

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Tucson Electric Power Company

Docket No. PA04-13-000

ORDER APPROVING AUDIT REPORT AND  
DIRECTING COMPLIANCE ACTIONS

(Issued December 16, 2004)

1. In this order we approve the attached Audit Report (Report) prepared by the Division of Operational Audits (Operational Audits), Office of Market Oversight and Investigations. The report contains Operational Audit staff's findings and recommendations with respect to Tucson Electric Power Company's (TEP) compliance with the Commission's rules, regulations, and requirements pertaining to transmission service. We direct TEP to enact the Report's recommended corrective actions. This order is in the public interest because the recommendations made in the Report provide appropriate remedies for the identified violations, and also require the establishment of strict procedures to ensure compliance with applicable requirements of law and the Commission's rules and regulations.

**Background**

2. On November 25, 2003, Operational Audits issued a letter to TEP in Docket No. PA04-13-000 announcing that it was commencing an audit to determine TEP's compliance with: (1) Standards of Conduct and Open Access Same Time Information System (OASIS) requirements; (2) Codes of Conduct requirements; and (3) TEP's Open Access Transmission Tariff (OATT) provisions.<sup>1</sup> The audit period was from January 1, 2002, through October 31, 2003.

3. Operational Audits issued data requests, conducted a thorough site visit, and held multiple meetings with TEP counsel, officials, and staff. TEP cooperated with Operational Audits in the course of this audit.

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<sup>1</sup> TEP Open Access Transmission Tariff, Third Revised Volume No. 2 (January 28, 2000).

4. We also note that TEP, while the audit was ongoing, filed a proposed market monitoring plan in Docket No. EC04-92-000 under which an independent entity would monitor the operation of TEP and its affiliates until a Commission-approved regional market monitoring program is adopted. TEP proposed that the Market Monitor would report its findings (including potentially anticompetitive conduct) directly to the Commission on a quarterly basis, respond to Commission requests for additional data and analysis, and respond to complaints by customers or competitors of TEP. We recently approved the market monitoring plan as proposed, noting that it “will further ensure that Tucson Electric’s transmission system is operated on a non-discriminatory basis.”<sup>2</sup>

### **Discussion**

5. Operational Audits determined that TEP did not fully comply with Commission rules, regulations, and requirements, and made recommendations to correct the identified areas of non-compliance or departures from best practices.

6. The principal Report findings are that TEP:

- A. Acting as a wholesale power merchant procured hourly non-firm and monthly firm point-to-point transmission capacity on TEP’s 138 kV system. The paths on the 138 kV system were not posted on TEP’s OASIS sites.
- B. Released unposted transmission capacity to its wholesale merchant function on line segments that showed “zero” available transmission capability (ATC) on OASIS.
- C. Control Area Operations (CAO) personnel (transmission, generation, and scheduling) on at least one occasion supplied TEP wholesale marketing function employees with transmission outage information prior to posting it on OASIS.
- D. CAO employees attended weekly meetings and were teleconferenced into semi-weekly meetings with the wholesale merchant function employees.

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<sup>2</sup> *UniSource Energy Corp., et al.*, 109 FERC ¶ 61,047 (2004).

- E. Did not consistently use the proper code for transmission service status as prescribed in the Standards & Communication Protocol and did not always post a reason for denying transmission service requests as required by the regulations.
- F. Did not post ancillary service prices and offerings on its OASIS, and posted transactions that did not state whether the transaction involved the Transmission Provider's wholesale merchant function or an affiliate.
- G. Offered a service entitled "Daily Full Period" on TEP's OASIS site. TEP's OATT does not reference this service.
- H. Provided employees initial Standards of Conduct training; however, TEP does not periodically review the Standards of Conduct with its employees to keep them current and familiar with the regulations.

7. The Report includes certain refund and procedural remedies to address the identified instances of non-compliance and to help ensure future compliance with the Commission's rules, regulations and requirements.<sup>3</sup> The major recommendations include:

- A. For its sale of transmission capacity to its wholesale merchant function on contract paths that were listed as having zero ATC, TEP must refund the revenues generated (to transmission customers) in excess of its variable O&M transmission costs. TEP must submit the refund calculations for approval.
- B. TEP must establish procedures, subject to the approval of Operational Audits staff, to ensure that: (1) all required OASIS postings are made on a timely basis; (2) transmission information is divulged to all transmission customers simultaneously on TEP's OASIS and the Western Electricity Coordinating Council's website; and (3) employees are appropriately and periodically trained on Standards of Conduct requirements. TEP must file all procedures pursuant to this audit in Docket No. PA04-13-000 within 90 days of the issuance of this Order.

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<sup>3</sup> The Commission does not have authority under the Federal Power Act to levy civil penalties for such non-compliance. We strongly endorse Congressional legislation that would provide the Commission with additional civil penalty authority for violations of our rules, regulations, and requirements.

