

138 FERC ¶ 61,099
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Powerex Corp.

Docket No. ER12-984-000

ORDER GRANTING EMERGENCY WAIVER

(Issued February 3, 2012)

1. On February 2, 2012, Powerex Corp. (Powerex) filed an emergency request for limited waiver of Section 1 of its market-based rate schedule¹ in order to provide NorthWestern Corporation (NorthWestern) with up to 70 megawatts (MW) of Regulating Reserve Service on an interim basis from February 3, 2012 until February 29, 2012, under an agreement dated February 2, 2012 (Agreement).

2. Powerex seeks expedited action because of NorthWestern's immediate need to obtain Regulating Reserve Service in order to provide the service NorthWestern is required to offer under Schedule 3 (Regulation and Frequency Response Service) of NorthWestern's OATT.² As discussed below, we will grant a limited waiver of Section 1 of Powerex's Rate Schedule No. 1, effective February 3, 2012, until February 29, 2012.

¹ Powerex Corp., Rate Schedule No. 1, 0.0.0 (effective Sept. 30, 2010). Section 1 of Powerex's Rate Schedule No. 1 limits its ability to make sales of ancillary services at market-based rates to transmission providers for use in fulfilling their Open Access Transmission Tariff (OATT) obligations.

² Powerex states that it and NorthWestern are presently negotiating another agreement under which Powerex may provide Regulating Reserve Service to NorthWestern from March 1, 2012 through January 8, 2013, under which the quantity may be reduced at NorthWestern's discretion on a month to month basis. Powerex states that it will seek prior Commission authorization to make such sales as soon as that agreement is executed.

Background

3. Powerex states that NorthWestern contacted Powerex on February 1, 2012 to request the immediate provision of Regulating Reserve Service. Referencing an affidavit by the Vice President – Transmission for NorthWestern attached to Powerex’s filing, Powerex states that on the morning of January 31, 2012, NorthWestern was unexpectedly required to completely shut down the Dave Gates Generating Station, a 150 MW natural gas-fired generating station near Anaconda, Montana, due to significant equipment damage on each of the three generating units. The shutdown was required to prevent potentially catastrophic damage to the plant’s power turbines. Powerex states that since NorthWestern does not have any other generation sources that can provide regulation services, NorthWestern does not presently have any means to regulate its system. Powerex states that NorthWestern’s lack of regulation capacity could jeopardize NorthWestern’s provision of reliable electric service to its customers and could impact the reliable operation of NorthWestern’s system as well as impact the Western interconnected system. Powerex represents that, as demonstrated by the affidavit, NorthWestern’s need constitutes an extraordinary circumstance and that to assure reliability requirements are met, immediate provision of service by Powerex is necessary.

4. Powerex represents that the Agreement does not present any market power concerns. It states that the service to be provided is under rates, terms, and conditions that are substantially similar to two prior agreements for which the Commission previously granted Powerex waiver of Section 1 of its tariff.³ Powerex states that the service is scheduled to be for a term of only 27 days. Powerex states that the Agreement provides needed service to NorthWestern on an immediate basis, thus enabling NorthWestern to obtain the services it is required to procure for reliability purposes.

5. In the event the Commission declines to grant the requested waiver, Powerex states that the Agreement provides that Powerex will charge NorthWestern no rate (\$0) for the capacity or energy services provided, and will charge NorthWestern only for related transmission based on prices in place by the relevant transmission providers.

Discussion

6. The Commission finds that good cause exists under the circumstances presented to expeditiously grant the requested limited waiver, to be effective February 3, 2012, to allow the provision of Regulating Reserve Service from February 3, 2012 until

³ *NorthWestern Corp.*, 121 FERC ¶ 61,204 (2007); *Powerex Corp.*, 125 FERC ¶ 61,179 (2008).

February 29, 2012. However, if any entities believe themselves to be adversely affected by our actions we urge them to make prompt filings with us so that we may address their concerns.⁴

The Commission orders:

Powerex's request for limited waiver of Section 1 of its Rate Schedule No. 1 is hereby granted, effective February 3, 2012, until February 29, 2012, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴ Because of the need to respond quickly to the emergency situation, we are issuing this order without prior notice, but it will be subject to rehearing.