

143 FERC ¶ 61,296  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

MATL LLP

Docket No. ER13-1370-000

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued June 28, 2013)

1. On April 30, 2013, MATL LLP (MATL) filed revisions to its open access transmission tariff (OATT) in connection with the impending commercial operation of a 214-mile, 230 kV alternating current transmission line it is constructing that will extend from Lethbridge, Alberta, Canada to Great Falls, Montana (Project). In this order, we conditionally accept MATL's proposed OATT revisions, effective July 1, 2013, as requested, subject to MATL submitting a compliance filing.

**I. Background**

2. On April 1, 2005, as amended on March 31, 2006, MATL submitted an application for authority to sell transmission rights at market-based rates and a corresponding OATT in connection with the Project. MATL stated that the Project would have a rated capacity of 300 MW in each of the northbound and southbound directions, for a total of 600 MW. MATL explained that the Project would provide substantial benefits to both Canada and the United States through increased flexibility, reliability, and competition.

3. On July 20, 2006, the Commission granted MATL's application for negotiated rate authority, stating that the Project would link two regions and allow for efficient and economic access to existing and new generation sources.<sup>1</sup> The Commission also accepted MATL's proposed OATT, subject to MATL submitting a compliance filing that would revise the proposed OATT to be consistent with the *pro forma* OATT, demonstrate that the deviations in MATL's proposed OATT are consistent with or superior to the *pro forma* OATT, or fully explain how the *pro forma* OATT provisions are not applicable,

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<sup>1</sup> *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071 (2006) (Negotiated Rate Order).

given MATL's business model.<sup>2</sup> The Commission found that the proposal met its then-applicable 10-factor criteria<sup>3</sup> and directed MATL to file reports on any subsequent open seasons and to file any Coordinated Operating Agreements or Operating Agreements to satisfy the Commission's open season and reliability requirements.<sup>4</sup>

4. On September 26, 2011, by delegated letter order, the Commission approved the disposition of facilities resulting from the transfer of indirect ownership of MATL to Enbridge Inc.<sup>5</sup>

5. On February 13, 2012, MATL filed a Petition for Declaratory Order (Petition) requesting Commission confirmation that it could continue to exercise the negotiated rate authority granted by the Commission in the Negotiated Rate Order and requesting certain waivers, despite MATL's change in upstream ownership. On June 13, 2012, the Commission granted MATL's petition,<sup>6</sup> finding that MATL continued to meet the Commission's four-factor analysis for negotiated rate authority.<sup>7</sup> In evaluating the terms and conditions of a merchant developer's open season, the Commission found that MATL would be unable to exercise undue discrimination based on its open season process and OATT commitments. In addition, the Commission stated that, if MATL wished to make additional capacity available, it must do so through an open season and

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<sup>2</sup> The Commission accepted MATL's revisions to its proposed OATT as consistent with the Negotiated Rate Order and, where applicable, as consistent with the *pro forma* OATT on May 31, 2007. *Montana Alberta Tie, Ltd.*, 119 FERC ¶ 61,216 (2007).

<sup>3</sup> See Negotiated Rate Order, 116 FERC ¶ 61,071 at P 26 (citing *Northeast Utilities Services Co.*, 98 FERC ¶ 61,310, at 62,326-30 (2002)). The 10-factor test was later modified to a four-factor test for merchant transmission developers. See *Chinook Power Transmission, LLC and Zephyr Power Transmission, LLC*, 126 FERC ¶ 61,134, at P 37, order on rehearing, 128 FERC ¶ 61,074 (2009).

<sup>4</sup> Negotiated Rate Order, 116 FERC ¶ 61,071 at PP 39, 47.

<sup>5</sup> *Enbridge Inc.*, 136 FERC ¶ 62,264 (2011).

<sup>6</sup> *MATL LLP and Montana Alberta Tie, Ltd.*, 139 FERC ¶ 61,208 (2012) (Petition Order).

