

129 FERC ¶ 61,116  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

NorthWestern Corporation

Docket No. ER09-1314-000

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued November 10, 2009)

1. On June 16, 2009, NorthWestern Corporation (NorthWestern) filed an amendment to its Montana Open Access Transmission Tariff (Tariff)<sup>1</sup> to add Schedule 10, Regulation and Frequency Response Service for Intermittent Renewable Generator Exports. On September 11, 2009, NorthWestern filed supplemental information in response to a Commission letter dated August 13, 2009, informing NorthWestern that its filing was deficient. In this order, the Commission rejects proposed Schedule 10, without prejudice, as discussed below.

**I. Background**

2. NorthWestern operates a balancing authority area (formerly known as a control area) in Montana. Within its balancing authority area, NorthWestern states that it must maintain minimum regulating reserves sufficient to provide an adequate margin to allow NorthWestern to match electrical loads with generation on a moment-to-moment basis to meet operating criteria and provide reliable service in accordance with mandatory North American Electric Reliability Corporation (NERC) and Western Electric Coordinating

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<sup>1</sup> NorthWestern owns and operates transmission facilities located in Montana and South Dakota under separate Tariffs. This filing concerns NorthWestern's Montana transmission facilities and the proposed amendment applies only to NorthWestern's Montana Tariff.

Council (WECC) reliability requirements.<sup>2</sup> NorthWestern explains that these reliability standards require NorthWestern to balance generation output with load within its balancing authority over 10-minute intervals under Control Performance Standard 2, or CPS 2. To meet the CPS 2 criteria, NorthWestern states that a balancing authority must remain in balance during at least 90 percent of the 10-minute intervals in each month.<sup>3</sup> NorthWestern states that meeting these criteria requires capacity that is immediately responsive to Automatic Generation Control (AGC). Failure to meet NERC and WECC requirements can result in fines or other sanctions.

3. NorthWestern states that it does not own or operate generation facilities to supply ancillary services, such as regulation service; instead, it relies on contracts with third parties for the capacity and energy needed to meet its balancing authority obligations.<sup>4</sup> NorthWestern further states that although it has recently been authorized by the Montana Public Service Commission to build and operate a new natural-gas fired generator in its balancing authority area, the facility has been sized and designed to meet the regulation service needs of transmission used to serve load located within NorthWestern's balancing authority area.

4. NorthWestern explains that to the extent transmission is used to serve load located within NorthWestern's balancing authority area, NorthWestern recovers the cost of contracts to supply regulation services from transmission customers under Schedule 3, Regulation and Frequency Response Service, of its Tariff. NorthWestern further states that Schedule 3 of its Tariff was recently modified to state that NorthWestern is not obligated to provide service under that schedule when the transmission is used to serve load located outside its control area.<sup>5</sup> According to NorthWestern, there is no mechanism

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<sup>2</sup> NorthWestern Corp., Transmittal Letter at 4-5 (citing NERC Standards BAL-005-1, Automatic Generation Control, and WECC Standards BAL-STD-002-0, Operating Reserves).

<sup>3</sup> NERC Standards BAL-001-0a, Real Power Balance Control Performance.

<sup>4</sup> NorthWestern has historically purchased generating capacity from utilities in its region that are able to dynamically schedule generation into the NorthWestern balancing authority area and are capable of following the moment-to-moment fluctuations between generation output and load on the NorthWestern system to ensure that the transmission system continuously remains in balance. NorthWestern Corp., Attachment B at 5 (Michael R. Cashell Affidavit) (Cashell Aff.).

<sup>5</sup> See *NorthWestern Corp.*, 125 FERC ¶ 61,066 (2008) (accepting, among other things, revisions to Schedule 3 of NorthWestern's Tariff as part of an uncontested settlement). Accordingly, Schedule 3 of NorthWestern's Tariff currently states: "The Transmission Provider must offer [Regulation and Frequency Response] service when the  
(continued...)"

under its Tariff to recover the cost of providing regulation service for exports. NorthWestern therefore contends that there is a gap between its responsibility to provide regulation service to satisfy reliability requirements, and its ability to recover the costs of doing so under its Tariff. NorthWestern states that because customers who export energy are not required to purchase regulation service from NorthWestern or demonstrate that they have some mechanism in place to manage moment-to-moment imbalances,<sup>6</sup> NorthWestern's system absorbs both the regulation service burden and the associated costs, thereby subsidizing export transactions.<sup>7</sup>

