

UNITED STATES OF AMERICA 110 FERC ¶61,264
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

NorthWestern Energy

Docket Nos. ER04-1106-000
ER04-1106-001
ER04-1106-002

ORDER ACCEPTING NOTICE OF WITHDRAWAL AND ACCEPTING IN PART
COMPLIANCE FILING TO ORDER NOS. 2003 AND 2003-A

(Issued March 8, 2005)

1. In this order, we accept NorthWestern Energy's notice of withdrawal of certain proposed modifications to its Open Access Transmission Tariff (OATT) and accept in part a new Attachment J containing the *pro forma* Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA) under Order Nos. 2003 and 2003-A.¹
2. This order benefits customers by ensuring that rates, terms and conditions of the transmission service are just and reasonable and not unduly discriminatory, and thus encourages more competitive markets.

Background

3. In Order No. 2003, pursuant to its responsibility under sections 205 and 206 of the Federal Power Act (FPA)² to remedy undue discrimination, the Commission required all public utilities that own, control, or operate facilities for transmitting electric energy in

¹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2005), *reh'g pending*.

² 16 U.S.C. §§ 824d, 824e (2000).

interstate commerce (Transmission Providers) to append to their OATTs a *pro forma* LGIP and LGIA and to file revised OATTs containing the *pro forma* LGIP and LGIA by January 20, 2004.³ The Commission left it to Transmission Providers to justify any variation from the *pro forma* LGIP or LGIA based on regional reliability requirements.⁴ Alternatively, a Transmission Provider could propose a modification and demonstrate that it is consistent with or superior to the *pro forma* LGIP or LGIA.

4. On August 9, 2004, NorthWestern filed a complete OATT designated as Sixth Revised Volume No. 5. To comply with the requirements of Order Nos. 2003 and 2003-A, NorthWestern's OATT included a new Attachment J containing the *pro forma* LGIA and LGIP. Attachment J generally tracks our *pro forma* LGIA and LGIP, but it also proposes variations to the format and modifications to certain provisions of the *pro forma* LGIA and LGIP.⁵ Further, NorthWestern proposed to add a Generation Imbalance Service under a new Schedule 9 and to amend the definition of Market Power Price for its Energy Imbalance Service under Schedule 4 to make it consistent with the definition of Market Power Price proposed under new Schedule 9.

5. On October 4, 2004, the Director, Division of Tariffs and Market Development – Central, acting under delegated authority, issued a deficiency letter seeking additional information. On November 3, 2004, NorthWestern filed a response to the data request, which was an amendment to the filing.

6. On December 9, 2004, NorthWestern submitted a motion to defer the processing of the filing for 60 days to give the parties more time to informally resolve the outstanding issues involving Schedule 4 and Schedule 9.

7. On February 2, 2005, NorthWestern submitted a motion to withdraw the tariff sheets in the filing concerning Schedule 4 and proposed Schedule 9, but renewing its request for approval of Attachment J, its interconnection provisions.

³ See *Notice Clarifying Compliance Procedures*, 106 FERC ¶61,009 (2004).

⁴ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 826.

⁵ The proposed modifications are to sections 2.3, 4.4.5 and 13.1 of the LGIP and Articles 5.2.2, 5.19.2 and 22.1 of the LGIA. The format changes relate to Appendix 1 of the LGIP.

Notice and Responsive Pleadings

8. Notice of NorthWestern's original filing and its response to the Commission's data request were published in the *Federal Register*, 69 Fed. Reg. 51,659 (2004) and 69 Fed. Reg. 67,566 (2004), with interventions and protests due on or before August 30, 2004, and November 24, 2004, respectively. On September 21, 2004, PPL EnergyPlus, LLC and PPL Montana, LLC (PPL) filed a motion to intervene out of time and comments. On October 6, 2004, NorthWestern filed an answer opposing PPL's motion to intervene out of time and comments. On November 24, 2004, PPL filed supplemental comments.

9. Notice of NorthWestern's motion to partially withdraw the filing was published in the *Federal Register*, 70 Fed. Reg. 7,727 (2005), with interventions and protests due on or before February 23, 2005. None were filed.

Discussion

Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. PPL filed a motion to intervene before the second comment date and is therefore a party to the proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2004), prohibits answers to protests unless ordered by the decisional authority. We are not persuaded to accept NorthWestern's answer and will, therefore, reject it.

Attachment J

12. In compliance with Order Nos. 2003 and 2003-A, NorthWestern has added a new Attachment J containing the LGIA and LGIP, which generally track the *pro forma* LGIA and LGIP.

13. However, NorthWestern also proposes variations to the format of Appendix 1 of the *pro forma* LGIP, which it claims will make it easier for NorthWestern's interconnection customers to submit interconnection requests. We reject NorthWestern's proposed format variations because they have not been shown to be consistent with or superior to the *pro forma* LGIP. We direct NorthWestern to refile Appendix 1 of the LGIP consistent with the format of Appendix 1 of the *pro forma* LGIP within 30 days of the date of this order.

14. NorthWestern also proposes modifications to certain provisions of the *pro forma* LGIA and LGIP, which track regional reliability requirements and contain the exact language that we have accepted in other Order No. 2003 compliance filings.⁶ The Commission intends to supplement rather than supplant the work that regional reliability groups have already undertaken regarding interconnection. Accordingly, a Transmission Provider, on compliance, may offer variations based on existing regional reliability requirements if it can show that each proposed variation from the *pro forma* provisions is in response to established (i.e., approved by the applicable Reliability Council) reliability requirements.⁷ Therefore, we will accept for filing the proposed variations to sections 2.3, 4.4.5 and 13.1 of the LGIP and to articles 5.2.2, 5.19.2 and 22.1 of the LGIA.

15. Finally, in order to include proposed changes to Schedule 4 and to add a new Schedule 9 and Attachment J to its OATT, NorthWestern originally filed a complete tariff designated as Sixth Revised Volume No. 5. Since we are approving NorthWestern's proposal to withdraw the proposed changes to Schedule 4 and the new Schedule 9, and only accepting Attachment J, we will direct NorthWestern to refile within 30 days Attachment J under its currently effective Fifth Revised Volume No. 5 and to repaginate Attachment J, so that it falls in line with the Fifth Revised Volume No. 5 tariff which is currently on file with the Commission.

The Commission orders:

(A) NorthWestern's notice of withdrawal of certain proposed modifications to its OATT is hereby accepted.

(B) NorthWestern's LGIA and LGIP as shown in Attachment J are accepted for filing, effective October 8, 2004, except as discussed herein.

⁶ *Arizona Public Service Co.*, 107 FERC ¶ 61,255 (2004).

⁷ *See* Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 823-24, 826.

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(C) NorthWestern is directed to make a compliance filing within 30 days of the date of this order, as discussed herein.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.