

125 FERC ¶ 61,026
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 10, 2008

In Reply Refer To:
Sierra Pacific Resources Operating
Companies
Docket No. ER08-1384-000

Sierra Pacific Resources
6100 Neil Road
P. O. Box 10100
Reno, NV 89520-0024

Attention: Connie L. Westadt, Esquire
Assistant General Counsel

Reference: Section 205 Filing Proposing Order No. 890 OATT Variations

Dear Ms. Westadt:

1. On August 12, 2008, Sierra Pacific Power Company (Sierra) and Nevada Power Company (Nevada) (collectively, Nevada Companies) submitted for filing under section 205 of the Federal Power Act (FPA)¹ amendments to revise certain provisions of Sierra Pacific Resources Operating Companies (Sierra Pacific Resources) Open Access Transmission Tariff (OATT) that vary from the *pro forma* OATT as modified in Order No. 890.² The Nevada Companies request that their amendments become effective on October 10, 2008. The Commission accepts the Nevada Companies' filing effective October 10, 2008, as requested.

¹ 16 U.S.C. § 824d (2006).

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 on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

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 (ATC), 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 (ISOs) or regional transmission organizations (RTOs), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from the date of 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. In addition, after submission of their FPA section 206 compliance filings, non-ISO/RTO transmission providers may submit optional 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.⁴

5. In its section 205 filing, the Nevada Companies propose the following non-rate terms and conditions that differ from the *pro forma* OATT: deleting from section 29.2 the requirement for the identification of control area(s) for off-system network resources; revising section 30.3 to incorporate definitions for “Substitute Designated Network Resource” and “Bookouts” and to incorporate by reference unchanged information when redesignating a network resource following a termination; adding additional language to section 30.4 to reflect the documentation of the substitute designated network resources on its electronic tag and clarifying that the network customer need not undesignate a network resource before engaging in a bookout involving a network resource; proposing a new schedule 11 (governing regulation and frequency charges for generators selling

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

outside their control area) and additional language to schedule 3 that provides that the transmission provider may charge a transmission customer under either schedule 3 or schedule 11, but not under both schedules, for the total regulation burden imposed by the transmission customer; and revising section 2.2 (rollover rights).

6. Notice of the Nevada Companies' filing was published in the *Federal Register*, 73 Fed. Reg. 50,606 (2008) on August 27, 2008, with interventions, comments and protests due by September 2, 2008. Barrick Goldstrike Mines Inc., Barrick Turquoise Ridge Inc., as operator of Turquoise Ridge Joint Venture, and Barrick Cortez Inc., as operator of Cortez Joint Venture filed a timely motion to intervene and comments supporting the Nevada Companies' filing. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

7. The Commission finds the proposed variations from the Order No. 890 *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 ambiguous terms and conditions of Sierra Pacific Resources' OATT and conform Sierra Pacific Resources' OATT to industry standards, particularly in the Western Interconnection.

8. First, the Nevada Companies propose to delete from section 29.2 the requirement for the identification of control area(s) from which power will originate for off-system network resources—the Nevada Companies state that this requirement is unnecessary. The Nevada Companies explain that a requirement in section 29.2 for the transmission customer to specify delivery points is sufficiently specific to allow the Nevada Companies to evaluate that transaction for its effect on the available transmission capacity (ATC) of the transmission provider's transmission system. Consistent with our determination in *Puget Sound Energy, Inc.*,⁵ we will accept the Nevada Companies' proposed deletion from section 29.2 of the requirement for the identification of control areas from which power will originate for off-system network resources as unnecessary for its ATC calculation at this time.

9. With respect to the Nevada Companies' proposal to revise section 30.3 to define "Substitute Designated Network Resource" and "Bookout" and to incorporate by reference unchanged information when designating a temporary termination, and to add additional language to section 30.4 to reflect the documentation of the substitute designated network resource on its electronic tag and to clarify that the network customer

⁵ 120 FERC ¶ 61,232 (2007).

need not undesignate a network resource before engaging in a bookout involving a network resource, the Commission accepts the proposed tariff revisions as consistent with the Order No. 890 *pro forma* OATT. Consistent with our determination in *Arizona Public Service Company*,⁶ we find that the practice of booking out transactions, as described in the Nevada Companies' filing, is 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. In addition, the financial settlement of some transactions via a bookout procedure is a separate matter from whether or not all required procedures for arranging such transactions were properly followed 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 requiring the network customer to indicate on its electronic tag that a substituted 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 the Nevada Companies' proposed revisions to their OATT to grant the Nevada Companies' request to formalize in their tariffs how they will document and process bookouts.

10. Regarding their proposal to add a new schedule 11 ("Regulation and Frequency Charges for Generators Selling Out of Control Area") and to add additional language to schedule 3, the Nevada Companies state that when a generator sells outside the transmission provider's control area, the transmission provider schedules a specific amount of energy out of its control area; therefore, on-line generation with automatic control equipment and other non-generation resources capable of providing this service follow the moment-by-moment changes imposed by the generator, just as if it were load within the control area. To address the concern of double recovery under schedules 3 and 11, the Nevada Companies state that they have added language to schedules 3 and 11 providing that the transmission provider may charge a transmission customer under either schedule 3 or schedule 11, but not under both schedules, for the total regulation burden imposed by loads. The Commission finds that the Nevada Companies' proposed new schedule 11 and revisions to their schedule 3 are consistent with or superior to the revised *pro forma* OATT. Order No. 890 allows transmission providers the ability to propose separate regulation charges for generation resources selling out of the control area and to consider such proposals on a case-by-case basis.⁷ Therefore, we will accept the Nevada Companies' proposed new schedule 11 and their revisions to schedule 3.

⁶ 121 FERC ¶ 61,246 (2007).

⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 690.

11. With regard to the Nevada Companies' proposal to revise section 2.2 to conform to the language in Order No. 890, the Commission finds that the revisions are consistent with or superior to the *pro forma OATT*. Order No. 890-B states that a transmission provider may file revised section 2.2 rollover language at any point after the Commission has accepted the transmission provider's Attachment K compliance filing, even if such acceptance is subject to further compliance obligations, unless otherwise provided by the Commission in the order addressing the Attachment K compliance filing.⁸ Order No. 890-B also states that the effective date of that revised section 2.2 language should be commensurate with the date of the filing containing the revised language.⁹ On July 17, 2008, in Docket No. OA08-38-000, the Commission issued an Order on Compliance accepting the Nevada Companies' Attachment K compliance filing, subject to further compliance filings.¹⁰ Therefore, the Commission accepts the Nevada Companies' amended section 2.2, which conforms to language adopted by the Commission.

12. Accordingly, the Commission accepts the Nevada Companies' filing and waives the 60-day notice requirement so as to allow it to become effective October 10, 2008, as requested.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ Order No. 890-B, 123 FERC ¶ 61,299 at P 154.

⁹ *Id.*

¹⁰ *El Paso Electric Company, et al.*, 124 FERC ¶ 61,051 (2008).