

121 FERC ¶ 61,246
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.

Arizona Public Service Company

Docket Nos. ER07-1171-000
ER07-1171-001
ER07-1171-002

ORDER ACCEPTING IN PART
AND REJECTING IN PART PROPOSED TARIFF REVISIONS

(Issued December 7, 2007)

1. On July 13, 2007, as amended on July 20, 2007 and on October 9, 2007, pursuant to section 205 of the Federal Power Act (FPA),¹ Arizona Public Service Company (APS) submitted proposed revisions to its Open Access Transmission Tariff (OATT) deviating from the *pro forma* OATT as modified in Order No. 890.² In this order, we accept in part and reject in part the proposed tariff revisions, effective July 13, 2007, and order a compliance filing, as discussed below.

I. 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.

¹ 16 U.S.C. § 824d (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. 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. 890.³

4. The Commission recognized, however, that some of these non-ISO/RTO transmission providers may have provisions in their existing OATTs that the Commission previously deemed to be consistent with or superior to the terms and conditions of the Order No. 888⁴ *pro forma* OATT, but which *pro forma* terms and conditions were modified by Order No. 890. The Commission provided an opportunity for such transmission providers to submit an FPA section 205 filing seeking determination that a previously-approved variation from the Order No. 888 *pro forma* OATT substantively affected by the reforms adopted in Order No. 890 continues to be consistent with or superior to the revised *pro forma* OATT. The Commission directed applicants to make those filings within 30 days from publication of Order No. 890 in the *Federal Register*, (*i.e.*, April 16, 2007), and to request that the proposed tariff provisions be made effective as of the date of the transmission provider's FPA section 206 compliance filing, described above, except for imbalance-related provisions, which may become effective on the first day of the billing cycle following that date. The Commission also requested that applicants state that the Commission has 90 days following the date of submission to act under section 205.⁵

5. 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

³ 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).

⁴ *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).

⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 138-139.

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

II. APS’ Filings

6. In its July 13, 2007 filing, APS proposes numerous deviations from the Order No. 890 *pro forma* OATT. APS’ July 20, 2007 filing includes revisions to some of the tariff sheets it submitted on July 13, 2007 to correct formatting and pagination errors as well as the insertion of tariff sheets that APS states it inadvertently failed to include in its July 13, 2007 filing. APS’ October 9, 2007 filing was made in response to a September 9, 2007 deficiency letter issued by Commission staff. The deficiency letter requested additional information on APS’ proposed revisions (discussed below) regarding designations under reserve sharing agreements, the minimum term for designated network resources, bookout transactions, and APS’ revisions to ensure sufficient bases for imposing generator imbalance charges on its generator interconnection customers and penalties on network customers for unreserved uses. APS requests an effective date of July 13, 2007 for its proposed tariff revisions.

III. Notice of Filings and Responsive Pleadings

7. Notices of APS’ filings were published in the *Federal Register*, 72 Fed. Reg. 41,725 and 72 Fed. Reg. 42,407 (2007), with interventions and protests due on or before August 3, 2007 and August 10, 2007, respectively. Nevada Tribal Utility Authority filed a timely motion to intervene. Powerex Corp. (Powerex), Barrick Goldstrike Mines Inc. and Barrick Turquoise Ridge Inc. (jointly, Barrick) and Sierra Pacific Power Company and Nevada Power Company (jointly, the Nevada Companies) filed timely motions to intervene and comments on APS’ July 13, 2007 filing. Tucson Electric Power Company and UNS Electric, Inc. jointly submitted a motion to intervene out of time and Portland General Electric Company filed a motion to intervene out of time. On August 20, 2007, Powerex filed supplemental comments on APS’ July 13, 2007 filing and on September 4, 2007, APS filed an answer to Powerex’s supplemental comments. Powerex opposes certain of APS’ proposed tariff revisions and requests that the Commission direct APS to modify certain provisions. Accordingly, we will treat Powerex’s supplemental comments as a protest.

8. Notice of APS’ October 9, 2007 response to the September 6, 2007 deficiency letter was published in the *Federal Register*, 72 Fed. Reg. 59,281 (2007), with interventions and protests due on or before October 30, 2007. None was filed.

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

IV. Discussion

A. Procedural Matters

9. 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.

10. 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 APS' answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

11. We accept in part and reject in part APS' proposed tariff revisions, effective July 13, 2007, as requested and order a compliance filing, as discussed below. In addition, as a preliminary matter, we note that the Nevada Companies and Barrick argue that several of APS' proposed revisions to the *pro forma* OATT should be uniformly established and practiced throughout the Western Electricity Coordinating Council (WECC). For instance, both the Nevada Companies and Barrick support APS' proposed revision to the *pro forma* OATT's requirement that a network customer seeking to designate a network resource identify the control area from which the power will originate. They state that the Commission should clarify whether such transactions may be designated as network resources not just for load-serving entities within APS' balancing area, but throughout WECC.

12. We find that the Nevada Companies' and Barrick's requests are outside the scope of this proceeding. Whether any of the revisions proposed by APS should be applied to other transmission providers in the WECC is not before the Commission in this proceeding which addresses only the revisions APS seeks to make to its own OATT. Accordingly, we reject the Nevada Companies' and Barrick's requests.

1. Elimination of Requirement to Identify Control Area

a. APS' Filing

13. APS proposes to revise section 29.2 (Application Procedures) of its OATT to eliminate the requirement that a network customer seeking to designate a network resource identify the control area(s) from which the power will originate. According to APS, the identification of the source control area at the time of designation is unnecessary for APS to determine the effect that the designation of such a purchase will have on Available Transfer Capability (ATC) in APS' system because APS uses a rated path methodology rather than a flow-based methodology for determining ATC.