- C. TEP must make quarterly filings in this Docket No. PA04-13-000 detailing its progress in implementing the corrective actions, until all the corrective actions are completed. The filings should be made not later than 30 days after the end of each calendar quarter, beginning with the first quarter of 2005.

The Commission orders:

- (A) The attached Audit Report is approved in its entirety without modification.
- (B) TEP is directed to implement the corrective action recommended in the Report and to submit quarterly reports, as discussed in the body of this order, commencing with the first quarter of 2005. TEP is directed to submit the refund calculations within 30 days of the date of this order.

By the Commission.

( S E A L )

Magalie R. Salas.  
Secretary,

# **FEDERAL ENERGY REGULATORY COMMISSION**

## **Audit of Standards of Conduct, OASIS, Codes of Conduct, & Transmission Transactions**

### **Tucson Electric Power Company**

Audit Period: January 1, 2002 through October 31, 2003



### **Audit Report**

Division of Operational Audits  
Office of Market Oversight and Investigations

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# I. EXECUTIVE SUMMARY

## A. Overview

The Division of Operational Audits within the Office of Market Oversight and Investigations has completed an audit of Tucson Electric Power Company's (TEP) compliance with the requirements of: 1) Standards of Conduct and Open Access Same Time Information System (OASIS), at 18 C.F.R. Part 37; 2) Codes of Conduct; and 3) TEP's open access transmission tariff<sup>1</sup>. The audit covers January 1, 2002 through October 31, 2003.

The time frame for the audit covers a period prior to the effective date of Order No. 2004.<sup>2</sup> Therefore, the audit measures compliance with then-existing rules, regulations, and requirements (*e.g.*, Part 37 of the Commission's rules), not with the requirements of Order No. 2004. Where the audit staff has made recommendations for the company's activities on a going-forward basis, the company must ensure that implementation of any such recommendations is consistent with all new requirements under Order No. 2004.

## B. Conclusions

Based upon our assessment of materials provided by TEP in response to data requests, interviews with TEP staff, and review of publicly available materials, we uncovered the following areas of non-compliance or departure from best practices:

### Compliance Findings

- *Unposted Path Transactions:* On 53 instances, TEP's wholesale merchant function procured hourly non-firm and monthly firm point-to-point transmission capacity on TEP's 138 kV system. The paths on the 138 kV system were not posted on TEP's OASIS sites.
- *Release of Unposted Transmission Capacity:* TEP released unposted transmission capacity on line segments that showed "zero" available transmission capability on OASIS.

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<sup>1</sup> TEP Open Access Transmission Tariff, Third Revised Volume No. 2 (January 28, 2000)

<sup>2</sup> Standards of Conduct for Transmission Providers, Order No. 2004, III FERC Stats. & Regs., Regs. Preambles ¶ 31,155 (2003) ("Order No. 2004"), order on reh'g, 107 FERC ¶ 61,032 ("Order No. 2004-A"), order on reh'g, 108 FERC ¶ 61,118 (2004) ("Order No. 2004-B").

- *Prohibited Information Exchange:* On one occasion, TEP’s Control Area Operations personnel (transmission, generation, and scheduling) supplied TEP wholesale marketing function employees with transmission outage information prior to posting it on OASIS.
- *Weekly & Semi-Weekly Meetings:* TEP Control Area Operation employees attended “weekly” meetings and teleconferenced into “semi-weekly” meetings with the wholesale merchant function employees.
- *Transmission Service Status:* TEP did not consistently use the proper code for transmission service status as prescribed in the Standards & Communication Protocol and did not always post a reason for denying transmission service requests as required by the regulations.
- *OASIS Posting Requirements:* TEP did not post ancillary service prices and offerings on its OASIS and posted transactions did not state whether the transaction involved the Transmission Provider’s wholesale merchant function or an affiliate.
- *Daily Full Period Transmission Service:* TEP’s OASIS site offered a service entitled “Daily Full Period.” Its OATT did not reference this service.
- *Standards of Conduct Training:* TEP provided employees initial Standards of Conduct training; however it did not periodically review the Standards of Conduct with its employees to keep them current and familiar with the regulations.

