

151 FERC ¶ 61,016
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.

WSPP Inc.

Docket No. ER15-1013-000

ORDER CONDITIONALLY ACCEPTING AMENDMENTS TO THE WSPP
AGREEMENT

(Issued April 10, 2015)

1. In this order, we conditionally accept WSPP Inc.'s (WSPP) proposed amendments to the WSPP Agreement, effective April 11, 2015, subject to a compliance filing due within 30 days of the date of this order.

I. Background

2. WSPP is a non-profit organization with approximately 250 electric utility members. WSPP administers the WSPP Agreement. WSPP states that the WSPP Agreement is used for bilateral bulk electric energy transactions extensively in the West and also in other regions. WSPP states that the Commission-approved terms and conditions contained in the WSPP Agreement facilitate energy transactions between WSPP members without the need for negotiations of separate, bilateral enabling agreements. WSPP states that WSPP members can enter into bilateral transactions by agreeing to transaction-specific price, quantity, delivery point, and schedule terms, in a transaction-specific confirmation.

3. The currently effective WSPP Agreement includes four service schedules: economy energy service (Service Schedule A); unit commitment service (Service Schedule B); the sale or exchange of firm energy and/or capacity (Service Schedule C); and renewable energy certificates standing alone without energy or bundled with energy (Service Schedule R).¹

¹ WSPP Agreement, Service Schedules A, B, C, and R, respectively.

4. On February 9, 2015, pursuant to section 205 of the Federal Power Act (FPA)² and the requirements of Order No. 784,³ WSPP submitted four amendments to the WSPP Agreement. One of these amendments involves the addition of two new service schedules. The remaining amendments relate to various administrative changes to the WSPP Agreement.

II. Proposed Amendments to WSPP Agreement

A. Proposed Service Schedules D and E

5. WSPP states that the proposed new service schedules provide for the sale and purchase of Operating Reserve-Spinning and Operating Reserve-Supplemental (Service Schedule D)⁴ and Energy Imbalance service and Generator Imbalance service (Service Schedule E).⁵ Transactions under both Service Schedules D and E are subject to the same rate caps utilized in the existing WSPP Service Schedules A, B, and C.⁶ Like the existing WSPP service schedules, proposed Service Schedules D and E also provide that jurisdictional sellers shall not be subject to the rate caps where the seller is authorized by

² 16 U.S.C. § 824d (2012).

³ *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 13, 54-55, 57-58 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

⁴ WSPP Application at 6.

⁵ *Id.* at 8.

⁶ As in the other WSPP Agreement service schedules, jurisdictional sellers wishing to sell under these rate caps must submit seller-specific cost justification to the Commission to support their use of these cost-based rate caps. Alternatively, these new service schedules permit jurisdictional sellers to file separate cost-justified rate schedules to be included in Schedule Q of the WSPP Agreement that would replace the rate caps for their transactions under these service schedules. *See* Service Schedule D § D-3.6.2 and Service Schedule E § E-3.5.2. Schedule Q was incorporated into the WSPP Agreement so that those WSPP members lacking market-based rate authority could make cost-based transactions under the terms and conditions of the WSPP Agreement.

the Commission to sell “power like that provided for under this service schedule at market-based rates.”⁷

6. Consistent with Order No. 784’s requirements related to justifying market-based rates for sales of operating reserves, WSPP asserts that the North American Energy Standards Board (NAESB) capacity e-Tag protocol for the Western Interconnection supports sales of Operating Reserve-Spinning and Operating Reserve-Supplemental in that region.⁸

7. WSPP states that the Commission placed a burden on potential sellers of operating reserves to explain in their market-based rate applications how the particular transmission scheduling practices in their regions support the use of operating reserves.⁹ WSPP further states that in Order No. 784-A, the Commission stated that it would allow potential sellers to use the existing market power screens applicable to sales of energy and capacity to also demonstrate a lack of market power for sales of operating reserves if transmission scheduling practices support the delivery of operating reserve resources from one balancing authority area to another.¹⁰