<sup>7</sup> *Id.* P 12.

then file the open season report with the Commission within 30 days of the conclusion of that open season.<sup>8</sup>

6. MATL currently has one firm customer, NaturEner USA LLC (NaturEner), with whom it has entered service agreements at negotiated rates for 300 MW of transmission capacity northbound.<sup>9</sup>

## II. Instant Filing

7. In connection with the impending commercial operation of the Project, MATL proposes several OATT revisions that generally fall into one of three categories: (1) revisions that are consistent with MATL's operation as a merchant transmission provider that does not own generation and is not affiliated with a merchant function that takes transmission service over the line; (2) revisions that are compliant with current Commission policies and requirements; and (3) revisions in the nature of administrative, clean-up changes.

8. More specifically, MATL states that it proposes to revise Schedule 7 of its OATT to change the process by which it will offer short-term firm and non-firm transmission capacity because it is not yet in a position to conduct auctions for such transactions.<sup>10</sup> MATL explains that, instead of holding an auction process for short-term transactions, it proposes to post the rates for these products on its Open Access Same-time Information System (OASIS) and the customers who choose to purchase these products will pay the applicable posted rates rather than bid for these services. In support, MATL asserts that, due to its status as a merchant transmission owner with negotiated rate authority, it has the incentive to set the price for short-term transmission service at a level that maximizes usage of the Project and to encourage incremental short-term use of the Project's capacity. MATL states that it combines the provisions for its sale of both firm and non-firm transmission service into revised Schedule 7 and, to the extent necessary, it requests waiver to move the non-firm service provisions into Schedules 7 and not use the Schedule 8 of the Commission's *pro forma* OATT.<sup>11</sup>

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<sup>8</sup> *Id.* P 19.

<sup>9</sup> MATL Filing at 4.

<sup>10</sup> MATL states that, once it is able to implement an auction process for these products, it will submit for filing the requisite revisions to Schedule 7. *Id.* at 5.

<sup>11</sup> *Id.* at 5, n.7.

9. To implement this process, MATL proposes to grant short-term transmission service requests on a first-come, first-served basis with respect to service requests of the same priority and duration. For requests of different priority or duration, MATL proposes to grant a higher priority first to service requests with a higher priority (firm over non-firm) and second to service requests for a longer duration of service. In addition, MATL states that it has deleted the last sentence of section 17.4 of its OATT, which directs the transmission provider to assign a date and time priority to applications for short-term service. MATL explains that this provision is not necessary because the application is merely intended to qualify the customer to participate in its capacity sales through OASIS.<sup>12</sup>

10. Also in Schedule 7, MATL proposes to add a new section 3.3, which implements an unreserved use penalty provision. MATL explains that this provision applies a penalty of 200 percent of the applicable Schedule 7 rate, based on a sliding scale for a transmission customer's use of the Project during any hour that exceeds the amount of the customer's reserved capacity. MATL asserts that its proposal is consistent with the Commission's policy and precedent as described in Order No. 890.<sup>13</sup>

11. MATL also proposes to revise section 2.2 of its OATT, concerning long-term customers' rollover rights, to be consistent with the merchant transmission model and Order No. 890. MATL states that its proposed revision will provide customers with a contract term of five years or more with the right to continue to take transmission service when the contract expires, rolls over, or is renewed. MATL notes that the customer must provide a notice invoking its right of first refusal no less than one year prior to the expiration of its service agreement. When the customer provides notice that it will exercise its rollover rights, MATL explains that it will follow the capacity auction process set forth in Schedule 7, and post the request for 30 days. If no other customer expresses interest in the capacity, or there is insufficient capacity to accommodate both the existing customer and new customer's requests, MATL states that it will grant the existing customer's request at the existing rates, subject to any escalation that may be set forth in the transmission service agreement. If other customers express interest in the capacity and there is insufficient capacity to meet all of the requests, MATL states that it

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<sup>12</sup> *Id.* at 6.

