

155 FERC ¶ 61,191
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Talen Montana, LLC	Docket Nos. ER16-793-001
Talen Energy Marketing, LLC	ER16-795-001
New Harquahala Generating Company, LLC	ER16-792-001

ORDER ACCEPTING AND SUSPENDING MARKET-BASED RATE TARIFF
REVISIONS FOR SALES OF OPERATING RESERVES

(Issued May 20, 2016)

1. In this order, we accept and suspend, for a nominal period, to be effective March 28, 2016, subject to refund and subject to the outcome of the pending proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003,¹ proposed market-based rate tariff revisions filed by Talen Montana, LLC (Talen Montana), Talen Energy Marketing, LLC and New Harquahala Generating Company, LLC (New Harquahala) (collectively, the Talen Companies). The proposed tariff revisions would authorize the Talen Companies to make sales of Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates to public utility transmission providers within the Western Electricity Coordinating Council (WECC). Our acceptance in this order is subject to the compliance filing ordered herein.

¹ See *New Harquahala Generating Company, LLC*, Docket No. ER15-2013-003 (filed Dec. 30, 2015) (currently pending) (updated market power analysis for the Southwest Region) and *Arizona Public Service Company*, Docket No. ER10-2437-003 (filed Dec. 22, 2015) (currently pending) (updated market power analysis for the Southwest Region). The Talen Companies rely upon the Simultaneous Import Limits (SIL) filed by Arizona Public Service Company in its updated market power analysis for the Southwest Region.

I. Background

2. On January 27, 2016 and January 28, 2016, as amended March 23, 2016, pursuant to section 205 of the Federal Power Act (FPA),² Part 35 of the Commission's regulations,³ and the requirements of Order No. 784,⁴ the Talen Companies filed an application requesting authorization to make sales of Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates within WECC to public utility transmission providers within the same balancing authority area or to public utility transmission providers in a different balancing authority area. The Talen Companies also request that the Commission accept revisions to their market-based rate tariffs to allow for such sales and to make the tariffs more closely adhere to the standard provisions for market-based rate tariffs. The Talen Companies are each currently authorized to sell energy, capacity and certain ancillary services at market-based rates in all regions.

3. The Talen Companies rely on PPL Energy Plus, LLC's accepted updated market power analysis to demonstrate that they pass the pivotal supplier and the wholesale market share screens in the Northwest region.⁵ The Talen Companies also rely on New Harquahala Generating Company, LLC's and Arizona Public Service Company's currently pending updated market power analyses to demonstrate that they pass the pivotal supplier and the wholesale market share screens in the Southwest region.⁶

² 16 U.S.C. § 824d (2012).

³ 18 C.F.R. pt. 35 (2015).

⁴ *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).

⁵ *PPL EnergyPlus, LLC*, Docket No. ER10-2011-005 (June 6, 2014) (delegated letter order). In addition, the Talen Companies state that they are affiliated with less generation in the Northwest region than at the time of their last updated market power analysis because Talen Montana has sold its hydropower generation and decommissioned the J.E. Corette generation facility. Transmittal at n.15.

⁶ *See supra* n.1. The Talen Companies incorporate by reference their previously accepted market power analyses and also include their recently submitted updated market power analyses in the Southwest region. *See New Harquahala Generating Company, LLC*, Docket No. ER10-3310-004 (Sept. 12, 2014) (delegated letter order) (accepting updated market power analysis for Southwest Region).

II. Notice of Filings

4. Notice of the Talen Companies' filings were published in the Federal Register,⁷ with interventions and protests due on or before April 13, 2016. None was filed.

III. Discussion

5. As discussed below, we accept and suspend, for a nominal period, the Talen Companies' proposed market-based rate tariff revisions, to be effective March 28, 2016, subject to refund and subject to the outcome of the pending proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003. As discussed below, we direct the Talen Companies to submit a compliance filing, within 30 days after orders have been issued in the pending proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003.

A. Order No. 784 Demonstration

6. 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 open access transmission tariff (OATT) requirements.⁸ 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.⁹ 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

⁷ 81 Fed. Reg. 5732 (2016); 81 Fed. Reg. 18,622 (2016).

⁸ See *Avista Corp.*, 87 FERC ¶ 61,223 (*Avista*), *order on reh'g*, 89 FERC ¶ 61,136 (1999).

⁹ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at PP 13, 54, 57.

