

121 FERC ¶ 61,223
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PacifiCorp

Docket Nos. ER07-1291-000
ER07-1291-001
OA07-54-000

ORDER ON COMPLIANCE FILING AND ACCEPTING IN PART
AND REJECTING IN PART PROPOSED TARIFF REVISIONS

(Issued November 30, 2007)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ PacifiCorp submitted a compliance filing in Docket No. OA07-54-000 as required by Order No. 890.² Additionally on August 17, 2007, in Docket No. ER07-1291-000, as amended on October 1, 2007, and pursuant to section 205 of the FPA,³ PacifiCorp submitted proposed revisions to its Open Access Transmission Tariff (OATT)⁴ deviating from the *pro forma* OATT as modified in Order No. 890. In this order, we conditionally accept the proposed tariff revisions in PacifiCorp's filing in Docket No. OA07-54-000 in compliance with Order No. 890 subject to tariff revisions in a compliance filing, and we accept in part and reject in part PacifiCorp's proposed tariff revisions in Docket Nos. ER07-1291-000 and ER07-1291-001, as discussed below.

¹ 16 U.S.C. § 824e (2000).

² *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 16 U.S.C. § 824d (2000).

⁴ PacifiCorp's FERC Electric Tariff, Seventh Revised Volume No. 11.

Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT 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.

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. 890.⁵

4. In addition, after submission of their FPA section 206 compliance filings, non-ISO/RTO transmission providers may submit FPA section 205 filings proposing rates for the services provided for in their tariffs, as well as non-rate terms and conditions that differ from those set forth in Order No. 890 if those provisions are “consistent with or superior to” the *pro forma* OATT.⁶

5. Further, in Order No. 890, the Commission required transmission providers to file redesigned transmission charges that reflect the Capacity Benefit Margin (CBM)⁷ set-aside to ensure that customers not benefiting from the CBM set-aside (*i.e.*, point-to-point customers) do not pay for CBM. We directed transmission providers to submit

⁵ 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) (April 11, 2007 Order).

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 135.

⁷ CBM is the amount of total transfer capability preserved by the transmission provider for load-serving entities, whose loads are located on the transmission provider’s system, to enable access by the load-serving entities to generation from interconnected systems to meet generation reliability requirements, or such definition as contained in Commission-approved reliability standards.

redesigned transmission charges through a limited issue FPA section 205 rate filing within 120 days after the publication of the final rule in the *Federal Register*.⁸

Docket No. OA07-54-000

I. PacifiCorp's Filing

6. In its July 13, 2007 filing, PacifiCorp states that, in addition to making modifications required by Order No. 890, it is submitting changes to other provisions of its OATT to correct inconsistencies with the *pro forma* OATT including: deleting its prior Attachment F (Methodology for Completing a Transmission Facilities Study) because this attachment is not included in Order No. 890; renumbering the Schedules and Attachments to its OATT to make them consistent with the *pro forma* OATT adopted in Order No. 890; and fixing references to the Schedules and Attachments throughout its OATT. PacifiCorp requests a July 13, 2007 effective date for its filing, except it requests an August 1, 2007 effective date for the imbalance provisions of Schedule 4 (Energy Imbalance Service) and Schedule 9 (Generator Imbalance Service) to make those changes effective on the first day of the billing cycle following the filing date.⁹

II. Notice of Filing and Responsive Pleadings

7. Notice of PacifiCorp's filing was published in the *Federal Register*, 72 Fed. Reg. 41,727 (2007), with interventions or protests due on or before August 3, 2007. Powerex Corp. (Powerex) filed a timely motion to intervene and comments. The Bonneville Power Administration (BPA) and PPM Energy, Inc. (PPM) filed timely motions to intervene and protests. Pacific Gas & Electric Company (PG&E) and the City of Seattle (Seattle) filed motions to intervene out of time, and PacifiCorp filed an answer to the protests on August 20, 2007.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the

⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 263.

⁹ See PacifiCorp's July 13, 2007 Filing at 4 (citing April 11, 2007 Order at P 22).

decisional authority. We will accept PacifiCorp's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

10. As a preliminary matter, we note that both Powerex and PPM point out that PacifiCorp's July 13, 2007 filing did not include all of the provisions required under Order No. 890. Powerex states that PacifiCorp failed to include provisions regarding customer requests for clustering studies, an imbalance energy revenue distribution mechanism, and charges and penalties for every instance that PacifiCorp's tariff permits it to level charges or penalties. PPM states that PacifiCorp simply carried forward its pre-Order No. 890 unreserved use penalties included in Schedule 7 (Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service) and Schedule 8 (Non-Firm Point-to-Point Transmission Service) of PacifiCorp's OATT without revising these penalties to conform to the *pro forma* OATT. PPM states that Order No. 890 established a rebuttable presumption that unreserved use penalties may be no greater than twice the firm point-to-point rate for the period of unreserved use, except that the unreserved use penalty for a single hour of unreserved use will be based on the rate for daily firm point-to-point service.¹⁰ According to PPM, PacifiCorp proposes to charge customers 150 percent of the Schedule 7 (or Schedule 8) demand charge for monthly delivery regardless of the period of unreserved use.

11. In response PacifiCorp states that, on August 3, 2007, it submitted an FPA section 205 filing pursuant to Order No. 890 but that its filing was rejected without prejudice by the Commission's Office of the Secretary.¹¹ On August 17, 2007, PacifiCorp resubmitted its filing, which was assigned Docket No. ER07-1291-000. PacifiCorp maintains that, in accordance with Order No. 890, its August 17, 2007 filing includes clustering provisions, crediting provisions and greater specification of charges and penalties.¹²

12. We find that PacifiCorp's July 13, 2007 filing does not address clustering and imbalance energy revenue distribution as required under Order No. 890. However, because PacifiCorp's August 17, 2007 filing, as amended on October 1, 2007, addresses

¹⁰ PPM Protest at 4 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 846).

¹¹ See *Notice Rejecting Electronic Filing*, August 16, 2007 (stating that PacifiCorp's August 3, 2007 Filing was inappropriately submitted electronically).