<sup>13</sup> *Id.* at 7 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, at P 60, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

will hold a capacity auction for the capacity and present the existing customer with the results showing the highest rate that cleared, after which the existing customer will have two business days to accept or reject the contract term and rate.

12. MATL proposes revisions to sections 13.8 and 14.6 of its OATT to modify the timing requirements applicable to scheduling firm and non-firm point-to-point transmission service. Currently, sections 13.8 and 14.6 of MATL's OATT state that schedules for the transmission customer's firm point-to-point transmission service must be submitted to the transmission provider no later than 10:00 a.m. for firm service and 2:00 p.m. for non-firm service of the day prior to commencement of such service. However, MATL proposes to modify these provisions to state that the scheduling deadline will be no later than 10:00 a.m. for firm service and 2:00 p.m. for non-firm service of the day prior to commencement of such service, "or a reasonable time that is generally accepted in the region and is consistently adhered to by the applicable balancing authority." MATL also proposes to make similar modifications to the timing requirements applicable to make scheduling changes for firm and non-firm transmission service. Additionally, MATL proposes similar modifications to the timing requirements in section 18.3 of its OATT with respect to reservation of hourly non-firm point-to-point transmission service.

13. MATL proposes to add a new Schedule 10 to its OATT to set out the charges for transmission provider system operations control center service and energy transaction service, which it states is equivalent to Schedule 1 (Scheduling, System Control and Dispatch Service) under the Commission's *pro forma* OATT. For control center services, MATL states that it has entered into contractual agreements with NorthWestern Corporation (NorthWestern) and AltaLink L.P. (AltaLink), who will provide these services at the southern and northern termini of the Project, respectively. For OASIS support and OATT administration, MATL states that it has entered into contractual arrangements with Open Access Technology Inc. and TranServ International, neither of which is affiliated with itself or its owner. MATL argues that the contracts were freely negotiated at arms' length, and that the prices are fair and in line with other competitors' prices, as well as lower than the cost it would incur to own and operate its own control center. MATL asserts that it has incentive to bargain for the lowest possible rate because the Commission approved a Commercial Settlement Agreement with NaturEner to limit the amount of Schedule 10 charges MATL could recover from NaturEner.<sup>14</sup> In addition, MATL contends that, because it does not have captive customers, it has further motivation to keep its Schedule 10 costs down.

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<sup>14</sup> *Id.* at 12.

14. MATL asserts that the charges under proposed Schedule 10 are based on an annual formula rate calculation that tracks the costs that it incurs under each of the contracts. MATL explains that, each year, to calculate the annual per-kW charge, it divides the sum of the contract costs by the total amount of long-term transmission service reservations in effect for the current calendar year. The monthly, weekly, daily, and hourly rates are then determined based on the yearly charge and posted on MATL's OASIS. MATL states that it will also adjust the Schedule 10 charges each year to track any changes in the contract costs or Schedule 10 incremental revenues.

15. MATL states that it has removed certain OATT provisions that are inapplicable because it is a merchant transmission owner that does not own generation nor operates in power marketing.<sup>15</sup> Specifically, MATL proposes to remove OATT provisions concerning redispatching generation, third-party sales of electric power, and how MATL would take transmission service to serve its customers. MATL states that it also proposes to remove the price cap on transmission reassignment in section 23.1, consistent with Order No. 739.<sup>16</sup>

16. MATL requests that the Commission accept its proposed OATT revisions to be effective July 1, 2013, the date it expects the Project to be completed and to begin service.<sup>17</sup>

### **III. Notice and Responsive Pleadings**

17. Notice of MATL's Filing was published in the *Federal Register*, 78 Fed. Reg. 28,210 (2013), with interventions and protests due on or before May 21, 2013. A timely motion to intervene was filed by NaturEner. A timely motion to intervene, accompanied by comments, was jointly filed by PPL EnergyPlus, LLC and PPL Montana, LLC (PPL Companies). On June 6, 2013, MATL filed an answer to PPL Companies' comments.

