147 FERC ¶ 61,267
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Peetz Logan Interconnect, LLC,	Docket Nos. ER14-1251-000
Sagebrush, a California Partnership,	ER14-1252-000
Sky River, LLC	ER14-1253-000

ORDER ACCEPTING COMPLIANCE FILINGS AND GRANTING WAIVER REQUESTS

(Issued June 30, 2014)

1. On February 3, 2014, Peetz Logan Interconnect, LLC (Peetz Logan), Sagebrush, a California Partnership (Sagebrush), and Sky River, LLC (Sky River) (collectively, NextEra Companies) filed a request for waiver of the intra-hour scheduling requirements of Order No. 764.[1] NextEra Companies also revised their Large Generator Interconnection Agreements (LGIAs) to comply with Order No. 764 and requested waiver to comply with Order No. 764 out-of-time.[2] As discussed below, we accept NextEra Companies' filing, effective April 4, 2014, as requested, and grant the requested waivers.

I. Background

2. On June 22, 2012, the Commission issued Order No. 764, which requires each public utility transmission provider to: (1) offer intra-hourly transmission scheduling at 15-minute intervals; and (2) incorporate provisions into the *pro forma* LGIA requiring interconnection customers whose generating facilities are variable energy resources

[1] *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, *order on reh'g and clarification*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on clarification and reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

[2] Contrary to the requirements of section 35.28(c)(1)(ii) of the Commission's regulations (18 C.F.R. § 35.28(c)(1)(ii)(2013)), NextEra Companies failed to make their Order No. 764 compliance filing in a timely manner. NextEra Companies are reminded that they must submit required filings on a timely basis or face possible sanctions by the Commission.

(VER)[3] to provide meteorological and forced outage data to the public utility transmission provider for the purpose of power production forecasting. The Commission also provided guidance regarding the development and evaluation of proposals related to recovering the costs of regulation reserves associated with VER integration.[4]

3. The reforms adopted in Order No. 764 were designed to remove barriers to the integration of VERs and to ensure that the rates, terms, and conditions for Commission-jurisdictional services provided by public utility transmission providers are just and reasonable and not unduly discriminatory or preferential.[5] Upon noting the increasing number of VERs being brought online, the Commission found that reforms were needed to ensure that transmission customers are not exposed to excessive or unduly discriminatory charges, and that public utility transmission providers have the information needed to efficiently manage reserve-related costs.

4. In Order No. 764, the Commission amended the *pro forma* OATT to provide all transmission customers the option of using more frequent transmission scheduling intervals within each operating hour, at 15-minute intervals.[6] The Commission found transmission customers' inability to adjust their transmission schedules within the hour to reflect changes in generation output can cause charges for Schedule 9 generator imbalance service to be unjust and unreasonable or unduly discriminatory. Thus, this reform was designed to allow transmission customers the flexibility to adjust their transmission schedules, in advance of real-time, to reflect the variability of output in generation, more accurate power production forecasts, and other changes in load profiles and system conditions.[7] It was also designed to allow public utility transmission providers, over time, to use fewer reserves to maintain overall system balance.[8] Finally, the Commission implemented this reform to ensure that charges for generator imbalance service under Schedule 9 of the *pro forma* OATT and for other ancillary services through

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[3] Order No. 764 defined a VER as a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

[4] Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 4.

[5] *Id.* P 1.

[6] *Id.* P 91.

[7] *Id.* P 92.

[8] *Id.* P 95.

which reserve-related costs are recovered are just and reasonable and are not unduly discriminatory.

5. The Commission also amended the *pro forma* LGIA to require new interconnection customers whose generating facilities are VERs to provide meteorological and forced outage data to the public utility transmission provider with which the customer is interconnected.[9] Such data would only be required where it is necessary for that public utility transmission provider to develop and deploy power production forecasting. This reform was designed to facilitate public utility transmission providers' use of power production forecasts, which the Commission found can provide public utility transmission providers with advanced knowledge of system conditions needed to manage the variability of VER generation through the unit commitment and dispatch process, rather than through the deployment of more costly reserve service, such as regulation reserves. In requiring this change to the *pro forma* LGIA, the Commission specified that reporting requirements for meteorological and forced outage data would be set forth in Appendix C, Interconnection details of an LGIA, as they may change from time to time.[10] The Commission declined to modify existing LGIAs or to require changes to the *pro forma* OATT,[11] upon finding that such changes would, in effect, impose the data reporting requirements on existing interconnection customers, including small generator interconnection customers, retroactively.[12]

II. <u>NextEra Companies' Filing</u>

6. On February 3, 2014, NextEra Companies' submitted their Order No. 764 compliance filing. NextEra Companies state that Peetz Logan, Sagebrush, and Sky River each own a single radial-tie line and do not provide scheduling services. NextEra Companies explain that as set forth in the *pro forma* OATT, scheduling service "can be provided only by the operator of the Control Area in which the transmission facilities used for the transmission service are located."[13] According to NextEra Companies, the Commission has previously granted them waivers from scheduling provisions in the

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[9] *Id.* P 3.