### Summary of Recommendations

We recommend TEP:

- Refund the amount TEP was paid for the transmission service capacity freed up by the release of unscheduled reserved transmission capacity in excess of its variable operation and maintenance expenses;
- Submit the refund calculations for approval and provide a final refund report after the refunds are disbursed to the transmission customers;
- Post on OASIS, ATC available for wholesale transactions on TEP’s 138 kV system that connects to the TEP extra high voltage (EHV) transmission system;

- Divulge all transmission information to all transmission customers simultaneously by posting to TEP's OASIS site and WECC's website, concurrently;
- Develop and implement procedures to post real-time outage information on its OASIS site in a timely manner;
- Modify the retention period for the wholesale merchant function's recorded phone lines to be consistent with the retention period of the Control Area Operation's phone lines;
- Task the Standards of Conduct compliance officer, with the responsibility of ensuring that information at the semi-weekly meetings does not violate the Standards of Conduct;
- Develop and implement procedures to create an audit trail when meetings are held between the transmission function employees and wholesale merchant function employees;
- Strengthen procedures to ensure OASIS postings conform to the requirements of the Standards and Communications Protocols;
- Either modify the tariff to define "Daily Full Period" service or discontinue the use of that term on OASIS;
- Conduct a comprehensive training session and recertify employees familiarity with the Standards of Conduct annually; and
- Submit all procedures developed and modified as a result of the audit to OMOI within 90 days of the date of issuance of the Commission Order approving the audit report (Issuance Date) for approval.

### **C. Audit Objective**

Our objective was to determine whether and how TEP and its subsidiaries and affiliates were complying with: 1) The requirements of the Standards of Conduct and Open Access Same Time Information System (OASIS) at Part 37 of the Commission's regulations, 18 C.F.R. Part 37; 2) The Codes of Conduct; and 3) Transmission transactions for the period January 1, 2002 through October 31, 2003.

## II. INTRODUCTION

Subsequent to the close of the audit period, TEP transferred operations to a new OASIS site. In some cases, the transfer resolves our audit findings.

On April 1, 2004, TEP began accepting transmission service requests and offerings via its wesTTrans.net “common” OASIS site. WesTTrans.net serves a significant portion of the Western Interconnect.<sup>3</sup> According to wesTTrans.net’s website, customers will be able to query information and make deals across all wesTTrans transmission providers without having to deal with each provider individually.<sup>4</sup> WesTTrans.net is managed and maintained by Open Access Technology International, Inc. located in Minneapolis, MN. It is TEP’s responsibility to ensure all pertinent transmission information is available and posted correctly on its OASIS sites.<sup>5</sup>

WesTTrans.net replaces an OASIS site that was once shared by TEP; Puget Sound Energy, Inc; Southwest Transmission Cooperative, Inc; and Arizona Public Service Company (APS), the party maintaining TEP’s OASIS. TEP’s “old” OASIS site no longer provides customers the opportunity to reserve or offer transmission service, but is still operational for queries of historical transactions. Once retired, all historical information will be available upon request in accordance with the Commission’s regulations.

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<sup>3</sup> Currently there are nineteen wesTTrans.net transmission entities, including TEP, as follows: Arizona Public Service Company; El Paso Electric; Idaho Power Company; Imperial Irrigation District; Los Angeles Department of Water & Power; Nevada Power Company; Northwestern Energy; Portland General Electric Company; Public Service Company of New Mexico; Puget Sound Energy, Inc.; Sacramento Municipal Utility District; Salt River Project Agricultural Improvement and Power District; Sierra Pacific Power Company; Southwest Transmission Cooperative, Inc.; Texas/New Mexico Power Company; Tri-State Generation and Transmission Association, Inc.; Western Area Power Administration (Desert Southwest Region) and Western Area Power Administration (Rocky Mountain Region). One other participant, Avista Corporation, is expected to join December 1, 2004.

<sup>4</sup> <http://www.westtrans.net/features.html>, July 19, 2004.

<sup>5</sup> 18 CFR § 37.5 (2003)

### III. COMPLIANCE FINDINGS AND RECOMMENDATIONS

#### 1. Unposted Path Transactions

On 53 instances, TEP's wholesale merchant function procured hourly non-firm and monthly firm point-to-point transmission capacity on TEP's 138 kV system. The paths on the 138 kV system were not posted on TEP's OASIS sites.

#### Background

TEP's wholesale merchant function obtained transmission capacity on TEP's 138 kV system to deliver power to a wholesale customer. TEP operates approximately two thousand miles of EHV transmission lines. In addition, TEP operates multiple 138 kV line segments within the city of Tucson, Arizona. Three of these line segments transmit power from TEP's Tucson generators to the EHV system as the need arises. Power generated from these local units must use the 138 kV lines to reach the EHV system. There are no other generators within Tucson and, therefore, TEP is the only power supplier able to use these lines. Additionally, the 138 kV system was financed through the use of local furnishing bonds which limit the use of the lines by any entity other than TEP. TEP has historically not posted availability transmission capacity associated with the 138 kV system on its OASIS sites.