¹² PacifiCorp states that the time frame for filing the clustering, penalty, or crediting provisions was unclear and, as a result, PacifiCorp addressed the issues in its August 17, 2007 Filing. See PacifiCorp August 20, 2007 Answer at 3 & n. 7.

clustering and imbalance energy revenue distribution, we will address these provisions under Docket Nos. ER07-1291-000 and ER07-1291-001 below. In addition, we find that PacifiCorp's unreserved use penalties, as provided under Schedule 7 and Schedule 8 of its OATT, are inconsistent with our directive in Order No. 890 that the unreserved use penalty for a single hour of unreserved use be based on the rate for daily firm point-to-point service, even if the transmission provider has a rate for hourly firm point-to-point transmission service on file.¹³ Accordingly, we reject PacifiCorp's unreserved use penalties, as provided under Schedule 7 and Schedule 8 of its OATT and note that PacifiCorp has filed a revised unreserved use penalties provision in Docket Nos. ER07-1291-000 and ER07-1291-001, as discussed below.

1. Creditworthiness

a. PacifiCorp's Filing

13. Under PacifiCorp's Attachment L (Creditworthiness Procedures), a prospective or existing transmission customer will be deemed creditworthy and will not be required to provide credit security (1) as long as the transmission customer is not currently in default and has not been in persistent default under the provisions of PacifiCorp's OATT and (2) meets the following creditworthiness criteria:

The transmission customer or its guarantor provides evidence that its senior long-term unsecured debt rating, corporate rating, or issuer rating from Standard & Poor's (S&P) or Moody's Investor Service (Moody's) is at least BBB- or Baa3, respectively. Transmission Provider will use the lower of the ratings if split; or

The transmission customer or its guarantor is a federal government agency and its financial obligations under the Tariff are backed by the full faith and credit of the United States; or

The transmission customer or its guarantor is a state government agency and its financial obligations under the Tariff are backed by the full faith and credit of the state; or

The transmission customer or its guarantor demonstrates that it has been in business for at least two (2) years and provides its most recent two (2) fiscal year-end audited financial statements, its most recent annual report (as applicable), and its most recent quarter-end financial statements to Transmission Provider.¹⁴

¹³ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 846.

¹⁴ See Original Sheet Nos. 347-48 to PacifiCorp's OATT.

14. In addition, PacifiCorp proposes to accept the following forms of collateral: (1) a letter of credit issued by a major U.S. commercial bank with a credit rating of at least A- from S&P or A3 from Moody's; (2) a guaranty in a form acceptable to PacifiCorp from the transmission customers' guarantor; (3) cash deposit; and (4) prepayment. PacifiCorp also proposes to notify a transmission customer within 30 days in the event that there has been a change in the customer's creditworthiness status. Additionally, PacifiCorp proposes procedures for providing explanation of changes in a transmission customer's creditworthiness status, a procedure for contesting credit determinations and a procedure for posting additional collateral.

b. Protests and Answer

15. BPA argues that PacifiCorp's creditworthiness criteria provision is more restrictive on governmental agencies than on non-governmental entities. BPA states that, even though it is a federal power marketing administration within the U.S. Department of Energy, its payment obligations are not secured by the full faith and credit of the United States of America. However, BPA notes that its payment obligations are secure and its non-Federal debt obligation is rated Aaa and AA-, by Moody's and Standard and Poor's, respectively. BPA states this problem may also arise for state governmental agencies.

16. In response, PacifiCorp states that BPA misread the creditworthiness provisions. According to PacifiCorp, Attachment L does not absolutely require a federal government agency's financial obligations to be backed by the full faith and credit of the United States. Rather, according to PacifiCorp, this is only one way a federal government agency may satisfy PacifiCorp's credit requirements. PacifiCorp notes that because BPA holds debt ratings of Aaa by Moody's and AA- by Standard and Poor's, BPA meets the requirements of PacifiCorp's creditworthiness provisions whether or not BPA's obligations are backed by the full faith and credit of the United States. PacifiCorp concludes that BPA's protest is moot and PacifiCorp's Attachment L should be accepted by the Commission.

c. Commission Determination

17. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.¹⁵

¹⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

18. We have reviewed PacifiCorp's filing and find that PacifiCorp has failed to provide a sufficient description of how the amount of credit security to be posted by transmission customers will be calculated. PacifiCorp proposes in section 6(a) and 6(b) of Attachment L that customers for new transmission service or customers with an existing transmission service who have been notified of a change in their creditworthiness, must "post credit security in an amount determined by the Transmission Provider."¹⁶ However, PacifiCorp has failed to provide the quantitative criteria that will be used to determine the amount of additional credit security to be posted by transmission customers. Accordingly, we direct PacifiCorp to file, within 30 days of the date of issuance of this order, a further compliance filing revising Attachment L to clearly state what factors will be considered and how it will calculate the credit security amount.

19. Further, we find that although PacifiCorp proposes to accept cash deposits as a form of collateral,¹⁷ it does not specify that the cash deposits will be placed in an interest-bearing escrow account. Therefore, we direct PacifiCorp to file, within 30 days of the date of issuance of this order, a further compliance filing revising Attachment L to state that cash deposits will be placed in an escrow account and identifying what interest rate will be applied to the escrow account.¹⁸

20. In addition, we disagree with BPA's assertion that PacifiCorp's creditworthiness criteria provision is more restrictive on governmental agencies than on non-governmental entities. Although the financial obligations of some federal or state agencies may not be backed by the full faith and credit of the United States or the state, respectively, these entities may qualify under another criteria identified in PacifiCorp's Attachment L. Further, we note that some governmental agencies have the ability to raise rates to cover outstanding obligations. Therefore, we direct PacifiCorp to file, within 30 days of the date of issuance of this order, a further compliance filing revising Attachment L to provide a creditworthiness criterion that recognizes a governmental agency's ability to raise rates to cover outstanding obligations.

2. Simultaneous Submission Window

a. PacifiCorp's Filing

21. PacifiCorp's OATT provides that for short-term firm point-to-point transmission

¹⁶ See Original Sheet No. 350 and First Revised Sheet No. 351 to PacifiCorp's OATT.

¹⁷ See Original Sheet No. 349 to PacifiCorp's OATT.

