

172 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and James P. Danly.

Bonneville Power Administration

Docket No. EL20-36-000

v.

Avista Corporation

ORDER ON COMPLAINT

(Issued September 17, 2020)

1. On March 26, 2020, pursuant to sections 206 and 306 of the Federal Power Act (FPA),¹ Bonneville Power Administration (Bonneville) filed a complaint (Complaint) against Avista Corporation (Avista) alleging that Avista has violated the FPA, Avista's FERC Electric Tariff (Tariff), and Commission precedent by requiring self-supplied operating reserves deployed from a generator not located within Avista's balancing area to reserve and use firm point-to-point transmission service for delivery of the operating reserves within Avista's balancing area. In this order, we partially grant the complaint and find that the aforementioned Avista requirement violates Avista's Tariff.

I. Background

2. Operating reserves are a type of ancillary service used to serve load in the event of a system contingency. There are two types of operating reserves, spinning and supplemental. Spinning reserves serve load immediately, while supplemental reserves serve load within a short period of time. Under the *pro forma* Open Access Transmission Tariff (OATT), load-serving transmission customers must acquire operating reserves, among other ancillary services. Transmission customers may purchase operating

¹ 16 U.S.C. §§ 824e, 825e.

reserves from the transmission provider or a third party, or they may self-supply the operating reserves.² Avista has adopted the *pro forma* OATT language in its Tariff.³

3. Bonneville purchases network integration transmission service from Avista to serve Bonneville load located in Avista's balancing area.⁴ Bonneville historically has purchased operating reserves from Avista, but in 2018, Bonneville informed Avista that it intended to self-supply operating reserves from its generation outside Avista's balancing area.⁵ This was the first instance in which an Avista transmission customer had opted to self-supply operating reserves.⁶ Avista informed Bonneville that it would need to purchase additional, firm point-to-point transmission service to deliver the self-supplied operating reserves within Avista's balancing area, and Avista revised its written business practices to reflect this requirement.⁷ Specifically, Avista's revised business practices state that "[f]or self-supplied operating reserves to be deployed from a generator not located within Avista's [balancing authority area], Firm Point-to-Point Transmission Service must be reserved and used."⁸

II. Complaint

4. Bonneville argues that Avista's self-supply business practice violates the FPA because (1) it is unduly discriminatory and preferential by imposing, without justification, additional costs on Bonneville's self-supplied operating reserves that are not imposed on Avista's operating reserves; (2) it is not just and reasonable to require

² *Pro forma* OATT § I.3 (Ancillary Services), Schedule 5 (Operating Reserve – Spinning Reserve Service), Schedule 6 (Operating Reserve – Supplemental Reserve Service).

³ See Avista Tariff, § I.3 (Ancillary Services), Schedule 5 (Operating Reserve – Spinning Reserve Service), Schedule 6 (Operating Reserve – Supplemental Reserve Service).

⁴ Complaint at 1, 5-6, Pleger Aff. ¶¶ 13, 15; Avista May 1 Answer at 8.

⁵ Complaint at 6-7, Pleger Aff. ¶ 19; Avista May 1 Answer at 8, Dillon Aff. ¶ 9.

⁶ Complaint at 7; Avista May 1 Answer, Dillon Aff. ¶ 9.

⁷ Complaint at 7, 11-12, Pleger Aff. ¶¶ 20, 32; Avista May 1 Answer at 11, 14, Dillon Aff. ¶¶ 10, 14.

⁸ Avista Transmission Business Practices § 21, Paragraph 3(F) (revised as of January 20, 2020). For purposes of this order, we refer to this business practice as Avista's "self-supply business practice."

transmission customers that self-supply operating reserves to pay an additional transmission charge; and (3) Avista has not filed the self-supply business practice with the Commission via an FPA section 205 filing.⁹ Bonneville requests that the Commission void Avista's self-supply business practice. Additionally, Bonneville requests that the Commission order Avista to comply with its Tariff and allow Bonneville to self-supply operating reserves using network transmission, without paying for additional transmission.¹⁰ Bonneville requests in the alternative that the Commission order Avista to file the self-supply business practice with the Commission under FPA section 205.¹¹

