

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

United States Department of Energy
Bonneville Power Administration

Docket No. NJ05-4-000

ORDER GRANTING PETITION FOR DECLARATORY ORDER

(Issued October 4, 2005)

Introduction

1. On July 28, 2005, Bonneville Power Administration (Bonneville) filed a petition for declaratory order, requesting the Commission find that revised Attachment K of its Open Access Transmission Tariff (OATT), which contains Procedures for Re-dispatch at Pre-schedule and in Real Time, to be effective during the same period as its proposed 2006 - 07 Transmission and Ancillary Services Rates, *i.e.*, from October 1, 2005 through September 30, 2007, satisfies the reciprocity standards of Order No. 888.¹ Bonneville adds that the only change to Attachment K is the revision of the effective dates. Bonneville also requests an exemption from paying a filing fee.

2. The Commission will grant Bonneville's petition for a declaratory order. We find that Bonneville's revised OATT, with its revised Attachment K, is an acceptable reciprocity OATT. In addition, the Commission will exempt Bonneville from paying a filing fee.

¹ *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, 61 Fed. Reg. 21,540 (1996), FERC Stats. & Regs. ¶ 31,036 at 31,760-61, *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *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 (1997), *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).

Background

3. In this filing, Bonneville seeks continued approval as an acceptable reciprocity tariff of its OATT with a revision to Attachment K of its OATT.² The only change from the existing Attachment K is the effective period of the Attachment. By its terms, the existing Attachment K terminates on September 30, 2005. The proposed revised Attachment K will be effective October 1, 2005 through September 30, 2007.

4. Bonneville and the parties to a settlement agreement to Bonneville's 2006 Transmission and Ancillary Services rate case (2006 Rate Case) agreed to this revision.³ Bonneville committed to submit a separate filing to the Commission for approval. This filing seeks such approval.

Notice and Interventions

5. Notice of Bonneville's filing was published in the *Federal Register*, 70 Fed. Reg. 47187 (2005), with protests and interventions due on or before August 19, 2005.

6. On August 19, 2005, Powerex Corp. filed a motion to intervene that raised no substantive issues. That same day, TransAlta Energy Marketing, Inc. (TransAlta) filed a motion to intervene and comment requesting that the Commission require Bonneville to adopt, in consultation with affected generation owners, detailed curtailment and re-dispatch protocols to supplement Attachment K.

7. Bonneville filed an Answer to TransAlta's request that the Commission require Bonneville to supplement Attachment K.

² Not included under this filing, but separately filed in Docket No. NJ05-2-000, is Bonneville's petition for a declaratory order that its OATT, supplemented by its replacement Attachment L, Large Generator Interconnection Procedures and Large Generator Interconnection Agreement, continues to satisfy the reciprocity standards of Order No. 888.

³ Docket EF05-2021-000.

Discussion

Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Bonneville's answer because it has provided information that assisted us in our decision-making process.

Attachment K

10. TransAlta raises concerns that Attachment K does not provide transparent, non-discriminatory curtailment and re-dispatch of generation. There is no transparency, according to TransAlta, because Bonneville lacks a formal protocol for all paths for which it curtails service. And there is discrimination in Bonneville's Paul-Allston Flowgate Procedure used, TransAlta claims, to dispatch certain plants in Bonneville's control area because it distinguishes between two zones. The first zone includes the independent power producers' generators in the area, and the second zone includes the utility-owned generators in the area. Because there is no genuine re-dispatch protocol, and because Bonneville's transmission customers apparently receive little information from Bonneville about how Bonneville applies curtailments and re-dispatch, TransAlta argues that what appears to be discrimination may, in fact, be discrimination.

11. Bonneville responds that the Commission has previously approved the re-dispatch procedure in Attachment K as meeting the Commission's reciprocity standards in *United States Dept. of Energy – Bonneville Power Administration*, 105 FERC ¶ 61,077 at P. 37 (2003). The current Attachment K is identical to that previously approved, except that the dates have been changed to coincide with Bonneville's proposed 2006-2007 rate period. Bonneville also claims that TransAlta confuses re-dispatch and curtailment throughout its pleading, and does not understand that they are fundamentally different and that the procedures for each are also necessarily different. For example, the Paul-Allston Flowgate Procedure to which TransAlta refers is not a re-dispatch procedure but a curtailment procedure. Bonneville adds that the curtailments about which TransAlta complains are covered by section 14.7 of the OATT, and that the *pro forma* tariff does not require a transmission provider to include curtailment protocols in its re-dispatch procedures. Additionally, Attachment K is for re-dispatch only, and so TransAlta's complaint about curtailment is not relevant to Attachment K. As for formal curtailment

procedures, Bonneville has been and is continuing to develop formal curtailment procedures in consultation with affected parties. Bonneville argues that since curtailment and re-dispatch are different procedures, the Commission should not require it to combine the two.

12. The purpose of the Commission's review is to determine whether Bonneville's revised OATT, and particularly newly-revised Attachment K, satisfies the reciprocity standards of Order No. 888. Bonneville and the other parties agreed to Attachment K, it was previously found to meet the reciprocity standards of Order No. 888, and the revision at issue here simply changes the effective dates. The Commission finds that Bonneville's revised Attachment K satisfies the reciprocity requirements of Order No. 888. It substantially conforms with or is superior to the *pro forma* tariff.

13. Only the effective dates have changed. The Commission also agrees with Bonneville in that TransAlta appears to be confusing re-dispatch and curtailment. Attachment K, as Bonneville has pointed out, addresses re-dispatch only. Therefore, TransAlta's concerns regarding transparent, non-discriminatory curtailment are not appropriate in this proceeding.

Exemption From Filing Fee

14. Finally, Bonneville petitions for an exemption from the filing fee applicable to petitions for declaratory orders because, as an agency of the United States Department of Energy, engaged in the official business of the Federal government, it is exempt from filing fees.⁴ We agree and, accordingly, grant Bonneville's petition for an exemption from the filing fee.

The Commission orders:

(A) Bonneville's petition for declaratory order is hereby granted, and its revised OATT, effective October 1, 2005, is hereby deemed to be an acceptable reciprocity tariff.

⁴ See 18 C.F.R. §§ 381.108(a), 381.302 (2003).

(B) Bonneville's petition for an exemption from the filing fee is hereby granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.