¹⁸ Cf. *Entergy Servs. Inc.* 104 FERC ¶ 61,329, at P 59 (2003) (requiring interest to be paid on cash deposits).

service, requests for monthly service shall be submitted no earlier than 11 months before service is to commence, requests for weekly service no earlier than 51 weeks before service is to commence, and requests for daily service no earlier than 364 days before service is to commence.¹⁹ Similarly, for non-firm point-to-point transmission service, PacifiCorp's OATT provides that requests for monthly service shall be submitted no earlier than 60 days before service is to commence, requests for weekly service no earlier than 14 days before service is to commence, requests for daily service no earlier than two working days before service is to commence, and requests for hourly service no earlier than noon the working day before service is to commence.²⁰

b. Commission Determination

22. In Order No. 890, the Commission decided to retain its first-come, first-served policy regarding transmission service requests. However, the Commission required those transmission providers who set a "no earlier than" time limit for transmission service requests to treat all such requests received within a specified period of time, or window, as having been received simultaneously. Although the Commission left it to transmission providers to propose the amount of time the window would be open, the Commission stated that the window should be open for at least five minutes unless the transmission provider presents a compelling rationale for a shorter window. The Commission also required each transmission provider that is required to, or decides to, deem all requests submitted within a specified period as having been submitted simultaneously to propose a method for allocating transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period.²¹

23. PacifiCorp's OATT includes "no earlier than" time limits for transmission requests but PacifiCorp has failed to define in its OATT how it will treat all such requests received within a specified period of time, how long the window will be left open and how it will allocate transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period. Therefore, we direct PacifiCorp to file, within 30 days of the date of issuance of this order, a further compliance filing that clearly indicates that PacifiCorp has satisfied the remaining compliance requirements of Order No. 890 for adoption of a simultaneous submission window.

3. Attachment J - Procedures for Addressing Parallel Flows

24. The *pro forma* OATT adopted in Order No. 890 includes a blank Attachment J

¹⁹ See Original Sheet No. 80 to PacifiCorp's OATT.

²⁰ See Original Sheet No. 83 to PacifiCorp's OATT.

²¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1418-22.

entitled “Procedures for Addressing Parallel Flows” that is to be “filed by the Transmission Provider.” The Commission in the North American Electric Reliability Corporation (NERC) Transmission Loading Relief Order²² amended the *pro forma* OATT to incorporate NERC’s Transmission Loading Relief (TLR) procedures. The Commission also required that every transmission-operating public utility adopting NERC’s TLR procedures file with the Commission a notice that its tariff shall be considered so modified to reflect the use of such procedures. That order addressed the NERC TLR procedures for public utilities in the Eastern Interconnection. Later, in Order No. 693, the Commission approved, as mandatory and enforceable, the IRO-006-3 Reliability Coordination—Transmission Loading Relief Reliability Standard, which includes the NERC TLR procedures and, by reference, the equivalent interconnection-wide congestion management methods used in the Western Electricity Coordinating Council (Western Systems Coordinating Council (WSCC) Unscheduled Flow Mitigation Plan) and Electric Reliability Council of Texas (ERCOT) (section 7 of the ERCOT Protocols) regions.²³ As a result, all transmission providers must complete Attachment J by incorporating either the NERC TLR procedures, WSCC Unscheduled Flow Mitigation Plan, or ERCOT protocol and must provide a link to the applicable procedures.

25. PacifiCorp has not filed any procedures in Attachment J. PacifiCorp is directed to file, within 30 days of the date of this order, a further compliance filing with a completed Attachment J as shown below:

The North American Electric Reliability Corporation’s (“NERC”) Qualified Path Unscheduled Flow Relief for the Western Electricity Coordinating Council (WECC), Reliability Standard WECC-IRO-STD-006-0 filed by NERC in Docket No. RR07-11-000 on March 26, 2007, and approved by the Commission on June 8, 2007, and any amendments thereto, are hereby incorporated and made part of this Tariff. See www.nerc.com for the current version of the NERC's Qualified Path Unscheduled Flow Relief Procedures for WECC.

4. Capacity Benefit Margin

26. In Order No. 890 the Commission required transmission providers to file redesigned transmission charges that reflect the CBM set-aside to ensure that customers not benefiting from the CBM set-aside (*i.e.*, point-to-point customers) do not pay for

²² *North American Electric Reliability Council*, 85 FERC ¶ 61,353, at 62,362 and Ordering Paragraph (B) (1998) (NERC Transmission Loading Relief Order).

²³ *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 72 Fed. Reg., 16,416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242 (2007), at 31,561-62, *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

CBM. In its response to that compliance requirement, PacifiCorp indicates that it has not received a customer request for CBM and, therefore, has not reserved CBM on the PacifiCorp transmission system. Because PacifiCorp does not reserve CBM for native load or any other customer no changes are needed to its rate design. We conclude that PacifiCorp's statement in its filing with regard to CBM complies with Order No. 890 and, accordingly, we will accept it.²⁴

5. Rollover Rights

27. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.²⁵

28. PacifiCorp has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, PacifiCorp has not yet filed an Attachment K, setting forth its transmission planning process. This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct PacifiCorp to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. PacifiCorp should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date as of the date the Attachment K is accepted.

29. For the reasons stated above, the Commission conditionally accepts PacifiCorp's compliance filing in Docket No. OA07-54-000 effective July 13, 2007 and August 1, 2007 as requested, and directs PacifiCorp to make further compliance filing as discussed above.

²⁴ We note that to the extent PacifiCorp uses CBM in the future or provides a CBM set-aside at the request of a customer, it must revise its transmission charges consistent with the requirements of Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 263.

²⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

Docket Nos. ER07-1291-000 and ER07-1291-001**I. PacifiCorp's Filings**

30. In its August 17, 2007 filing, PacifiCorp proposes tariff revisions relating to a variety of OATT sections and Schedules including, as mentioned above, provisions for clustering of studies and imbalance energy revenue distribution. In its October 1, 2007 filing in Docket No. ER07-1291-001, PacifiCorp submitted revised tariff sheets to delete the unauthorized use penalty provisions from Schedules 7 and 8 and to update Schedule 11 to incorporate unreserved use charges for hourly non-firm reservations. PacifiCorp requests waiver of the prior notice requirement so that its proposed tariff revisions will go into effect on the July 13, 2007 effective date, except it requests an October 2, 2007 effective date for its proposed revisions to Schedules 1 (Scheduling, System Control and Dispatch Service), 4 (Energy Imbalance Service), 5 (Operating Reserve – Spinning Reserve Service), 6 (Operating Reserve – Supplemental Reserve Service), 9 (Generator Imbalance Service), 10 (Real Power Losses), and 11 (Unauthorized Use of Transmission Service).