14. In addition, APS states that the requirement to identify the source control area effectively prohibits network customers in the APS control area from relying on off-system purchases other than unit-specific contracts to serve their load. APS explains that many power purchases executed by load-serving entities in the APS control area are with financial institutions and other power marketers that own no generating assets. APS states that contracts with financial institutions and other power marketers are more reliable than unit-specific purchases because they do not rely on a single generator to supply the power, however, the sources of power for such contracts may be in constant flux, and may change from day-to-day or even hour-to-hour. APS argues that the requirement to identify the source control area at the time of designation is problematic for network customers within the APS control area because, under a typical contract with a power marketer executed in advance of real-time operations, the source control area will not be known and may not be known until the electronic tags are filled out the day before or day of real-time operations. Further, APS states, the point of delivery and the point at which the network customer will deliver power from the network resource to the APS transmission system will have been made known to the transmission provider at the time of designation. APS states this information is all that APS needs to properly assess and calculate the designation's effects on ATC.

15. APS concludes that, given that the source control area identification requirement is not necessary to permit accurate ATC calculations and would unnecessarily disrupt the ability of network customers on the APS system to serve their loads in an efficient and reliable manner, the Commission should permit APS to delete that requirement from its OATT.

b. Commission Determination

16. Consistent with our determination in *Puget Sound Energy, Inc.*,⁷ we will accept APS' proposed deletion of the requirement for the identification of control area(s) from which power will originate for off-system network resources as unnecessary for its ATC calculation at this time.⁸ In Order No. 890, the Commission required public utilities, working through the North American Electric Reliability Corporation (NERC), to develop consistent methodologies for ATC calculation.⁹ Further, all transmission providers, including APS, are obligated as part of their Order No. 890 compliance requirements to revise their ATC calculation methodology to incorporate any changes in NERC's reliability standards and North American Energy Standards Board's business practices related to ATC calculation within 60 days of the completion of such ATC

⁷ 120 FERC ¶ 61,232 (2007) (*Puget Sound Order*).

⁸ *Id.* at P 10.

⁹ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 2.

standardization process.¹⁰ Accordingly, we will conditionally accept APS' revision to section 29.2 for now subject to APS submitting, after Commission action on its required ATC compliance filing, information demonstrating that the specification of delivery points is consistent with that order, in particular whether it continues to be sufficiently specific to allow a transaction to be evaluated for its effect on the ATC on APS' transmission system.

2. Designated Network Resources Under Reserve Sharing Agreements

a. APS' Filing

17. APS proposes to revise its OATT to clarify that the provision of power under a Commission-approved reserve sharing agreement, in this case the Southwest Reserve Sharing Group (SRSG) participation agreement,¹¹ is an appropriate use of a designated network resource and that a designated network resource need not be undesignated before being used to support such a power sale. Specifically, APS proposes to modify the definition of "Network Load," under section 1.30 of its OATT, to state that "Sales of energy to a third party pursuant to a regional reserve sharing agreement shall be deemed to be service of Network Load for purposes of Section 30 of the Tariff."¹² APS states that it is requesting this revision because Order No. 890 suggests that SRSG members may have to undesignate network resources in order to use those resources to support power sales to other SRSG members. APS argues that this requirement may diminish an SRSG member's ability to use the reserve sharing arrangement.

18. APS explains that both the NERC and the WECC operating criteria allow control areas to share operating reserves provided that, when considered as a single control area, the combined control areas meet the reserve requirements. According to APS, these arrangements minimize the amount of reserves that any one member of the SRSG is required to maintain to serve its load and reduce reserve costs. In addition, APS states that the contingency reserves provided by each SRSG member serve a dual role – to provide reserve energy to that SRSG member and to provide a source of reserve energy to other SRSG members. Further, APS states, because reserves are an integral part of

¹⁰ *Id.* at P 325.

¹¹ See *Southwest Reserve Sharing Group*, 83 FERC ¶ 61,314, at 62,284 (1998), *reh'g denied*, 95 FERC ¶ 61,071 (2001) (SRSG Order) (conditionally accepting SRSG participation agreement).

¹² APS proposes to make a corresponding revision to the definition of Retail Network Load under section 1.57 of its OATT. See APS July 13, 2007 Filing at 5-6; APS July 20, 2007 Filing at 2 & n. 4.

servicing network loads and are often provided from power plants owned by network customers, they are almost always designated network resources.

19. Additionally, APS explains that, under the SRSG arrangement, power must be dispatched from member control areas that have generation available to meet a contingency being experienced by another SRSG member control area within ten minutes of the system disturbance.¹³ According to APS, as a practical matter, an SRSG member cannot undesignate a network resource within ten minutes. Further, APS states, half of the reserves that APS is obligated to provide under the SRSG participation agreement must be spinning reserves, some of which are responsive to automatic generation control and may be activated as a result of frequency deviations. According to APS, this means that such power is dispatched automatically in response to a contingency without operator intervention.¹⁴ In addition, APS notes that although the contingency power supplied under the SRSG participation agreement is only provided for up to sixty minutes (to give the load-serving entity experiencing the contingency time to procure replacement power), the obligation to deliver that power is firm.¹⁵

20. Additionally, APS argues that its proposed revisions are consistent with the SRSG Order. APS states that, in the SRSG Order, the Commission directed that the SRSG participation agreement be treated as a designated network resource.¹⁶ APS argues that the SRSG Order did not indicate that the units providing reserve energy under the SRSG participation agreement should be undesignated prior to the delivery of reserve energy to other SRSG members. APS also argues that the proposed revisions to its OATT relate solely to the need to undesignate network resources to support the provision of reserve energy to other SRSG members and include language addressing reserve sharing obligations as part of network load for designation and undesignation purposes only. According to APS, the proposed revisions do not purport to address the type of transmission service that must be used to support the provision of reserve power under the SRSG participation agreement; if its proposed revisions are accepted, they will not affect the underlying rulings in the SRSG Order. Thus, APS states, it will continue to import reserve energy using network service and use appropriate transmission service to deliver energy to other SRSG members as required by the SRSG Order.