8. WSPP states that in the Western Interconnection, by designating the transmission arrangements for operating reserves with a capacity e-Tag, the purchaser or seller can obtain the requisite levels of transmission response. WSPP states that capacity e-Tags allow for a maximum reservation of transmission with an ability to enter the energy quantity at any time throughout the hour up to the level of transmission capacity reserved under the e-Tag. WSPP states that this flexibility allows for immediate delivery of Operating Reserve-Spinning and Operating Reserve-Supplemental, both having the 10 minute implementation requirement in the Western Electricity Coordinating Council (WECC), from resources in first-tier balancing authority areas to the home balancing area

⁷ See, e.g., Service Schedule D § D-3.6.1(1) and Service Schedule E § E-3.5.1(1). We interpret the phrase, “power like that provided for under this service schedule” to refer to the specific product described in the service schedule. Thus, jurisdictional sellers are exempt from these cost-based rate caps only if they have received Commission authorization for market-based rate sales of the specific product(s) defined within the service schedule.

⁸ WSPP Application at 14-15.

⁹ *Id.* at 13 (citing Order No. 784-A, 146 FERC ¶ 61,114 at P 13).

¹⁰ *Id.* at 12-14.

where a contingency might have occurred, allowing balancing authorities to meet their response and recovery time under the applicable reliability standards. Thus, WSPP requests that the Commission recognize that capacity e-Tags provide the requisite levels of transmission response for both Operating Reserve-Spinning and Operating Reserve-Supplemental in the Western Interconnection,¹¹ making the horizontal market power screens for capacity and energy sales applicable to sales of these services in that region of the country.

9. In addition, WSPP notes that while Order No. 784 requires sellers to explain in their individual market-based rate applications how the scheduling practices in their regions support the use of operating reserves, such explanations could vary from seller to seller.¹² WSPP accordingly states that Service Schedule D contains no provision concerning transmission scheduling, leaving each seller to provide its explanation to the Commission as Order No. 784-A requires. WSPP states that nothing in Service Schedule D is inconsistent with this aspect of Order Nos. 784 and 784-A.

10. With respect to the proposed new Service Schedule E, WSPP further notes that the Commission stated that Energy Imbalance and Generator Imbalance services can be sold at market-based rates to a public utility transmission provider in the same balancing authority area, or to a public utility transmission provider in a different balancing authority area, if those areas have implemented intra-hour scheduling for transmission services.¹³ Accordingly, WSPP states that proposed Service Schedule E expressly requires that intra-hour scheduling be available for transactions thereunder.¹⁴ In addition, WSPP notes that the Commission subsequently clarified that 30-minute scheduling would suffice.¹⁵

¹¹ *Id.* at 14.

¹² *Id.* at 12 (WSPP appears to be citing Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 58).

¹³ *Id.* at 5 (citing Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 13).

¹⁴ *Id.* at 12. *See* Service Schedule E § E-3.4.2.

¹⁵ WSPP Application at 5 (citing Order No. 784-A, 146 FERC ¶ 61,114 at P 12).

B. Proposed Administrative Changes to the WSPP Agreement

11. WSPP also proposes certain administrative changes to the WSPP Agreement's internal governance. Specifically, WSPP states that the proposed changes: (1) clarify the respective authorities of the Executive Committee and Operating Committee in establishing subcommittees; (2) expand the Administrative Committee to include all officers of the Executive and Operating Committees; and (3) divide the position and functions of the Secretary/Treasurer into separate positions and functions.

12. In addition, WSPP proposes revisions to the WSPP member list. Specifically, the submittal includes a revised list of members which reflects the addition of seven new members, the withdrawal of five members, one name change, and the dissolution of one other member.

13. WSPP also proposes revisions to Sierra Pacific Power Company's (Sierra Pacific) Cost-Based Rate Schedule under Schedule Q of the WSPP Agreement. Specifically, WSPP seeks to incorporate into the Sierra Pacific Cost-Based Rate Schedule under Schedule Q an administrative amendment to address the consolidation of the Sierra Pacific and Nevada Power Company (Nevada Power) balancing authority areas. Thus, the proposed amendment clarifies the fact that the Cost-Based Rate Schedule applies to sales made by Sierra Pacific within the newly consolidated Nevada Power balancing authority area and that there are no longer separate Nevada Power and Sierra Pacific balancing authority areas.

