

123 FERC ¶ 61,026  
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.

Puget Sound Energy, Inc.

Docket No. OA07-52-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued April 10, 2008)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> Puget Sound Energy, Inc., (PSE) submitted its compliance filing as required by Order No. 890.<sup>2</sup> In this order, we will accept PSE's filing, as modified, as in compliance with Order No. 890, as discussed below.

**I. Background**

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a nondiscriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved

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<sup>1</sup> 16 U.S.C. § 824e (2000 & Supp. V 2005).

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007).

as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.<sup>3</sup>

## II. Puget's Compliance Filing

4. In its July 13, 2007 filing, PSE proposes certain revisions to its OATT as directed or permitted by the terms of Order No. 890, including, among other things, these elements: (1) modification to sections 13.2 and 14.2 of its OATT<sup>4</sup> to address simultaneous requests for transmission service; (2) proposed changes to schedule 4 (Energy Imbalance Service), schedule 4R (Energy Imbalance Service For Retail Customers), and schedule 9 (Generator Imbalance Service) to provide a mechanism for qualifying transmission customers to be credited a load ratio share of the penalty portion of these charges; (3) proposed sections 19.10 and 32.6 of its OATT<sup>5</sup> which incorporate a process for the clustering of system impact studies and facilities studies; and, (4) addition of Attachment L addressing credit provisions. PSE states that it has completely revised its tariff, rather than merely submitting the revised tariff sheets that are subject to Order No. 890.<sup>6</sup> Its revised tariff reflects repagination, a new table of contents and changes in certain formatting conventions. PSE further states that it has also included a new section 4.3 to address access to and use of Critical Energy Infrastructure Information (CEII) that is posted on PSE's OASIS.

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<sup>3</sup> The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

<sup>4</sup> Both of these sections are entitled "Reservation Priority." Section 13.2 applies to firm point-to-point transmission service and section 14.2 applies to non-firm point-to-point transmission service.

<sup>5</sup> Section 19.10 applies to firm point-to-point transmission service requests and section 32.6 applies to network integration transmission service requests. Both of these sections are entitled "Clustering of Studies."

<sup>6</sup> PSE Filing at 2 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n.106).

### **III. Notice of Filing and Responsive Pleadings**

5. Notice of PSE's filing was published in the *Federal Register*, 72 Fed. Reg. 41,727 (2007), with interventions and protests due on or before August 3, 2007. Powerex Corporation (Powerex) filed a motion to intervene and comments.<sup>7</sup> On August 28, 2007, PSE filed an answer to Powerex's protest and on September 28, 2007 Powerex filed a reply to PSE's answer.

### **IV. Discussion**

#### **A. Procedural Matters**

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest and/or an answer unless otherwise ordered by the decisional authority. We will accept PSE's answer and Powerex's reply because they have provided information that assisted us in our decision-making process.

#### **B. Substantive Matters**

8. As a preliminary matter, we note that on October 5, 2007 in Docket No. ER08-28-000, PSE submitted an FPA section 205 filing proposing deviations from certain provisions of the Order No. 890 *pro forma* OATT. These deviations include, among other things, the specification of unreserved use penalties, the distribution of unreserved use penalty revenues to non-offending transmission customers and a clarification to PSE's simultaneous window provisions. On December 4, 2007, the Commission issued an order accepting in part and rejecting in part Puget's proposed revisions to its OATT effective October 5, 2007.<sup>8</sup>

9. As discussed further below, certain of the revisions PSE submitted in its October 5, 2007 filing in Docket No. ER08-28-000 addressed some of the concerns raised by the protester in the instant proceeding.

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<sup>7</sup> In its comments, Powerex opposes certain of PSE's OATT revisions and suggests that the Commission direct PSE to modify certain provisions. Accordingly, we will treat Powerex's comments as a protest.

<sup>8</sup> *Puget Sound Energy Inc.*, 121 FERC ¶ 61,230 (2007) (December 4, 2007 Order).

## 1. Simultaneous Submission Window

### a. PSE's Filing

10. In its July 13, 2007 filing, PSE proposes to modify sections 13.2 and 14.2 of its OATT to establish a five-minute window and a methodology for allocation of insufficient transmission capacity. Specifically, any requests submitted within a five minute window following the earliest time such requests are permitted to be submitted are deemed to have been submitted simultaneously during such window. In the event that sufficient transmission capacity is not available to meet all requests submitted within the window, and the applicable standard reservation priorities do not apply (e.g., duration, price, pre-confirmation, etc.), and the priority standard is the time of submittal, PSE proposes to allocate available transmission capacity in equal amounts among each such requests, but not in excess of any such requested amount.

