

125 FERC ¶ 61,111
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.

Otter Tail Power Company

Docket No. ER08-1373-000

ORDER CONDITIONALLY ACCEPTING
PROPOSED TARIFF REVISIONS, AS MODIFIED

(Issued October 28, 2008)

1. On August 8, 2008, Otter Tail Power Company (Otter Tail) filed proposed revisions to its Control Area Services and Operations Tariff (Control Area Tariff). Otter Tail asks the Commission to accept these changes and to make them effective on October 9, 2008, so long as Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) Ancillary Services Market Reversion Plan (Reversion Plan) has terminated by that date. If the Reversion Plan has not terminated by that date, then Otter Tail asks the Commission to make the proposed revisions effective on the date that the Reversion Plan does terminate. For the reasons discussed below, the Commission will conditionally accept Otter Tail's proposed tariff revisions, as modified below, to become effective on the date Midwest ISO's Reversion Plan terminates, subject to a compliance filing.

Background

2. Otter Tail states that the proposed revisions are necessary to accommodate the start-up of the Ancillary Services Market within the Midwest ISO region and to reflect the new role of Otter Tail as a Local Balancing Authority in the Midwest ISO footprint. Otter Tail explains that Midwest ISO is planning to implement a day-ahead and real-time Ancillary Services Market, which requires that a significant number of Balancing Authority functions that were formerly administered by the various Balancing Authorities in the Midwest ISO footprint be transferred to the Midwest ISO.¹ Therefore, Otter Tail

¹ Otter Tail explains that certain data and communication related functions will remain with the Local Balancing Authorities or be shared between Midwest ISO and the Local Balancing Authorities.

proposes changes throughout the Control Area Tariff to reflect these changes in responsibilities.

3. Additionally, Otter Tail proposes to suspend certain schedules² that it will no longer need on a day-to-day basis as of the date the Ancillary Services Market commences, and then to cancel these schedules on October 9, 2008, or on the termination date of the Reversion Plan for the Ancillary Services Market.³

4. Otter Tail also proposes “clean-up” and minor changes to the Control Area Tariff, such as removing language in schedules that it no longer uses and removing interconnection procedures that are obsolete since interconnection requests are now routed to the Midwest ISO. In addition, while the Control Area Tariff is not an open access transmission tariff, Otter Tail proposes minor changes to its Schedule 2, “Reactive Power Supply from Generation Sources Services,” to conform to those included in the Order No. 890 *pro forma* tariff.

5. Otter Tail asks the Commission to make the revisions to its Control Area Tariff effective on October 9, 2008, so long as the Midwest ISO’s Reversion Plan has terminated by that date. However, in the event that the Reversion Plan has not terminated by October 9, 2008, Otter Tail asks that the effective date be the date on which the Reversion Plan terminates.⁴

² Schedules: 3A, “Load Regulation and Frequency Response Service”; 3B, “Generator Regulation and Frequency Response Service”; 5, “Operating Reserve – Spinning Reserve Service”; and 6, “Operating Reserve-Supplemental Reserve Service”.

³ The Midwest ISO submitted an Ancillary Services Market Reversion Plan, on February 29, 2008, to address system operations in the event of a severe operations failure in the Ancillary Services Market.

⁴ The Commission conditionally accepted the Midwest ISO’s Ancillary Services Market on February 25, 2008, subject to certain additional compliance filings. *See Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,172 (2008). On August 26, 2008, the Midwest ISO gave notice that the September 9, 2008 effective date for the commencement of service under the Ancillary Services Market proposal would be deferred, and requested that the Commission defer action in certain Ancillary Services Market-related dockets. *See Notice of the Midwest Independent Transmission System Operator, Inc.’s Deferral of Effective Dates*, Docket No. ER07-1372-002, *et al.* (Aug. 26, 2008). Until the launch date for the Ancillary Services Market, the Midwest ISO will continue to operate under the terms of its currently effective Open Access Transmission and Energy Markets Tariff (Energy Market Tariff). The Midwest ISO intends to re-file the Ancillary Services Market Tariff with a revised effective date. *Id.*

Notice of Filing and Responsive Pleadings

6. Notice of Otter Tail's August 8, 2008, filing was published in the *Federal Register*, 70 *Fed. Reg.* 49,178 (2008), with interventions and protests due on or before August 29, 2008. Missouri River Energy Services filed a motion to intervene. Great River Energy (Great River) filed a motion to intervene and a limited protest. The Midwest ISO filed an out-of-time motion to intervene. Otter Tail filed an answer to Great River's limited protest.

Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant Midwest ISO's motion to intervene out-of-time given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Otter Tail's answer because it has provided information that assisted us in our decision-making process.