¹³ See APS Response to Deficiency Letter at 4 (*referencing* SRSG Participation Agreement, Schedule B, sections B-4.2 and B-4.3).

¹⁴ *Id.* at 7 (*referencing* WECC Reliability Standard BAL-STD-002, Operating Reserves).

¹⁵ See APS July 13, 2007 Filing at 4.

¹⁶ See APS Response to Deficiency Letter at 2 (*citing* SRSG Order, 83 FERC ¶ 61,314, at 62,286).

21. APS also argues that requiring the undesignations of designated network resources to provide reserves under the SRSG participation agreement would require the APS transmission function to communicate in real-time with the APS merchant function about the conditions on the system and the need for reserve energy because it is the merchant function that performs designations and undesignations. APS states that this is the type of communication the Commission has sought to monitor through its Standards of Conduct. In addition, APS states that the provision of reserve energy is administered by APS' transmission function as part of its responsibility as the operator of the APS area balancing authority and, while the APS merchant function identifies the generators that will be used to provide reserve energy, the merchant function then turns over control of those units to the transmission function in real-time. According to APS, the transmission function controls the dispatch of reserve generation and the merchant function employees that perform the designations and undesignations are not aware of SRSG deliveries until after the fact, if at all.

22. In addition, APS argues that the unique circumstances surrounding the SRSG participation agreement—the units providing reserve energy are available to multiple load-serving entities but are considered designated network resources—suggests that the standard rules governing designation and undesignation do not apply. Further, APS argues that the provision of reserve energy is no different than the provision of any other ancillary service that the APS transmission function must provide under Order No. 888. APS states that the generation reserves used to provide ancillary services under the OATT are the same reserves used to provide reserves under the SRSG participation agreement. According to APS, the Commission has consistently held that the provision of ancillary services is different from ordinary sales of energy and capacity and that the transmission provider's provision of ancillary services is a unique reliability function that is not a wholesale merchant activity.¹⁷ Thus, APS argues, the provision of reserve energy is clearly distinguishable from a traditional sale of energy to which the undesignation requirement would apply.

23. APS concludes that its proposed revisions are superior to the *pro forma* OATT and should be accepted by the Commission because the revisions will ensure that network customers are able to continue to receive the reliability and cost-savings benefits associated with regional reserve sharing arrangements.

b. Commission Determination

24. APS has advanced several arguments as to why it should be allowed to revise its tariff to clarify that the provision of power under a Commission-approved reserve sharing agreement is an appropriate use of a designated network resource and to clarify that a

¹⁷ See *id.* 6 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,720; Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,179).

designated network resource need not be undesignated before being used to support such a power sale. We find several of the arguments APS made to be compelling and agree with APS that revisions to its OATT are necessary to accommodate the SRSG reserve sharing arrangement.

25. First, we agree with APS that reserve sharing agreements allow transmission providers and their customers to meet reserve margins more efficiently and at significantly lower costs than if each participant under such an agreement was required to maintain individual operating reserves. In addition, APS has explained that an SRSG member's reserves are used to provide reserve energy to that SRSG member and to provide a source of reserve energy to other SRSG members, and that such reserves are almost always designated network resources that cannot be undesignated within ten minutes of a system disturbance. We find that requiring the undesignation of designated network resources involved in these reserve sharing agreements could effectively thwart the underlying goals of agreements like the SRSG participation agreement. These designated network agreements are important tools for meeting system contingencies and, as APS stated, an SRSG member cannot undesignate a network resource within ten minutes. For these reasons, we agree with APS that revisions should be made to its OATT to accommodate reserve sharing agreements.

26. While we agree that revisions should be made to its OATT to accommodate reserve sharing agreements, we find APS' revisions to its OATT, as proposed, to be inadequate to achieve the goals APS seeks to accomplish. Accordingly, we reject APS' proposed revisions to sections 1.30 and 1.57 of its OATT and direct APS to make a compliance filing as discussed below.

27. We direct APS to revise the term "Network Resource" under the definitions section of its OATT¹⁸ to include the phrase "except for purposes of fulfilling obligations under a Commission-approved reserve sharing program." We also direct APS to revise section 30.4 of its OATT (Operation of Network Resources) to add the following phrase: "plus power sales under a Commission-approved reserve sharing program."

28. We find that these revisions are necessary to allow APS to continue to use its reserve sharing arrangement without violating the requirements of the Order No. 890 *pro forma* OATT.¹⁹ We also believe that these revisions adequately address APS' concerns and eliminate the ambiguity contained in APS' proposed revisions. For the reasons stated above, we reject APS' proposed tariff revisions and direct APS to file a compliance filing, within 30 days of the date of issuance of this order as discussed above.

¹⁸ Arizona Public Service Company, FERC Electric Tariff, Fourteenth Revised Volume No. 2, First Revised Sheet No. 15.

¹⁹ We note that this issue is pending on rehearing of Order No. 890.

3. Scheduling Deadlines

a. APS' Filing

29. APS proposes to amend section 13.8 (Scheduling of Firm Point-To-Point Transmission Service) and 14.6 (Scheduling of Non-Firm Point-To-Point Transmission Service) of its OATT to reflect the scheduling deadlines that it currently uses—3:00 p.m. Pacific Prevailing Time (PPT) of the working day prior to commencement of service for firm and non-firm day-ahead point-to-point schedules, and 20 minutes before the hour for firm hourly schedules. APS state that while section 13.8 of the APS OATT currently identifies the firm scheduling deadline as 10:00 a.m. Mountain Standard Time (MST) of the working day before delivery is to commence, and section 14.6 currently identifies the non-firm scheduling deadline as 2:00 p.m. MST, APS has adopted a business practice implementing section 13.8 that establishes a scheduling deadline for daily point-to-point service of 3:00 p.m. PPT of the working day prior to commencement of service, and a scheduling deadline for hourly firm point-to-point service of 20 minutes before the start of the hour. According to APS, these business practices were adopted pursuant to the provisions in sections 13.8 and 14.6 permitting APS to accept schedules after the stated deadlines in circumstances where the processing of such submissions is practicable.