5. First, Bonneville argues that Avista's self-supply business practice is unduly discriminatory and preferential because it treats Bonneville self-supplied operating reserves and Avista-supplied operating reserves differently even though they are similarly situated. Bonneville claims that there is no legitimate basis for the differential treatment. Bonneville states that Avista's self-supply business practice requires Bonneville to purchase additional firm point-to-point transmission service for self-supplied operating reserves from generation outside of Avista's balancing area, while Avista can use its existing network transmission service for Avista operating reserves from generation located within its balancing area. Bonneville asserts that both it and Avista are supplying the same product that may be deployed to meet the same contingencies, and that the only difference is the physical location of the generation supplying the operating reserves.¹²

6. Bonneville contends that there is no reliability factor that justifies treating operating reserves from off-system resources differently from operating reserves from internal generation. Bonneville states that North American Electric Reliability Corporation (NERC) Reliability Standard BAL-002-WECC-2a requires firm transmission to deliver operating reserves to the balancing area, but does not require external resources to obtain firm transmission within the sink balancing area system. Bonneville maintains that, once off-system operating reserves are delivered to Avista's system, they are functionally no different than operating reserves from internal generation, for which transmission service is included in the network transmission charge. Bonneville states that it is unaware of any other balancing areas in the Pacific Northwest that require customers to purchase additional firm point-to-point transmission service within the balancing area. Furthermore, Bonneville asserts that when Avista receives off-system operating reserves from the Northwest Power Pool Reserve Sharing

⁹ Complaint at 2-3.

¹⁰ *Id.* at 3, 13, 28-29.

¹¹ *Id.* at 29.

¹² *Id.* at 14-15.

Group (Reserve Sharing Group),¹³ Avista does not procure additional firm point-to-point transmission service.¹⁴

7. Bonneville also contends that there is no financial factor that justifies treating off-system operating reserves differently from operating reserves from internal generation. Bonneville states that, as a network transmission customer, it pays for usage of the transmission system without regard to the source of the generation used to serve load. Bonneville asserts that the use of operating reserves does not change the amount of electricity consumed by Bonneville's or Avista's loads or the amount of transmission capacity used to serve those loads. Therefore, Bonneville argues, deliveries of operating reserves are not an incremental use of the transmission system, but rather a continuation of the use of the transmission system that it has already paid for. Bonneville states that imposing additional transmission charges for self-supplied operating reserves would allow Avista to be compensated twice for providing the same transmission service.¹⁵

8. Second, Bonneville argues that Avista's self-supply business practice is unjust and unreasonable because it violates Avista's Tariff and open access principles. Bonneville asserts that Avista's Tariff provides Bonneville the right to self-supply operating reserves on comparable terms to those Avista applies to itself,¹⁶ but that Avista's self-supply business practice imposes charges on Bonneville's self-supplied operating reserves that are not comparable to the charges Avista applies to its own supply of operating reserves. Bonneville states that Avista allows its own operating reserves to use network transmission service at no additional cost, while off-system operating reserves must purchase firm point-to-point transmission service. Bonneville asserts that this treatment is not comparable and is unduly preferential because it raises barriers for competing operating reserves.

9. Bonneville states that, in *NorthWestern Corp.*,¹⁷ the Commission rejected an attempt to charge self-supply customers a "standby fee" for regulation and frequency

¹³ The Reserve Sharing Group pools operating reserves from neighboring systems, and members may call on the off-system operating reserves of other members to meet contingencies within their balancing areas. See Northwest Power Pool Reserve Sharing Program Documentation (May 7, 2020), <https://www.nwpp.org/resources/nwpp-reserve-sharing-program-documentation>.

¹⁴ Complaint at 16-18, Pleger Aff. ¶¶ 35-37.

¹⁵ *Id.* at 18-20.

¹⁶ *Id.* at 21 (citing Avista Tariff, § I.3, Schedule 5, Schedule 6).

