

145 FERC ¶ 61,085  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

Public Service Company of New Mexico

Docket No. ER13-2294-000

ORDER ACCEPTING PROPOSED TARIFF REVISIONS

(Issued October 31, 2013)

1. On August 30, 2013, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Public Service Company of New Mexico (PNM) filed proposed revisions to its Open Access Transmission Tariff (OATT) to eliminate the provision of hourly Firm Point-to-Point Transmission Service (Hourly Firm PTP Service) and to eliminate language associated with the reservation of hourly Non-Firm Point-to-Point Transmission Service (Hourly Non-Firm PTP Service). As discussed below, we will accept the proposed revisions for filing, effective November 1, 2013, as requested.

**I. Background**

2. In April 2003, PNM voluntarily proposed to add the provision of “Hourly Delivery” to Schedule 7 of its OATT to facilitate PNM’s provision of Hourly Firm PTP Service. The Commission accepted PNM’s filing by unpublished letter order on May 6, 2003 in Docket No. ER03-711-000.

3. In July 2011, PNM voluntarily proposed to add language to section 18.3 of its OATT, providing that intra-hour reservations of Hourly Non-Firm PTP Service would be permitted if authorized by PNM’s business practices, and such reservations are made in accordance with the timeline contained in PNM’s business practices. The Commission accepted PNM’s filing on August 26, 2011 by unpublished letter order in Docket No. ER11-4102-000.

4. In the instant filing, PNM proposes to eliminate these hourly PTP services, specifically: (1) item 5 in OATT Schedule 7, which facilitates the provision of Hourly Firm PTP service; and (2) the last sentence of section 18.3, which permits intra-hour reservations of Hourly Non-Firm PTP Service if authorized by a PNM business practice.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

5. PNM asserts that the elimination of the language in section 18.3 regarding Hourly Non-Firm PTP Service is necessary since it is being superseded by Order No. 764,<sup>2</sup> which requires implementation of intra-hour scheduling at 15-minute intervals for transmission service.<sup>3</sup>

6. PNM further states that the elimination of Hourly Firm PTP Service is required “to prevent curtailment issues that may arise if PNM was to engage in Hourly Firm PTP Service transactions while implementing the 15-minute scheduling interval requirements set forth in Order No. 764.”<sup>4</sup> Specifically, PNM expresses concern that, should one transmission customer schedule non-firm service during one of the four 15-minute intervals permitted by Order No. 764 and another customer schedule Hourly Firm PTP Service during the same hour, PNM would be required to curtail the non-firm intra-hour service customer in favor of the Hourly Firm PTP Service customer. PNM contends that curtailment of non-firm intra-hour service by Hourly Firm PTP Service could undermine PNM’s compliance with Order No. 764.<sup>5</sup> In addition, PNM asserts that the elimination of Hourly Firm PTP Service will ease the burden on PNM’s Real-Time Operations personnel by reducing the number of possibly conflicting transmission service requests.<sup>6</sup>

7. PNM requests that the Commission accept the proposed revisions, effective November 1, 2013. PNM commits to modify its business practices to reflect the elimination of these services within 30 days of a Commission order.<sup>7</sup>

## **II. Notice, Interventions and Responsive Pleadings**

8. Notice of PNM’s filing was published in the *Federal Register*, 78 Fed. Reg. 55,248 (2013), with interventions and protests due on or before September 20, 2013. Powerex Corp. (Powerex) submitted a timely motion to intervene and comments. On

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<sup>2</sup> *Integration of Variable Energy Resources*, Order No. 764, 77 Fed. Reg. 41,482 (July 31, 2012), FERC Stats. & Regs. ¶ 31,331 (2012) (Order No. 764), *order on reh’g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012) (Order No. 764-A), *order on reh’g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

<sup>3</sup> August 30 Filing at 3.

<sup>4</sup> *Id.* PNM reports that it plans to submit its Order No. 764 compliance filing in early November 2013.

<sup>5</sup> *Id.* n.11.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

October 7, 2013, PNM submitted a motion for leave to answer and answer to Powerex's comments.

9. Powerex asserts that PNM's proposed elimination of Hourly Firm PTP Service is based on a misunderstanding of the requirements of Order No. 764, and that further discussions are warranted between PNM and its customers regarding the impacts of removing this service.<sup>8</sup> Specifically, Powerex contends that the Commission did not contemplate that sub-hourly scheduling would interfere with the provision of hourly firm transmission service or require the elimination of Hourly Firm PTP Service. In fact, Powerex points out that, in Order Nos. 764 and 764-A, the Commission expressly clarified that sub-hourly schedules for firm transmission service will have curtailment priority over schedules for non-firm transmission service.<sup>9</sup> In addition, Powerex notes that PNM's Hourly Firm PTP Service has been in place for over a decade and is routinely used by PNM customers.<sup>10</sup> Finally, Powerex contends that PNM's proposal to remove Hourly Firm PTP Service is "out of step" with other transmission providers in the West, such as Arizona Public Service Company and PacifiCorp, who currently offer Hourly Firm PTP Service and have not proposed to eliminate this service in their Order No. 764 compliance filings.<sup>11</sup> Accordingly, Powerex requests that PNM be directed to re-evaluate both the impact on its existing customers and the availability of alternatives to permit Hourly Firm PTP Service to be maintained.<sup>12</sup>