5. NorthWestern states that the regulation service burden on NorthWestern for intermittent renewable generators that export energy off-system is likely to grow significantly as more intermittent generation comes on line. NorthWestern asserts that the burden of providing regulation service for intermittent renewable generators is substantially greater than the burden associated with controllable fossil-fueled or hydroelectric generation. NorthWestern points to large numbers of intermittent wind generators seeking to interconnect to the NorthWestern system,<sup>8</sup> arguing that under its current Tariff, NorthWestern's native load and/or shareholders would be forced to subsidize the regulation service needs of these exporting generators.

## **II. Proposal**

6. NorthWestern proposes to amend its Tariff to require intermittent renewable generators to make arrangements to provide their own regulation service consistent with NERC and WECC requirements. NorthWestern proposes to add Schedule 10 to its Tariff, which will require intermittent renewable generators that use transmission service

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transmission service is used to serve load within its Control Area. *The Transmission Provider is not obligated to provide this service when the transmission service is used to serve load located outside its control area.* The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Regulation and Frequency Response obligation" (emphasis added).

<sup>6</sup> NorthWestern states that since the issuance of Order No. 888, the Commission has not generically required transmission customers to purchase regulation service to support energy exports.

<sup>7</sup> Cashell Aff. at 11.

<sup>8</sup> NorthWestern states that it has 3,000 MW of generating capacity connected to its transmission system to serve a peak load of approximately 1,800 MW. *See* NorthWestern Corp., Transmittal Letter at 7.

on NorthWestern to export energy outside NorthWestern's balancing authority area to demonstrate to NorthWestern's satisfaction that they have successfully implemented one of three options, consistent with applicable reliability guidelines. Northwestern proposes that the intermittent renewable generator may (1) establish a NERC balancing authority area and operate independently of NorthWestern's balancing authority; (2) install the necessary metering and telecommunications facilities (and obtain the appropriate firm transmission service) to remove the generation from NorthWestern's balancing authority and telemeter such generation into another balancing authority area (dynamic scheduling); or (3) provide to NorthWestern the regulating reserves in an amount acceptable to NorthWestern, including firm transmission from and to the source of regulation on any third-party transmission system and NorthWestern's system.<sup>9</sup>

7. On September 11, 2009, NorthWestern filed an amendment to its application in response to a letter from the Commission seeking supplemental information about the options that would be offered under proposed Schedule 10. In its filing, NorthWestern describes the particular demonstrations that would be required of intermittent renewable generators in order to implement each option.

8. NorthWestern states that should an intermittent renewable generator(s) choose to establish its own balancing authority (option 1 above), the intermittent renewable generator must demonstrate that it has (1) a contract to procure sufficient capacity to permit NorthWestern to maintain compliance with CPS 2 requirements, (2) a firm transmission reservation to import energy associated with that capacity into the NorthWestern balancing authority area, (3) WECC certification as a balancing authority, (4) a coordinated operating agreement with NorthWestern, (5) tie-line metering, and (6) a 24-hour operating center.

9. If an intermittent renewable generator elects to dynamically schedule its generation to another balancing authority (option 2 above), the intermittent renewable generator would be required to demonstrate that it has an agreement in place to dynamically schedule the generator's output to that balancing authority and a firm transmission path between the sending and receiving balancing authority with capacity equal to or greater than the maximum value of the dynamic schedule.<sup>10</sup>

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<sup>9</sup> The resource provided under this option must be capable of changing its output either up or down in response to a signal from NorthWestern's automatic generation control system.

<sup>10</sup> NorthWestern would also require a communications channel from NorthWestern to the other balancing authority to send the dynamic signals.