¹⁷ 140 FERC ¶ 61,020, at P 24 (2012) (*NorthWestern*).

service because it could have undermined competition. Bonneville contends that, if Avista's self-supply business practice is allowed, other balancing areas could adopt a similar requirement, which would significantly disrupt competition for self-supplied operating reserves and the Commission's open access policy by giving the balancing area's affiliated merchants a competitive advantage over self-supply and third-party competitors (which would likely source operating reserves from off-system resources).¹⁸

10. Bonneville contends that the self-supply business practice is also unjust and unreasonable because it imposes a charge on Bonneville that does not correspond to any additional cost to Avista. Bonneville notes that, in Opinion No. 462,¹⁹ the Commission stated that "spinning and supplemental reserve services are reservation services that do not require additional transmission."²⁰ Bonneville asserts that the Commission in Opinion No. 462 made clear that the transmission service associated with operating reserves is already paid for as part of the underlying transmission service reservation, and that operating reserves do not use additional transmission but instead replace transmission use that would have occurred if not for the contingency. Therefore, Bonneville argues, an additional reservation charge is duplicative and unreasonable. Bonneville states that its operating reserves would not place additional demand on the transmission system, but rather would replace lost Avista generation within Avista's balancing area that would have used the transmission in the system in the same way if not for the contingency.²¹

11. Third, Bonneville contends that Avista's self-supply business practice violates FPA section 205 because Avista has made changes that significantly affect the terms and conditions of self-supplied operating reserves but has not filed the changes with the Commission. Bonneville asserts that, by doing so, Avista has circumvented the need to provide notice to affected parties and has avoided the burden of demonstrating that its changes are just and reasonable. Bonneville states that, as a result, the burden has been shifted to Bonneville to demonstrate that Avista's new practice is unjust and unreasonable.²²

¹⁸ Complaint at 21-24.

¹⁹ *N. Ind. Pub. Serv. Co., Inc.*, Opinion No. 462, 101 FERC ¶ 61,394 (2002).

²⁰ Complaint at 25 (citing Opinion No. 462, 101 FERC ¶ 61,394 at P 13).

²¹ *Id.* at 24-27.

²² *Id.* at 27-28.

III. Notice and Responsive Pleadings

12. Notice of the Complaint was published in the *Federal Register*, 85 Fed. Reg. 18,572 (Apr. 2, 2020), with interventions and protests due on or before April 15, 2020. On April 2, 2020, the Commission's Secretary issued a notice in Docket No. AD20-11-000 that extended the deadline for answers to the Complaint to May 1, 2020.²³

13. Calpine Corporation (Calpine) filed a timely motion to intervene.

14. On May 1, 2020, Avista filed an answer to the Complaint (Avista May 1 Answer). On May 20, 2020, Bonneville filed an answer to the Avista May 1 Answer (Bonneville Answer). On May 29, 2020, Avista filed an answer to the Bonneville Answer (Avista May 29 Answer).

A. Avista May 1 Answer

15. Avista argues that in order for Bonneville to self-supply operating reserves, it must make "alternative comparable arrangements" and the operating reserves must be "fully available to serve load."²⁴ Avista states that, to be comparable to Avista's supply of operating reserves and fully available to serve load, Bonneville's self-supplied operating reserves must be delivered to the AVA.SYS point of delivery on Avista's system. Avista explains that AVA.SYS is the point from which all generation used for operating reserves in Avista's balancing area is deployed, and that Avista resources used to provide operating reserves are either registered directly at AVA.SYS or are pseudo-tied into Avista's BAA and delivered to AVA.SYS. Avista asserts that, to use self-supplied operating reserves from another balancing area, the generation for the operating reserves must be made available at AVA.SYS so that Avista can deploy it from AVA.SYS. Avista maintains that it is insufficient for Bonneville to deliver its self-supplied operating reserves to AVA.BPAT, the point at the boundary between the Bonneville and Avista balancing areas (which Avista notes is neither a source point for generation nor a sink point for load).²⁵

²³ See Supplemental Notice, Docket No. AD20-11-000, at 1 (Apr. 2, 2020) (stating that "an extension of time, until May 1, 2020, of deadlines to make non-statutory filings required by the Commission that occur on or before May 1, 2020" applied to "answers to complaints . . . with deadlines that occur on or before May 1, 2020").

²⁴ Avista May 1 Answer at 16 (quoting *pro forma* OATT Schedules 5, 6; Glossary of Terms Used in NERC Reliability Standards (Operating Reserve – Spinning, Operating Reserve – Supplemental)).

²⁵ *Id.* at 4-5, 16-17, 31, Dillon Aff. ¶¶ 4-6.