II. Notice of Filings and Responsive Pleadings

31. Notices of PacifiCorp's August 17, 2007 and October 1, 2007 filings were published in the *Federal Register*, 72 Fed. Reg. 49,708 (2007) and 72 Fed. Reg. 57,548 (2007) with interventions or protests due on or before September 7, 2007 and October 22, 2007, respectively. The California Public Utilities Commission filed a notice of intervention. The California Electricity Oversight Board, Deseret Generation & Transmission Co-Operative, Inc., the Modesto Irrigation District, Powerex, BPA, the Transmission Agency of Northern California, and San Diego Gas & Electric Company (SDG&E) filed timely motions to intervene. The City of Santa Clara, California (doing business as Silicon Valley Power), the City of Redding, California and the M-S-R Public Power Agency jointly filed a timely motion to intervene. Timely motions to intervene and protests to PacifiCorp's August 17, 2007 filing were submitted by PPM, PG&E and Seattle and jointly by the American Wind Energy Association (AWEA) and the Renewable Northwest Project (RNP). Southern California Edison Company (SCE) filed a timely motion to intervene and, jointly with SDG&E, a protest and motion to reject certain provisions of PacifiCorp's August 17, 2007 filing. On October 1, 2007, PacifiCorp filed a motion of leave to answer and an answer to the protests. No comments or protests to PacifiCorp's October 1, 2007 filing were received.

III. Discussion**A. Procedural Matters**

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,

18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

33. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PacifiCorp's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Unreserved Use Penalties

a. PacifiCorp's Filing

34. PacifiCorp states that it is adding Schedule 11 (Unauthorized Use of Transmission Service) to its OATT to charge an unreserved use penalty in any circumstance where it detects that a transmission customer has used transmission services that it has not reserved. The penalty will be derived as follows:

(1) the penalty for a single hour or less of unreserved use is two times PacifiCorp's rate on file at the time of the unreserved use for daily firm point-to-point transmission service; (2) the penalty for unreserved use on multiple occasions for more than one hour over a course of the day is two times PacifiCorp's rate on file for daily firm point-to-point transmission service assessed against the hour with the highest level of use; (3) the penalty for unreserved use on multiple occasions for any given duration will increase the penalty period to the next longest duration (e.g., to hourly, daily, daily to weekly, weekly to monthly), with the penalty being two times PacifiCorp's rate on file at the time of the unreserved use for firm point-to-point transmission service for the applicable service duration; and (4) PacifiCorp will include in the unreserved use penalty appropriate ancillary services charges provided by PacifiCorp in association with the unreserved use. Ancillary services charges will be limited to the actual period of unreserved use.

35. PacifiCorp asserts that its proposed Schedule 11 comports with the rebuttable presumption, established by Order No. 890, that unreserved use penalties no greater than twice the firm point-to-point rate for the penalty period defined are just and reasonable. It requests that the Commission accept its proposed Schedule 11 as consistent with or superior to the *pro forma* OATT.

b. Protests and Answer

36. PPM notes that PacifiCorp proposes to make its revised unreserved use penalties (Schedule 11) effective on October 2, 2007, but prior to that date PacifiCorp presumably will retain its existing unreserved use penalties (Schedule 7 and Schedule 8). Seattle also argues that PacifiCorp's charges under Schedules 7 and 8 are inconsistent with Order No. 890. Both PPM and Seattle point out that PacifiCorp does not eliminate its Schedule 7 and Schedule 8 unreserved use charges in its August 17, 2007 filing. They request that the Commission direct PacifiCorp to revise its OATT so that the unreserved penalties are consistent with Order No. 890.

37. In addition, PPM and Seattle point out that under PacifiCorp's proposed unreserved use penalty provision under Schedules 7 and 8, where unreserved use occurs on multiple occasions, the penalty will be 200 percent of the applicable firm point-to-point charge for the next longest duration. They argue that that such progressive increases in unreserved use charges should not apply to intermittent generators and that the Commission should direct PacifiCorp to revise its unreserved use charge provision so that intermittent generators will only be subject to unreserved use penalties based on the period of unreserved use and not the next longest duration.

38. In its answer to the protests, PacifiCorp argues that PPM's complaints about PacifiCorp's unreserved use penalties between July 13, 2007 and October 2, 2007, are inappropriate in this docket. PacifiCorp states that PPM filed an FPA section 206 complaint with the Commission in Docket No. EL06-82-000 regarding PacifiCorp's unreserved use charges in Schedules 7 and 8. According to PacifiCorp, its October 1, 2007 filing in this proceeding includes revised tariff sheets modifying the unreserved use charges assessed on PPM in compliance with the Commission's August 7, 2007 order on the complaint.²⁶ Additionally, PacifiCorp states that it inadvertently failed to remove the unauthorized use penalties provisions of Schedules 7 and 8 when it made its August 17, 2007 filing. Its October 1, 2007 filing includes revised tariff sheets updating these Schedules.

c. Commission Determination

39. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.²⁷

²⁶ *PPM Energy, Inc. v. PacifiCorp*, 120 FERC ¶ 61,140 (2007) (denying and granting complaint in part) (August 7 Order).

²⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

The Commission finds that PacifiCorp's unreserved use penalties contained in Schedule 11 of its OATT are consistent with Order No. 890. Accordingly, we accept PacifiCorp's Schedule 11 effective October 2, 2007, as requested. However, we agree with PPM and Seattle that PacifiCorp's Schedule 7 and Schedule 8 unreserved use penalties, effective prior to October 2, 2007, are inconsistent with Order No. 890. As discussed above, the Schedules 7 and 8 unreserved use penalties, which remained in effect until PacifiCorp removed them from its OATT effective October 2, 2007, are inconsistent with our directive in Order No. 890 that the unreserved use penalty for a single hour of unreserved use be based on the rate for daily firm point-to-point service, even if the transmission provider has a rate for hourly firm point-to-point transmission service on file.²⁸ We find that for the period from July 13, 2007 through October 1, 2007 PacifiCorp's OATT contained unreserved use penalties that were not in compliance with Order No. 890 and were unjust and unreasonable. Accordingly, we will direct PacifiCorp to make refunds with interest calculated pursuant to section 35.19a of the Commission's regulations to any customers on which it assessed unreserved use penalties under Schedule 7 and Schedule 8 between July 13, 2007 and October 1, 2007, within 30 days of the date of this order.²⁹ We also will direct PacifiCorp to file a refund report with the Commission within 15 days of the date refunds are made.