10. If the intermittent renewable generator elects the self-provision option (option 3 above), the intermittent renewable generator must solicit regulation service capacity from a supplier in the market and arrange sufficient firm transmission capacity to deliver associated energy in a timely manner.<sup>11</sup> NorthWestern anticipates that it would require such capacity to have a 30 MW per minute response rate, i.e., the rate at which the resource is able to increase or decrease its output. NorthWestern argues that this response rate is a reasonable minimum criterion and represents a typical minimum response rate for regulation service capacity on its system.<sup>12</sup>

11. NorthWestern states that proposed Schedule 10 would apply to all intermittent renewable generators located within NorthWestern's balancing authority area for any period, for any portion of the intermittent renewable generator that does not serve load within NorthWestern's balancing authority area, and/or for any portion of an intermittent renewable generator's output that is exported out of NorthWestern's balancing authority area. NorthWestern states that it is reasonable to place the cost and burden of the regulation requirements on exporting intermittent renewable generators and their customers who will receive the benefits from these energy resources, consistent with cost causation principles. NorthWestern asserts that its proposal is consistent with or superior to the *pro forma* OATT.

### **III. Notice of Filings and Responsive Pleadings**

12. Notice of NorthWestern's June 16, 2009 filing was published in the *Federal Register*, 74 FR 32143 (2009), with interventions and protests due on or before July 7, 2009. PPL Energy Plus, LLC and PPL Montana (collectively, PPL Parties) and PacifiCorp filed timely motions to intervene. United Materials of Great Falls, Inc. (United)<sup>13</sup> and Sagebrush Energy (Sagebrush)<sup>14</sup> filed timely motions to intervene with comments. NorthWestern filed an answer.

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<sup>11</sup> NorthWestern Corp., Supplemental Filing at 5-6.

<sup>12</sup> NorthWestern also states that this response rate is consistent with its criteria for its Mill Creek generator currently under construction to provide regulation service to NorthWestern's on-system load. NorthWestern Corp., Supplemental Filing at 3.

<sup>13</sup> United owns and operates a 9 MW wind generating facility near Great Falls, Montana. At certain times of the year, United wheels its generation to load located outside NorthWestern's balancing authority area.

<sup>14</sup> Sagebrush is developing a 20 MW wind energy facility near Norris, Montana. It intends to deliver the facility's output to a purchaser located outside NorthWestern's balancing authority area.

13. Notice of NorthWestern's September 15, 2009 supplemental filing was published in the *Federal Register*, 74 FR 48259 (2009), with interventions and protests due on or before October 2, 2009. United and Sagebrush filed comments. NorthWestern filed an answer.

#### **IV. Discussion**

##### **A. Procedural Matters**

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by NorthWestern because they have provided information that assisted us in our decision-making process.

##### **B. Comments and Answer**

15. In its comments, United seeks clarification that its existing interconnection agreement with NorthWestern for its 9 MW wind facility is grandfathered from proposed Schedule 10 and that it is exempt from acquiring regulation service for its wind project pursuant to proposed Schedule 10. In response, NorthWestern argues that the parties' interconnection agreement does not obligate NorthWestern to provide any ancillary services to United, and therefore there is no ancillary service arrangement to be grandfathered. NorthWestern states that the generator interconnection agreement with United specifically states that, "[t]he execution of this GIA does not constitute a request for, nor the provision of, any transmission delivery service under the [NorthWestern] Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery." According to NorthWestern, United has been receiving regulation service from NorthWestern, and although NorthWestern has attempted to negotiate a separate arrangement for United to supply its own regulation service, United has refused to negotiate, thereby retaining a "free ride" for regulation service.

16. United and Sagebrush argue that options 1 and 2 under proposed Schedule 10 (operating as an independent balancing authority and dynamically scheduling out of NorthWestern's balancing authority) are unfeasible for small wind projects due to the costs and timing involved. With regard to option 3 (the self-supply option), United and Sagebrush contend that NorthWestern has failed to adequately describe how it will determine the amount of regulation service it will require of intermittent renewable generators, giving NorthWestern unfettered discretion to determine the level of regulation service it will require. NorthWestern disputes the contention that the first two options provided in proposed Schedule 10 would be prohibitively expensive. NorthWestern asserts that the telemetering option does not involve substantially more costs than are

already incurred. With respect to the third option, NorthWestern explains that it did not propose a specific amount of regulation service requirements because the amount of reserves may change over time. However, NorthWestern asserts that fundamentally, the amount of reserves required will be the amount required by NERC and WECC to meet the CPS requirements, which is an objective test. NorthWestern states that United's 9 MW facility is an example of the problem facing NorthWestern because the Montana Public Service Commission denied NorthWestern cost recovery of the portion of regulating reserves—approximately \$25,000 per month—for the nine months of the year when United makes no on-system sales. NorthWestern argues that it should not be required to continue this subsidy at the expense of its shareholders and/or native load customers.