III. Notice of Filing and Responsive Pleading

14. Notice of WSPP's filing was published in the *Federal Register*, 80 Fed. Reg. 8304 (2015), with interventions and protests due on or before March 2, 2015. Powerex Corp. (Powerex) and El Paso Electric Company filed timely motions to intervene.

IV. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make Powerex and El Paso Electric Company parties to this proceeding.

B. Substantive Matters

16. As discussed below, we conditionally accept WSPP's proposed amendments to the WSPP Agreement, subject to WSPP filing within 30 days of the date of this order a compliance filing correcting certain typographical errors in the filing, as discussed below.

1. Proposed Service Schedules D and E

17. Under the Commission's *Avista* policy, the Commission restricted the sale of certain ancillary services at market-based rates where those sales were made to a public utility that is purchasing ancillary services to satisfy its own OATT requirements.¹⁶ To overcome this restriction, a seller was required to provide a market power study demonstrating a lack of market power. However in Order No. 784, the Commission modified the *Avista* policy and stated that it would permit sellers passing existing market power screens to sell Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates to a public utility transmission provider in the same balancing authority area or to a public utility transmission provider in a different balancing authority area if the seller makes a filing demonstrating that those areas have implemented intra-hour scheduling for transmission service that supports the delivery of operating reserve resources from one balancing authority area to another.¹⁷

18. In Order No. 784-A, the Commission stated that its intent is to allow potential sellers to use the existing market power screens applicable to sales of energy and capacity to also demonstrate a lack of market power for sales of operating reserves, preferably without significant modification to those screens. Those screens incorporate a default geographic market that reflects imports from first-tier balancing authority areas up to the study area's simultaneous transmission import limit under an assumption that first-tier resources face no significant barriers to competing with resources in the home balancing authority area. For this to be true with respect to operating reserves, transmission scheduling practices must support the ability of a first-tier resource to respond to dispatch needs in a neighboring balancing authority area in the time frame required by the operating reserve service at issue.¹⁸

19. In Order No. 784, the Commission provided guidance on the types of region-specific practices that would support the delivery of operating reserves by stating that, while 15-minute scheduling might be sufficient for Operating Reserve-Supplemental, it may not be sufficient for Operating Reserve-Spinning, which requires designated resources to be available almost immediately.¹⁹ The Commission also observed that

¹⁶ See *Avista Corp.*, 87 FERC ¶ 61,223 (*Avista*), order on reh'g, 89 FERC ¶ 61,136 (1999).

¹⁷ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at PP 13, 54, 57.

¹⁸ Order No. 784-A, 146 FERC ¶ 61,114 at P 14.

¹⁹ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 58.

certain regions, including the WECC, may have already developed within-hour capacity tagging and scheduling practices intended to support the use of operating reserves across multiple balancing authority areas. In Order No. 784-A, the Commission further clarified that for Operating Reserve-Spinning, an applicant would need to show how the scheduling practices in the applicable region permit an “immediate” change in output in response to a contingency in the home balancing authority area. The Commission further stated that, for Operating Reserve-Supplemental, the applicant would need to show how the scheduling practices in the applicable region permit a unit in one balancing authority area to respond within a “short period of time” to contingencies in the home balancing authority area.²⁰

20. With respect to imbalance services, the Commission stated that the delivery of Energy Imbalance and Generator Imbalance services may be limited by hourly transmission scheduling practices in place within certain regions.²¹ Thus, the Commission stated that sellers found to lack market power in a geographic market, and which are granted market-based rate authority to make sales of energy and capacity, will also be granted market-based rate authority for sales of Energy Imbalance and Generator Imbalance services to public utility transmission providers within the same balancing authority area, or to public utility transmission providers in different balancing authority areas, if those areas allow transmission customers to modify or create transmission schedules within the hour. The Commission stated that because such scheduling practices enable the delivery of within-hour imbalance services from one balancing authority area to another, their use ensures that the first-tier resources included in the existing market power screens can compete with resources in the home balancing authority area, and thus that the existing market power screens can be applied to imbalance services without modification.²²

21. We find that WSPP has made the requisite demonstration under Order No. 784 that the scheduling practices in the WECC support the delivery of operating reserves from one balancing authority area to another in the Western Interconnection. Under the NAESB capacity e-Tag standard described by WSPP, an entity that has reserved transmission capacity for this purpose can establish a capacity e-Tag for the amount of operating reserves that it is supplying up to the full transmission reservation, and can vary the “market level profile,” i.e., the energy dispatched through the e-Tag, to any value

²⁰ Order No. 784-A, 146 FERC ¶ 61,114 at P 15.

