM asserts that any over-commitment would not be intentional and would be a result of the operating characteristics of the units on the PNM system and the need to ensure that those units can be reliably committed day-ahead. As written however, PNM's proposal may over-state the need for Reliability Redispatch Service. Because PNM has not demonstrated that its proposal to exclude load-side wind resources and SPP imports from the Blackwater Station is reasonable, PNM is directed to modify its proposal to remove this provision. In the alternative, PNM may provide further justification in its compliance filing that adequately explains how it will adjust its day-ahead assumptions in real-time to reflect actual conditions.

E. Reduction of San Juan Output

1. Navopache and Tri-State's Protests

31. Navopache and Tri-State object to the provision in section III of Attachment R stipulating that under normal operating conditions PNM will reduce the output of the San Juan station as needed in order to provide Reliability Redispatch Service. Navopache argues that PNM does not explain why it decided to reduce the output of the San Juan

⁶¹ PNM June 21 Answer at 5 (citing to *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, at P 528 (2004) (approving MISO's proposed Reliability Assessment Commitment (RAC) process to ensure that sufficient resources are available to serve forecasted load reliably in real time); *Midwest Independent Transmission System Operator, Inc.*, 115 FERC ¶ 61,108, at PP 83-89 (2005) (generally accepting revised proposal for Revenue Sufficiency Guarantee (RSG) uplift charges as compensation for resources that commit to RAC process but are not dispatched in real time)).

and not Four Corners or some combination of the two generating stations, or a Network Customer's Network Resource.⁶² Tri-State contends that PNM should revise Attachment R to provide for redispatching down the least-cost option units to relieve congestion.⁶³

2. PNM's Answer

32. PNM contends that its proposal to dispatch down San Juan units in connection with Reliability Redispatch Service is based on PNM's experience that using the San Juan units as a proxy will provide the appropriate and accurate approximation of avoided costs.⁶⁴ PNM states that while it would be technically possible to devise a mechanism to redispatch other third party generating assets or imports, such a process would be difficult to devise and be unlikely to materially reduce avoided costs below the costs of the San Juan units. PNM explains that such an alternative would require tariff provisions requiring collection of commercially sensitive cost data, evaluation and establishment of possible must-run type criteria, and development of protocols, non-performance penalties, etc., for curtailing highest cost generators. PNM contends that such complex procedures are more appropriate for a Regional Transmission Operator than a relatively small transmission system like PNM's. In its July 5 Answer, PNM adds that the San Juan units will generally represent the highest cost constraint-side units, and dispatching those units downward during reliability redispatch will generally result in the least-cost option for relieving congestion.⁶⁵

3. Navopache and Tri-State's Answers

33. In its July 6 Answer, Navopache contends that PNM offers no comparison of the costs of the San Juan units to any other units, including those owned by Network Customers, to demonstrate that its proposal is just and reasonable. Navopache states that PNM merely claims that redispatching other units would be administratively burdensome.⁶⁶ In its July 10 Answer, Tri-State argues that even if PNM were to show that the San Juan units generally represent the highest cost constraint-side units,

⁶² Navopache Protest at 7.

⁶³ Tri-State Protest at 5.

⁶⁴ PNM June 21 Answer at 6.

⁶⁵ PNM July 5 Answer at 4.

⁶⁶ Navopache July 6 Answer at 5.

Attachment R contains no provisions for those instances in which dispatching down San Juan does not represent the least-cost alternative.⁶⁷

4. Commission Determination

34. We find that PNM has failed to demonstrate that its proposal to reduce the output of the San Juan station as needed in order to provide Reliability Redispatch Service under normal operating conditions is just and reasonable. PNM asserts that this proposal is justified given the infeasibility of devising a mechanism to redispatch other third party generating assets or imports, and the impropriety of instituting complex measures on PNM's small system. We find that this is an insufficient basis to find that PNM has met its obligations under Order No. 890 to provide Reliability Redispatch Service on a least-cost basis. Accordingly, we direct PNM to provide further justification to demonstrate that its proposal is consistent with Commission precedent.

