

155 FERC ¶ 61,257
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Arizona Public Service Company

Docket No. OA16-1-000

ORDER ON NOTIFICATION FILING

(Issued June 16, 2016)

1. On February 1, 2016, as supplemented on March 28, 2016, Arizona Public Service Company (APS) submitted a notification filing indicating that it failed to process certain system impact studies within the 60-day timeframes prescribed by sections 19 and 32 of its Open Access Transmission Tariff (OATT) and Order No. 890.¹ In this order, we reject APS's notification filing.

I. Background

2. In Order No. 890, the Commission determined that certain changes to the *pro forma* OATT were necessary to increase the transparency and expediency of transmission service processing by transmission providers.² As a part of that effort, the Commission concluded that transmission providers could be subject to operational penalties when they fail to use due diligence to process transmission studies within 60 days, as prescribed in sections 19.3, 19.4, 19.9, 32.3, 32.4, and 32.5 of the *pro forma* OATT.³

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1353.

³ *Id.* PP 1319, 1340-54.

3. Among the changes the Commission made to the *pro forma* OATT in Order No. 890 was the requirement that transmission providers keep track of and publicly post information on their processing of system impact studies and facilities studies (together, transmission studies). Under sections 19.9 and 32.5 of the *pro forma* OATT, if a transmission provider processes more than 20 percent of non-affiliates' transmission studies outside of the 60-day due diligence deadlines for any two consecutive quarters, it must make a notification filing with the Commission within 30 days of the end of the triggering quarter. Section 19.9(ii) of the *pro forma* OATT specifies that the percentage should be calculated by dividing the number of studies that the transmission provider completed on time during the quarter by the total number of studies it completed during the quarter. The Commission stated that, after making this filing, transmission providers may be subject to increased posting requirements⁴ as well as monetary and non-monetary operational penalties.⁵

4. The Commission explained that transmission providers will be subject to operational penalties if they process 10 percent or more of non-affiliates' transmission studies outside the 60-day deadlines for each of the two calendar quarters immediately following the quarter that triggered the notification filing. The operational penalty will be assessed for each calendar quarter for which an operational penalty applies, starting with the calendar quarter immediately following the quarter that triggered the transmission provider's notification filing. The operational penalties will continue to be assessed each quarter until the transmission provider completes more than 90 percent of all non-affiliated transmission studies within the 60-day deadlines.⁶

5. The transmission provider may be excused from operational penalties, however, if it explains in its notification filing the extenuating circumstances that prevented it from meeting the 60-day deadlines and, in turn, demonstrates that it has used due diligence in processing the relevant transmission studies, notwithstanding its inability to meet the 60-day target.⁷ The notification filing gives the transmission provider "the right to document and describe any unique complexities that particular requests introduce into the study process and that prevent the transmission provider from completing the study" within the 60-day due diligence timeframe.⁸

⁴ *Id.* PP 1319-20.

⁵ *Id.* P 1340.

⁶ *See pro forma* OATT at section 19.9(iii).

⁷ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at PP 743-46.

⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1341.

6. In its February 1, 2016 filing, APS states that it failed to complete more than 80 percent of system impact studies for its non-affiliate customers within the 60-day study completion deadline in the third and fourth quarters of 2015. Specifically, APS states that, in the third quarter of 2015, a system impact study was delivered after the 60-day deadline due to a delay incurred to allow additional time in the planning process to meet with the customer to discuss the scope of the study.⁹ APS states that a system impact study was delayed in the fourth quarter of 2015, and is still outstanding, due to the complexity surrounding the multiple paths the customer has asked APS to study.

7. In its March 28, 2016 filing, APS clarifies that it conducted one system impact study in each of the third and fourth quarters of 2015, both of which were beyond the 60-day deadlines. APS notes that it met with the customer of the third quarter study, and, as a result, the study was revised and re-delivered to the customer on March 25, 2016. APS states that the fourth quarter study is still outstanding due to the complexities involving eight separate transmission service requests over several different paths, and that APS remains in communication with the customer on its progress with the study.¹⁰

8. APS states that it is not requesting waiver of the operational penalties set forth in its OATT. However, APS requests that the Commission not order penalties to be incurred because it does not believe that penalties have been triggered pursuant to its OATT. Specifically, APS explains that section 19.9 of its OATT states that penalties are triggered if APS delivers 10 percent or more of its studies outside of the 60-day deadline for two calendar quarters after the event that triggers the notification filing.¹¹ APS states that the triggering study (the system impact study from the fourth quarter of 2015) has not yet been delivered to the customer. Therefore, APS requests that the Commission take no further remedial actions than those prescribed in APS's OATT.

II. Notice of Filing

9. Notice of APS's February 1, 2016 notification filing was published in the *Federal Register*, 81 Fed. Reg. 6854 (2016), with interventions and protests due on or before February 22, 2016. None was filed. Notice of APS's March 28, 2016 supplemental filing was published in the *Federal Register*, 81 Fed. Reg. 20,628 (2016), with interventions and protests due on or before April 18, 2016. None was filed.

⁹ APS February 1, 2016 Filing at 1.

¹⁰ APS March 28, 2016 Filing at 2.

¹¹ *Id.*

III. Discussion

10. Our review indicates that APS was not required to make a notification filing. Section 19.9(ii) of APS's OATT specifies that the percentage of system impact studies processed outside the due diligence deadlines should be calculated by dividing the number of studies that the transmission provider *completed* on time during the quarter by the total number of studies *completed* during the quarter.¹² Since APS has not completed the system impact study from the fourth quarter of 2015, that study does not count toward the percentage and, thus, does not trigger the requirement to make a notification filing with the Commission at this time.¹³ When that study is completed, it will count toward non-compliance with the study deadlines set forth in APS's OATT for the quarter in which it is completed.

11. Although we find that APS is not required, at this time, to make a notification filing under section 19.8 of its OATT, we take this opportunity to note that, in future notification filings, APS must provide details regarding any failure to comply with study deadlines, including information supporting its calculation including the total number of studies completed on time in the quarter, the total number of studies completed during the quarter, the circumstances that prevented those particular studies from being completed on a timely basis, and how APS exercised due diligence in processing the studies.

The Commission orders:

APS's notification filing is hereby rejected as unnecessary, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹² Section 19.9 of APS's OATT adopts the language of section 19.9 of the *pro forma* OATT.

¹³ See *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,302, at P 10 (2008).