²¹ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 31.

²² *Id.* P 41.

between zero and the maximum level defined by the transmission reservation. Moreover, when a contingency occurs and causes operating reserves to respond, either immediately in the case of spinning, or within 10 minutes in the case of supplemental, the NAESB standard permits the e-Tag “market level profile” to be adjusted anytime within the hour up to 10 minutes after such response occurs. This demonstrates that entities in one balancing authority area can permit their resources to respond to contingencies in neighboring balancing authority areas within the strict time periods required for spinning and supplemental reserves without facing penalties in their home balancing authority area.

22. Accordingly, no adjustment to the default geographic market that incorporates imports from first-tier balancing authority areas would be necessary to apply the existing market power screens to sales of operating reserves in the Western Interconnection. As a result, we will accept WSPP’s proposed Service Schedule D.

23. Jurisdictional WSPP members located in the Western Interconnection who wish to sell Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates under Service Schedule D must obtain prior approval from the Commission for such sales consistent with Order No. 784 by demonstrating that transmission scheduling practices support the ability of a first-tier resource to respond to dispatch needs in a neighboring balancing authority area in the time frame required by the operating reserve service at issue.²³ In making the requisite showing, jurisdictional market-based rate sellers can point to the Commission’s acceptance here of WSPP’s demonstration with regard to the NAESB capacity e-Tag standard as relevant Commission precedent, and demonstrate why such precedent applies to them.²⁴

24. While WSPP’s application includes e-Tag-related support relevant to the Western Interconnection, proposed Service Schedule D, like other WSPP schedules, does not appear to limit operating reserve transactions to the Western Interconnection. Accordingly, jurisdictional sellers of operating reserves in regions other than the Western Interconnection may seek to take advantage of the standardized terms and conditions of

²³ *Id.* P 58.

²⁴ We note that, in cases where an entity has recently submitted and received Commission acceptance of an updated market power analysis in a separate proceeding, the filing it makes in compliance with Order No. 784 to seek market-based rate authority for sales of operating reserves can cite the earlier market power analysis by reference rather than including it in the operating reserve-specific filing. *See, e.g., Powerex Corp.*, 150 FERC ¶ 61,145, at P 14 (2015).

Service Schedule D. Our action in this proceeding does not foreclose such use of the standardized terms and conditions of Service Schedule D outside of the Western Interconnection provided that such sellers obtain Commission approval for market-based rate sales of operating reserves based on supporting information relevant to that other region.

25. We also find that, consistent with the requirements of Order No. 784, proposed new Service Schedule E provides for the sale of Energy Imbalance and Generator Imbalance services at market-based rates to a public utility transmission provider in the same balancing authority area, or to a public utility transmission provider in a different balancing authority area, if those areas have implemented intra-hour scheduling for transmission services.²⁵ Thus, we will accept WSPP's proposed new Service Schedule E for sales and purchases of Energy Imbalance and Generator Imbalance services.

26. Service Schedule E, like Service Schedule D, by its own terms and conditions, only allows jurisdictional sellers to charge market-based rates under the schedule if they have received prior Commission authorization to sell "power like that provided for under this service schedule at market-based rates."²⁶ However, because Order No. 784 became effective after the date by which all public utility transmission providers were required to begin offering intra-hour transmission scheduling pursuant to Order No. 764,²⁷ the Commission permitted existing market-based rate sellers to begin making third-party sales of Energy Imbalance and Generator Imbalance services as of the effective date of Order No. 784,²⁸ and to update their market-based rate tariffs to reflect this authority the next time they made a market-based rate filing with the Commission.²⁹ Accordingly, we will accept Service Schedule E and allow jurisdictional WSPP members, who have received market-based rate authority for sales of energy and capacity, to make market-

²⁵ WSPP Application at 5 (citing Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 13).

²⁶ See Service Schedule E § E-3.5.1(1).