Power marketers, suppliers, and TEP's wholesale merchant function all submitted electronic schedules without OASIS reservation numbers to TEP's transmission function on a daily basis. These schedules were not submitted on OASIS but, rather, over a separate scheduling software package. On several occasions, the wholesale merchant function submitted such electronic schedules indicating that power from the Irvington generation facility, located within city of Tucson, would be used to serve an interruptible wholesale agreement with Phelps Dodge Energy Services, LLC (PDES). This schedule of the Irvington facility to serve the PDES contract necessitated the use of the TEP 138 kV system. Because use of certain lines on the 138 kV system were requested via the electronic schedule, Commission Regulations<sup>6</sup> required that the TEP transmission function post the available transmission capacity on its OASIS site.

We found during the course of the audit that TEP's wholesale merchant function purchased hourly non-firm (51 different days totaling approximately 30,600 MWh) and monthly firm (May and June 2003 totaling approximately 86,400 MWh) point-to-point transmission capacity across its 138 kV lines using the off-OASIS scheduling procedure discussed in the previous paragraph. The

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<sup>6</sup> 18 C.F.R. 37.6(b)(1)(i)(2003)

TEP wholesale merchant function was charged and paid for the use of the paths on the 138kV system.

As a result of questions about these transactions raised by our audit, TEP, in early April 2004, placed the following 138 kV paths that connect to their high voltage system on their OASIS:<sup>7</sup>

- Irvington 138 kV – Vail 345 kV
- Irvington 138 kV – Southloop 345 kV
- Northloop 138 kV – Saguaro 500 kV

Based on our research, only the TEP wholesale merchant function is positioned to take advantage of wholesale transmission across these lines. In fact, only the TEP wholesale merchant function has requested and been granted capacity along these lines since TEP posted this capacity on its OASIS.

In addition, the practice of directly submitting real-time schedules without an OASIS reservation has been eliminated through TEP's participation in the WestTTrans.net OASIS site.

### **Commission Regulations**

18 C.F.R. 37.6(b)(1)(i)(2003) required TEP to post the availability of transmission capacity on its 138 kV paths once the TEP wholesale merchant function requested or received service over the lines.

### **Recommendation**

1. TEP must post all paths associated with its 138 kV system that connects to the TEP EHV system on OASIS in accordance with the Commission's regulations to ensure non-discriminatory access to all transmission information and available paths.

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<sup>7</sup> Rates and additional costs to use the 138 kV system are found within the TEP Open Access Transmission Tariff, Third Revised Volume No. 2 (January 28, 2000); Schedules 7 & 8 and Section 5 – Local Furnishing Bonds, respectively.

## **2. Release of Unposted Transmission Capacity**

TEP released unposted transmission capacity on line segments that showed “zero” available transmission capability on OASIS.

### **Background**

TEP’s wholesale merchant function submitted electronic schedules without an OASIS reservation, that requested or necessitated transmission across paths with “zero” available transmission capability (ATC) posted on TEP’s OASIS. To accommodate the requests, TEP’s transmission function analyzed historical path usage and current schedules, exercised discretion, and released unscheduled reserved transmission capacity set aside for native load or grandfathered contractual commitments in real-time, for short durations. TEP should have posted the fact that it was releasing unscheduled reserved transmission capacity and the amount it felt it could reliably release on its OASIS. Doing so would have allowed all customers the opportunity to take advantage of the available transmission capacity.

TEP released unscheduled reserved transmission capacity on 10 separate occasions for a total of 1,985 MWh to its wholesale merchant function without posting this available transmission capacity on its OASIS site. The wholesale merchant function used the release of the unscheduled reserved transmission capacity to fulfill a Phelps Dodge interruptible wholesale contractual agreement.

The Commission has discretion to implement remedies when it finds conduct that has violated its policies or regulations.<sup>8</sup> Therefore, we recommend TEP refund the amount it was paid for the transmission service provided to its wholesale merchant function using the capacity freed up by the release of unscheduled reserved transmission capacity.

### **Commission Regulations**

Section 37.6(b)(3)(i)(B)(2003) requires non-firm ATC on constrained paths be posted for a 30-day period hourly and daily on OASIS. Section 37.6(b)(1)(ii)(2003) defines a constrained path as, among other things, any path having ATC less than or equal to 25 percent of TTC for the preceding 168 hours.

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<sup>8</sup> 103 FERC ¶ 61,343 (2003).

TEP exercised discretion to release unscheduled reserved transmission capacity on behalf of its wholesale merchant function. It should have publicly posted any instance when it uses discretion on its OASIS. 18 C.F.R. § 37.4(b)(5)(iii)(2003) requires the transmission provider to maintain a log, available for Commission audit, detailing the circumstances and manner in which it exercised discretion under any terms of the tariff. The information contained in this log is to be posted on its OASIS.