40. Further, we disagree with PPM and Seattle that intermittent generators should be exempt from certain of PacifiCorp's proposed unreserved use penalties. In Order No. 890, after considering arguments such as those made by PPM and Seattle here, we decided not to exempt any class of transmission customer from the potential assessment of unreserved use penalties.³⁰ Accordingly, we find that PacifiCorp's treatment of intermittent resources in reference to unreserved use charges is consistent with Order No. 890. However, we note that the issue of exempting intermittent resources from unreserved use charges is currently pending rehearing.³¹

2. Imbalance Energy Revenue Distribution

a. PacifiCorp's Filing

41. PacifiCorp states that its proposed imbalance penalties revenues will be calculated and distributed to eligible customers based on an annual period and will be calculated

²⁸ *See id.* at P 846.

²⁹ 18 C.F.R. § 35.19a (2007).

³⁰ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at ¶ 837.

³¹ *See* Request for Rehearing of American Wind Energy Association in Docket No. RM05-25-000 (March 19, 2007).

separately for network integration transmission service and point-to-point transmission service. Revenues will be allocated by service type to each eligible customer on a pro-rata basis according to each customer's total capacity (MW) usage of PacifiCorp's transmission system during an annual period. Under PacifiCorp's proposal, an eligible customer is defined as any customer, including PacifiCorp affiliated transmission customers, with a valid transmission service agreement who receives Energy Imbalance Service or Generator Imbalance Service, and who has remained within the first deviation band of imbalance penalties, as defined under Schedules 4 and 9, for the hours when service was taken between the start date and end date of the annual period. PacifiCorp's proposed mechanism is contained in a business practice.

b. Protests and Answer

42. PPM and Seattle request that the Commission reject PacifiCorp's mechanism for distributing imbalance penalty revenues. They state that PacifiCorp's definition of an eligible customer is discriminatory. PPM and Seattle argue that being in the second deviation band for one single hour in the entire year should not make a customer ineligible for a share of penalty revenues for the entire year. They argue that this approach could result in PacifiCorp alone being eligible to receive penalty revenues because it is uniquely able to balance its own resources in real-time using its portfolio of generating assets. Instead, they argue, penalty revenues should be credited based on a ratio of the transmission revenues from each customer that did not experience an imbalance in excess of the deviation band in an hour to the sum of the transmission revenues from all customers who did not experience an imbalance in the hour. PPM and Seattle state that a customer that experienced an imbalance in that hour would not be entitled to share in the penalty revenues associated with that hour but would not be classified as "offending" for the entire year. PPM also argues that PacifiCorp's mechanism should be filed in its tariff.

43. In response, PacifiCorp states that it made a well-reasoned decision to choose only customers who fall within the first deviation band. PacifiCorp argues that it could have chosen to provide imbalance revenues only to customers who do not fall into any of the deviation bands during the refund period. PacifiCorp states that it did not believe that it would have a sufficient population to allocate the revenues if it excluded all customers falling into any deviation band, so it made the decision to refund to customers in the first deviation band. It argues that this approach will appropriately reward only those customers who adequately match scheduled and actual deliveries of energy without making the distribution of revenues too restrictive.

c. Commission Determination

44. In Order No. 890, the Commission determined that charges for both energy and generator imbalances would be based upon a tiered approach that reflects incremental costs. The Commission also required transmission providers to credit revenues in excess

of incremental costs to all non-offending customers. As a result, the Commission directed transmission providers to develop, as part of their Order No. 890 compliance filings, a mechanism for crediting such revenues to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.³²

45. We reject PPM's argument that PacifiCorp's mechanism for distribution of penalty revenues should be included in its OATT, as Order No. 890 did not require that transmission providers' mechanisms for the distribution of imbalance penalties be included in their tariffs. In addition, the Commission finds that PacifiCorp's definition of non-offending customers is unduly restrictive. Under PacifiCorp's proposed definition, a transmission customer who experiences an imbalance within the first deviation band one time in an annual period would be excluded from the pool of non-offending customers eligible to receive penalty revenues. We agree with PPM and Seattle that incurring an imbalance charge for one single hour in the entire year should not make a customer ineligible for a share of penalty revenues for the entire year. Accordingly, we direct PacifiCorp to file, within 30 days of the date of issuance of this order, a further compliance filing with a revised mechanism for the distribution of penalty revenues that defines non-offending customers on an hourly basis.

3. Clustering

a. PacifiCorp's Filing

46. PacifiCorp proposes revisions to section 19.10 and 32.6 of its OATT which provide that at a customer's request, it will consider clustering system impact studies or facility studies. PacifiCorp proposes to allocate the cost of common upgrades for clustered transmission service requests equally among the participants of a cluster study unless the customers in the cluster independently agree to an alternate cost-sharing structure and provide PacifiCorp with a copy of the executed alternate agreement.

b. Commission Determination

47. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved request a cluster and the transmission provider can reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will

³² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 663, 667, 727.

structure transmission customers' obligations when they have joined a cluster.³³ We find PacifiCorp's clustering provisions to be in compliance with Order No. 890; therefore, we will accept PacifiCorp's clustering provisions, effective July 13, 2007.