30. APS states that these revisions provide both firm and non-firm customers additional flexibility to schedule transactions, because the 3:00 p.m. PPT deadline is several hours later than the standard scheduling deadline used in many other areas of the WECC. Further, APS states that its proposed scheduling deadlines are later than the deadlines set forth in the *pro forma* OATT. Thus, APS contends that its proposed revisions are consistent with or superior to the terms of the *pro forma* OATT.

b. Commission Determination

31. We find that these revisions provide both the transmission provider and transmission customer with additional flexibility in scheduling transmission service. Accordingly, we find that APS' proposed revisions are consistent with the *pro forma* OATT.

4. Undesignation Deadline

a. APS' Filing

32. APS proposes to amend section 30.3 (Termination of Network Resources) of its OATT to de-couple the undesignation deadline from the deadline for scheduling firm service under section 13.8 (Scheduling of Firm Point-To-Point Transmission Service), and to adopt different deadlines for undesignations of network resources. Specifically, APS proposes to require that undesignations of network resources for a day or longer must be submitted to APS by 11:00 a.m. MST the day before the undesignation is to take

effect and undesignations of network resources for less than one day must be submitted as early as possible, but no later than 25 minutes before the hour during which the undesignation is to take effect. APS argues that its proposed revision is consistent with or superior to the *pro forma* OATT because it facilitates the recalculation of ATC resulting from network resource undesignations while giving network customers the flexibility to undesignate network resources to support firm third-party sales from previously-designated network resources that are not needed to serve the network customer's load. According to APS, this enhances market liquidity and reliability.

b. Commission Determination

33. Consistent with our determination in *Avista Corporation*,²⁰ we dismiss as moot APS' request for a deviation from section 30.3 of the *pro forma* OATT, without prejudice to resubmission after the Commission addresses the minimum lead time for undesignating network resources in Docket No. RM05-17-000, *et al.*²¹ In a notice issued on September 7, 2007, the Commission granted an extension of the effective date of the minimum lead time for undesignating network resources adopted in Order No. 890 and, thus, deferred the effectiveness of that requirement.²² As the Commission explained in the notice, we will revisit the issue of the minimum lead time for undesignating network resources in an order to be issued in the rulemaking proceeding. Accordingly, we find APS' proposal in this proceeding to be moot and dismiss the request, without prejudice.

5. Minimum Term for Designated Network Resources

a. APS' Filing

34. The minimum term for point-to-point transmission service is one hour under APS' OATT. In its filing, APS proposes to amend the definition of "Network Resource" to provide that the minimum term of a designated network resource under the OATT is one day. According to APS, this provision is consistent with the Commission's ruling in Order No. 890 that the minimum designation term that a transmission provider must honor is one day.²³ In addition, APS states that adopting a minimum designation period

²⁰ 120 FERC ¶ 61,230 (2007).

²¹ *Id.* at P 8.

²² *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,222 (2007).

²³ APS July 13, 2007 Filing at 8 (*citing* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1505).

of one day ensures that APS' transmission function is able to properly process designations and also satisfy its other responsibilities in administering the OATT.

35. In response to the September 9, 2007 deficiency letter, APS states that it is proposing different minimum terms for designated network resources and firm point-to-point transactions as a result of the different processes associated with reserving firm point-to-point service and designating new network resources. According to APS, the reservation of hourly firm point-to-point service is conducted solely over APS' Open Access Same-Time Information System (OASIS). Thus, these types of reservations require APS' transmission function to simply confirm that there is available ATC over the identified path. In contrast, APS states that requests for designations of network resources must be submitted to the APS transmission function and then posted to OASIS. Specifically, APS' transmission function must identify the transmission capacity that will be reserved under the designation, confirm that the attestation regarding the qualification of the resource to serve as a designated network resource is complete and confirm that any transmission arrangements on third party transmission systems needed to support the designated network resource are firm. In addition, APS states that it does not believe that the adoption of a minimum term of one day unduly discriminates against network customers or causes them unnecessary inconvenience. APS states that its proposed minimum term is consistent with the Order No. 890 *pro forma* OATT and should be approved.

b. Commission Determination

36. In Order No. 890, in response to a request that the Commission clarify the minimum term, if any, that a transmission provider must honor for designations of new network resources, we stated that the minimum term should be the same as the minimum time period used for firm point-to-point service (*i.e.*, daily), unless otherwise demonstrated by the transmission provider and approved by the Commission.²⁴ Here, APS is proposing a minimum term for a designated network resource of one day while the minimum term for point-to-point service is one hour. APS states that it is adopting a minimum designation period of one day for network resources to ensure that its transmission function can properly process designations for network services. However, APS does not provide sufficient information to demonstrate why its proposal is necessary.²⁵ Accordingly, we find that APS has not demonstrated that its proposal to have different minimum terms for designated network resources and point-to-point

²⁴ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1505.

²⁵ For example, APS explains the processes used for reserving firm point-to-point service and for designating network resources but it does not provide any information on the time it typically takes to process these two types of requests and how such time differences warrant applying a one day minimum term for designated network resources.

transmission service to be consistent with or superior to the *pro forma* OATT. Accordingly, we reject APS' proposed revision to the definition of "Network Resource" under its OATT without prejudice to resubmission.

6. Revisions to Respond to System Emergencies

a. APS' Filing

37. APS proposes to modify its OATT to permit the use of designated network resources to supply firm power as necessary to forestall system emergencies on other systems. According to APS, it is not uncommon for utilities to suffer contingencies that are not otherwise covered by an existing reserve sharing arrangement. APS states that in these situations, those utilities will call in search of power to serve their load within thirty minutes of the time that real-time delivery of the power is needed. According to APS, the requirement under the Order No. 890 *pro forma* OATT to undesignate resources prior to providing power causes an unnecessary delay in the delivery of the power and hinders efforts to prevent or respond to system emergencies.