## **Recommendations**

TEP must:

2. Develop and implement procedures to post publicly on OASIS the release of unscheduled reserved transmission capacity.
3. Refund the amount it was paid for the transmission service capacity freed up by the release of unscheduled reserved transmission capacity in excess of its variable operation and maintenance expenses. The refund shall be distributed to the unaffiliated transmission customers taking service during the hours TEP released the unscheduled reserved capacity. The distribution shall be on a *pro rata* basis. TEP shall calculate interest on the refund in accordance with 18 C.F.R. § 35.19a(a)(1).
4. Prior to distribution of the refund, TEP should submit refund calculations for approval. TEP should also provide a final refund report after the refunds are disbursed to the transmission customers.

### **3. Prohibited Information Exchange**

The audit identified one occasion when TEP's Control Area Operations personnel (transmission, generation, and scheduling) supplied TEP wholesale merchant function employees with transmission outage information prior to posting it on OASIS.

#### **Background**

We identified one disclosure of transmission information to the TEP wholesale merchant function through interviews with TEP employees. These employees stated that TEP control area employees notified the wholesale merchant function when an outage occurred within the TEP control area by phone. Upon learning of this off-OASIS communications, we reviewed a randomly chosen sample of phone line recordings for dates TEP's control area encountered transmission outages.

On August 14, 2003, a line outage occurred on TEP's Springerville-Vail 345 kV express line. When the outage occurred, TEP attempted to identify the source and re-energize the line. After several failed attempts, the transmission operator concluded there was a real problem and informed the Western Electricity Coordinating Council (WECC) eight minutes after the discovery of the trip. Although WECC quickly posted the outage on its website, TEP's Transmission Coordinator failed to post information about the outage on its OASIS for eight-and-a-half hours.

Prior to the outage being posted on TEP's OASIS, TEP's wholesale merchant function had advance notice of the transmission line outage. Six hours after the line failed, a telephone recording captured the Control Area supervisor stating to the generation operator that he had just spoken with TEP wholesale merchant function staff by phone regarding the anticipated outage duration and to schedule accordingly to cover TEP's native load. OMOI has obtained an affidavit from the TEP Control Area Supervisor that affirms that he had instructed an employee to post the outage to OASIS and that it was his belief that the outage had already been posted to the TEP OASIS before he made the telephone call to the TEP wholesale merchant function. A recording of the conversation between the Control Area Supervisor and the TEP wholesale merchant function staff was not available because the call came from the Control Area Supervisor's office. TEP did not tape the Control Area Supervisor's phone line and routinely overwrites the recorded phone calls of the merchant function employees.

The delayed OASIS posting caused confusion for customers attempting to acquire capacity on the affected transmission line. To spread word of the expected

duration of the outage, TEP's transmission operator had a series of conversations with several adjacent control area transmission operators. One control area in particular stated that it was requesting transmission service for later that day across the Springerville-Vail line on TEP's OASIS and could not understand why it was being refused. The OASIS showed available capacity on the 345 kV express line. Therefore, the customer asked if there was a note provided to industry that explained the outage. TEP's transmission operator stated that the WECC had been notified and that he would post the outage to the OASIS when he had the opportunity. As noted, TEP updated its OASIS eight-and-a-half hours after the line failed.

We analyzed documentation provided by TEP, OASIS informational postings, transmission reservations, denials of transmission service, TEP's usage of non-EHV lines, and the release of transmission reliability margin to determine if TEP benefited from the incident. Our analysis showed that during the outage, TEP's wholesale merchant function submitted electronic schedules that requested or necessitated transmission across paths with "zero" ATC posted on OASIS. TEP's transmission function granted these requests by releasing unscheduled reserved transmission capacity on an hourly basis immediately before each hour (See Item 2 for a discussion of TEP's release of unposted transmission capacity to its wholesale merchant function).

Following the August 14, 2003, incident, TEP updated its procedures to ensure that in the event the Transmission Coordinator is not available the real-time schedulers who are physically present and adjacent to the transmission and generation desks on the Control Area Operations floor are responsible to post real-time outages to the OASIS site.

As a result of our audit, TEP further refined its procedures effective in 2004. The Transmission System Supervisor immediately posts the outage on the WECC messaging system and informs the Real-Time Schedulers of the outage. The Real-Time Scheduler then immediately posts all outages after receiving line outage schedule or verbal confirmation for forced outages from the Transmission System Supervisor.

We recognize TEP posted notification of the outage on WECC; however this posting does not substitute for the OASIS posting. The best practice is to notify WECC and post to OASIS simultaneously.

### **Commission Regulations**

18 C.F.R. § 37.4 (a)(1)(2003) mandates the independent functioning of employees engaged in transmission operations and reliability functions and

employees (or employees of an affiliate) engaged in wholesale merchant functions.

Supplying transmission outage information to the wholesale merchant function before that information is publicly known is inconsistent with 18 C.F.R. § 37.4 (b)(3) and (4)(2003), which prohibits transmission employees from disclosing to wholesale merchant function employees any information concerning the transmission system (including information about ancillary services) through non-public communications conducted off the OASIS or that is not at the same time available to the general public without restriction, or through information on the OASIS that is not at the same time publicly available to all OASIS users (such as E-mail).