48. While we find PacifiCorp's clustering provisions to be in compliance with Order No. 890, PacifiCorp's proposed sections 19.10 and 32.6 are unclear as to exactly how the cost of the clustered studies are to be allocated. Section 19.10 states that "Eligible Customers that have agreed to cluster their System Impact Study or Facilities Study shall be responsible for reimbursing the Transmission Provider for performing the clustered System Impact Study or Facilities Study in *equal shares . . .*"³⁴ However, section 19.10 also states "A participating Eligible Customer that opts out of the Cluster Study process shall remain liable for its *pro rata share* of the Transmission Provider's costs in performing the cluster study."³⁵ Therefore we will accept PacifiCorp's clustering provisions, effective July 13, 2007, but will direct PacifiCorp to file revised tariff sheets within thirty (30) days of this order for sections 19.10 and 32.6 clarifying the proposed allocation of the costs of clustered studies, stating if such costs are to be shared on an equal basis or on a pro rata basis and providing supporting explanation for such proposal.

4. Creditworthiness (Suspension of Service)

a. PacifiCorp's Filing

49. PacifiCorp seeks to revise its Creditworthiness Provision in Attachment L to include a suspension of service provision. PacifiCorp proposes to suspend service when: (1) a transmission customer is in default and fails to provide the entirety of three months of required financial assurances within thirty-five calendar days after PacifiCorp notified the transmission customer and where PacifiCorp has given the Commission 30 days written notice before suspending transmission service; or (2) a transmission customer is in default and fails to provide the entirety of one month's requested financial assurance within five business days after PacifiCorp's notification to the transmission customer pursuant to Attachment L of the OATT. Under PacifiCorp's proposal a transmission customer is not obligated to pay for transmission service that is not provided as a result of

³³ *Id.* at P 1370-71.

³⁴ *See* First Revised Sheet No. 96 to PacifiCorp's OATT (emphasis added).

³⁵ *See* Original Sheet No. 132A to PacifiCorp's OATT (emphasis added). Section 32.6 of PacifiCorp's proposed OATT contains similar language as that contained in section 19.10.

a suspension of service. PacifiCorp states that its proposed provision is similar to one previously approved by the Commission for another transmission provider.³⁶

b. Commission Determination

50. We find PacifiCorp's proposed suspension of service provision in section 7 of Attachment L to be similar to one that we have previously approved³⁷ and to be consistent with or superior to the *pro forma* OATT. Accordingly, we accept PacifiCorp's proposed suspension of service provision.

5. Modifications to Energy and Generator Imbalance Services

a. PacifiCorp's Filing

51. First, PacifiCorp states that it is clarifying Schedule 4 (Energy Imbalance Service) and Schedule 9 (Generator Imbalance Service) to treat its two zones (the PacifiCorp Zone and the MidAmerican Zone) as part of a unified control area. This means that for a transaction that crosses the zones, PacifiCorp will charge the higher of the penalty resulting from an imbalance under Schedule 4 or Schedule 9 but it will not charge both. PacifiCorp states that this clarification is consistent with and superior to the *pro forma* OATT because it conforms to Order No. 890's directive that transmission providers may not assess both Schedule 4 and Schedule 9 charges, and because it clarifies which charges will apply when transmission service is taken in the PacifiCorp and MidAmerican Zones.

52. In addition, PacifiCorp proposes to include intentional imbalance penalties in Schedule 4 and Schedule 9. PacifiCorp states that the intentional imbalance penalties are intended to address the prolonged failure of a transmission customer to adequately match scheduled deliveries of energy with actual delivery by a wide margin. PacifiCorp proposes to assess the intentional imbalance penalty on a transmission customer when a customer deviates from its schedule by 20 percent or more (or 10 MW or more) greater than its schedule for three continuous hours, or by 20 percent or more (or 10 MW or more) less than its schedule for three continuous hours. Under PacifiCorp's proposal, a transmission customer that has a valid reservation but fails to submit a schedule will be treated as having submitted a scheduled transaction of 0 MW and imbalance charges under Schedules 4 and 9 will apply. For "intentional" imbalances that result in under-scheduling, PacifiCorp proposes to settle the charges at 175 percent of the hourly pricing

³⁶ See PacifiCorp August 17, 2007 Filing at 12 (citing *Entergy Servs. Inc.*, 104 FERC ¶ 61,329, at P 55 (2003), *reh'g denied* 106 FERC ¶ 61,142 (2004).

³⁷ See *Entergy Servs. Inc.*, 104 FERC ¶ 61,329, at P 55 (2003).

proxy³⁸ for energy imbalance under Schedule 4 or the lower of 25 percent of the hourly pricing proxy or the decremental cost per MWh for generator imbalance under Schedule 9. For “intentional” imbalances that result in over-scheduling, PacifiCorp proposes to settle the charges at the lower of 25 percent of the hourly pricing proxy or the decremental cost per MWh for energy imbalance under Schedule 4 and 175 percent of the hourly pricing proxy for generator imbalance under Schedule 9.

53. PacifiCorp states that it views deviations of actual energy deliveries of 20 percent or more (or 10 MW or more) for three continuous hours as evidencing an intentional or negligent disregard for the need to adjust scheduled deliveries to maintain reliability and system integrity. It states that intentional imbalance penalties would not apply when a transmission customer over corrects during a three-hour period (*i.e.*, the transmission customer deviates from scheduled deliveries by +20 percent and -20 percent during a three-hour period). PacifiCorp states that, in that instance, imbalance charges are according to the deviation bands set forth in Schedules 4 and 9.

b. Protests and Answer

54. PPM, Seattle, AWEA and RNP argue that PacifiCorp’s intentional imbalance penalties discriminate against intermittent generators. AWEA and RNP further argue that the intentional imbalance penalties are not cost-based in violation of Order No. 890 and that PacifiCorp’s proposal does not promote the efficient use of transmission infrastructure. They argue that the proposed penalties will encourage schedulers to focus on avoiding a penalty rather than on providing accurate schedules based on best available forecasts. Additionally, they argue that PacifiCorp’s proposal will make PacifiCorp’s energy and generator imbalance provisions inconsistent with those of other transmission providers. PPM also questions PacifiCorp’s definition of decremental cost and argues that PacifiCorp has failed to demonstrate that the proposed intentional imbalance penalties are necessary.