38. As a result, APS proposes to amend sections 30.1 (Network Integration Transmission Service, Designation of Network Resources) and 38.1 (Retail Network Integration Transmission Service, Designation of Network Resources) of its OATT to state that a designated network resource may be used to supply power to a third party on a firm basis to prevent or respond to an emergency without a corresponding undesignation of that network resource. According to APS, any deliveries of designated resources to respond to or prevent a system emergency will be permitted to last for only two hours, and will be subject to a prompt, after-the-fact posting on OASIS within one working day of such sales. The revised language also provides that within one working day of the delivery of power, the network customer is required to provide a notice to APS, and APS would post that notice on its OASIS within one working day of receiving it. APS states that it seeks a two-hour window in which to provide such emergency power because it may take network customers of APS that long to undesignate the resources necessary to support the sale.²⁶ APS also proposes to include a definition of "Emergency" in its OATT, based on the definition in the NERC glossary of terms, to further clarify when the application of revised sections 30.1 and 38.1 are appropriate.

39. According to APS, its proposed revisions will enable network customers to respond to contingencies that could threaten the reliable supply of power in other control

²⁶ APS points out that on its system, it has hourly firm service and it has requested an undesignation period of 25 minutes prior to the hour for those hourly sales. However, APS states that sellers on other systems that lack an hourly firm product may require additional time to undesignate the resources they will use in an emergency sale. *See* APS July 13, 2007 Filing at 9 & n. 20.

areas. APS states that its proposed revisions are necessary for APS to adequately comply with its obligations under the WECC and NERC reliability standards to respond to or prevent system emergencies,²⁷ and are superior to the *pro forma* OATT.

40. In addition, APS proposes to add a provision to Part I of its OATT to permit APS, in its capacity as a balancing authority, to direct any eligible customer taking transmission service under its OATT to take actions necessary to maintain system operations in an emergency. APS states that this revision is necessary to ensure that APS and its network customers can comply with the Commission's and NERC's reliability standards while appropriately responding to emergencies on APS' transmission system.²⁸ According to APS, actions taken during emergencies on its system could conflict with the provisions of the Order No. 890 *pro forma* OATT and that the nature of system emergencies is such that it is impossible to define all circumstances that could arise or all actions that may be necessary to respond to an emergency. APS argues that, due to this uncertainty and the risk to network customers and transmission providers as a result of noncompliance with the transmission provider's OATT, an emergency exception is necessary.

41. According to APS, to ensure that such an emergency exception is not abused, it is proposing tariff language that states that if, in an emergency (as defined under APS' OATT and consistent with the NERC glossary of terms), the balancing authority requires actions that may be inconsistent with other requirements of APS' OATT to maintain system reliability, the emergency must be posted on OASIS and that APS, in its capacity as a balancing authority, must report the emergency to the Commission within 24

²⁷ APS states that, as a NERC and WECC-registered Balancing Authority, APS "shall perform all actions necessary *including bringing on all available generation, postponing equipment maintenance, scheduling interchange purchases in advance, and being prepared to reduce firm load*" in the event it is anticipating an energy or capacity emergency. *See id.* at 9 & n. 21 (*quoting* NERC Reliability Standard EOP-002-2, Capacity and Energy Emergencies, R4).

²⁸ For example, APS states that Reliability Standard EOP-002-2 requires, among other things, the scheduling of interchange transactions when responding to energy or capacity emergencies. APS states that if secondary service is not available to a network customer on APS' system, it may be necessary for the network customer to obtain firm supply from a non-designated resource on extremely short notice to meet the requirements of Standard EOP-002-2. *See id.* at 10.

hours.²⁹ APS states that this is the same process that is used for Standards of Conduct deviations in emergency circumstances that affect system reliability.³⁰

b. Commission Determination

42. We find that the revisions APS proposes to enable APS and its customers to respond to emergencies that could threaten the reliable supply of power in APS' and other control areas to be consistent with the Order No. 890 *pro forma* OATT. APS has designed these proposed revisions in light of its responsibilities under the NERC Reliability Standards. In addition, it has included processes to provide notification to its customers *via* OASIS and directly to the Commission based on the process adopted by the Commission for emergency deviations in the Commission's Standards of Conduct.³¹ Accordingly, we accept APS' proposed revisions as consistent with the Order No. 890. In addition, with respect to emergencies on APS' system, as a balancing authority, APS should report emergencies to the Office of Electric Reliability pager system, emergency@ferc.gov.

7. Bookouts

a. APS' Filing

43. APS states that like many market participants, it uses bookouts to minimize administrative burdens and liability risks that might arise from physical curtailments if the offsetting transactions were to go to delivery.³² APS states that the Commission has

²⁹ APS is proposing to add new section 12B (Emergency Deviations).

³⁰ See APS July 13, 2007 Filing at 10 (*citing* 18 C.F.R. § 358.4(a)(2) (2007)).

³¹ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs. ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs. ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom. National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006); see *Standards of Conduct for Transmission Providers*, Order No. 690, 72 Fed. Reg. 2,427 (Jan. 19, 2007), FERC Stats. & Regs. ¶ 31,237, *order on reh'g*, Order No. 690-A, 72 Fed. Reg. 14,235 (Mar. 27, 2007), FERC Stats. & Regs. ¶ 31,243 (2007); see also *Standards of Conduct for Transmission Providers, Notice of Proposed Rulemaking*, 72 Fed. Reg. 3,958 (Jan. 29, 2007), FERC Stats. & Regs. ¶ 32,611 (2007).