## **Recommendations**

TEP must:

5. Divulge all transmission information to all transmission customers simultaneously by posting to TEP's OASIS site and WECC's website, concurrently.
6. Develop procedures to post all transmission information in a timely fashion and to make an OASIS posting of an improper information exchange when it occurs (in accordance with 18 C.F.R. § 37.4 (b)(4)(ii)(2003)).
7. Modify the retention period for the wholesale merchant function's recorded phone lines to be consistent with the retention period of the Control Area Operation's phone lines.

## 4. Weekly and Semi-Weekly Meetings

TEP Control Area Operations employees attended “weekly” meetings and teleconferenced into “semi-weekly” meetings with its wholesale merchant function employees.

### Background

TEP has taken steps to maintain physical separation between transmission and wholesale merchant function employees. TEP has physically separated its Control Area Operations (transmission, generation, and scheduling) employees from its wholesale merchant function employees by placing them on different floors within the same two-story building. Card-key access ensures security. The manager of Control Area Operations or supervisors of Generation & Transmission Control and System Reliability & Restoration approve card-key access. Additionally, anyone requesting access to the Control Area must read, sign, and date the TEP Standards of Conduct that are on file at the Commission, acknowledging that they have read and agree to comply with them.

Frequent opportunities for prohibited information exchange occurred when TEP conducted weekly meetings (usually Wednesdays) and semi-weekly teleconferences (Monday and Thursday mornings). Employees from the wholesale merchant function, Control Area Operations, and operators of TEP generation were invited to participate without a Standards of Conduct compliance officer present.

Weekly meetings occurred on an *ad hoc* basis for reliability purposes and took place in TEP’s wholesale merchant function office space. TEP did not have notes, attendance records or summaries of the discussions from these meetings. As a result of our audit, TEP has discontinued these meetings.

With respect to the semi-weekly meetings, employees from each respective office dialed in to semi-weekly teleconferences held over a recorded line. Conversations focused on reliability topics including: generation issues, unplanned generator trips or de-rates, planned unit maintenance, OASIS posted outages, weather conditions, and regional market issues that may impact the TEP control area or affect purchases and sales. Follow-up emails usually circulated summarizing issues that were discussed.

We observed a Thursday morning semi-weekly teleconference during our site visit to evaluate compliance and observe the nature of these calls. Teleconference participants did not identify themselves and did not acknowledge the Standards of Conduct, but the conversations did not divulge any market

sensitive information. To obtain reasonable assurance that past conference calls did not serve as a conduit, we reviewed a random sample of recorded semi-weekly teleconferences and copies of emails. Both semi-weekly recordings and circulated emails contained overviews of TEP generation and market expectations, but did not inappropriately reveal advantageous market information.

However, TEP's regularly scheduled meetings provided opportunities for the exchange of prohibited communications between transmission and wholesale merchant function staff. The attendance of transmission function employees and the poor control over ensuring that TEP's employees complied with the Standards of Conduct at these meetings heightened our concerns – a compliance officer was not present, the Standards of Conduct were not acknowledged, an audit trail was not maintained for weekly meetings; and attendance was not recorded during semi-weekly teleconferences.

### **Commission Regulations**

18 C.F.R. § 37.4 (a)(1)(2003) mandates the independent functioning of employees engaged in transmission operations and reliability functions and employees (or employees of an affiliate) engaged in wholesale merchant functions.

18 C.F.R. § 37.4 (b)(4)(2003) prohibits transmission employees from disclosing to wholesale merchant function employees any information concerning the transmission system (including information about ancillary services) through non-public communications conducted off the OASIS or that is not at the same time available to the general public without restriction.

### **Recommendations**

We recommend, at all meetings attended by wholesale merchant and transmission function employees, TEP must:

8. Make the compliance officer, or other suitable individual, accountable for ensuring that prohibited information (as per 18 C.F.R. § 37.4) is not disclosed, and ensuring that the discussions at meetings do not violate the Standards of Conduct.
9. Develop procedures to create an audit trail when meetings occur. Such procedures should include, at a minimum, formal documentation of such meetings (minutes, recorded line, email, attendance records, etc.) and an OASIS posting of improper

information exchange when it occurs (in accordance with 18 C.F.R. § 37.4 (b)(4)(2003)).

## **5. Transmission Service Status**

TEP did not consistently use the proper code for transmission service status as prescribed in the Standards & Communication Protocol (S&CP) and did not always post a reason for denying transmission service requests as required by the regulations.