55. In its answer, PacifiCorp states that it specifically proposed an intentional imbalance provision that did not trigger any charges unless the imbalance occurred for three continuous hours and was 20 percent or more (or less) than the schedule because it recognizes that imbalance is an unavoidable consequence of varying load and resource generation due to increases and decreases in load or changing weather conditions. It argues that customers who fail to make proper schedule adjustments over long periods of time with large volumes of imbalance create serious reliability problems on the transmission system. According to PacifiCorp, transmission providers must scramble to

³⁸ The hourly pricing proxy is defined as the average price for each hour of the delivered energy price at the California-Oregon Border, Four Corners, Mid-Columbia, and Palo Verde. *See* PacifiCorp FERC Electric Tariff Seventh Revised Volume 11, First Revised Sheet Nos. 269-70.

adjust their own generation in real time to absorb extra energy placed onto the system by transmission customers who generate energy in excess of their reservations or who have no reservation.

c. Commission Determination

56. We find that PacifiCorp has failed to support its proposed intentional imbalance penalties. Pursuant to Order No. 890 we consider penalties for intentional deviations on a case-by-case basis, subject to a showing that they are necessary under the circumstances.³⁹ PacifiCorp has not demonstrated why the three-tier imbalance band approach adopted under Order No. 890⁴⁰ is inadequate in its circumstances to mitigate the kinds of harms PacifiCorp seeks to eliminate with its intentional imbalance penalties. Although, PacifiCorp states that such imbalances can create serious reliability problems, it does not provide any evidence of how under its particular circumstances such imbalances so threaten reliability on its system, as to require the penalties it has proposed. Accordingly, we find that PacifiCorp has not justified its proposed intentional imbalance penalty provisions as necessary under the circumstances and as consistent with or superior to the *pro forma* OATT. We direct PacifiCorp to remove the intentional imbalance penalty provisions from Schedule 4 and Schedule 9 of its OATT within 30 days of the date of this order.

6. Pass-through of Costs from External Control Areas

a. PacifiCorp's Filing

57. PacifiCorp states that it currently has transmission lines located in control areas operated by other control area operators⁴¹ and that these external control area operators may charge PacifiCorp for control area services, including scheduling, system control, and dispatch service, for transmission service provided to PacifiCorp's customer transmission over PacifiCorp-owned facilities. PacifiCorp also states that external control area operators assess charges for real power losses for transmission service provided to PacifiCorp's customer transmission over PacifiCorp-owned facilities. PacifiCorp proposes to revise Schedule 1 (Scheduling, System Control, and Dispatch Service) and Schedule 10 (Real Power Losses) to specify when it will pass through any charges from these entities to any PacifiCorp transmission customer taking transmission service on the portion of the PacifiCorp transmission system located within another

³⁹ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 676.

⁴⁰ See *id.* at P 663-65, 670.

⁴¹ Those control area operators are California Independent System Operator Corporation (Cal ISO), NorthWestern Energy and Idaho Power Company.

control area. PacifiCorp states that it will pass through the costs it assessed from these external control areas without additional mark-up. It states that where service is provided by PacifiCorp and an adjacent control area operator, charges assessed by the adjacent control area to PacifiCorp will be passed through to the customer in addition to the PacifiCorp charges. PacifiCorp states that this approach is consistent with or superior to the *pro forma* OATT because PacifiCorp has no control over charges assessed by other control area operators and because this approach assures that costs are borne by the transmission customer that incur them and are assessed on other transmission customers.

b. Protests and Answer

58. SCE, SDG&E and PG&E state that PacifiCorp's proposed revisions to Schedule 1 and Schedule 10 could require transmission customers to pay excessive charges for transmission service obtained on PacifiCorp's transmission facilities located within another entity's control area, because such customers would have to pay both PacifiCorp's charges and analogous charges assessed by other control area operators. SCE and SDG&E argue that PacifiCorp should pass through losses assessed by other control area operators but should not also assess PacifiCorp losses. In addition, they argue that PacifiCorp's tariff changes create market inefficiencies due to transmission rate pancaking. SCE and SDG&E request that the Commission reject PacifiCorp's proposed revisions to Schedule 1 and Schedule 10.

59. In its answer, PacifiCorp clarifies that it will only charge both its own Schedule 1 and Schedule 10 charges and pass through the charges assessed by other control area operators if the transmission customer uses both systems. PacifiCorp states that it will not assess its Schedule 1 or Schedule 10 charges if the transmission customer uses only a PacifiCorp transmission line operated by another control area and no transmission lines operated by PacifiCorp.

c. Commission Determination

60. We find PacifiCorp's revisions to Schedule 1 and Schedule 10 to be consistent with or superior to the *pro forma* OATT. PacifiCorp has specified when it will pass through charges from an external control area to transmission customers taking transmission service on the portion of the PacifiCorp transmission system located within another control area. In addition, PacifiCorp has clarified that PacifiCorp will not assess its Schedule 1 or Schedule 10 charges if the transmission customer uses only a PacifiCorp transmission line operated by another control area and no transmission lines operated by PacifiCorp. Because these revisions will result in transmission customers who use PacifiCorp's transmission facilities located outside of the PacifiCorp control area paying for the services they receive and because these costs will not be borne by other transmission customers, we deny SCE's and SDG&E's motion to reject PacifiCorp's proposed revisions to Schedule 1 and Schedule 10 and accept PacifiCorp's revisions as consistent with or superior to the *pro forma* OATT.

7. Other Proposed Modifications

a. PacifiCorp's Filing

61. PacifiCorp states that the Northwest Power Pool (NWPP) members have adopted a reserve sharing program to meet their reserve requirements as established by NERC and WECC. Under the reserve sharing program, participating control areas are responsible for meeting contingency reserve obligations equal to the sum of five percent of the load responsibility served by hydroelectric or wind generation and seven percent of the load responsibility served by thermal generation. At least half of the obligation must be spinning reserves. According to PacifiCorp, the agreement specifies that load responsibility is determined by the control area firm load demand plus any firm sales to external control areas and minus any firm imports for which reserve capacity is provided by the supplier. In addition to these reserves to cover forced outages, control areas must carry additional reserves to meet interruptible imports and on-demand obligations to other systems. Accordingly, PacifiCorp states, it is responsible for providing reserves for generation schedules out of its control area during any hour for firm transmission but does not have to provide reserves for loads in its control area served by firm imports. As a result, PacifiCorp seeks to clarify the reserve obligation for transmission customers under Schedules 5 (Spinning Reserve Service) and 6 (Supplemental Reserve Service) of its OATT. It states that consistent with cost causation principles and practice in the NWPP, transmission customers exporting firm power will be assigned their proportionate reserve obligation, which may either be purchased from PacifiCorp or self-supplied. Transmission customers serving load in PacifiCorp's control area that are backed by firm imports in which the reserve capacity is supplied by the outside control area will have their reserve obligations reduced.