³² See *Revised Public Utility Filing Requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003) at Appendix D (Order No. 2001-E) (defining "Booked Out Power" to mean "[e]nergy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing trade.")

defined “booked out power” to mean “[e]nergy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing

trade.”³³ According to APS, the use of bookouts is a widespread industry practice that facilitates the efficient settlement of trades, particularly at liquid trading hubs like Palo Verde and Four Corners. APS also states that its proposed revisions to the Order No. 890 *pro forma* OATT are necessary to accommodate the practice of using bookouts because Order No. 890 requires that a designated network resource be undesignated before being used to support a firm sale to a third-party and it also prohibits network customers from scheduling delivery of non-designated network resources over transmission capacity reserved for designated network resources.

44. APS states that bookouts typically occur for monthly and daily transactions but can also occur for balance of the month and weekly trades. APS also indicates that the pre-schedulers³⁴ perform bookouts for monthly transactions on the last scheduling day before a month begins, first checking all monthly trades for direct bookouts, then checking for indirect bookouts.³⁵ Once monthly bookouts are executed, the pre-schedulers examine daily trades on a day-ahead basis. Once again, they examine direct bookouts and then indirect bookouts. According to APS, bookouts are not used for less-than-daily trades (*i.e.*, hourly trades), because real-time traders do not have enough time to identify potential bookouts and secure the agreement of the counterparties to perform the bookout. In addition, APS states that it does not bookout non-firm transactions.

45. APS states that when booking out transactions, there is a possibility that a power purchase that has been designated for import to cover a network customer’s load will be booked out against another sale to the same seller at the same delivery point in a given hour. According to APS, if such a transaction is booked out, a different power purchase may be the one to go to physical delivery and serve that network customer’s load even if it is not a designated network resource. APS believes this circumstance presents two

³³ APS July 13, 2007 Filing at 12 (*quoting Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh’g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh’g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003)).

³⁴ According to APS, bookouts are performed each day by APS marketing and trading pre-schedulers (employees within the merchant function) who purchase and schedule transmission for the APS merchant function transactions and put together e-tags for scheduled transactions. According to APS, those employees are in a position, prior to filling out the e-tags, to identify offsetting transactions that qualify for a bookout.

³⁵ APS explains that a direct bookout would be, for example, if APS has a purchase and sale at the same time and location with the same counterparty. An indirect bookout involves purchases and sales at the same time and location but involves multiple counterparties.

issues under Order No. 890. First, does the power purchase that is a designated network resource have to be undesignated before it is booked out against the corresponding sale? Second, will the fact that the bookout results in power from a non-designated network resource flowing over the network customer's primary network transmission capacity subject the network customer to an unreserved use penalty for using primary network service to move non-designated network resource power?

46. To address the foregoing concerns, APS proposes to clarify that such transactions during day-ahead operations are permissible without a corresponding undesignation of the booked out designated network resource, or designation of the power purchase that goes to delivery. Specifically, APS proposes to add two new defined terms to its OATT and revise section 30.4 (Operation of Network Resources). First, APS proposes to add the term "Substitute Designated Network Resource" and define it as follows:

A resource not previously designated by a Network Customer under Section 29.2 or Section 37.2 that (1) goes to physical delivery to serve the Network Customer's Network Load or Retail Network Load, (2) solely as a result of a Bookout involving a Network Resource executed during the Working Day prior to commencement of service, and (3) uses the transmission path previously reserved for the booked out Network Resource pursuant to Section 29 and Section 37 of the Tariff to deliver power to the Network Customer's Network Load or Retail Network Load.

47. Second, APS proposes to add the term "Bookout" and define it as follows:

Transaction in which energy or capacity contractually committed bilaterally for delivery is not actually delivered due to some offsetting or countervailing trade.³⁶

48. APS also proposes to add the following language to section 30.4 (Operation of Network Resources):

Power from a Substitute Designated Network Resource may be transmitted over network transmission capacity reserved under Section 29 for the booked out Network Resource, provided that the Network Customer must document the Substitute Designated Network Resource on its electronic tag submitted to APS. APS reserves the right to audit a Network

³⁶ APS states that the proposed definition of "Bookout" reflects the definition of Booked Out Power adopted by the Commission in Order No. 2001-E.

Customer's compliance with this requirement. A Network Customer need not undesignate a Network Resource before engaging in a Bookout involving that Network Resource.

49. According to APS, these revisions permit network customers to continue to take advantage of the administrative efficiencies associated with bookouts. In addition, APS states that although power from a resource that is not otherwise designated as a network resource will flow over transmission capacity reserved for primary network service, to third parties, transmission availability is no different than it would have been if there had been no bookout. Thus, APS argues, these tariff revisions are both consistent with the Commission's policy goals and consistent with or superior to the provisions of the *pro forma* OATT.

b. Commission Determination

50. The Commission accepts the proposed tariff revisions as consistent with the Order No. 890 *pro forma* OATT. We find that the practice of booking out transactions, as described in APS' filing, to be consistent with the Order No. 890 *pro forma* OATT provided that the transactions involved in the bookout process have been properly designated, reserved and scheduled, as required under the *pro forma* OATT. The financial settlement of some transactions via APS' bookout procedure is a separate matter from whether or not all required procedures for arranging such transactions were properly followed in the first place prior to the bookout. Further, we find that as long as appropriate documentation is maintained to verify that proper OATT procedures have been followed (such as APS' proposal to require customers to indicate on their electronic tag that a substitute designated network resource is being used as a result of a booked out transaction), OATT modifications to facilitate bookouts appear to be unnecessary. However, we nonetheless accept APS' proposed revisions to its OATT to grant APS' request to formalize in its tariff how it will document and process bookouts.