### **Background**

Transmission providers must maintain information on OASIS about denials of service for 60 days. We asked TEP to identify denials of transmission service requests for January 1, 2002 through August 15, 2003. We randomly chose 25 of 174 denied requests to determine whether TEP provided adequate reasons for denial and used the proper status codes as set out in the S&CP.

Our review identified 13 transactions containing improper status codes and 8 missing an explanation for denying service. When TEP provided a reason for denial it commonly used the incorrect status code “refused” rather than “invalid” or “declined.” The term “refused” is to be used when there is a lack of available transmission service capacity, TEP used the term when customers requested the wrong transmission service or had incorrect price bids for a particular product.

TEP’s failure to provide reasons for denying service and to use proper status codes led us to test the information provided on wesTTrans.net. A query on wesTTrans.net covering the period of April 1 through May 5, 2004, revealed five denied transmission service requests containing reasons for the denial and using the proper status codes.

We discussed with TEP their lack of providing a reason when denying transmission service requests. TEP stated that it posted reasons for denial for approximately two-thirds of the denied reservations during the scope of the audit. The remaining third were received and denied by real-time schedulers who were unaware that reasons had to accompany denials. As a result of the audit, TEP has updated procedures directing real-time transmission personnel to post reasons for all denied requests.

### **Commission Regulations**

18 C.F.R. § 37.6 (a)(4)(2003) requires the information posted on OASIS must be in such detail and have such capabilities to allow transmission customers to clearly identify the degree to which transmission service requests or schedules were denied or interrupted. Additionally, 18 C.F.R. § 37.6 (e)(2)(i)(2003) states that the responsible party must provide the reason for denial as part of any response to the request.

Standards & Communication Protocols, Versions 1.41, Appendix A, Data Element Dictionary provides the required status codes and definitions for each possible action on a transmission request. Specifically, the Data Element Dictionary states that:

- “Refused” status implies a lack of available transmission service capacity,
- “Invalid” refers to an invalid field in the request, and
- “Declined” refers to terms and conditions.

## **Recommendations**

TEP must:

10. Strengthen procedure(s) to ensure status codes are applied correctly to requested transmission service.
11. Post a clear and concise explanation for all transmission service requests denied on wesTTrans.net.

## **6. OASIS Posting Requirements**

TEP did not post ancillary service prices and offerings on its OASIS and posted transactions did not state whether the transaction involved the Transmission Provider’s wholesale merchant function or an affiliate.

## **Background**

We reviewed both TEP’s “old” OASIS site and its “new” OASIS site, wesTTrans.net, to verify compliance with 18 C.F.R. § 37.6. We identified through visual inspection and various queries that TEP did not post ancillary service prices and offerings. TEP’s OATT, which was posted on its OASIS, listed ancillary service offerings and prices, however, TEP did not separately post these on its OASIS. In addition, postings of transmission service requests did not reveal whether the transaction involved the Transmission Provider’s wholesale merchant function.

We conducted an interview with the TEP Transmission System Planning Supervisor and confirmed that TEP did not post ancillary service prices and offerings on its OASIS from January 1, 2002 through October 31, 2003. TEP explained that it was unable to post ancillary service prices due to a glitch within the OASIS software, maintained by the Arizona Public Service Company (APS). The problem was resolved approximately in May 2003. However, due to miscommunication between APS and the TEP Transmission Coordinator, ancillary services were not posted in a format that could be queried and the OASIS could not generate offerings. On August 15, 2003, TEP and APS finally posted ancillary service prices and offerings on the TEP OASIS site in a format that could be queried by customers. TEP's wesTTrans.net site has been capable of accepting ancillary service offers and schedules since its commencement date of April 1, 2004.

Postings of transmission service requests on the former OASIS site during the scope of the audit did not reveal whether the transaction involved the Transmission Provider's wholesale merchant function as required in 18 C.F.R. § 37.6 (e)(1)(iv)(2003). OASIS queries identified that each request contained the name of the customer and customer code, but the affiliate flag was not properly identified. The Transfer to wesTTrans.net corrected this problem.

### **Commission Regulations**

18 C.F.R. § 37.6 (c)(4)(2003) requires, for any transaction for transmission service agreed to by the transmission provider and a customer, the Transmission Provider must post on the OASIS, among other things, identification of whether the transaction involves the Transmission Provider's wholesale merchant function or any affiliate.

18 C.F.R. § 37.6 (d)(1)(2003) requires that any ancillary service required to be provided or offered under the *pro forma* tariff must be posted with the price of that service.

Similarly, 18 C.F.R. § 37.6 (d)(3)(2003) requires, for any transaction for ancillary service agreed to by the transmission provider and a customer, the transmission provider must post on the OASIS, among other things, identification of whether the transaction involves the transmission provider's wholesale merchant function or any affiliate.

