

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 35

(Docket Nos. RM05-10-000 and AD04-13-000)

Imbalance Provisions for Intermittent Resources;  
Assessing the State of Wind Energy in Wholesale Electricity Markets

(Issued April 25, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is withdrawing its proposal to amend its regulations to require public utilities to append to their open access transmission tariffs (OATTs) an intermittent generator imbalance service schedule in light of the imbalance-related reforms adopted in Order No. 890, 72 FR 12266 (Mar. 15, 2007).

DATES: The notice of proposed rulemaking published on April 14, 2005, at 70 FR 21349, is withdrawn as of [insert date of publication in the **FEDERAL REGISTER**].

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Imbalance Provisions for Intermittent Resources                      Docket No. RM05-10-000

Assessing the State of Wind Energy in                                      Docket No. AD04-13-000  
Wholesale Electricity Markets

WITHDRAWAL OF NOTICE OF PROPOSED RULEMAKING

(Issued April 25, 2007)

1.        On April 14, 2005, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this proceeding.<sup>1</sup> For the reasons set forth below, we are withdrawing the NOPR and terminating this rulemaking.

2.        In the NOPR, the Commission proposed to clarify and amend imbalance-related provisions in the pro forma Open Access Transmission Tariff (OATT) as applied to intermittent resources.<sup>2</sup> The Commission concluded that, although the number of intermittent resources had grown since the adoption of the pro forma OATT in Order

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<sup>1</sup> Imbalance Provisions for Intermittent Resources Assessing the State of Wind Energy in Wholesale Electricity Markets, Notice of Proposed Rulemaking, 70 FR 21349 (Apr. 26, 2005), FERC Stats. & Regs. ¶ 32,581 (2005).

<sup>2</sup> For purposes of the NOPR, an intermittent resource was defined as an electric generator that is not dispatchable and cannot store its fuel source and therefore cannot respond to changes in system demand or respond to transmission security constraints.

No. 888,<sup>3</sup> such resources were historically hesitant to take service under the pro forma OATT, thereby accessing broader markets, due to the application of imbalance provisions that were designed to apply to resources with the ability to control fuel input and thus schedule their energy with precision. The Commission concluded that the imbalance provisions of the Order No. 888 pro forma OATT may no longer be just, reasonable or not unduly discriminatory or preferential as applied to intermittent resources that by nature are weather-driven.<sup>4</sup> The Commission therefore proposed to establish a standard schedule under the pro forma OATT to address generator imbalances solely for intermittent resources and sought comment on issues related to that proposal.

3. Since issuance of the NOPR, the Commission has completed its OATT reform rulemaking in Docket Nos. RM05-25-000, et al., issuing Order No. 890 on February 16,

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<sup>3</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 FR 12,274 (March 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 (1998), aff'd in relevant part, remanded in part on other grounds sub nom. Transmission Access Policy Study Group, et al. v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

<sup>4</sup> The Commission began exploring these issues at a technical conference held on December 1, 2004, in Denver, Colorado in Docket No. AD04-13-000. Other transmission-related issues regarding wind energy were also discussed at the technical conference and in post-technical conference comments, such as the interconnection process, credits for transmission upgrades, and adoption of a conditional firm transmission product. These issues were not addressed in the NOPR, which was limited to the imbalance provisions of the pro forma OATT as they relate to intermittent resources.

2007.<sup>5</sup> Among other things, Order No. 890 adopted a new Schedule 9 to govern generator imbalances. Under Schedule 9, imbalance charges “must be based on incremental cost or some multiple therefore” and “must provide an incentive for accurate scheduling, such as by increasing the percentage of the adder above (and below) incremental cost as the deviation becomes larger.”<sup>6</sup> Of particular relevance to this proceeding, the Commission also required that imbalance provisions “account for the special circumstances presented by intermittent generators and their limited ability to precisely forecast or control generation levels, such as waiving the more punitive adders associated with higher deviations.”<sup>7</sup>

4. As a result of the imbalance-related reforms adopted in Order No. 890, and in particular the requirement that generator imbalance provisions in each transmission provider’s OATT take into account an intermittent resources’ limited ability to forecast or control generation levels, the Commission concludes that it is no longer necessary to address the NOPR proposal to add to the pro forma OATT a generator imbalance schedule solely for intermittent resources. The reforms adopted in Order No. 890 adequately ensure that the imbalance provisions of the pro forma OATT will not result in

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<sup>5</sup> See Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), reh’g pending.

<sup>6</sup> Order No. 890 at P 663.

<sup>7</sup> Id. The Commission also adopted a standard definition of intermittent resource that is identical to that proposed in this proceeding. See Id. at P 666.

service to intermittent resources that is unjust, unreasonable, or unduly discriminatory or preferential.

5. The Commission therefore withdraws the NOPR and terminates this rulemaking proceeding.

The Commission orders:

Docket No. RM05-10-000 is hereby terminated.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.