

121 FERC ¶ 61,233
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.

Deseret Generation & Transmission
Co-operative, Inc.

Docket Nos. OA07-33-000
OA07-11-001

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued December 5, 2007)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA), Deseret Generation & Transmission Co-operative, Inc. (Deseret) submitted its compliance filing as required by Order No. 890.¹ We conditionally accept Deseret's filing, subject to revision as discussed below.

Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (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*

¹ *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).

(i.e., by 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. 890.²

Compliance Filing

4. Deseret notes that its tariff differs from the *pro forma* OATT in several respects. Deseret explains that previously it made an optional FPA section 205 filing in Docket No. OA07-11-000, requesting that the Commission find that certain aspects of its tariff are consistent with or superior to the *pro forma* OATT, which the Commission accepted.³ As a result, Deseret states, its Attachment C varies from the *pro forma* OATT and its tariff contains a Redispatch Protocol (Attachment J) that is not included in the *pro forma* OATT. Additionally, Deseret states that its tariff contains several other previously-approved variations from the *pro forma* OATT, which it believes are provisions that have not been substantively affected by the reforms adopted by Order No. 890. Deseret requests that its revised tariff be made effective July 13, 2007.

Notice of Filing and Responsive Pleadings

5. Notice of Deseret's filing was published in the *Federal Register*, 72 Fed. Reg. 41,726 (2007), with interventions and protests due on or before August 3, 2007. None was filed.

Discussion

Creditworthiness

6. 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.⁴

² 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).

³ *Deseret Generation & Transmission Co-operative, Inc.*, Docket No. OA07-11-000 (Jun. 26, 2007) (unpublished letter order).

⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

7. We have reviewed Deseret's filing and find that it does not comply with several of Order No. 890's requirements. This includes Deseret's failure to submit the required creditworthiness information. We therefore direct Deseret to file, within 30 days of the date of issuance of this order, a further compliance filing that addresses its creditworthiness standards consistent with Order No. 890.

Imbalance Energy Revenue Distribution

8. 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.⁵

9. Deseret has not responded to the Commission's directive regarding the distribution of imbalance revenues in Order No. 890.⁶ We direct Deseret to file, within 30 days of the date of issuance of this order, a further compliance filing that proposes, consistent with Order No. 890, a mechanism to credit revenues above the transmission provider's incremental costs to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.

Clustering

10. 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 structure transmission customers' obligations when they have joined a cluster.⁷

⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 663, 667, 727.

⁶ *Id.* at P 727.

⁷ *Id.* at P 1370-71.

11. Deseret has not responded to the Commission's directive regarding clustering.⁸ We direct Deseret to file, within 30 days of the date of issuance of this order, a further compliance filing that describes how it will process a request to cluster request studies and how it will structure transmission customers' obligations when they have joined a cluster.

Simultaneous Submission Window

12. 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 the 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.⁹

13. Deseret has not addressed the use of a simultaneous submission window. Because Deseret has adopted the use of a "no earlier than" time limit for the submission of transmission service requests, we direct Deseret to file, within 30 days of the date of issuance of this order, a further compliance filing that clearly indicates that Deseret has satisfied the remaining compliance requirements of Order No. 890 for adoption of a simultaneous submission window.¹⁰

Attachment J - Procedures for Addressing Parallel Flows

14. The *pro forma* OATT adopted in Order No. 890 includes a blank Attachment J entitled "Procedures for Addressing Parallel Flows" that is to be "filed by the Transmission Provider."¹¹ The Commission in the North American Electric Reliability

⁸ *Id.* at P 1371.

⁹ *Id.* at P 1418-22.

¹⁰ *Id.*

¹¹ The *pro forma* OATT Attachment J (Procedures for Addressing Parallel Flows) is instead designated as Attachment M in Deseret's tariff, because Attachment J contains Deseret's Redispatch Protocol.

Corporation (NERC) Transmission Loading Relief Order¹² 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 (WECC) (Western Systems Coordinating Council (WSCC) Unscheduled Flow Mitigation Plan) and Electric Reliability Council of Texas (ERCOT) (section 7 of the ERCOT Protocols) regions.¹³ 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.

15. Deseret has not filed any procedures in Attachment J. Deseret is directed to file, within 30 days of the date of issuance 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.

Rollover Rights Effective Date

16. 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

¹² *North American Electric Reliability Council*, 85 FERC ¶ 61,353 at 62,362 and Ordering Paragraph (B) (1998) (NERC Transmission Loading Relief Order).

¹³ 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).

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.¹⁴

17. Deseret has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, Deseret has not yet filed an Attachment K, setting forth its transmission planning process.¹⁵ 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 Deseret to file, within 30 days of the date of issuance of this order, a revised tariff sheet that reflects the previous language of section 2.2. Deseret 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.

Unreserved Use Penalties

18. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance in which 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.¹⁶ We note that Deseret's OATT does not explicitly state an unreserved use penalty rate and, as a result, Deseret may not charge transmission customers for unreserved use penalties.

Miscellaneous

19. Section 13.2(iii) of Deseret's tariff reads, "an Eligible Customer with a reservation for shorter term service or equal duration service and lower price has the right of first refusal to match any longer term request or equal duration service and lower price before losing its reservation priority." However, consistent with the *pro forma* OATT, the second "lower price" reference should be "*higher price*." We direct Deseret to file, within 30 days of the date of issuance of this order, a further compliance filing to correct this error.

¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

¹⁵ Deseret's Attachment K is to be submitted to the Commission by December 7, 2007. See *Order Extending Compliance Action Date and Establishing Technical Conferences*, 120 FERC ¶ 61,103 (2007).

¹⁶ *Id.* at P 834, 848.

The Commission orders:

(A) Deseret's compliance filing is conditionally accepted, effective July 13, 2007, subject to revision as discussed in the body of this order.

(B) Deseret is hereby directed to submit a compliance filing, within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.