16. Avista argues that Bonneville cannot use its existing firm network transmission service to deliver self-supplied operating reserves from AVA.BPAT to AVA.SYS. Avista asserts that, under sections 28.3 of its Tariff, network transmission service is used for delivery of capacity and energy from the network customer's designated network resources to service its network loads, but Bonneville's generation set aside for self-supplying operating reserves is not used to serve Bonneville's network load.²⁶ Additionally, Avista contends, because the Bonneville resources used to self-supply operating reserves are not available to be called upon to serve Bonneville's network load on a non-interruptible basis, those resources cannot be designated as network resources.²⁷

17. Avista states that Bonneville's operating reserves are called on to replace generation in Avista's balancing area (either due to loss of generation or because the generation is called on to satisfy Avista's Reserve Sharing Group obligation), and would not be called on to replace lost Bonneville generation used to serve Bonneville network load. Avista maintains that Bonneville's network load in Avista's balancing area does not change when Avista deploys operating reserves, and that Bonneville will continue to serve its network load using the same generation and transmission. Therefore, Avista argues, Bonneville's self-supplied operating reserves are not used to serve Bonneville's network load and additional transmission capacity is required to make Bonneville's operating reserves available at AVA.SYS.²⁸

18. Avista asserts that the contingency that creates the need for the operating reserves will, in Avista's balancing area, always be attributable to generation in Avista's balancing area, and Bonneville does not have any generation in Avista's balancing area. Therefore, Avista argues, Bonneville's resources used to self-supply operating reserves replace non-Bonneville generation that was serving non-Bonneville load prior to the contingency. Avista asserts that as a result Bonneville resources used to self-supply operating reserves do not serve Bonneville network load.²⁹

19. Avista contends that Bonneville's operating reserves are not similarly situated to Avista's because Avista's operating reserves are from generation located in its balancing area at AVA.SYS and no additional transmission is required to deploy operating reserves from AVA.SYS. Avista states that, in contrast, Bonneville's operating reserves are from generation outside of Avista's balancing area and must first be made available at

²⁶ *Id.* at 20, 48.

²⁷ *Id.* at 20-21, 48 (citing Avista Tariff, § 29.2(viii)).

²⁸ *Id.* at 21-22, 51-52.

²⁹ *Id.* at 28.

AVA.SYS before they can be deployed.³⁰ Additionally, Avista asserts that differential treatment is merited because Bonneville's operating reserves do not serve Bonneville's network load.³¹

20. Avista asserts that delivering operating reserves to AVA.BPAT is not functionally the same as delivering operating reserves to AVA.SYS. Avista states that Bonneville provides no rationale supporting the use of a registered point of receipt/point of delivery that is not associated with a source or sink point for delivery of self-supplied operating reserves. Additionally, Avista argues that Bonneville does not explain how Avista would deploy operating reserves from a registered point of receipt/point of delivery that does not have an associated registered source. Avista states that NERC Reliability Standard BAL-002-WECC-2a does not state where operating reserves must be delivered, only that they must be delivered using firm transmission.³² Furthermore, Avista maintains that it cannot use Avista network transmission service for Bonneville's operating reserves because Bonneville generation is not an Avista resource and therefore is ineligible for designation by Avista as a network resource. Avista states that if Bonneville is only required to deliver operating reserves to AVA.BPAT, Avista would need to purchase firm point-to-point transmission service and pass the costs along to Avista's customers.³³

21. Avista contends that its pseudo-tied off-system resources and Bonneville's off-system resources are not similarly situated because Avista's off-system resources are designated for service to retail load customers in Avista's balancing area at AVA.SYS, while Bonneville's off-system resources are used to replace generation at AVA.SYS and do not serve network load, and therefore Bonneville cannot use network service for delivery.³⁴ Avista asserts that off-system operating reserves from the Reserve Sharing Group are distinguishable because they are delivered using as-available transmission capacity, whereas Bonneville's self-supplied operating reserves must be available at all times.³⁵

22. Avista states that there is no clear Commission precedent or written practice in the region that addresses the type of transmission required to facilitate the self-supply of

³⁰ *Id.* at 9, 19, 23-24.

³¹ *Id.* at 29.

³² *Id.* at 31-32 & n.145.

³³ *Id.* at 33, 37.

³⁴ *Id.* at 6.