F. Limit Costs in Proposed Attachment R

1. Navopache Protest

35. Navopache argues that the list of costs in section IV of Attachment R is overly broad and does not provide a way for PNM's customers and the Commission to verify that PNM's selection of load-side resources is least-cost and not unduly discriminatory.⁶⁸ Specifically, Navopache opposes the recovery of additional operating reserves and "other related identifiable and quantifiable costs."⁶⁹ Navopache states that the Commission should direct PNM to revise proposed Attachment R to limit the costs to those that the Commission has expressly permitted to be recovered for redispatch service.

2. Commission Determination

36. We disagree with Navopache and Tri-State's contentions that the cost categories in Attachment R are too broad or otherwise unjust. Section IV of Attachment R states that each month PNM will determine all costs of providing Reliability Redispatch Service, "which can include the following costs categories...: incremental cost of fuel, variable operations and maintenance expense, generating unit start-up costs, additional operating reserves, minimum run times, and other related identifiable and quantifiable costs associated with the redispatch of Load-Side Resources." The list is not all-inclusive

⁶⁷ Tri-State July 10 Answer at 4.

⁶⁸ Navopache Protest at 7-8.

⁶⁹ *Id.* at 8.

or exclusive, and the cost type examples are not unreasonable. Furthermore, PNM is required under Order No. 890 to post the monthly costs of reliability redispatch on its OASIS to ensure that all redispatch customers benefit from this information.⁷⁰ Accordingly, we find that the list of cost categories in Attachment R are neither overly broad nor unjust, and those cost categories are hereby accepted.

G. Risk of Non-Payment

1. Navopache and Tri-State's Protest

37. Navopache and Tri-State object to the provision in section V that conditions payments to Network Customers for use of their Network Resources on receipt of payment by PNM of all Network Customers for Reliability Redispatch Service.⁷¹ They argue that this would shift the risk of non-payment from PNM to customers and that PNM should pay customers for the use of their resources each month, and use procedures under its OATT to collect payments from non-paying customers.

2. PNM's Answer

38. PNM responds that Reliability Redispatch Service is essentially a service being provided by all Network Customers to each other, and that PNM occupies more of an administrative role in its coordination of this service, similar to a regional transmission operator administering a market.⁷² PNM contends that in such circumstances, the administrator should not be held liable for the performance failure of a market participant. PNM adds that it will use reasonable efforts to try to collect on any non-payment.

3. Tri-State's Answer

39. In its July 10 Answer, Tri-State repeats its argument that PNM should not condition payment to Network Resources for the use of their units for redispatch service on the payment by other Network Customers.⁷³

⁷⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1156-1164.

⁷¹ Navopache Protest at 9; Tri-State Protest at 10.

⁷² PNM July 5 Answer at 8.

⁷³ Tri-State July 10 Answer at 5.

4. Commission Determination

40. Section 7 of PNM's OATT, which conforms with the *pro forma* OATT, sets forth PNM's billing and payment procedures. Section 7.1 provides that invoices for all services provided under the OATT shall be paid by the Transmission Customer within 20 days of receipt. Section 7.3 sets forth remedies available to PNM in the event of a customer default. Given these provisions, we agree with Navopache and Tri-State's protests and find that it would be inappropriate for PNM to condition payment to Network Customers for the redispach of their units on the receipt by PNM of payments from all other Network Customers for the service provided. PNM should use provisions under its OATT to require timely payment for services, and any changes to billing and payment procedures should be made in those provisions. Therefore, we will direct PNM to revise section V of Attachment R to remove the provision that PNM will make a payment to Network Customers only upon receipt of payment to PNM from all Network Customers owing for Reliability Redispatch Service.

The Commission orders:

(A) PNM's Attachment R is conditionally accepted, as discussed in the body of this order, effective July 16, 2012.

(B) PNM 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.