17. United and Sagebrush also request that the Commission suspend the effectiveness of proposed Schedule 10 until NorthWestern specifically identifies and supports the required level of reserves under the self-supply option. They state that it would be premature to approve proposed Schedule 10 until an on-going collaborative process to address wind integration requirements between NorthWestern, wind developers, and other stakeholders is complete. Furthermore, United and Sagebrush assert that deferring the effective date of the proposal will not impair system reliability because NorthWestern has had passing CPS 2 scores during the time United's 9 MW wind facility has been in operation. They state that for new wind projects, the issue would be addressed in interconnection agreements.

18. Finally, United and Sagebrush argue that if the Commission accepts proposed Schedule 10, it should suspend it and make it subject to refund to protect customers in case NorthWestern requires more regulating reserves than prove to be necessary. In the alternative, if the Commission allows proposed Schedule 10 to become effective, United and Sagebrush argue that it should require NorthWestern to reimburse customers if they are required to purchase unnecessary regulation service. NorthWestern notes the ongoing collaborative process does not diminish its need for or support of proposed Schedule 10 as a means for managing the regulating burden imposed by exporting generators. Finally, NorthWestern objects to the refund requests and argues that the Commission must deny the request because NorthWestern is not proposing to charge any rate under proposed Schedule 10.

### **C. Commission Determination**

19. NorthWestern's proposed Schedule 10 raises the question of whether it is consistent with or superior to the *pro forma* Tariff for a transmission provider that operates as a balancing authority to require intermittent renewable generators that export energy to supply, or otherwise account for, their own regulation service, as a condition of transmission service. Considering this proposal in light of Commission policy and precedent, we find that NorthWestern has failed to show that Schedule 10 is consistent with or superior to the *pro forma* Tariff. We therefore reject NorthWestern's proposed

Schedule 10. Our rejection is without prejudice to NorthWestern filing a proposal to recover the specific costs it incurs in providing ancillary services to exporting generators, consistent with the discussion below.

20. In its filing, NorthWestern describes a “gap” between its obligations as a balancing authority and its opportunity to recover the costs associated with those obligations under its Tariff. NorthWestern asserts that its Tariff does not contain a mechanism that allows it to recover generator regulation service costs associated with transmission used to export energy from NorthWestern’s system, which NorthWestern must incur to meet reliability standards. Moreover, NorthWestern contends that its native load customers should not be required to subsidize the cost of providing generator regulation service to those generators that export energy from NorthWestern’s system. To the extent that NorthWestern is not currently recovering the costs of providing generator regulation service to exporting generators, we agree that a mechanism allowing it to recover those costs is appropriate;<sup>15</sup> the issue here, however, is whether NorthWestern’s proposed Schedule 10 treats the provision of generator regulating service in a manner that is consistent with or superior to the *pro forma* Tariff. For the reasons discussed below, we find that it does not.

21. NorthWestern argues that Schedule 3 (Regulation and Frequency Response Service) of its Tariff requires it to offer regulation and frequency response service only when transmission is used to serve on-system load, and therefore it may require intermittent renewable generators to provide for their own regulating reserves to support export transactions.<sup>16</sup> However, Schedule 3 does not address regulation service necessitated by fluctuations in *generator* output.<sup>17</sup> In this regard, we find that Schedule 3

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<sup>15</sup> See *infra* P 26-27; *Entergy Services Inc.*, 120 FERC ¶ 61,042, at P 66 (2007) (*Entergy*) (accepting a transmission provider’s proposal to incorporate in its generator imbalance agreement separate generator regulation charges for generation resources selling out of the control area).

<sup>16</sup> See NorthWestern, FERC Electric Tariff, Schedule 3 (“The Transmission Provider must offer [Regulation and Frequency Response] service when the transmission service is used to serve load within its Control Area. *The Transmission Provider is not obligated to provide this service when the transmission service is used to serve load located outside its control area.*”) (emphasis added). The reference to “this service” refers specifically to the Regulation and Frequency Response Service provided for under NorthWestern’s Schedule 3, which applies to load and therefore does not apply to regulation service for generators exporting energy.