B. Great River's Limited Protest

9. Great River states that Otter Tail's proposed revisions to section 3.9 of the Control Area Tariff, which concern scheduling and tagging, are unnecessary for the Midwest ISO load serving entities within the Otter Tail control area that operate within the existing Midwest ISO energy market and the upcoming Midwest ISO Ancillary Services Market. Great River argues that Otter Tail's proposed language would require Great River to continue to provide dynamic scheduling information to Otter Tail. However, Great River states that the dynamic schedule for Great River load within the Otter Tail control area will no longer be necessary when the Midwest ISO Ancillary Services Market commences and Midwest ISO assumes its new responsibilities as the Balancing Authority.

10. Great River also expresses concern that the proposed changes to section 3.9 of the Control Area Tariff would require Great River to provide capacity sufficiency information to Otter Tail. Great River asserts that it provides generation capacity information to the Midwest ISO through Module E of the Midwest ISO Energy Market Tariff for purposes of determining Great River's capacity sufficiency. Thus, it maintains, given the Midwest ISO's responsibility to ensure resource adequacy throughout its

footprint, including Great River load in the Otter Tail control area, there is no reason for Great River to separately provide capacity information directly to Otter Tail.

11. To address its concerns, Great River proposes that Otter Tail amend section 3.9 as follows:

Scheduling and Tagging. When producing capacity and/or energy for use by the Customer or other customers, a Customer with a dynamic schedule to a Balancing Authority that is external to the MISO Balancing Authority Area or grandfathered agreement as identified in Attachment P to the Midwest ISO TEMT [Energy Market Tariff] must provide the Local Balancing Authority Operator with hourly schedules identifying the amount of output in megawatt hours, and in accordance with the procedures as outlined by NERC [North American Electric Reliability Corporation], MISO, the Regional Reliability Organization, or any successor agency assuming or charged with similar responsibilities. Accordingly, the Customer will provide “tags” (including the Local Balancing Authority Operator on the tag) of all megawatts scheduled in accordance with the requirements of the NERC. Furthermore, pursuant to NERC Standard TOP-003-0 (or any subsequent revision to such presently existing NERC Standard) ~~a Generator~~ such customer shall provide the Local Balancing Authority Operator with planned outage information for scheduled generator outages planned for the next day. ~~A Load Serving Entity shall also provide the Local Balancing Authority with its load and resource information necessary for verifying the Load Serving Entity’s capacity sufficiency.~~

C. Otter Tail’s Answer

12. In its answer, Otter Tail states that it has discussed the suggested changes with Great River. Otter Tail agrees that these changes would better distinguish between customers that serve load in the Midwest ISO and customers that do not, and that the changes are otherwise just and reasonable. Accordingly, Otter Tail states that if the changes are acceptable to the Commission, it is willing to submit the changes through a compliance filing.

13. In addition, Otter Tail states that, assuming the Midwest ISO provides at least 60 days notice of its revised Ancillary Services Market implementation date, as it has committed to do, Otter Tail will provide commensurate notice of the effective date of its tariff changes in this docket, which are intended to be effective 30 days after the Ancillary Services Market start-up, consistent with Midwest ISO’s Ancillary Services Market Reversion Plan.

D. Commission Determination

14. We find that Otter Tail's proposed revisions to its Control Area Tariff, as modified to reflect the changes to section 3.9 of that tariff suggested by Great River and agreed to by Otter Tail, are just and reasonable. Accordingly, we conditionally accept Otter Tail's proposed revisions to its Control Area Tariff, as modified, to be effective on the date Midwest ISO's Reversion Plan terminates, as requested. We require Otter Tail to submit a compliance filing, within 30 days of the date of this order, that reflects the changes to its proposed section 3.9, as suggested by Great River and agreed to by Otter Tail. In addition, we will waive, from the effective date of Midwest ISO's Ancillary Services Market, the effectiveness of the schedules that Otter Tail indicates it will no longer need pending either (1) the termination of the Reversion Plan and the concurrent cancellation of those schedules or (2) the implementation of the Reversion Plan. If the Reversion Plan terminates, waiver of those schedules will be terminated as of the date of the termination and the schedules at issue will be cancelled. If the Reversion Plan is implemented, however, waiver of those schedules will be terminated as of the implementation date and, accordingly, the schedules will not be cancelled.

The Commission orders:

(A) Otter Tail's proposed revisions to its Control Area Tariff, as modified, are hereby conditionally accepted, to be effective on the date Midwest ISO's Reversion Plan terminates, as discussed in the body of this order.

(B) Otter Tail is hereby directed to submit a compliance filing, within 30 days of the date of issuance of this order, as discussed in the body of this order.

(C) Waiver, from the effective date of Midwest ISO's Ancillary Services Market, of the identified schedules that Otter Tail no longer will need is hereby granted, pending either (1) the termination of the Reversion Plan and the concurrent cancellation of those schedules or (2) the implementation of the Reversion Plan.

(D) In the event the Reversion Plan is terminated, the waiver granted in Ordering Paragraph (C) shall be terminated as of the Reversion Plan termination date and the identified schedules are hereby cancelled.

(E) In the event the Reversion Plan is implemented, the waiver granted in Ordering Paragraph (C) shall be terminated as of the Reversion Plan implementation date and the identified schedules are not cancelled.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.