#### **A. PPL Companies' Comments**

18. PPL Companies assert that MATL has not provided adequate justification for its proposal's deviations from the *pro forma* OATT and request that the Commission direct

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<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.* at 10 (citing *Promoting a Competitive Market for Capacity Reassignment*, Order No. 739, 132 FERC ¶ 61,238, at P 26 (2010), *reh'g denied*, Order No. 739-A, 135 FERC ¶ 61,137, at PP 15-16 (2011)).

<sup>17</sup> *Id.* at 14.

MATL to either provide additional explanation and/or clarification regarding these revisions or to modify the proposal to conform to the *pro forma* OATT. PPL Companies argue that MATL's proposal lacks the clarity necessary to allow transmission customers to evaluate the risks and costs of available transmission capacity and creates ambiguities regarding customers' rights and obligations.

19. More specifically, PPL Companies claim that section 3.3 of schedule 7, which establishes a penalty for a customer's "unreserved use" of MATL's transmission capacity, lacks detail and clarity regarding how the unauthorized use penalty will be calculated.<sup>18</sup> In particular, PPL Companies request that the Commission require MATL to explain whether the term "use" in section 3.3 is defined as "actual use" or "scheduled use." PPL Companies state that, while they may not object to either choice, they encourage MATL to define "use" as "scheduled use" because that definition is transparent, easily verifiable, and would require fewer changes to MATL's OATT.<sup>19</sup>

20. PPL Companies assert that, if MATL chooses to calculate "use" based on customers' "actual use," MATL must explain how it will attribute and assign the physical flows to individual customers. According to PPL Companies, balancing authorities are responsible for determining the difference between scheduled and actual power flow at interties. Thus, PPL Companies argue that, since MATL is not a balancing authority, it is unclear whether NorthWestern, AltaLink, or both entities will be responsible for determining actual flows.<sup>20</sup> Further, PPL Companies assert that, if MATL chooses to calculate "use" based on customers' "actual use," it is unclear how MATL will disaggregate meter data at the interties and attribute actual power flows to individual transmission customers, since the intertie meters serve multiple customers. Without these clarifications, PPL Companies argue that MATL has not met its burden to justify its proposed deviations from the *pro forma* OATT.<sup>21</sup>

21. PPL Companies also claim that the references to "generally accepted regional scheduling practices" in sections 13.8, 14.6, and 18.3 of MATL's OATT are unreasonably vague. PPL Companies contend that MATL has not explained how it will incorporate the differences between NorthWestern and AltaLink's transmission systems into its own scheduling practices, such as differences between business practices,

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<sup>18</sup> PPL Companies Comments at 4.

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 6.

scheduling conventions, line loss payments, and deadlines. Moreover, PPL Companies assert that requiring the transmission customer to reconcile and decipher such differences in order to schedule transmission service is not consistent with or superior to the *pro forma* OATT.<sup>22</sup> Thus, PPL Companies request that the Commission direct MATL to explain and/or revise these sections to explicitly define transmission customers' rights and obligations under these sections.

22. PPL Companies raise concerns regarding MATL's proposal to post rates for short-term firm and non-firm transmission service on its OASIS rather than hold competitive capacity auctions, as approved by the Commission, due to lacking the "necessary software and back-office logistics." PPL Companies argue that it is unclear whether MATL's proposal will result in the same open, fair, and transparent sale of transmission as the auction process the Commission previously approved. In addition, PPL Companies state that MATL has not identified the rates it will post to its OASIS, explained how the posted rates will approximate the cost of construction, operation, and capital, or explained how the rates will be disciplined by NorthWestern's cost of expansion.<sup>23</sup> PPL Companies claim that MATL's unilateral selection of transmission rates creates the potential for inefficient results and may allow MATL to, at least temporarily, sell transmission above market rates. Therefore, PPL Companies state that the Commission should direct MATL to provide certainty and transparency concerning how it will determine the posted rates so as not to produce inefficient or uneconomic results.