<sup>17</sup> See *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, (continued...)

does not support NorthWestern's contention that it may require intermittent renewable generators to provide or otherwise account for their own generator regulation service. NorthWestern's reliance on Schedule 3 of NorthWestern's Tariff, stating that NorthWestern is not obligated to provide Schedule 3 service to transmission used for off-system load, is misplaced.

22. Because NorthWestern's proposed Schedule 10 is intended to respond to variability in generation output, it is appropriate to evaluate whether NorthWestern's proposal is consistent with *pro forma* Schedule 9, Generator Imbalance Service, as both apply to fluctuations in generation. Schedule 9 provides for the actual energy required to resolve hourly imbalances caused by a generator. NorthWestern's proposed Schedule 10 is closely related to Schedule 9 insofar as it would provide the necessary capacity underlying the Schedule 9 energy service. For clarity, we will refer to the energy component covered under Schedule 9 as generator imbalance service and the capacity component covered under NorthWestern's proposed Schedule 10 as generator regulation service.

23. *Pro forma* Schedule 9 provides:

Generator imbalance service is provided when a difference occurs between the output of a generator located in the Transmission Providers' Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a single hour. The Transmission Provider *must offer* this service, to the extent it is physically feasible to do so from its resources or from resources available to it, when Transmission is used to deliver energy from a generator located within its Control area.<sup>18</sup>

Under the terms of Schedule 9, transmission providers must offer generator imbalance service, if feasible, when transmission is used to transmit energy from a generator within

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at 31,707-17 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,230 (1997), *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).

<sup>18</sup> *Pro forma* Tariff, Schedule 9 (emphasis added). NorthWestern has incorporated identical language into Schedule 9 of its Tariff. NorthWestern, FERC Electric Tariff, Seventh Revised Volume No. 5 (MT), Second Revised Sheet No. 83.

the transmission provider's balancing authority area.<sup>19</sup> The options set forth in NorthWestern's proposed Schedule 10 appear to eliminate the Schedule 9 must-offer obligation as it applies to intermittent renewable generators using transmission to export from NorthWestern's system because each option proposed under Schedule 10 requires the intermittent renewable generator to supply or otherwise account for its own regulation service.

24. Accordingly, we find that NorthWestern's obligation to offer generator imbalance (i.e., energy) service under Schedule 9 of the *pro forma* Tariff would be undermined by a requirement that intermittent renewable generators in NorthWestern's balancing authority supply or otherwise account for their own generator regulation (i.e., capacity) service. We therefore find that NorthWestern has failed to demonstrate that its proposed Schedule 10 is consistent with or superior to the transmission provider's obligation to offer generator imbalance service under Schedule 9 of the *pro forma* Tariff.

25. Our decision here is informed by a previous proceeding whereby the Commission accepted a transmission provider's request to explicitly provide and recover the costs for both generator imbalance service and generator regulation service.<sup>20</sup> In *Florida Power*, the Commission concluded that transmission providers are obligated to provide a

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<sup>19</sup> *Id.* In Order No. 890-A, the Commission explained that even where it is not physically feasible for a transmission provider to offer generation imbalance service from its own resources, "the transmission provider must attempt to procure alternatives to provide the service, taking appropriate steps to offer an option that customers can use to satisfy their obligation to acquire generator imbalance service as a condition of taking transmission service." *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, App. C, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261, at P 289-90 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009). We note that NorthWestern has been able to acquire regulating reserves from generation facilities in the region and that it is currently constructing a natural gas facility that will be capable of providing regulating reserves. NorthWestern Corp., Transmittal Letter at 3-6. NorthWestern does not argue or provide evidence that it is infeasible for it to offer generator imbalance service or the additional regulating reserves necessary to support the service.

<sup>20</sup> See *Florida Power Corp.*, 89 FERC ¶ 61,263, at 61,765 (1999) (*Florida Power*).

generator imbalance capacity service for export transactions.<sup>21</sup> While *Florida Power* is different from the situation presented here insofar as *Florida Power* addressed a proposal to offer generation regulation service, as opposed to the instant proposal that would specifically decline to offer that service, it supports a finding that NorthWestern may not require intermittent renewable generators to provide or otherwise account for their own generator regulation service without also offering this generator regulation service itself.