²⁷ *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 91, *order on reh'g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012). This date was November 12, 2013.

²⁸ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 41. That date, 120 days from publication in the Federal Register, was November 27, 2013.

²⁹ *Id.* P 201.

based rate sales of Energy Imbalance service and Generator Imbalance service under Service Schedule E as of the effective date of Service Schedule E.³⁰

27. With regard to rate caps in Service Schedules D and E, which would be applicable to jurisdictional sellers who do not have market-based rate authority for sales of operating reserves or imbalance services, we will accept them for these new products because the cost justification requirements applicable to jurisdictional sellers using these caps will ensure their justness and reasonableness in the context of these products.

28. We will, however, require that WSPP submit a compliance filing to correct an error that appears in both Service Schedule D and Service Schedule E. Among other standardized terms and conditions, both service schedules permit the seller to provide the service from one or more generation or demand response resources, and include a definition of demand response resources that references the Commission's regulations at 18 C.F.R. § 35.26(a)(5).³¹ This reference appears to be in error as there is no section 35.26(a)(5) in the Commission's regulations, and the nearest section, section 35.26(a), addresses stranded cost recovery. We believe WSPP instead intended to reference section 35.28(b)(5), which includes a definition of demand response resource. Accordingly, we direct WSPP to submit a compliance filing due within 30 days from the date of this order to correct this reference in both service schedules.

2. Administrative Changes to the WSPP Agreement

29. We find WSPP's administrative changes to the WSPP Agreement's internal governance, revised list of members, and amendment to Sierra Pacific's Cost-Based Rate Schedule under Schedule Q to be reasonable and will accept them for filing.

3. Effective Date

30. WSPP requests an April 10, 2015 effective date for the proposed tariff revisions. Absent waiver, public utilities must provide the Commission at least 60 days prior notice before any proposed rate, term, or condition is to become effective.³² Therefore, the

³⁰ Such sellers still must update their market-based rate tariffs to permit sales of imbalance services but, as permitted by Order No. 784, may do so in their next market-based rate filing with the Commission. *See id.*

³¹ *See* Service Schedule D § D-2.1.2 and Service Schedule E § E-2.1.2.

³² 16 U.S.C. § 824d(d) (2012); 18 C.F.R. § 35.3 (2014).

earliest date that proposed rates, terms, or conditions may become effective, absent waiver, is the 61st day after filing, i.e., the day *after* the 60-day prior notice period has expired. Given that WSPP did not request waiver of the 60-day prior notice requirement, the earliest permissible effective date is April 11, 2015.³³

The Commission orders:

(A) The proposed amendments to the WSPP Agreement are hereby conditionally accepted, effective April 11, 2015, as discussed in the body of this order.

(B) WSPP is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³³ See *Utah Power & Light Co.*, 30 FERC ¶ 61,015, at 61,024 n.9 (1985). For the list of members, the April 11, 2015 effective date is for the metadata. The attached appendix provides the effective date for the change to each specific revision to the affected members.

Appendix**Member Changes Since the March 12, 2014 Filing:**

<u>Name</u>	<u>Revision</u>	<u>Effective Date</u>
DB Energy Trading, LLC	Withdrawal	February 27, 2015
Energy Keepers, Inc.	New Membership	December 4, 2014
Guzman Power Markets, LLC	Name changed to Guzman Energy, LLC	May 15, 2014
InterCoast Power Marketing Company	Dissolution	August 22, 2005
Las Vegas Cogeneration Limited Partnership	Withdrawal	February 4, 2015
Las Vegas Cogeneration II, LLC	Withdrawal	February 4, 2015
Marin Clean Energy	New Membership	January 26, 2015
NASDAQ OMX Commodities Clearing Company	Withdrawal	November 3, 2013
Northern Wasco County People's Utility District	New Membership	June 9, 2014
Renewable Power Strategies, LLC (dba RPS Advisors)	New Membership	June 25, 2014
Skylar Resources, LP	New Membership	December 1, 2014
Sonoma Clean Power Authority	New Membership	November 10, 2014
TGP Energy Management, LLC	New Membership	April 15, 2014
Trademark Merchant Energy, LLC	Withdrawal	April 11, 2014