8. Incorporating Network Resource Characteristics by Reference

a. APS' Filing

51. APS proposes to amend section 30.3 (Termination of Network Resources) of the *pro forma* OATT to permit a network customer making a temporary undesignation to incorporate by reference the original information and data used to designate the network resource when redesignating a network resource. According to APS, this revision is consistent with or superior to the provisions of the *pro forma* OATT because it streamlines the administrative process of designating and undesignating resources, while continuing to ensure that all necessary information related to a transaction is provided and available consistent with the requirements of its OATT.

b. Commission Determination

52. Consistent with the Commission's determination in the *Puget Sound Order*, we will allow APS to incorporate by reference unchanged information when re-designating a network resource following a temporary termination.³⁷ We find, however, that APS' proposed revisions do not clearly specify that only unchanged information may be incorporated by reference. Accordingly, we direct APS to submit a compliance filing, within 30 days of the date of this order, modifying its proposed tariff language to indicate that only unchanged information may be incorporated by reference.

9. E-mail Communications

a. APS' Filing

53. APS states that section 29.2 (Application Procedures) of the *pro forma* OATT permits parties to submit information and requests for service *via* telefax or phone. APS proposes to amend sections 29.2 (Application Procedures) and 37.2 (Application Procedures)³⁸ to allow the submission of applications and other information related to designations and undesignations by e-mail.³⁹ APS states that in the event e-mail is temporarily unavailable, it will post a notice of such unavailability on OASIS and parties may then submit information by telefax. According to APS, the use of e-mail allows it to more efficiently process, organize, record, and respond to parties' requests and submissions than telephone or telefax modes of communication. Thus, APS argues the use of e-mail is important to streamline the process of gathering and posting information, and is therefore consistent with or superior to the *pro forma* OATT.

b. Protest and Answer

54. Powerex states that APS' proposed revisions to sections 17.1, 29.2, and 37.2 of its OATT to include the use of e-mail communications inhibits the transparency of APS' transmission service request process and appears to allow APS to grant and receive transmission service requests outside of OASIS. Powerex states that certain provisions of the revisions APS seeks to make create uncertainty and should be revised. In addition, Powerex argues that section 17.1 of APS' OATT appears to include tariff language

³⁷ See *Puget Sound Order*, 120 FERC ¶ 61,232, at P 8.

³⁸ Section 37.2 addresses retail network transmission service.

³⁹ APS states that it also proposes a similar change to section 17.1 (Application Procedures for Arranging Firm Point-To-Point Transmission Service) of its OATT.

reflecting a prior (*i.e.*, pre-Order No. 890) deviation that APS failed to seek to maintain in an FPA section 205 filing.⁴⁰

55. In reply, APS states that Powerex is incorrect in its assertion that APS was required to include changes to section 17.1 of its OATT in its April 15, 2007 filing. APS states that, as required under Order No. 890, it submitted a filing on April 15, 2007 under section 205 to retain prior revisions to its OATT that were affected by the reforms under Order No. 890. APS argues that because section 17.1 of its OATT was not substantially affected by the revisions in Order No. 890, APS was not required to include section 17.1 in its April 15, 2007 filing. In addition, APS argues that its revisions are intended to provide transmission customers with faster and easier options for requesting and changing transmission service by updating the OATT to provide for the use of e-mail instead of fax when making submissions of certain applications for transmission service. APS states that this change is particularly important in the context of certain network service requirements under Part III and Part IV of its OATT that currently are not handled over OASIS, such as designation and undesignation of network resources.

c. Commission Determination

56. As an initial matter, we agree with APS that it was not required to include section 17.1 of its OATT in its April 15, 2007 filing to retain previously approved variations from Order No. 888 because section 17.1 was not substantively affected by the reforms adopted in Order No. 890. However, we reject APS' proposed revisions to sections 17.1, 29.2, and 37.2 on the basis that the proposed tariff language is unclear and has not been justified.

57. We are not opposed to APS' proposal to use e-mail as an alternative to telefax, which is allowed by the *pro forma* OATT; however, we agree with Powerex that APS' proposed tariff language is unclear and reduces the clarity and transparency provided by the *pro forma* provision. For example, section 17.1 of the *pro forma* OATT provides as follows: "A request for Firm Point-To-Point Transmission Service for periods of one year or longer must contain a written Application.... All Firm Point-To-Point Transmission Service requests should be submitted by entering the information below on the Transmission Provider's OASIS."⁴¹ APS' proposed revision provides that "Unless otherwise required to be submitted on OASIS, an Eligible Customer requesting Firm Point-To-Point Transmission Service for periods of one year or longer must submit a

⁴⁰ APS submitted an FPA section 205 filing to retain previously-approved variations from the Order No. 888 *pro forma* OATT on April 16, 2007.

⁴¹ Order No. 890 *pro forma* OATT, section 17.1.

written Application....”⁴² APS’ proposed addition may cause confusion because it could be interpreted to imply that submission *via* OASIS is optional and may not be required. However, the Commission requires that all requests by customers for transmission service that the transmission provider offers under the *pro forma* OATT must be made on the OASIS.⁴³ Similar revisions were proposed for sections 29.2 and 37.2. APS has not provided any support to justify the need for its revisions. Accordingly, we reject the proposed revisions to sections 17.1, 29.2, and 37.2, without prejudice to resubmission.⁴⁴

10. Imposition of Generator Imbalance Charges on Interconnection Customers and Unreserved Use Penalties on Network Customers

a. APS’ Filing

58. APS states that although it is revising Schedule 10 (Generator Imbalance) to implement the generator imbalance charges adopted under Order No. 890, it is concerned that it lacks a contractual basis for imposing generator imbalance charges on its generator interconnection customers. APS states that its generator interconnection procedures and agreements do not contain an imbalance charge provision and that absent such a provision in agreements with each generator interconnection customer, generator interconnection customers may argue that there is no contractual basis for APS to levy such charges on them.