26. This rejection, however, is without prejudice to NorthWestern making a revised filing in accordance with this order. We are mindful of NorthWestern's claim that under the current arrangement its native load customers might improperly bear the costs associated with providing regulation services to manage changes in output from intermittent generators that export power off of NorthWestern's system. We note that Order No. 890 explicitly sets forth a method for transmission providers to recover the generator regulation costs associated with meeting generator imbalances.<sup>22</sup> In Order No. 890, the Commission recognized that the generator imbalance service provided under Schedule 9 implicates a capacity, or demand component in addition to the energy component needed to meet actual hourly imbalances.<sup>23</sup> However, the Commission did not require that the associated capacity costs (i.e., the costs of holding additional regulation reserves) be included in the calculation of the incremental cost of generator imbalance service.<sup>24</sup> The Commission noted that to the extent a transmission provider seeks recovery of the costs of additional regulation reserves associated with providing generator imbalance service, it must do so via a separate filing demonstrating that such

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<sup>21</sup> *Id.* (“The Commission concludes that a generator imbalance capacity obligation is imposed on the transmission provider for export transactions, and therefore the Commission accepts Florida Power Corp’s Generator Regulation Service as a reasonable proposal in those circumstances where the service is not already covered in an interconnection agreement or a separate generator tariff.”).

<sup>22</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 689-90; *Entergy*, 120 FERC ¶ 61,042 at P 62-66.

<sup>23</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 690 (“If the transmission provider elects to have separate demand charges assigned to customers for the purpose of recovering the cost of holding additional reserves for meeting imbalances, the transmission provider should file a rate schedule and demonstrate that these charges do not allow for double recovery of such costs.”).

<sup>24</sup> *Id.* P 689 (finding that it is appropriate to exclude additional regulation costs because, as a general matter, much of these costs would be demand costs).

costs were incurred to correct a particular entity's imbalances.<sup>25</sup> In *Entergy*, the Commission accepted a proposal to recover separate generator regulation charges negotiated between the transmission provider and independent power producers on its system, finding the proposal consistent with or superior to the *pro forma* Tariff.<sup>26</sup>

27. Thus, the Commission has recognized the relationship between the energy service necessary to meet generator imbalances under Schedule 9 and the associated capacity costs that result from holding additional regulating reserves to meet those imbalances, and it has prescribed an appropriate method by which to recover such costs. Rather than proposing a generator regulation charge to recover the capacity costs of holding additional reserves necessary to meet generator imbalances, NorthWestern's proposal seeks to eliminate any obligation under its Tariff to offer such service in the first instance (at least with respect to intermittent renewable generators exporting energy out of NorthWestern's balancing authority area). Accordingly, we find that NorthWestern's proposal is neither consistent with nor superior to the *pro forma* Tariff. Our determination is without prejudice to NorthWestern proposing to remedy the cost allocation issues discussed in this proceeding, consistent with the guidance set forth above.

28. In addition, NorthWestern's proposed Schedule 10 would apply to all intermittent renewable generators exporting energy because, according to NorthWestern, the burden of providing regulation service for intermittent renewable generators is substantially greater than the burden associated with fossil-fueled or hydroelectric generation. We note that NorthWestern has not demonstrated that an obligation to account for generator regulation service under Schedule 10 should be applied to these resources only, rather than to all generators exporting energy from NorthWestern's balancing authority area. Therefore, any proposal to offer generator regulation service should be applicable to all generators exporting energy or NorthWestern must demonstrate why it is not unduly discriminatory to apply it only to intermittent generators.

29. Because of our determination to reject proposed Schedule 10 as neither consistent with nor superior to the *pro forma* Tariff, we do not reach the arguments raised by United and Sagebrush.

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<sup>25</sup> *Id.* P 689 n.401. In Order No. 890-A, the Commission reiterated that it would consider requests to assess generator regulation charges on a case-by-case basis upon consideration of the facts and circumstances presented. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 313.

<sup>26</sup> *Entergy*, 120 FERC ¶ 61,042 at P 66.

The Commission orders:

NorthWestern's proposed tariff sheets are rejected, without prejudice to NorthWestern filing a proposal to recover the costs it incurs in providing ancillary services to exporting generators, consistent with the discussion set forth herein.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.