[10] *Id.* P 193.

[11] *Id.* P 195.

[12] *Id.* P 196.

[13] NextEra Companies' Transmittal at 5.

pro forma OATT, including sections 13.8 and 14.6[14] because they are not balancing authorities. Thus, NextEra Companies do not believe that the intra-hourly scheduling requirement in Order No. 764 is applicable to them.

7. NextEra Companies explain that while they are deemed to be public utility transmission providers, none of them develop or deploy power production forecasting. However, they recognize that the transmission providers to which their tie lines are interconnected may use such forecasts. In order to ensure that there is not a gap in information collection, each of the NextEra Companies proposes to amend its LGIA in a manner to reflect its unique circumstances, while adopting much of the *pro forma* language.[15] Specifically, under Article 8.4 in each of the three LGIAs the Interconnection Customer may need to provide the data and information required by Article 8.4 to the respective NextEra Companies entity and/or the specific entity that will use the data and information for power production forecasting.[16] NextEra Companies also adopted the *pro forma* definition of Variable Energy Resource in each of the three LGIAs.

8. Finally, NextEra Companies request that the Commission grant them a waiver to file their Order No. 764 compliance filings out-of-time, effective April 4, 2014. NextEra Companies state that their failure to submit these compliance filings by November 12, 2013, the deadline for complying with Order Nos. 764 and 764-A, was inadvertent and due to their unique circumstances. NextEra Companies explain that they each have Commission waivers related to the scheduling provisions in sections 13.8 and 14.6 of the *pro forma* OATT, and that none of them have reason to deploy power production forecasting because they do not perform scheduling services; consequently, NextEra Companies did not believe that Order No. 764's requirement to file OATT revisions was applicable to them. However, NextEra Companies state, after discussing this issue with Commission staff, they recognized that the requirement was directed to all public utility transmission providers. NextEra Companies state that, because no customers are harmed by the delay, good cause exists for granting the waiver.[17]

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[14] *Id.* at 5 & n.15 (citing s*ee, e.g.*, *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075, at P 49 (2011); Sky *River LLC*, 136 FERC ¶ 61,162, at P 44 (2011); *Sagebrush, a California Partnership*, 132 FERC ¶ 61,234 (2010)).

[15] *Id.* at 6-7.

[16] For example, the proposed revisions to the Peetz Logan LGIA indicates that the data and information may be requested by Peetz Logan, the tie line owner, and/ or Public Service Company of Colorado, the transmission provider. *Id.* at 7 (citing proposed section 8.4 of the Peetz Logan LGIA).

[17] *Id.* at 7-8.

9. Notice of NextEra Companies' filing was published in the *Federal Register*, 79 Fed. Reg. 8184 (2014) with interventions and comments due on or before February 24, 2014. None was filed.

III. Discussion

10. We grant NextEra Companies' request for waiver of Order No. 764's requirement to modify sections 13.8 and 14.6 of the OATT as directed by Order No. 764. The currently-effective provisions of NextEra Companies' OATTs indicate that all transmission customers must abide by the scheduling requirements of the control area operator, and that no separate scheduling requirements are established under NextEra Companies' OATTs. Because NextEra Companies do not perform the scheduling requirements under their OATTs, and those duties rest with the control area operator, we find that waiver of Order No. 764's requirement to modify sections 13.8 and 14.6 on intra-hour scheduling to be appropriate in this case.

11. We also find that NextEra Companies' revisions to their LGIAs comply with the forecasting and data reporting requirements set forth in Order No. 764. While NextEra Companies largely adopt the *pro forma* language in the LGIA regarding the data to be collected, we agree that the proposed revisions to the *pro forma* language specifying what entities may collect the data are appropriate given the characteristics of the NextEra Companies' facilities. Specifically, we find that because NextEra Companies' rely on third parties to provide transmission scheduling, it is necessary for the collection of meteorological or forced outage data to be shared by NextEra Companies and/or the specific entity that will use the data to implement power production forecasting.

12. Finally, we grant NextEra Companies' unopposed request for waiver to comply with Order No. 764 out-of-time.

The Commission orders:

(A) NextEra Companies' compliance filing is hereby accepted, effective April 4, 2014, as discussed in the body of this order.

(B) NextEra Companies' requests for waiver are hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.