### b. Protest and Answers

11. Powerex states that sections 13.2 and 14.2 as proposed do not provide transmission customers with the clarity and specificity necessary to understand their rights when submitting requests within a “no earlier than” reservation window. Powerex requests that PSE be required to modify sections 13.2 and 14.2 to state that a simultaneous window is available for “any requests for such service submitted within the five minutes window *immediately* following such earliest time.”<sup>9</sup>

12. Powerex also objects to PSE's proposal to allocate capacity equally among simultaneous requests in the event that insufficient transmission capacity is available. Powerex argues that PSE's proposal disproportionately reduces transmission access to higher volume customers, is arbitrary, discriminatory and unduly preferential in practice and is therefore inconsistent with the Commission's mandate for open access transmission service. Powerex requests that PSE be required to implement a *pro rata* or other nondiscriminatory allocation approach for requests of otherwise equivalent priority that fall within the simultaneous window or alternatively demonstrate how its use of an equal allocation method is consistent with or superior to *pro rata* allocation and is not otherwise discriminatory or unduly preferential.

13. In response, PSE states that a clarification to add “immediately” to sections 13.2 and 14.2 of its OATT is consistent with PSE's intent and would be an appropriate clarification if the Commission so determines. Regarding Powerex's arguments opposing PSE's proposed use of an equal allocation methodology, PSE states that the use of a *pro rata* methodology could result in the gaming of transmission requests by transmission

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<sup>9</sup> Powerex Protest at 5.

customers because a *pro rata* methodology encourages transmission customers to inflate requests or make redundant requests if they suspect that a given path lacks sufficient capacity to satisfy all requests. In addition, PSE argues that in Order No. 890 the Commission did not prescribe a specific methodology to allocate available transfer capability but instead found that transmission providers were in the best position to develop methodologies for their systems that prevent gaming.<sup>10</sup> PSE concludes that its proposal discourages transmission customers from engaging in gaming of transmission requests and encourages transmission customers to reserve only what they require.

14. In its reply, Powerex states that PSE's answer does not address Powerex's core concern with the proposed equal allocation methodology. Powerex points to another transmission provider's proposal to adopt a *pro rata* allocation among pre-confirmed requests and reiterates its request that the Commission direct PSE to amend its proposal.

**c. Commission Determination**

15. In Order No. 890, the Commission decided to retain its first-come, first-served policy regarding transmission service requests. However, the Commission required those transmission providers who set a "no earlier than" time limit for transmission service requests to treat all such requests received within a specified period of time, or window, as having been received simultaneously. Although the Commission left it to the transmission providers to propose the amount of time the window would be open, the Commission stated that the window should be open for at least five minutes unless the transmission provider presents a compelling rationale for a shorter window. The Commission also required each transmission provider that is required to, or decides to, deem all requests submitted within a specified period as having been submitted simultaneously to propose a method for allocating transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period.<sup>11</sup>

16. As noted above, the December 4, 2007 Order accepted in part and rejected in part Puget's proposed revisions to its OATT effective October 5, 2007. Specifically, as relevant here, it accepted a revision PSE submitted to add the word "immediately" to the sections 13.2 and 14.2 of PSE's OATT. Therefore, PSE has addressed Powerex's concern regarding this issue. Further, we disagree with Powerex that PSE's proposal to allocate capacity equally among requests submitted in the simultaneous window is arbitrary or discriminatory as applied to higher volume customers. In Order No. 890, the Commission declined to prescribe an allocation methodology, stating, "the transmission

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<sup>10</sup> PSE Answer at 4 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1422).

<sup>11</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1418-22.

provider is in the best position to determine an allocation that is appropriate to its system.”<sup>12</sup> We find that PSE’s proposal to allocate capacity equally among simultaneously submitted requests to be consistent with Order No. 890 and approve sections 13.2 and 14.2 of PSE’s OATT accordingly.