18 C.F.R. § 37.6 (e)(1)(iv)(2003) requires, for processing a request for transmission or ancillary service, the transmission provider or someone to whom the task has been delegated shall post, among other things, whether the Transmission Provider's wholesale merchant function or any affiliate is requesting the service.

## **Recommendations**

TEP must:

12. Post prices for and offer all ancillary services found within its tariff on wesTTrans.net in accordance with the OASIS Standards and Communication Protocol.
13. Post on wesTTrans.net all required information with requests for transmission service relating to affiliates as required in 18 C.F.R. § 37.6 (e)(1)(iv)(2003).

## **7. Daily Full Period Transmission Service**

TEP's OASIS site offered a service entitled "Daily Full Period." Its OATT did not reference this service.

### **Background**

We reviewed TEP's OASIS and westTTrans.net to determine whether transmission service products and prices matched those offered in its tariff. Our review determined that TEP posted all transmission service products and prices in accordance with its tariff, except for "Daily Full Period," which was offered on OASIS, but not approved within the tariff.

"Daily Full Period," is a term commonly used by regional transmission providers to eliminate customer confusion regarding hourly and daily transmission service offerings. TEP claimed that the term "Daily Full Period" does not appear in the tariff because it is the exact same service as "Daily On-Peak" and "Daily Off-Peak" service. The proper pricing of service depends on whether the request is made for an On-Peak or Off-Peak time period. For example, if a customer requests Daily Full Period service that falls on a weekday, it is charged the Daily On-Peak price and, if a customer requests Daily Full Period service that would fall on an Off-Peak time period, such as a Sunday or holiday, it is charged the Daily Off-Peak price.

WestTTrans.net has inherited the same terminology for all transmission service products and prices as collectively agreed upon by the westTTrans participants. We believe TEP's tariff and OASIS sites should contain similar transmission service terminology in order to provide greater transparency for customers to make prudent business decisions. The applied tariff is the foundation for which a respective company's OASIS is supported and it is essential that the two agree.

### **Commission Regulations**

18 C.F.R § 35.1(a)(2003) states that every public utility shall file with the Commission and post, in conformity with the requirements of this part, full and complete rate schedules, as defined in § 35.2 (b), clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of the Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts which in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices, as required by section 205(c) of the Federal Power Act (49 Stat. 851; 16 U.S.C. 824d(c)). TEP has not defined what it means by "Daily Full Period" service in its tariff.

## **Recommendations**

TEP must:

14. During its next tariff filing, either modify its tariff to define the term “Daily Full Period” as used on TEP’s OASIS and wesTTrans.net, or eliminate the term “Daily Full Period” on TEP’s OASIS and wesTTrans.net and list only those services for which TEP has authority.

## **8. Standards of Conduct Training**

TEP provided employees initial Standards of Conduct training; however it did not periodically review the Standards of Conduct with its employees to keep them current and familiar with the regulations.

## **Background**

Upon the Commission issuing Orders 888 and 889, TEP conducted a one-time information session to stress the importance of separating Control Area Operations (transmission, generation, and scheduling) and wholesale merchant functions. In addition, TEP implemented an office-wide procedure that required all employees to read the company’s Standards of Conduct on file with the Commission and sign/date an acknowledgement indicating they had read and agreed to comply with the Standards of Conduct. Once the Standards of Conduct were read, signed, and dated, TEP considered the employee trained and provided further information on an individual “as needed” basis.

To verify employees received the Standards of Conduct training, we requested signed Acknowledgement and Compliance Statements of all TEP employees engaged in the transmission, generation, scheduling, and wholesale merchant functions. TEP was able to locate and provide acknowledgement and compliance statements for all but one of 38 employees. However, 27 out of 37 were signed and dated before December 2000.

In light of the exceptions contained in this audit report, it’s our view that additional staff training is warranted. Additionally, TEP must ensure that it is in full compliance with all new requirements under Order No. 2004.

## **Commission Regulations**

The Commission did not mandate any particular training methods be used either in Orders 888 and 889 or subsequent Orders on Standards of Conduct (see, *e.g.*, *American Electric Power et al.*, 81 FERC ¶61,322). However, we believe that a good training program serves as a first-line of defense to ensure full functional separation of transmission provider's transmission and wholesale merchant function activities and is a good business practice.

## **Recommendations**

TEP must:

15. Ensure that the TEP Standards of Conduct procedure has been provided to, and compliance certificates have been executed by all current transmission, reliability, and wholesale merchant function personnel.
16. Within 90 days of the date of issuance of the Commission Order approving the audit report, TEP will conduct a comprehensive training session for: (i) all wholesale marketing personnel; (ii) all personnel engaged in transmission system operations, system reliability, or transmission service request processing; and (iii) specifically identified "shared support" personnel that will focus on the FERC Standards of Conduct, the TEP implementation procedures on file with FERC.
17. Recertify employee's familiarity with Standards of Conduct each year.