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.¹⁰

7. 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.¹¹ The Commission also observed that certain regions, including 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.¹²

8. The Talen Companies state that WECC’s Capacity Tag Functionality Criterion INT-009-WECC-CRT-2¹³ and the transmission scheduling practices used by the reserve sharing group within the region ensure that the Talen Companies are able to deliver energy in accordance with the timing requirements applicable to Operating Reserve-Spinning and Operating Reserve-Supplemental services. The Talen Companies also state that the regional criterion in the Southwest includes scheduling practices that permit

¹⁰ Order No. 784-A, 146 FERC ¶ 61,114 at P 14.

¹¹ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 58.

¹² Order No. 784-A, 146 FERC ¶ 61,114 at P 15.

¹³ The Talen Companies state that WECC’s Capacity Tag Functionality Criterion INT-009-WECC-CRT-2 is the regional criterion defining the functionality for capacity e-Tags to schedule on-demand spinning and supplemental resources across balancing authority areas on firm transmission service and specifically allows for the delivery of energy to be initiated at any time during an operating hour. Transmittal at 12 (citing Attachment B at 2).

resources in first-tier balancing authority areas to change their output in the timeframes appropriate for reserve products.¹⁴

9. The Talen Companies further explain that they will use certain scheduling practices to effectuate their sales of Operating Reserve-Spinning and Operating Reserve-Supplemental and ensure delivery of these products. The Talen Companies state they will reserve and schedule firm transmission service for the path from the source balancing authority area to the sink balancing authority area for the full amount of spinning and supplemental reserves. The Talen Companies state they will create a capacity e-Tag that meets the criteria set out in INT-009-WECC-CRT-2 for each hour of delivery. The Talen Companies also explain that the e-Tag will contain a transmission profile that represents the maximum energy to be delivered and the energy profile of the e-Tag will be modified to reflect the amount of reserves requested. Lastly, the Talen Companies state that the Generating Product field of the e-Tag will indicate whether the capacity type is spinning (C-SP) or non-spinning (C-NS) reserve.¹⁵

10. We find that the Talen Companies have made the requisite demonstration under Order No. 784 that the scheduling practices within WECC support the delivery of operating reserves to public utility transmission providers within the same balancing authority area, or to public utility transmission providers in a different balancing authority area. The specific provisions of the WECC Capacity Tag Functionality standard upon which the Talen Companies will rely demonstrate that operating reserves can be delivered from one balancing authority area to another balancing authority area.

11. We also find that the Talen Companies' reliance on PPL Energy Plus, LLC's accepted updated market power analysis adequately demonstrates that the Talen Companies lack market power in the Northwest region and therefore satisfy the Commission's standards for sales of operating reserves in this region.

12. Nevertheless, the market power analysis for general market-based rate authority for the Southwest region upon which the Talen Companies rely to support their request for authorization to make sales of operating reserves is currently pending in Docket Nos. ER15-2013-003 and ER10-2437-003. In particular, the Talen Companies rely upon the SIL filed by Arizona Public Service Company in its updated market power analysis for the Southwest Region. Given that the updated market power analysis on which the Talen Companies rely is pending in Docket Nos. ER15-2013-003 and ER10-2437-003,

¹⁴ *Id.* at 11-12.

¹⁵ *Id.* at 12.

the Talen Companies' request for authorization to make sales of Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates based on that market power analysis has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

13. Therefore, we will accept the Talen Companies' proposed tariff revisions regarding sales of Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates, suspend them for a nominal period, to be effective March 28, 2016, subject to refund and subject to the outcome of the pending proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003. In this regard, we direct the Talen Companies to make a compliance filing in the instant dockets updating the record in this proceeding to reflect the results of the Commission's determinations with respect to the market power analysis and the SIL for the Southwest region in Docket Nos. ER15-2013-003 and ER10-2437-003, within 30 days after orders have been issued in those proceedings.

B. Other Tariff Revisions

14. The Talen Companies propose to amend their market-based rate tariffs to more closely adhere to the standard provisions for market-based rate tariffs. The Talen Companies state that, as permitted by the Commission, Talen Montana is adding the waiver of Parts 41, 101, and 141, except sections 141.14 and 141.15, of the Commission's regulations to its tariff. We accept these proposed tariff revisions, to be effective March 28, 2016, as requested.

The Commission orders:

(A) The Talen Companies' market-based rate tariff revisions regarding sales of Operating Reserve-Spinning and Operating Reserve-Supplemental at market-based rates are hereby accepted for filing, suspended for a nominal period, to be effective March 28, 2016, as requested, subject to refund and subject to the outcome of the proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003, as discussed in the body of this order.

(B) The Talen Companies' other proposed tariff revisions are hereby accepted for filing, effective March 28, 2016, as discussed in the body of this order.

(C) The Talen Companies are hereby directed to submit a compliance filing, within 30 days after orders have been issued in the pending proceedings in Docket Nos. ER15-2013-003 and ER10-2437-003, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.