23. PPL Companies also argue that MATL's proposal to add a new Schedule 10 to its OATT, which includes a formula rate to recover its costs of providing system operations control services and energy transaction services, lacks transparency. PPL Companies explain that transmission customers are unable to even estimate what the Schedule 10 charge will be because the agreements from which MATL derives the Schedule 10 cost components are unavailable. Further, PPL Companies contend that the provisions of Schedule 10 do not allow transmission customers to review or, if necessary, challenge the rate.<sup>24</sup> PPL Companies assert that the proposed Schedule 10 rate is a pass-through rate analogous to a cost-based formula rate which the Commission has found that interested parties must have the opportunity to review.<sup>25</sup> Thus, PPL Companies claim that MATL

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<sup>22</sup> *Id.* at 7.

<sup>23</sup> *Id.* at 9.

<sup>24</sup> *Id.* at 10.

<sup>25</sup> *Id.* at 11.

has not demonstrated that its proposed Schedule 10 is consistent with or superior to the *pro forma* OATT. PPL Companies argue that, at minimum, the Commission should direct MATL to make the agreements it uses to derive the Schedule 10 rate available to all interested parties.

24. Finally, PPL Companies contend that MATL has not justified its proposed exclusion of *pro forma* sections 13.2 (on Reservation Priority) and 15.3 (on Initiating Service in the Absence of an Executed Service Agreement from its OATT). PPL Companies note that the Commission permitted MATL to exclude these provisions because MATL planned to implement a capacity auction; however, PPL Companies argue that since MATL has proposed to implement an interim rate mechanism instead, MATL has not provided adequate justification for its exclusion of these provisions.<sup>26</sup> Thus, PPL Companies request that the Commission direct MATL to restore sections 13.2, 15.3, and any other *pro forma* language that MATL has removed in light of its proposed auction process.

**B. MATL's Answer**

25. In response to PPL Companies' comments, MATL states that it reached out to PPL Companies and submits its answer to provide additional information and clarification to address their concerns. Regarding its proposal to implement unreserved use penalty provisions in section 3.3 of Schedule 7, MATL states that the penalty will be based on actual usage or delivery of energy over the Project, consistent with Commission policy and precedent.<sup>27</sup> MATL also explains that, while it intends to calculate the unauthorized use penalty provision based upon actual usage in most instances, it may be appropriate to use a customer's aggregate schedules to determine whether the customer's reserved capacity is exceeded. Thus, MATL states that it reserves the right to use a customer's schedules under these limited circumstances.<sup>28</sup> In addition, MATL explains that there are meters at each generator's interconnection points and that those meters allow MATL to attribute actual power flows to interconnected transmission customers on a customer-by-customer basis.<sup>29</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> MATL Answer at 3.

<sup>28</sup> *Id.* at n.8.

<sup>29</sup> *Id.* at 4.

26. MATL asserts that it does not have the authority to establish its own scheduling rules and, thus, defers to the procedures of the applicable balancing authority, i.e. NorthWestern for the part of the Project in Montana and the Alberta Electric System Operator (AESO) for the part of the project in Canada. MATL contends that transmission customers should be familiar with NorthWestern's well-established scheduling deadline requirements. In addition, MATL argues that AESO's market operations do not conflict with the scheduling requirements of NorthWestern and that the AESO accommodates the scheduling practices of adjacent balancing authorities that follow the Western Electricity Coordinating Council's (WECC) procedures.<sup>30</sup> Nevertheless, MATL commits that it will address PPL Companies' requests for clarification by incorporating a description of its policy on its OASIS in advance of the Project's in-service date. MATL also states that it will revise proposed section 18.3 of its proposed OATT to remove the phrase "after prescheduled generally accepted regional practice and the applicable balancing authority."<sup>31</sup>