62. PacifiCorp states that its proposed revisions to Schedules 5 and 6 are consistent with or superior to the *pro forma* OATT because PacifiCorp is going beyond the requirements of Order No. 888 that it be responsible only for providing reserves to transmission customers serving load in its control area. Rather, PacifiCorp states, it is voluntarily committing itself to also provide reserves for firm exports. In addition, PacifiCorp states that the proposed changes better align the reserve obligation with NWPP practice which means that the costs associated with maintaining the reserve obligation are more closely related to the entities whose transmission service either increases or decreases the associated reserve obligation.

63. PacifiCorp also proposes to eliminate "Long Term" from Attachment A-1 (Form of Service Agreement for the Resale, Reassignment or Transfer of Long-Term Firm Point-to-Point Transmission Service) of its OATT and the associated specification form to allow Attachment A-1 to apply to both short-term and long-term firm point-to-point transmission service. PacifiCorp also proposes to delete Attachment A-2 (Form of Umbrella Service Agreements for Short-Term Firm Point-To-Point Service) from its OATT. PacifiCorp states that Attachment A-2 is no longer necessary because

Attachment A incorporates both short-term and long-term service. As a result of the deletion of Attachment A-2, PacifiCorp proposes to revise sections 13.4 and 17.8 of its OATT to remove references to Attachment A-2.

64. In addition, PacifiCorp proposes to modify Attachment F (Form of Service Agreement for Network Integration Transmission Service) by replacing the *pro forma* service agreement with a general description of what should be included in individual service agreements for Network Integration Transmission Service. Similarly, PacifiCorp proposes to replace its *pro forma* service agreement in Attachment G (Form of Network Operating Agreement) with a general description of what should be included in each Network Operating Agreement. PacifiCorp states that it believes individualized agreements are superior to its current *pro forma* agreements due to the unique nature of its system. PacifiCorp states that its system has two control areas within which are load pockets that are isolated from the rest of the transmission system. PacifiCorp also states that some network customers use network transmission service to serve load at the boundaries of the control area while others serve integrated load. According to PacifiCorp, these complications lead to different service requirements for different network customers. PacifiCorp states that individualized agreements are the superior approach for addressing these types of specific service issues and that its proposed revisions are consistent with or superior to the *pro forma* OATT because the *pro forma* OATT allows the transmission provider the option of developing individualized agreements and because such an approach allows the transmission provider to more thoroughly address transmission customers' alternative load service choices. In addition, PacifiCorp states it will file these agreements with the Commission, and because, as PacifiCorp states, it has few network customers, PacifiCorp anticipates the administrative burden on PacifiCorp and the Commission will likely be minimal.

65. Finally, PacifiCorp proposes to update section 12 of its OATT to conform to the *pro forma* OATT by eliminating references to the Western Regional Transmission Association (WRTA) and the Northwest Regional Transmission Association (NWRTA) because these organizations no longer exist.

b. Commission Determination

66. The Commission finds the proposed variations from the *pro forma* OATT to be consistent with or superior to the requirements of Order No. 890 because these variations should allow greater efficiency and flexibility in the planning of transmission services, clarify the terms and conditions of PacifiCorp's OATT and conform PacifiCorp's OATT to industry standards, particularly in the Western Interconnection.

67. First, PacifiCorp states that its proposed revisions to Schedules 5 and 6 will better align the reserve obligations with NWPP practice and result in the costs associated with maintaining the reserve obligations being more closely related to the entities whose transmission service increases or decreases the associated reserve obligation. The

Commission finds the proposed revisions to Schedules 5 and 6 to be consistent with or superior to the *pro forma* OATT because they increase consistency with WECC standards and ensure that costs are borne by the transmission customers who cause them. Accordingly, we accept the revisions to Schedules 5 and 6.

68. In addition, PacifiCorp seeks to revise Attachment A-1 to allow that attachment to apply to both short-term and long-term transmission service and to replace its *pro forma* service agreements in Attachments F and G with general descriptions of what should be included in individual service agreements. We find that these revisions should allow greater efficiency and flexibility in the planning of transmission services for PacifiCorp and its customers. In addition, we note that the *pro forma* OATT, recognizing the unique customer specific nature of Network Operating Agreements, does not contain a form of Network Operating Agreement. Therefore, PacifiCorp's elimination of its previously accepted form of Network Operating Agreement is consistent with the *pro forma* OATT. Accordingly, we accept these revisions as consistent with or superior to the *pro forma* OATT.

69. Finally, we find PacifiCorp's proposed deletion of Attachment A-2 and its update to section 12 of its OATT to be consistent with or superior to the *pro forma* OATT. Attachment A-2 is no longer necessary because Attachment A includes the services previously included in Attachment A-2. In addition, the removal of references to WRTA and NWRTA provides greater clarity to PacifiCorp's OATT as these organizations no longer exist.

70. For the reasons stated above, the Commission accepts in part and rejects in part PacifiCorp's tariff revisions effective July 13, 2007 and October 2, 2007 as requested, and directs PacifiCorp to make compliance filings and refunds as discussed above.

The Commission orders:

(A) PacifiCorp's compliance filing in Docket No. OA07-54-000 is hereby accepted effective July 13, 2007 and August 1, 2007, subject to the conditions discussed in the body of this order and the Ordering Paragraph (B) below.

(B) PacifiCorp is hereby directed to submit a compliance filing in Docket No. OA07-54-000, within 30 days of the date of this order, as discussed in the body of this order.

(C) PacifiCorp's tariff revisions filed in Docket Nos. ER07-1291-000 and ER07-1291-001 are hereby accepted in part and rejected in part, effective July 13, 2007 and August 1, 2007, subject to the conditions discussed in the body of this order and the Ordering Paragraph (D) below.

(D) PacifiCorp is hereby directed to submit a compliance filing in Docket Nos. ER07-1291-000 and ER07-1291-001, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.