

150 FERC ¶ 61,048
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

NorthWestern Corporation

Docket No. OA07-58-005

ORDER ACCEPTING COMPLIANCE FILING

(Issued January 26, 2015)

1. On September 14, 2009, NorthWestern Corporation¹ (NorthWestern) submitted revisions to its Montana Open Access Transmission Tariff (Montana OATT), as required by the Commission in its August 13 Order.² In this order, we will accept NorthWestern's filing.

I. Background

2. In Order No. 890,³ the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission

¹ NorthWestern owns and operates transmission facilities in Montana and South Dakota that are neither physically connected nor in the same North American Electric Reliability Corporation (NERC) region. NorthWestern maintains separate Open Access Transmission Tariffs (OATT) for its services in Montana and South Dakota. This proceeding addresses NorthWestern's Montana OATT services only.

² *NorthWestern Corporation*, 128 FERC ¶ 61,156 (2009) (August 13 Order), *order on reh'g*, 132 FERC ¶ 61,121 (2010).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

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.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that had not been approved as independent system operators (ISO) or regional transmission organizations (RTO) and whose transmission facilities were not under the control of an ISO or RTO were directed to submit, within 120 days of the publication of Order No. 890 in the *Federal Register* (i.e., by July 13, 2007), section 206 compliance filings that revised the non-rate terms and conditions of their OATTs to conform to those of the *pro forma* OATT, as reformed in Order No. 890.⁴

4. On July 13, 2007, NorthWestern submitted its compliance filing as required by Order No. 890. In the August 13 Order, the Commission accepted NorthWestern's compliance filing, as modified, to be effective July 13, 2007, and directed NorthWestern to revise its Attachment D to explain how it will process a request to cluster transmission requests for study and structure transmission customers' obligations when they have joined a cluster. The Commission specified that NorthWestern must (1) define what a "Queue Cluster Window" is; (2) identify procedures for how a customer can request a cluster study; (3) clearly lay out the cluster study procedures; and (4) include a cross-reference to Attachment D in section 19.3 of its Montana OATT so that customers reading section 19.3 of the Montana OATT will be fully aware of the availability of cluster study provisions.⁵

5. On September 14, 2009, NorthWestern submitted revisions to section 19.3 and Attachment D of its Montana OATT to comply with the Commission's directives in the August 13 Order. Specifically, NorthWestern's proposed Attachment D provides that for a cluster study to be formed (1) transmission service requests must be placed into study mode as described in sections 17.5 and 19 of the Montana OATT; (2) requests must have electrical or geographic study similarities; and (3) requests must be placed in the same

⁴ In a subsequent order, the Commission extended the original 60-day compliance deadline provided for in Order No. 890. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁵ August 13 Order, 128 FERC ¶ 61,156 at PP 17-20.

queue cluster window.⁶ NorthWestern's proposed Attachment D specifies that "electrical or geographic study similarities" means that the requests for transmission service meet at least one of the following: (1) the requests may result in similar system problems with similar or common mitigation requirements; or (2) it is reasonably determined by the transmission provider that the transmission service requests are geographically or electrically similar and can be feasibly and meaningfully studied as a group.

6. NorthWestern's proposed Attachment D also provides that, if the transmission provider determines that it will perform a cluster study, the requests for transmission service sponsors whose requests are being studied cannot opt out of the cluster study. Additionally, proposed Attachment D provides that, if, as a result of the clustered system impact study, it is determined that system upgrades are required to provide transmission service, the transmission provider may charge for transmission service the higher of the rate based on the cost of upgrades or the resultant revenue requirement with the upgrades included in the rate base.

7. Finally, NorthWestern's proposal includes revisions to section 19.3 of its Montana OATT to include a cross-reference to Attachment D.

II. Notice of Filing and Responsive Pleadings

8. Notice of NorthWestern's filing was published in the *Federal Register*, 74 Fed. Reg. 48,251 (2009), with interventions and protests due on or before October 5, 2009. PPL EnergyPlus, LLC and PPL Montana, LLC (collectively, PPL Companies) timely filed comments.