27. In addition, MATL states that it will post rates for short-term transmission service on its OASIS in advance of the Project's in-service date. To develop these rates, MATL explains that it will analyze the market to determine the appropriate prices in a manner that maximizes revenues through enhanced usage of the Project's capacity. MATL argues that, as a merchant transmission owner with no captive customers, it has no economic incentive to set short-term rates at a level that underutilizes the Project's capacity because, without customers, it has no way to recover its costs. Further, MATL adds that the Commission only requires merchant transmission owners to hold capacity auctions for the initial allocation of transmission capacity, not the subsequent sale of short-term products.<sup>32</sup>

28. MATL reiterates that it has every incentive to obtain control center and scheduling services at the lowest reasonable cost due to its status as a merchant transmission owner with no captive customers. MATL also asserts that Schedule 10 sets out a clearly defined formula that identifies the costs that will be incurred under specified agreements with specified counterparties. Nevertheless, to address PPL Companies' concerns, MATL states that it will post the initial Schedule 10 rates in advance of the project's in-service

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<sup>30</sup> MATL explains that it defines "the generally accepted regional practice" as the WECC's operating procedures. *Id.* at 5.

<sup>31</sup> *Id.* at 4, n.9.

<sup>32</sup> *Id.* at 7.

date and will post the annual update to the Schedule 10 rates no less than 30 days before each April 1 when the new Schedule 10 rates take effect.<sup>33</sup>

29. MATL disagrees with PPL Companies regarding its continued exclusion of *pro forma* OATT sections 13.2 and 15.3, which MATL notes the Commission previously approved. MATL states that *pro forma* OATT section 13.2 remains unnecessary because its procedure for assigning priority to service requests, as described in proposed section 3.1.5.2 of Schedule 7, is similar to the Commission's *pro forma* section 13.2. In addition, MATL argues that the Commission's *pro forma* section 15.3 remains unnecessary because, as the Commission previously determined, MATL is only required to provide transmissions service to customers who execute a service agreement. MATL asserts that its proposal to post rates for short-term service does not alter the Commission's decision to accept MATL's previous proposal to delete this *pro forma* language.

#### **IV. Discussion**

##### **A. Procedural Matters**

30. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

31. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. MATL's answer has assisted us in our decision-making process and we will, therefore, accept it.

##### **B. Substantive Matters**

32. We will conditionally accept MATL's proposed OATT revisions, subject to it submitting a compliance filing that clarifies certain terms and conditions under which MATL will provide transmission service over the Project, as discussed below. The proposed revisions to MATL's OATT not directly discussed below are accepted as consistent with or superior to the *pro forma* OATT.

#### **1. Unreserved Use Penalty**

33. We will approve MATL's proposed unreserved use penalty in section 3.3 of Schedule 7 of its OATT, without modification. The Commission has determined that transmission customers would be subject to unreserved use penalties in any circumstance

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<sup>33</sup> *Id.* at 9.

where the transmission customer uses transmission service that it has not reserved or that is in excess of its reserved capacity and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.<sup>34</sup> MATL's proposed unreserved use penalty is similar to penalties approved in the past.<sup>35</sup> Accordingly, we will accept the proposed revisions implementing an unreserved use penalty.