## **2. Imbalance Energy Revenue Distribution**

### **a. PSE’s Filing**

17. In its compliance filing, PSE proposes revisions to Schedule 4 (Energy Imbalance Service), Schedule 4R (Energy Imbalance Service for Retail Customers), and Schedule 9 (Generator Imbalance Service) to provide a mechanism for the distribution of energy imbalance revenues to “Qualified Transmission Customers.” For each month, the credit will be allocated among Qualifying Transmission Customers in proportion to their respective Qualified Transmission Loads for such month. Under Schedule 4, a Qualified Transmission Customer is defined as a long-term firm point-to-point transmission service customer for service over PSE’s transmission facilities, a network customer for service over PSE’s transmission facilities, or transmission provider on behalf of its native load customers, provided that a transmission customer that is assessed an energy imbalance service in a month will not be a qualified transmission customer for that month.

18. In addition, under Schedule 4, with respect to each Qualified Transmission Customer, Qualified Transmission Load is defined as (1) for each long-term firm point-to-point transmission service customer, its reserved capacity for transmission service over PSE’s transmission facilities applicable to such month; (2) for each network customer, its monthly network load on PSE’s transmission facilities in such month computed in accordance with section 34.2 of PSE’s tariff;<sup>13</sup> (3) for transmission provider on behalf of its native load customers, the hourly load in such month of its native load customers coincident with the transmission provider’s monthly transmission system peak for such month (computed consistent with computations pursuant to section 34 of the tariff).<sup>14</sup>

### **b. Protest and Answers**

19. Powerex argues that PSE’s imbalance penalty provisions limit the distribution of those penalties to network and long-term firm point-to-point customers and that, under the Commission’s penalty crediting policy, PSE should provide credits to all non-

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<sup>12</sup> *Id.* P 1422.

<sup>13</sup> Section 34 defines rates and charges for network integration transmission service.

<sup>14</sup> Schedules 4R and 9 contain similar language.

offending customers, including short-term firm and non-firm point-to-point customers. Powerex requests that PSE be required to modify its proposal to establish a crediting mechanism for all non-offending customers or explain why the proposed language is superior to the requirement.

20. In its reply, PSE argues that requiring it to credit imbalance penalties to all non-offending customers, including short-term firm and non-firm customers places an unnecessary and unwarranted burden on PSE to track and make *de minimis* credits. PSE states that the distribution of such charges to short-term firm and non-firm customers will result in the creation of additional processes and procedures to capture a large number of customers who would each likely be due a very small credit. PSE argues that if the Commission were to require PSE to distribute imbalance charges to short-term firm and non-firm customers, then such distribution should be subject to a *de minimis* exception (e.g., PSE would not be required to credit a customer unless the credits for such customer exceed a threshold amount).

**c. Commission Determination**

21. In Order No. 890, the Commission determined that charges for both energy and generator imbalances would be based upon a tiered approach that reflects incremental costs. The Commission also required transmission providers to credit revenues received through imbalance penalties or charges that are in excess of incremental costs to all non-offending customers. As a result, the Commission directed transmission providers to develop, as part of their Order No. 890 compliance filings, a mechanism for crediting revenues to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.<sup>15</sup>

22. We find that, PSE proposes to define Qualified Transmission Customer and Qualified Transmission Load in a way that would limit the distribution of energy imbalance penalty revenues and generator imbalance penalty revenues to network and long-term point-to-point transmission customers thus excluding both non-offending short-term firm and non-firm customers. We find this inconsistent with our directive in Order No. 890 to provide credits to *all* non-offending customers.<sup>16</sup>

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<sup>15</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 663, 667 and 727.

<sup>16</sup> See, e.g., *Florida Power & Light Co.*, 122 FERC ¶ 61,079, at P 16 (2008) (rejecting a proposal to distribute imbalance penalties to a subset of non-offending transmission customers). We note, moreover, that in the analogous context of distributing operational penalties, which must also be distributed to all non-offending customers, the Commission specifically rejected a proposal to exclude short-term firm and non-firm transmission customers from receiving penalty revenues distributed by the

(continued...)

23. Moreover, PSE's proposed definition of Qualified Transmission Customer makes a transmission customer ineligible to receive penalty revenues for any month that the customer incurs an imbalance penalty charge. In Order No. 890-A, the Commission clarified that the transmission provider should distribute the penalty revenue received in a given hour to those non-offending customers in that hour, i.e., those customers to whom the penalty component did not apply in the hour.<sup>17</sup> Incurring an imbalance penalty for one hour during a month should not make a customer ineligible for a share of penalty revenues for the entire month. We therefore direct PSE to file, within 30 days of the date of this order, a compliance filing modifying Schedules 4, 4R, and 9 to define Qualified Transmission Customer and Qualified Transmission Load such that all non-offending customers are eligible to receive credits for imbalance penalty revenues and to distribute imbalance penalty revenues received in a given hour to non-offending customers in that given hour, consistent with Order No. 890 and Order No. 890-A.<sup>18</sup>

