

139 FERC ¶ 61,075
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Montana Alberta Tie Ltd.
MATL LLP

Docket Nos. ER12-761-000
ER12-761-002
ER10-981-000

ORDER APPROVING UNCONTESTED SETTLEMENTS, AS MODIFIED

(Issued April 27, 2012)

1. On January, 4, 2012, as amended on January 20, 2012 and on February 23, 2012,¹ Montana Alberta Tie Ltd. and its wholly-owned subsidiary MATL LLP (collectively, MATL), along with NaturEner USA, LLC (NaturEner) and NaturEner Rim Rock Wind Energy, LLC (collectively, Settling Parties), submitted an agreement package containing two uncontested settlement agreements, the Transmission Credits 2011 Settlement Agreement (Transmission Credits Settlement) and the 2011 Commercial Settlement Agreement (Commercial Settlement) (collectively, Settlement Agreements). In this order, the Commission approves the Settlement Agreements, as modified below.

I. Background

2. MATL is a merchant transmission company constructing a new 214-mile, 230 kV alternating current merchant transmission line from Great Falls, Montana, to Lethbridge, Alberta, Canada. The line will have a capacity of 300 MW in each direction and may be upgraded to 550 MW at some point in time. The line is intended to allow new renewable wind generation resources to sell their electrical output into wholesale energy markets in the United States and Canada. MATL's transmission line will be interconnected with the NorthWestern Corporation (NorthWestern) balancing authority area in Montana. MATL expects the line to be operational by October 15, 2012.

¹ On January 20, 2012 and on February 23, 2012, MATL submitted amendments to correct an administrative error in its filing and the Commission action date of the filing.

3. On July 26, 2006, the Commission granted MATL authority to sell transmission rights at market-based rates.² MATL's 2006 application contained a proposed Open Access Transmission Tariff (OATT) that it claimed complied with Order No. 888's *pro forma* OATT. Following MATL's submittal of a compliance filing with a revised OATT, the Commission accepted MATL's OATT for filing in *Montana Alberta Tie, Ltd.*, 119 FERC ¶ 61,216. On March 3, 2009, in Docket No. ER07-1174-000, the Commission accepted MATL's Order No. 890 compliance filing, which included revisions to its OATT.³

4. On March 31, 2010, in Docket No. ER10-981-000, MATL submitted for filing, pursuant to section 205 of the Federal Power Act (FPA),⁴ proposed revisions to the MATL OATT. MATL proposed to revise its Large Generation Interconnection Procedures (LGIP), Large Generator Interconnection Agreement (LGIA), and Small Generator Interconnection Agreement (SGIA) to remove provisions requiring it to reimburse interconnection customers for network upgrade costs and to clarify that it will not provide network resource interconnection service or network integration transmission service.⁵ MATL's filing was protested by NaturEner and by NorthWestern. NaturEner argued that MATL's proposal departed from the Commission's policy and that NaturEner would be harmed because its contracts with MATL were negotiated in reliance upon the availability of transmission credits for advanced funding for network upgrades. NorthWestern argued that MATL's proposed tariff language could be misinterpreted to impose on NorthWestern, an affected system operator to MATL's transmission line, an unconditional obligation to reimburse MATL's interconnection customers even if they do not take service from NorthWestern.

5. While the filing was pending Commission consideration, MATL filed a request that the Commission defer consideration of its filing while MATL tried to negotiate a settlement of its differences with NaturEner and NorthWestern. These negotiations were successful and MATL replaced its filing in Docket No. ER10-981-000 with the instant filing in Docket Nos. ER12-761-000, as revised by filings in Docket Nos. ER12-761-001

² *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071 (2006) (*MATL 1*) and *Montana Alberta Tie, Ltd.*, 119 FERC ¶ 61,216 (2007).

³ *MATL LLP*, 126 FERC ¶ 61,192 (2009).

⁴ 16 U.S.C. § 824d (2006).

⁵ Notice of MATL's filing was published in the *Federal Register*, 75 Fed. Reg. 18,195 (2010), with interventions and protests due on or before April 21, 2010. Timely interventions were filed by NaturEner, NorthWestern, and Invenenergy Wind Development LLC. Morgan Stanley Capital Group Inc. filed a motion to intervene in response to the January 20, 2012 filing.

and ER12-761-002. In the instant filing, MATL submitted an agreement package containing the two Settlement Agreements. MATL states that the Transmission Credits Settlement and the Commercial Settlement resolve the issues relating to Docket No. ER10-981-000.

6. Article 1.1 of the Transmission Credits Settlement states that it shall include the revisions to the OATT, as set forth in MATL's filing, provided that the OATT revisions include NorthWestern's proposed revisions to section 11.4.2 of the LGIA and section 5.3 of the SGIA.⁶ Article 1.2 of the Transmission Credits Settlement states that MATL, NorthWestern, and NaturEner and its affiliate, NaturEner Rim Rock Wind Energy, LLC (collectively, NaturEner) executed a non-conforming LGIA.⁷ Further, article 1 of the Commercial Settlement provides for two amended Long-Term Transmission Scheduling Right Purchase and Sale Agreements (Transmission Agreements) with NaturEner. The amended Transmission Agreements change the rates, the terms for the receipt and delivery points under contract, and other terms and conditions of transmission service that MATL will provide to NaturEner.

7. Article 2.1 of the Transmission Credits Settlement and articles 4.1 and 4.2 of the Commercial Settlement provide that the parties waive their rights under sections 205 and 206 of the Federal Power Act to seek unilateral changes to the Settlement Agreements, and that the standard of review applicable to the Commission acting on its own motion or in response to a third party's request for review shall be the most stringent standard permissible under applicable law.

II. Discussion

8. The Settlement Agreements, as modified below, appear fair and reasonable and in the public interest and are hereby approved. The Commission's approval of the Settlement Agreements does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

9. We note that the non-conforming LGIA with NaturEner and NorthWestern and the two amended Transmission Agreements with NaturEner resolve the limited issues between the parties. In addition, MATL's proposed changes to the LGIP and LGIA

⁶ This includes the LGIP, LGIA, and SGIA revisions to clarify that MATL will not provide network resource interconnection service or network integration transmission service.

⁷ Generally, the non-conforming LGIA provides that MATL will not reimburse NaturEner for network upgrades and establishes the role of NorthWestern as an affected system operator.

clarifying that MATL will not provide network resource interconnection service or network integration transmission service are consistent with the Commission's previous finding that MATL is not required to provide network service because MATL, as a single transmission line, cannot offer network transmission or network interconnection service.⁸

10. However, the proposed revisions to MATL's transmission credit provisions as contained in the standard LGIP, LGIA and SGIA are not necessary to resolve the narrow dispute among the parties. As a result, we find that it is premature to address those proposed revisions because they could have ramifications for future parties and we decline to accept them. Accordingly, we direct MATL to file, within 30 days of the date of this order, a revised LGIP, LGIA, and SGIA that makes only the changes to clarify that MATL will not provide network service.

The Commission orders:

(A) The Commission hereby approves the parties' Settlement Agreements, as modified, as discussed in the body of this order.

(B) MATL is hereby directed to submit a compliance filing within 30 days as discussed in the body of this order.

(C) The proceeding in Docket No. ER10-981-000 is hereby terminated.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁸ *MATL I*, 116 FERC ¶ 61,071 at PP 57-58.