34. In response to PPL Companies request that the Commission require MATL to revise section 3.3.1 to make clear whether MATL defines "use" as "actual use" or "scheduled use," MATL clarified that the penalty will be based on actual use, except for certain limited circumstances that necessitate reliance on a customer's scheduled use, such as for dynamic scheduling used with after-the-fact schedules. We find this acceptable.<sup>36</sup> The Commission found in Order No. 890 that "unreserved use penalties are based on the transmission capacity reserved rather than the transmission service scheduled."<sup>37</sup> In addition, the Commission explained that these penalties are based on reserved capacity rather than scheduled capacity in order to encourage transmission customers to reserve and pay for the appropriate level of transmission service. Accordingly, we will accept MATL's proposal to implement unreserved use penalty provisions, which will be based on the transmission customer's actual use, not scheduled use, of the Project as proposed.<sup>38</sup>

## **2. Sale of Transmission Service**

35. We will accept MATL's proposal to temporarily post rates for short-term transmission service on its OASIS rather than hold a capacity auction for such services. MATL explains that this proposal is necessary because it is not yet in a position to conduct auctions for short-term firm and non-firm transmission capacity transactions. As

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<sup>34</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

<sup>35</sup> *PacifiCorp*, 121 FERC ¶ 61,223, at P 39 (2007).

<sup>36</sup> MATL's proposed OATT revisions in section 3.3.1 of Schedule 7 are substantially similar to the Commission-approved language in Schedule 11 (Unreserved use of Transmission Service) of PacifiCorp's OATT.

<sup>37</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 837.

<sup>38</sup> We note that MATL explained in its answer how it will measure and determine actual power flows and we believe that its response sufficiently addresses PPL Companies' concerns.

discussed below, we find that the proposal to post short-term rates before the in-service date of the Project is an acceptable temporary measure.

36. In the Petition Order, the Commission determined that negotiated rates for service on the Project will be just and reasonable and that MATL would provide non-discriminatory service under its OATT and not exercise market power or establish barriers to entry.<sup>39</sup> The Commission also found that “MATL does not have any native load customers and meets the definition of a merchant transmission owner because it assumes all market risk associated with the Project.”<sup>40</sup> Therefore, MATL’s posted rates for short-term transmission service, as proposed here, must approximate competitive prices because, if no customers choose to take service from the Project, MATL will have no revenue to cover its short-term costs. Thus, as the Commission has previously found, MATL’s customers are likely to pay prices that are no higher than, and probably lower than, NorthWestern’s cost of expansion, and are protected by the availability of services at cost-based rates.<sup>41</sup> For the same reasons, we will accept MATL’s proposal to post rates on its OASIS for short-term transmission service, and expect MATL to uphold its commitment to post these rates before the in-service date of the Project. We also will accept MATL’s commitment to file revisions to Schedule 7 of its OATT to implement a capacity auction process for short-term transmission service, and will direct MATL to submit these revisions in a compliance filing within 30 days of the date of this order.

### **3. Transmission Service Scheduling Practices**

37. MATL proposes revisions to sections 13.8, 14.6, and 18.3 of its OATT to modify the timing requirements applicable to scheduling firm and non-firm point-to-point transmission service and to reserve hourly non-firm point-to-point transmission service, because its Project is located within two balancing authority areas, NorthWestern’s in Montana and AESO’s in Alberta, Canada. We will accept MATL’s proposal to modify the timing requirements for scheduling transmission service.

38. PPL Companies argue that MATL’s use of “generally accepted in the region” is not transparent and creates uncertainty for transmission customers. Given MATL’s circumstances that it is not a balancing authority and that it defers the scheduling practices to separate host balancing authorities, we find that its proposed revisions to sections 13.8, 14.6, and 18.3 of its OATT are reasonable. Further, we are satisfied with

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<sup>39</sup> Petition Order, 139 FERC ¶ 61,208 at P 16.

<sup>40</sup> *Id.* P 15.

<sup>41</sup> Negotiated Rate Order, 116 FERC ¶ 61,071 at P 54.

MATL's commitment to post a description of the scheduling practices on its OASIS in advance of the Project's in-service date to address PPL Companies concerns. Finally, we note that MATL's proposed language is similar to what the Commission has accepted in the past.<sup>42</sup> Accordingly, we find that MATL's proposed revisions are consistent with the *pro forma* OATT. We note, however, that MATL has committed to revise section 18.3 of its OATT to remove the phrase "after prescheduled generally accepted regional practice and the applicable balancing authority." We accept MATL's commitment and direct it to make this change in a compliance filing to be submitted within 30 days of the date of this order.