24. We nonetheless recognize the administrative concerns raised by PSE regarding the amount of credits to be distributed each month to third party short-term and non-firm customers. Similar concerns have been raised regarding the distribution of operational penalties, which we note above must also be distributed to all non-offending customers. In Order No. 890-A, the Commission acknowledged that it may be administratively difficult for some transmission providers to distribute small amounts of operational penalty revenues and noted that transmission providers are free to propose a reasonable minimum threshold to trigger a distribution.<sup>19</sup> The same is true of imbalance penalty revenues. PSE may therefore propose a distribution methodology for imbalance penalty amounts that minimizes the administrative burdens identified, such as a reasonable minimum threshold to trigger a distribution.

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transmission provider. *See* Order No. 890 at P 862. Further, in the December 4, 2007 Order, we rejected PSE's proposal to exclude short-term firm and non-firm transmission customers from receiving unreserved use penalty revenues. *Puget Sound Energy, Inc.*, 121 FERC ¶ 61,230 at P 19.

<sup>17</sup> *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 333.

<sup>18</sup> We note, however, as with the distribution of operational penalties, the methodology for distributing imbalance penalties need not be stated in the transmission provider's OATT. *Cf.*, *Florida Power & Light Co.*, 122 FERC ¶ 61,079 at P 25.

<sup>19</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 475.

### **3. Clustering of Transmission Studies**

#### **a. PSE's Filing**

25. In its July 13, 2007 filing, PSE states that it has added new sections 19.10 and 32.6 of its OATT to incorporate a process to consider the clustering of system impact studies and facilities studies. PSE states that the proposed sections describe how PSE will process requests to cluster studies and address the obligations of customers that have requested to join a cluster.

#### **b. Protest and Answers**

26. Powerex raises a number of issues concerning PSE's process for clustering studies. First, Powerex argues that under sections 19.10 (iii) and 32.6 (iii) a single customer in a cluster may unilaterally break apart the entire cluster and disrupt queue positions of other clustered customers because all completed applications of customers in the queue are considered terminated or withdrawn if any one such application in the cluster is considered terminated or withdrawn.<sup>20</sup> Second, Powerex states that it is unclear whether one customer's failure to enter into a service agreement has the effect of terminating all clustered requests or only the pending request of that one customer. Powerex also objects to the discretion afforded PSE to determine on a case-by-case basis the conditions under which a customer may opt out of a cluster.<sup>21</sup> In addition, Powerex argues that PSE's ability under sections 19.10 and 32.6 to deviate from the procedures, criteria and requirements that it has set out in the tariff must be balanced by a commitment by PSE to post any additional or modified criteria it applies to any particular study cluster.

27. In response, PSE argues that a requesting transmission customer can choose initially whether or not to participate in a cluster of studies. Further, PSE argues, a requesting transmission customer is not required to participate in a clustering of studies and a requesting customer can discontinue its participation with a clustering process once a clustered study is complete. PSE states that, in that regard, if a requesting transmission

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<sup>20</sup> Proposed section 19.10 (iii) provides that "if any of the Completed Applications for service requests for which studies are clustered is deemed terminated or withdrawn or is no longer a Completed Application, then all such Completed Applications shall be deemed terminated or withdrawn or no longer a Completed Application." Proposed section 32.6 (iii) contains similar language.

<sup>21</sup> Under section 19.10, PSE will, upon receipt of a request in writing, advise clustered customers of its determination as to whether, when and upon what conditions an eligible customer can opt out of a clustered study.

customer is concerned about other requesting transmission customers opting out of a cluster after the completion of the study—and thereby potentially endangering the feasibility of the transmission upgrades developed by the clustered studies—then the requesting transmission customers may contract among themselves to address the impact of their ability to opt out on the feasibility of such upgrades and their participation in purchasing the requested transmission service upon which such upgrades are based. In any event, PSE states, if the Commission so determines, PSE will revise sections 19.10 and 32.6 of its tariff to clarify that upon the termination or withdrawal of completed applications for service requests for which studies are clustered, all such completed applications shall be deemed terminated or withdrawn only if such termination or withdrawal materially affects the clustered studies as they relate to the service for which the studies have been clustered.

