

121 FERC ¶ 61,113
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 31, 2007

In Reply Refer To:
Umatilla Electric Cooperative Association
Docket No. NJ01-9-001

Miller, Balis & O'Neil
1140 Nineteenth Street, N.W. Suite 700
Washington, D.C. 20036-6600

Attention: Craig W. Silverstein, Esq.

Reference: Notice of Withdrawal of Safe Harbor Reciprocity Tariff

Dear Mr. Silverstein:

1. On July 13, 2007, you submitted, on behalf of Umatilla Electric Cooperative Association (Umatilla),¹ a notice of withdrawal of its safe harbor reciprocity tariff.² The receipt of Umatilla's submittal is hereby acknowledged.
2. In Order No. 890,³ the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT or tariff) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

¹ Umatilla is a non-public utility.

² *Umatilla Electric Cooperative Ass'n*, 97 FERC ¶ 61,235 (2001) (deeming Umatilla's OATT to represent an acceptable reciprocity tariff).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007) (Order No. 890).

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.⁴ In addition, a non-public utility that has a safe harbor tariff, pursuant to Order No. 888,⁵ must amend its tariff so that its provisions substantially conform or are superior to the revised Order No. 890 *pro forma* OATT if it wishes to continue to qualify for safe harbor treatment.⁶

4. In its July 13, 2007 filing, Umatilla states that it no longer desires to maintain its optional safe harbor OATT, which it had filed pursuant to section 35.28(e) of the Commission's regulations.⁷ Umatilla also states that it will continue to offer comparable transmission service to third parties pursuant to Order No. 888, whether through its tariff or through bilateral transmission agreements, and at the same rates that Umatilla charges itself. Umatilla further states that it believes this course of action is consistent with Order No. 890.

5. Notice of Umatilla's filing was published in the *Federal Register*, 72 Fed. Reg. 44,132 (2007), with interventions and protests due on or before August 13, 2007. None were filed.

6. The Commission notes that because Umatilla has not amended its tariff so that its provisions substantially conform or are superior to the revised *pro forma* OATT adopted

⁴ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁵ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002) (Order No. 888).

⁶ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 191.

⁷ 18 C.F.R. § 35.28(e) (2007).

in Order No. 890, it will no longer have a safe harbor tariff. However, we remind Umatilla that, if it seeks to take advantage of open access on a public utility's system, it remains subject to the reciprocity condition set forth in Order No. 890.⁸ The receipt of Umatilla's submittal is hereby acknowledged.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.

⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 191.