

141 FERC ¶ 61,186
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.

WBI Energy Transmission, Inc.

Docket No. RP13-186-000

ORDER GRANTING LIMITED WAIVER OF TARIFF PROVISION

(Issued December 3, 2012)

1. On October 26, 2012, WBI Energy Transmission, Inc. (WBI) filed a petition for a limited waiver of section 23.4.1 of the General Terms and Conditions (GT&C) of its tariff in order to allow additional time for Northern States Power Company (NSP) to execute a Rate Schedule FT-1 service agreement outside of the 30-day period established by WBI's tariff. In this order, we grant WBI's request for waiver.

I. Background

2. On October 2, 2012, pursuant to section 23.4.1 of the GT&C of its tariff, WBI tendered to NSP Contract No. FT-01125, a rollover of NSP's existing service agreement. Under section 23.4.1, shippers desiring to rollover their capacity must execute a new firm service agreement for the maximum rate and for a term at least as long as the term of the expiring agreement and must execute the new service agreement within 30 days of the date of receipt. Absent execution of a new service agreement within the 30-day period, WBI may offer the capacity to others, which results in the automatic abandonment of the current shipper's entitlement at the end of the existing agreement's term unless the shipper elects to exercise its right to match bids from others under WBI's right of first refusal (ROFR) provisions.

3. Section 23.4.1 requires NSP to return a fully executed copy of Contract No. FT-01125 on or before October 31, 2012 or otherwise subject the capacity to this ROFR process. On October 25, 2012, NSP informed WBI that the proposed 20-year length of the contract necessitated additional internal review and prevented it from returning an executed copy of the agreement to WBI by the required October 31, 2012 deadline. NSP has indicated that it will be able to return an executed copy of Contract No. FT-01125 to WBI by November 9, 2012.

II. Waiver Request

4. WBI requests a limited one-time waiver of its tariff to provide NSP additional time to return an executed copy of Contract No. FT-01125 and forgo subjecting the

capacity to the ROFR process. WBI states no party will be harmed or disadvantaged by approval of the waiver and notes the waiver is being sought for a non-affiliated shipper. WBI states NSP has already indicated that it wishes to retain the capacity at the applicable maximum rate therefore, granting the waiver allows NSP to do so without the unneeded delay of the ROFR process. WBI also states if NSP does not execute and return Contract No. FT-01125 by November 9, 2012, it will offer such capacity to other potential shippers pursuant to section 23.4.1.

III. Public Notice, Intervention, and Comments

5. Notice of WBI's filing was issued on October 31, 2012. Interventions and protests were due November 1, 2012. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2012), all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

6. NSP filed comments in support of WBI's request for limited waiver. NSP states that it believes that its corporate review process will be completed and the contract fully executed no later than November 9, 2012.

IV. Discussion

7. No party has objected to the granting of the waiver, and it appears no party will be harmed by granting limited waiver of WBI's tariff in the circumstances. Accordingly, for good cause shown, the Commission grants WBI's request for a limited waiver of section 23.4.1 of its tariff in order to allow additional time for NSP to execute Contract No. FT-01125 during November 2012, which would otherwise be outside the 30-day period established by WBI's tariff.

The Commission orders:

WBI's request for limited waiver is granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.