28. Powerex, in its reply comments, states that PSE's newly-proposed provision only addresses one of Powerex's concerns and that PSE has not remedied the potential jeopardy clustered customers face upon the withdrawal of any one request. Powerex states that the Commission should direct PSE to amend its proposed revision so that customer and transmission provider rights, obligations and procedures are clearly delineated and with any subsequent materiality determinations explained by PSE and posted on OASIS.

**c. Commission Determination**

29. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it was reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved requested a cluster and the transmission provider could reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.<sup>22</sup> PSE proposes new sections 19.10 and 32.6 under its OATT to incorporate a process to cluster system impact studies and facilities studies. These sections describe how PSE will process such requests to cluster and the specifics and obligations of eligible customers who elect to join a cluster.

30. After review of sections 19.10 and 32.6 addressing the clustering of transmission service requests, and with the modification discussed below, we find PSE complies with our directive in Order No. 890 for transmission providers to include tariff language to

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<sup>22</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

describe how they will process a request to cluster studies and to set forth the customers' obligations when they have joined a cluster.

31. In response to Powerex's concern regarding the action of a single cluster customer and the effect on the cluster, PSE has agreed to modify proposed sections 19.10 and 32.6 so that the cluster remains intact unless the termination or withdrawal has a material effect on the clustered studies. We find the revised language sufficiently addresses Powerex's concern and therefore accept the proposed modification and direct PSE to submit revised tariff sheets in a compliance filing within 30 days of the date of this order.

32. Powerex also argues that section 19.10 affords PSE too much discretion to determine whether, when and under what conditions a customer can opt out of a clustered study. We disagree. In Order No. 890, we gave transmission providers the discretion to determine whether a transmission customer can opt out of a study and also gave transmission providers the discretion to develop the clustering procedures. We find it appropriate for PSE to exercise its discretion in establishing conditions under which an Eligible Customer can opt out of a cluster because PSE's determination will be based on an examination of the effect of such opting out on other service requests and on PSE's ability to reasonably and timely process the remaining service requests.<sup>23</sup>

33. Powerex also states that it is unclear in PSE's tariff whether a single customer's failure to enter into a service agreement has the effect of terminating all clustered transmission service requests. Specifically, section 19.10 states that "[i]f any such Eligible Customer(s) fails to enter into a Service Agreement . . . the service request of each such Eligible Customer shall be deemed terminated and withdrawn." The Commission interprets this language as providing that only the transmission service request for the customer who does not enter into a service agreement is terminated and withdrawn, not all requests in the cluster; it is with that understanding that we approve it.

34. Finally, Powerex states that any further clustering criteria not established by the tariff should be posted by PSE. Section 19.10 states that "[this] section sets forth the principal criteria and requirements to be applied to [PSE's] consideration of clustering of studies; additional criteria and requirements may be appropriate for any particular request for clustering of studies and may be applied by [PSE] to such request." We agree that criteria and requirements may address unique circumstances and may not apply to all future clustered requests. Therefore, we find it unnecessary to require PSE to post further requirements.<sup>24</sup> However, a further FPA section 205 filing would be necessary in the

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<sup>23</sup> *Avista Corp.*, 122 FERC ¶ 61,204, at P 27 (2008) (accepting similar tariff language regarding conditions under which a customer may opt out of a cluster).

<sup>24</sup> *Id.* P 29

event that PSE modifies the principal criteria and requirements for clustering studies established under section 19.10.

#### **4. Creditworthiness**

35. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.<sup>25</sup>

36. We have reviewed PSE's filing and find that it does not provide sufficient details on all six of the required elements. Specifically, Order No. 890 requires that the transmission customer be afforded a reasonable opportunity to contest a determination of credit levels or collateral requirements and a reasonable opportunity to post additional collateral, including curing any non-creditworthy determination.<sup>26</sup> Section 6 of PSE's proposed Attachment L provides that a transmission customer may question in writing the transmission provider's explanation of credit levels and collateral requirements and indicates that the transmission provider will provide a written response to such questions if the transmission customer submits its inquiry within ten days of receipt of the transmission provider's initial explanation. However, PSE's proposed creditworthiness provision does not provide further procedures PSE will follow when a customer contests PSE's creditworthiness or collateral determinations. In addition, PSE's proposed Attachment L does not specify how PSE will provide the transmission customer with an opportunity to post additional collateral or cure any non-creditworthy determination.<sup>27</sup> Therefore, we direct PSE to file, within 30 days of the date of issuance of this order, a further compliance filing that addresses its creditworthiness standards, as discussed above.