9. PPL Companies argue that NorthWestern's proposed revisions to Attachment D of its Montana OATT provide NorthWestern with too much discretion in determining when transmission service requests should be studied as a cluster. Specifically, PPL Companies contend that the decision to conduct a cluster study is solely within NorthWestern's discretion, as NorthWestern is not required to obtain transmission customer consent to include the customer's request in the cluster study and the

⁶ NorthWestern defines a "queue cluster window" to encompass a 90-day window beginning up to 60 days before and ending 30 days after the date the transmission provider posts an announcement on its Open Access Same-Time Information System (OASIS) website that a cluster study has been formed. Additionally, the queue cluster window may be longer than 90 days if there is a request (or requests) for transmission service with earlier queue date(s) and their system impact study has not commenced or they have agreed to defer the start date until a cluster study is formed.

transmission customer cannot opt out of the cluster study.⁷ PPL Companies further argue that the conditions identified by NorthWestern for formation of a cluster study are loosely defined to afford NorthWestern unreasonably broad discretion. PPL Companies request that the Commission require NorthWestern to revise Attachment D of its Montana OATT to require customer consent for inclusion of its transmission service request in a cluster study or allow transmission customers to opt out of a cluster study after NorthWestern determines that they should be included. In the alternative, PPL Companies request that the Commission require NorthWestern to rewrite Attachment D to include specific criteria that NorthWestern will use in determining whether a cluster study is reasonable.⁸

10. PPL Companies interpret NorthWestern's proposal that NorthWestern may charge for transmission service the higher of the rate based on the cost of the upgrades or the resultant revenue requirement with the upgrades included in its rate base as a restatement of the Commission's transmission pricing policy. PPL Companies state that while they do not object to NorthWestern's statement, PPL Companies assert that any change in NorthWestern's rates to collect either the incremental cost of the new facilities or an embedded cost that includes the upgrades requires Commission approval pursuant to section 205 of the Federal Power Act (FPA). Thus, PPL Companies request that the Commission direct NorthWestern to modify Attachment D to make clear that NorthWestern must make the appropriate filing with the Commission before it can begin to charge transmission customers for any of the costs of system upgrades required by the cluster study system impact study.⁹

11. Lastly, PPL Companies state that, in Order No. 890, the Commission highlighted that clustering allows the transmission provider to include the potential counterflows created by the clustered requests. PPL Companies contend that any cluster study conditions included in Attachment D should take into account the potential for counterflows created by the clustered requests. Thus, PPL Companies argue that NorthWestern should be required to revise the conditions for a cluster study listed in Attachment D to ensure that NorthWestern addresses any potential counterflows when determining whether formation of a cluster study is reasonable.¹⁰

⁷ PPL Companies Comments at 4.

⁸ *Id.* at 6.

⁹ *Id.* at 7.

¹⁰ *Id.* at 8.

III. Discussion

12. We find that NorthWestern's revisions to section 19.3 and Attachment D of its Montana OATT comply with the directives in the August 13 Order, as discussed below.

13. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies for transmission requests when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved request a cluster study and the transmission provider can reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.¹¹

14. In Order No. 890, the Commission gave transmission providers "discretion to determine whether a transmission customer can opt out of a cluster and request an individual study," because the transmission provider is in the best position to develop clustering procedures that prevent a customer from strategically participating in clusters to avoid costs for needed transmission system upgrades.¹² Furthermore, any customer can avoid being included in a transmission provider's cluster study by simply refusing to execute a System Impact Study Agreement or a Facilities Study Agreement. Therefore, we disagree with PPL Companies' assertions that NorthWestern (1) needs to revise its Attachment D to require customer consent and (2) needs to allow customers to opt out of a cluster study.

15. Additionally, we will not require NorthWestern to modify Attachment D to specify that NorthWestern will take into account counterflows created by clustered requests. In Order No. 890, the Commission gave each transmission provider discretion to develop the clustering procedures it will use, because the transmission provider is in the best position to determine the clustering procedures that it can accommodate.¹³ We find that NorthWestern's proposal adequately explains how it will process a request to cluster transmission requests for study, and how it will structure transmission customers'

¹¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1370-71.

¹² *Id.* P 1371.

¹³ *Id.*

obligations when they have joined a cluster, as the Commission directed in the August 13 Order, and we find that no further modifications to Attachment D are needed.

16. Finally, we will not require NorthWestern to modify its Attachment D to specify that it must make a filing pursuant to section 205 of the FPA if there is any change in NorthWestern's rates, as requested by PPL Companies. We find that modifying Attachment D is unnecessary, inasmuch as the Commission's regulations already require NorthWestern to make a section 205 filing to implement any rate changes or establish charges.

The Commission orders:

NorthWestern's compliance filing is hereby accepted, effective July 13, 2007, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.