#### **4. Sections 13.2 and 15.3**

39. PPL Companies contend that MATL should reinstate *pro forma* OATT sections 13.2 (Reservation Priority) and 15.3 (Initiating Service in the Absence of an Executed Service Agreement from its OATT), or provide adequate justification for the continued exclusion of these sections from the OATT. According to PPL Companies, the Commission previously permitted MATL to exclude these provisions because MATL planned to implement a capacity auction, which MATL now proposes to replace with an interim rate mechanism for short-term sales.

40. We will not require MATL to reinstate *pro forma* sections 13.2 (Reservation Priority) and 15.3 (Initiating Service in the Absence of an Executed Service Agreement) in MATL's OATT. As PPL Companies and MATL correctly note, the Commission previously approved MATL's proposal to remove these sections from its OATT based on MATL's assertion that these sections were unnecessary because access to the Project would be determined through a capacity auction process.<sup>43</sup> We find that section 13.2 (Reservation Priority) applies to both short-term and long-term sales and MATL does not propose to stop selling long-term transmission service through a capacity auction process. Thus, the reasons for removing section 13.2 continue to apply. In addition, MATL has proposed a reservation priority process for short-term sales in Schedule 7 of its OATT. Moreover, we are not persuaded by PPL Companies' argument that proposing to sell short-term services at posted rates necessitates reinstating section 15.3 (Initiating Service in the Absence of an Executed Service Agreement from its OATT) in the OATT. Accordingly, we will not require MATL to reinstate these provisions.

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<sup>42</sup> *Cleco Power LLC*, 123 FERC ¶ 61,212 (2008).

<sup>43</sup> *Montana Alberta Tie, Ltd.*, 119 FERC ¶ 61,216 (2007).

### **5. Schedule 10 (System Operations Control Center Services And Energy Transaction Services)**

41. MATL proposes to add a new Schedule 10 to its OATT to set out the charges for transmission provider system operations control center service and energy transaction service.<sup>44</sup> We agree with PPL Companies that MATL's customers should have the opportunity to review and, if necessary, challenge the actual rates that MATL proposes to charge since all transmission customers will be required to pay for these services in order to obtain transmission service from the Project.

42. We find that MATL's commitment to post its Schedule 10 rates on its OASIS in advance of the Project's in-service date does not provide transmission customers with sufficient transparency or the ability to challenge the rates they will pay for system operations control center service and energy transaction service. Accordingly, we find that MATL should provide transmission customers with adequate cost support for its proposed Schedule 10 rates.<sup>45</sup> Therefore, we will conditionally accept MATL's proposed Schedule 10, subject to MATL providing, in a compliance filing to be submitted within 30 days of the date of issuance of this order, cost support for the actual rates that MATL proposes to charge under Schedule 10 of its OATT.

#### The Commission orders:

(A) MATL's proposed OATT revisions are hereby conditionally accepted for filing, effective July 1, 2013, as requested and as discussed in the body of this order.

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<sup>44</sup> MATL states that proposed Schedule 10 is equivalent to Schedule 1 (Scheduling, System Control and Dispatch Service) under the Commission's *pro forma* OATT. This service is required for all transmission service reservations arranged to schedule the movement of power of MATL's transmission system in accordance with the OATT, the requirements of the North American Electric Reliability Corporation, and the balancing authorities to which the Project is interconnected.

<sup>45</sup> For example, in proposing to implement cost-based formula rates for Scheduling, System Control and Dispatch Service services similar to the Commission's *pro forma* Schedule 1, PacifiCorp filed testimony describing its initial Schedule 1 rate, the rate's components, and how the formula would operate, as well as cost support for the initial rate. *PacifiCorp*, 136 FERC ¶ 61,092 (2011).

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

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.