#### **5. Attachment J - Procedures for Addressing Parallel Flows**

37. The *pro forma* OATT adopted in Order No. 890 includes a blank Attachment J entitled "Procedures for Addressing Parallel Flows" that is to be "filed by the

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<sup>25</sup> *Id.* P 1656-61.

<sup>26</sup> *Id.* P 1657.

<sup>27</sup> For example, PSE's proposed Attachment L does not address the specific timeframes in which PSE or the customer must act.

Transmission Provider.” The Commission in the NERC Transmission Loading Relief Order<sup>28</sup> amended the OATT to incorporate NERC’s Transmission Loading Relief (TLR) procedures. The Commission also required that every transmission-operating public utility adopting NERC’s TLR procedures file with the Commission a notice that its tariff shall be considered so modified to reflect the use of such procedures. That order addressed the NERC’s TLR procedures for public utilities in the Eastern Interconnection. Later, in Order No. 693, the Commission approved, as mandatory and enforceable, the IRO-006-3 Reliability Coordination —Transmission Loading Relief Reliability Standard, which includes the NERC’s TLR procedures and, by reference, the equivalent Interconnection-wide congestion management methods used in the WECC (WSCC Unscheduled Flow Mitigation Plan) and ERCOT (section 7 of the ERCOT Protocols) regions.<sup>29</sup> As a result, all transmission providers must complete Attachment J by incorporating either the NERC TLR procedures, WSCC Unscheduled Flow Mitigation Plan, or ERCOT protocol and must provide a link to the applicable procedures.

38. PSE has not filed any procedures in Attachment J. PSE is directed to file, within 30 days of the date of this order, a further compliance filing with a completed Attachment J as shown below:

The North American Electric Reliability Corporation’s (“NERC”) Qualified Path Unscheduled Flow Relief for the Western Electricity Coordinating Council (WECC), Reliability Standard WECC-IRO-STD-006-0 filed by NERC in Docket No. RR07-11-000 on March 26, 2007, and approved by the Commission on June 8, 2007, and any amendments thereto, are hereby incorporated and made part of this Tariff. See [www.nerc.com](http://www.nerc.com) for the current version of the NERC’s Qualified Path Unscheduled Flow Relief Procedures for WECC.

## **6. Rollover Rights Effective Date**

39. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider’s coordinated and regional planning process. The Commission explained that rollover reform and

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<sup>28</sup> *North American Electric Reliability Council*, 85 FERC ¶ 61,353, at 62,362 and Ordering Paragraph (B) (1998) (NERC Transmission Loading Relief Order).

<sup>29</sup> *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 72 Fed. Reg. 16,416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242, at P 961-65 (2007), *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.<sup>30</sup>

40. PSE has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, PSE's Attachment K setting forth its transmission planning process, which was filed December 7, 2007 in Docket No. OA08-26-000, has not yet been accepted. This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct PSE to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. PSE should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date commensurate with the date of that filing.

#### **7. Proposed Section 4.3 - CEII**

41. In Order No. 890, to provide transparency and avoid undue delays in providing information to those with a legitimate need for it, the Commission required transmission providers to establish a standard disclosure procedure for CEII required to be disclosed under Order No. 890. We noted that transmission customers already have digital certificates or passwords to access publicly restricted transmission information on OASIS and that transmission providers may set up an additional login requirement for users to view CEII sections of the OASIS, requiring users to acknowledge that they will be viewing CEII information. Transmission providers may require customers to sign a nondisclosure agreement at the time that the customer obtains access to this portion of the OASIS and only information that meets the criteria for CEII, as defined in section 388.113 of the Commission's regulations,<sup>31</sup> should be posted in this section of the OASIS.<sup>32</sup>

42. We find that PSE's proposed section 4.3, which defines the disclosure procedure PSE will use to allow customers access to and use of CEII through PSE's OASIS, meets the requirements of Order No. 890 for transparency and the avoidance of undue delay in the use of such information by those with a legitimate need for such information. We therefore accept PSE's proposed section 4.3 as consistent with Order No. 890.

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<sup>30</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

<sup>31</sup> 18 C.F.R § 388.113 (2007).

<sup>32</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 404.

43. Accordingly, we will accept PSE's compliance filing, as modified, to be effective July 13, 2007. We also direct PSE to file, within 30 days of the date of this order, a further compliance filing as required by this order.

The Commission orders:

(A) PSE's compliance filing is hereby accepted in part, as modified, effective July 13, 2007, and rejected in part as discussed in the body of this order.

(B) PSE 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.