59. To ensure that generator interconnection customers remain responsible for the generator imbalance charges provided for under Order No. 890, APS proposes to amend its OATT to add a new section 12.A (Generator Imbalances), which provides as follows: “[an] Interconnection Customer must pay generator imbalance charges in accordance with Schedule 10 of the APS Tariff.” APS states that, by placing this provision in its OATT, which is incorporated by reference into each generator interconnection agreement, there will be a contractual nexus between the generator imbalance requirements and the interconnection customer. In addition, APS states that absent the proposed tariff revision, it would have to include an imbalance charge provision in each interconnection agreement and that it may have to submit to the Commission each revised generator interconnection agreement as a non-conforming agreement. APS concludes that because this amendment facilitates the administration of generator imbalance charges, it is consistent with or superior to the *pro forma* OATT.

⁴² See Arizona Public Service Company, FERC Electric Tariff, Fourteenth Revised Volume No. 2, First Revised Sheet No. 40.

⁴³ Order No. 890 *pro forma* OATT, section 37.6(e).

⁴⁴ The revisions to these three sections use similar language.

60. In addition, APS states that Order No. 890 requires that network customers are charged for unreserved uses of a transmission provider's system, but provides no changes to the *pro forma* OATT to implement that requirement. APS states that in response to that requirement, it plans to calculate unreserved use penalties for network customers using the rate for firm point-to-point service in its OATT, based on the penalty provisions in section 7 of its OATT (Overrun of Reserved Transmission Capacity). APS states that the current language contained in section 7 of its OATT focuses on firm point-to-point service and permits it to impose unreserved use penalties only on firm point-to-point service customers that use the APS transmission system in a manner that is inconsistent with their reservations. According to APS, although it would like to use the same penalties for network customers as those imposed on firm point-to-point customers, it is concerned that network customers might argue that the current language of section 7 does not clearly permit APS to impose those penalties on them. To clarify that network customers as well as point-to-point customers are subject to the unreserved use penalties under section 7, APS proposes to revise section 7 to provide that network customers are responsible for the same penalties as point-to-point customers if they engage in unreserved uses of the APS transmission system. Specifically, APS proposes to add new sections 34.6 (Network Integration Transmission Service, Unreserved Uses) and 42.3 (Retail Network Integration Transmission Service, Unreserved Uses), which will provide as follows:

A Network Customer that engages in an unreserved use of the Transmission System will be charged for that unreserved use based on the rate for Firm Point-to-Point Transmission Service, and in accordance with the requirements of Schedule 7, Section 7 (entitled Overrun of Reserved Transmission Capacity) of the Tariff.

61. APS states that this provision is consistent with or superior to the *pro forma* OATT because it will facilitate the administration of unreserved use penalties with respect to network customers.

b. Commission Determination

62. Finding that imbalance charges should provide appropriate incentives to keep schedules accurate without being excessive, the Commission formalized generator imbalance provisions in the Order No. 890 *pro forma* OATT.⁴⁵ We find that APS' proposed section 12.A, which specifies that an interconnection customer must pay generator imbalance charges in accordance with Schedule 10 of the APS OATT, should allow APS to effectuate the Commission's directives in Order No. 890 by ensuring that its generator interconnection customers are fully informed about the charges for which

⁴⁵ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 72, 667.

they will be responsible if they experience imbalances. Accordingly, we find APS' proposed section 12.A to be consistent with the *pro forma* OATT and will accept it.

63. In addition, in Order No. 890 we 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.⁴⁶ With regard to the applicability of unreserved use charges to network service customers, section 13.4 of the *pro forma* OATT provides that the customer using the unreserved service shall be deemed to have executed a service agreement to govern that service. This means that all unreserved uses of the transmission provider's system are to be considered uses of firm point-to-point transmission service, even if the customer is taking network service or non-firm point-to-point service for the reserved portion of its service. Accordingly, the modifications APS proposes to sections 34.6 and 42.3 of its OATT appear to be unnecessary. However, we nonetheless accept APS' proposed revisions to clarify that network customers as well as point-to-point customers are subject to the unreserved use penalties.

11. Generator Imbalance Pricing

a. APS' Filing

64. APS states that on April 15, 2007, it submitted a filing in Docket No. OA07-19-000 to retain its pre-Order No. 890 pricing methodology for energy imbalances and to apply that methodology to generator imbalances. According to APS, it uses a weighted average of prices published in the day-ahead Dow Jones Electricity Price Index for Four Corners, Palo Verde, and Mead to calculate imbalance charges, rather than the incremental cost methodology specified in both Order Nos. 888 and 890. APS states that because energy and generator imbalances must use the same pricing mechanism, it has included its proposed index pricing methodology for generator imbalances in the instant proceeding in case the Commission determines that it is unable to approve the adoption of the index pricing methodology for generator imbalances in Docket No. OA07-19-000. According to APS, for the reasons set forth in its April 15, 2007 filing, these changes are consistent with or superior to the terms of the *pro forma* OATT.⁴⁷

⁴⁶ *See id.* at P 834, 848.

⁴⁷ In the April 15, 2007 filing, APS stated that the use of market prices, rather than the transmission provider's incremental costs, provides better market transparency for the pricing of both generator and energy imbalances.

b. Commission Determination

65. In Order No. 890, the Commission determined that subjecting both energy and generator imbalances to the same charges is appropriate.⁴⁸ We previously accepted APS' proposal to price energy imbalances at index prices.⁴⁹ Therefore, we find that this proposed revision is consistent with Order No. 890.

12. Technical Corrections

a. APS' Filing

66. APS states that, in its section 206 filing made in compliance with Order No. 890, it used the Order No. 890 language verbatim in its OATT. According to APS, in two instances, the use of the verbatim language from the *pro forma* OATT resulted in incorrect cross-references. Accordingly, APS has submitted revisions correcting those cross-references.

b. Commission Determination

67. We find that these revisions are consistent with Order No. 890.

The Commission orders:

(A) APS' filing is hereby accepted in part and rejected in part, effective July 13, 2007, as discussed in the body of this order.

(B) APS is hereby directed to submit a compliance filing, 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.

⁴⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 668.

⁴⁹ See *Arizona Public Service Co.*, 120 FERC ¶ 61,038 (2007).