141 FERC ¶ 61,140
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PacifiCorp — Docket No. ER12-2154-000

ORDER DENYING TARIFF REVISION

(Issued November 20, 2012)

1. On June 29, 2012, pursuant to section 205 of the Federal Power Act,[1] PacifiCorp filed a proposed revision to Article 2.5 of its Standard Large Generator Interconnection Agreement (LGIA), Attachment N, Appendix 6, under its Open Access Transmission Tariff (OATT), to provide clarity on cost allocation issues related to the disconnection of generating facilities.[2] In this order, the Commission denies PacifiCorp's proposed revision, as discussed below.

I. Background

2. PacifiCorp proposes to modify Article 2.5 of its LGIA to provide that a disconnecting customer shall be responsible for all costs related to the disconnection of facilities, including costs associated with any modifications to the transmission system that are required to maintain system reliability following the disconnection of the facilities.[3] Specifically, PacifiCorp proposes to add the underlined phrase to Article 2.5 of its current LGIA:

> Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Transmission System. All costs required to effectuate such disconnection, including any costs associated with modifications to Interconnection Facilities and/or the Transmission System that are required by the Transmission Provider to maintain system reliability, shall be borne by the terminating Party, unless

[1] 16 U.S.C. § 824d (2006).

[2] Transmittal Letter at 3.

[3] *Id.* at 2.

> such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under the LGIA.[4]

3. PacifiCorp asserts that its proposed LGIA revision provides clarity on an issue that it is likely to face with increased frequency in the coming years, as the current environmental regulatory climate may result in an unusually large number of decommissioned generating facilities and associated transmission system reliability upgrades. PacifiCorp states that the potential environmental regulation and state renewable portfolio standards are driving significant changes in the mix of generation resources, including the early retirement of coal-fired generation.[5]

4. PacifiCorp maintains that the proposed revision is consistent with or superior to the *pro forma* LGIA. PacifiCorp argues that the proposed tariff revision is the Commission's current policy and, therefore, the foregoing revision is consistent with or superior to the *pro forma* LGIA because it provides clarification regarding the costs for which interconnection customers are responsible upon the decommissioning or deactivation of a generator consistent with existing Commission policy. PacifiCorp states that, while it recognizes that the Commission has rejected the direct assignment of the costs of improvements to transmission system facilities that are necessary to accommodate a request for new transmission or interconnection service, it believes that the Commission did not intend for that policy to apply in the context of decommissioning generators that are terminating service.[6] PacifiCorp observes that, in the Order No. 2003 proceeding, a number of intervenors expressed concern that the language in Article 2.5 suggested that transmission providers would be responsible for certain disconnection costs. However, argues PacifiCorp, the Commission responded to these concerns that "all disconnection costs [should be] borne by the terminating party, unless the termination results from the non-terminating party's default under the LGIA."[7]

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[4] *Id*. at 2.

[5] *Id*. at 3.

[6] *Id*.

[7] *Id*. (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at PP 320-321 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Natl Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008)).

5. PacifiCorp recognizes that certain Regional Transmission Organizations (RTO) and Independent System Operators (ISO) have policies in place governing cost allocation in the context of decommissioning or deactivating generators.[8] However, PacifiCorp argues that these policies are inapplicable to it because PacifiCorp is not located within a RTO or an ISO, and PacifiCorp does not intend to address cost allocation that occurs where a generator's decommissioning or deactivation date must be postponed for reliability reasons.[9]

6. PacifiCorp also requests Commission approval to apply existing Commission policy in this regard to older interconnection agreements that predate Order No. 2003.[10] PacifiCorp explains that many of its older interconnections are not governed by LGIA agreements, and that many of these older interconnection customers will be among the most highly affected by pending environmental regulation. Thus, PacifiCorp requests Commission confirmation that it would be appropriate for PacifiCorp to apply the Commission's existing policy – as confirmed in its order on PacifiCorp's instant request – to old interconnection agreements that are silent on decommissioning cost allocation.

7. On August 23, 2012, Commission staff issued a deficiency letter in this proceeding. PacifiCorp responded to Commission staff's request on September 21, 2012. In response to Commission staff's inquiry regarding how PacifiCorp has dealt with cost allocation issues arising from the decommissioning of generators in the past, PacifiCorp stated that, in 2011, approximately $453,000 were assigned to an interconnection customer that decommissioned a hydro generating facility on PacifiCorp's system, and that this amount reflected some costs related to the maintenance of system reliability.

II. Notice of Filing

8. Notice of PacifiCorp's initial filing was published in the *Federal Register*, 76 Fed. Reg. 40,877 (2012), with protests and interventions due on or before July 20, 2012. None was filed.

9. Notice of PacifiCorp's response to the deficiency letter was published in the *Federal Register*, 77 Fed. Reg. 59,920 (2012), with protests and interventions due on or before October 12, 2012. None was filed.

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[8] *Id.* at n.10 (citing PJM Interconnection Tariff Part V, Generation Deactivation; MISO Tariff, Attachment Y, Retirement Procedures).

[9] *Id.*

[10] *Id.* at 4.

III. Discussion

10. We deny PacifiCorp's proposed tariff revision as overly broad.

11. PacifiCorp interprets Order No. 2003 to mean that the Commission intended to allocate all costs resulting from disconnection of generating facilities to the terminating interconnection customer, including modifications to the transmission system that are required to maintain system reliability (e.g., network upgrades). However, PacifiCorp acknowledges that the Commission expressly declined to rule that Article 2.5 of the *pro forma* LGIA should be revised to make the interconnection customer responsible for "all costs of disconnection under all circumstances."[11]

12. PacifiCorp has not demonstrated that it is consistent with or superior to the *pro forma* LGIA to allow PacifiCorp to unilaterally amend Article 2.5 of its LGIA. A generic one-size-fits-all approach to this issue would not consider, for instance, the physical or operational limitations of the transmission system when the interconnection customer initially entered into its LGIA with the transmission provider or developments that occurred thereafter. We therefore find that the Commission should continue to review such requests on a case-by-case basis to determine that costs assigned to the terminating party are just and reasonable, both for LGIAs and for interconnection agreements that pre-date Order No. 2003.

<u>The Commission orders</u>:

PacifiCorp's proposed revision to Article 2.5 of its LGIA is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[11] Deficiency Response at 1 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 320).