10. In response, PNM argues that it should be permitted to eliminate Hourly Firm PTP Service from its OATT, because this service is not required by the *pro forma* OATT.<sup>13</sup> PNM submits that it is not aware of any precedent requiring a transmission provider to continue to offer a service implemented on a voluntary basis.<sup>14</sup> In addition, PNM repeats its assertion that retaining Hourly Firm PTP Service could cause curtailment issues that would undermine Order No. 764.<sup>15</sup> Specifically, PNM reasons that the fact that Hourly

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<sup>8</sup> Powerex Comments at 4-5.

<sup>9</sup> *Id.* at 6 (citing Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 136; Order No. 764-A, 141 FERC ¶ 61,232 at P 23).

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 8.

<sup>13</sup> PNM Answer at 4-5.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 6-8.

Firm PTP Service—a voluntary service not contained in the *pro forma* OATT—would curtail intra-hour non-firm point-to-point transmission service—a mandatory service required by the *pro forma* OATT—undermines the objective of Order No. 764.<sup>16</sup> PNM asserts that the portions of Order Nos. 764 and 764-A cited by Powerex are specifically directed to questions regarding whether daily firm transmission service would take priority over intra-hour non-firm service, or whether non-firm hourly service would take priority over non-firm intra-hour service, and thus do not alleviate PNM’s concerns regarding the curtailment of a non-firm, mandatory transmission service by a firm, voluntary transmission service.<sup>17</sup> As PNM believes that the only issue to be decided in the instant proceeding is whether PNM is required to continue providing a service not required under the *pro forma* OATT, PNM requests that the Commission reject Powerex’s request to require PNM to discuss the removal of this service with, or assess its impact on, PNM customers.<sup>18</sup>

### III. Discussion

#### A. Procedural Matters

11. Pursuant to Rule 214 of the Commission’s Rules and Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motion of Powerex to intervene serves to make it a party to this proceeding. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PNM’s answer because it has provided information that assisted us in our decision-making process.

#### B. Determination

12. We find that PNM’s proposed OATT revisions are consistent with the *pro forma* OATT. Therefore, we will accept PNM’s proposed revisions to section 18.3 and Schedule 7 of its OATT, to become effective November 1, 2013, as discussed below.

13. Although we will accept PNM’s OATT revisions eliminating Hourly Firm PTP Service, we disagree with PNM’s contention that the Commission’s directives in Order No. 764 necessitate the cancellation of this service. Specifically, while in Order No. 764 the Commission required each public utility transmission provider to offer intra-hourly transmission scheduling at 15-minute intervals, the Commission did not expressly require

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<sup>16</sup> *Id.* at 6-7.

<sup>17</sup> *Id.* at 7-8.

<sup>18</sup> *Id.* at 8.

any changes to transmission service offerings or curtailment priorities to accommodate intra-hour schedules. In addition, the Commission indicated that it views the existence of compatible business practices within a region as beneficial to maintain system continuity.<sup>19</sup> Likewise, recognizing that other transmission providers in the region offer Hourly Firm PTP Service, consistency in transmission service offerings within a region is also beneficial.

14. Nevertheless, PNM is correct that the language it proposes to eliminate in Schedule 7 and section 18.3 of the PNM OATT is not contained in the *pro forma* OATT. Moreover, the Commission has expressly declined to make Hourly Firm PTP Service a mandatory service under the Commission's *pro forma* OATT, and has instead permitted transmission providers to propose to offer this service on a strictly voluntary basis.<sup>20</sup> Therefore, we find that PNM's proposed OATT revisions are consistent with the *pro forma* OATT.

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<sup>19</sup> Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 109 (“We understand that the existence of compatible business practices within a region is beneficial, and we encourage both jurisdictional and non-jurisdictional transmission providers to continue to coordinate and collaborate in order to maintain the continuity of the system and address issues as they arise.”).

<sup>20</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 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,303, *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) (“The Commission has rejected hourly firm point-to-point transmission service as a mandatory service to be provided under the Tariff... However, this does not mean that the Commission would not allow such services if voluntarily proposed by a transmission provider.”); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at PP 1212-1213, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (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), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (“The Commission therefore concludes that requiring hourly firm service is not needed to address undue discrimination, the goal of this rulemaking... To the extent they deem it appropriate, transmission providers will continue to have the option to propose offering hourly firm service in an FPA 205 filing with the Commission.”).

The Commission orders:

PNM's filing is hereby accepted, effective November 1, 2013, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.