³⁵ *Id.* at 34-36.

operating reserves from remote generating capacity.³⁶ Avista argues that *NorthWestern* is distinguishable because Avista is not imposing any fee for self-supplied operating reserves, but rather is requiring Bonneville to reserve the necessary transmission to ensure it has made alternative comparable arrangements.³⁷ Avista argues that Opinion No. 462 is distinguishable because it involved a transmission provider proposing a transmission charge for operating reserves in its stated rates, whereas Avista is not proposing a new separate transmission charge for its operating reserves. Avista asserts that, as in Opinion No. 462, no additional transmission capacity is necessary if the generation is available at the balancing area's registered source point from which operating reserves are deployed, but that in the instant case, the purchase of additional transmission capacity is necessary to make off-system operating reserves available at AVA.SYS.³⁸

23. Avista also asserts that its requirement does not impose a barrier because it has a relatively small economic impact, and Bonneville will still have net savings of approximately \$900,000 annually by self-supplying operating reserves. Additionally, Avista states that the economic effect of a term or condition of transmission service is not by itself problematic, so long as it is applied equally. Avista contends that, if Bonneville is not required to obtain additional transmission for its self-supply of operating reserves, it would give Bonneville a competitive advantage because Avista would need to obtain firm point-to-point transmission service to deliver Bonneville's operating reserves from AVA.BPAT to AVA.SYS.³⁹

24. Avista argues that its self-supply business practice does not affect any rate, term, or condition of service but instead provides guidance about self-supply operating reserves under Avista's Tariff. Avista states that its Tariff requires alternative comparable arrangements for self-supplied operating reserves, provides that network service cannot be used for energy and capacity from generation that is not a designated network resource or serving non-designated loads, and requires network customers to use firm point-to-point transmission service when they are not serving their network loads. Avista argues that it is these Tariff requirements rather than Avista's business practices that require Bonneville to obtain firm point-to-point transmission service.⁴⁰

³⁶ *Id.* at 22, 45, 47.

³⁷ *Id.* at 43-44.

³⁸ *Id.* at 49-50.

³⁹ *Id.* at 44, 46-47.

⁴⁰ *Id.* at 22, 53-54.

B. Bonneville Answer

25. Bonneville asserts that the issue of whether its self-supplied operating reserves must be delivered to AVA.BPAT or AVA.SYS need not be resolved by the Commission. Bonneville states that the disparate treatment at issue is Avista charging Bonneville for additional transmission service for delivery to AVA.SYS while at the same time not requiring Avista's own resources to acquire additional transmission service for delivery to AVA.SYS (regardless of where the resources are located, including when they are outside of the balancing area). Bonneville states that it is willing to deliver operating reserves to Avista at any location, provided that Avista's resources are subject to the same transmission and delivery requirements.⁴¹

26. Bonneville argues that Avista mistakenly views Bonneville's self-supplied operating reserves as third-party power sales from Bonneville to Avista that are not eligible to use network transmission service. Bonneville states that operating reserves are an ancillary service that ensures reliability in the transmission provider's balancing area, and that operating reserves are needed to plug holes in the transmission provider's dispatch schedule in the event of contingency, not to serve a particular network customer's load. Bonneville explains that operating reserves may be used to serve any load in the balancing area (and even exports from the balancing area) and should not be equated to normal load service.⁴² Bonneville argues that it is irrelevant whether specific operating reserves are actually used to serve Bonneville load, Avista native load, or Avista exports.⁴³

27. Bonneville states that the *pro forma* OATT requires that the entirety of load at a point of delivery be served using either network or point-to-point transmission,⁴⁴ but that under Avista's interpretation that requirement would be violated if both Bonneville and Avista operating reserves were deployed to serve native load at AVA.SYS during a contingency. Additionally, Bonneville contends that total transmission usage in the Avista balancing area does not change when operating reserves are deployed, and the

⁴¹ Bonneville Answer at 3-4.

⁴² Bonneville references Avista's Tariff, which states that operating reserves are needed to "serve load in the Control Area." Avista Tariff, Schedules 5 & 6.

⁴³ Bonneville Answer at 7, 9-12.

⁴⁴ *Id.* at 14 (citing *pro forma* OATT § 1.25; *Duke Power Co.*, 84 FERC ¶ 61,136, at 61,749 (1998)).

transmission usage has already been paid for by Bonneville and Avista customers through network transmission charges.⁴⁵

28. Bonneville states that other transmission providers in the region, including NorthWestern, PacifiCorp, Portland General Electric, and Bonneville itself, do not require the use of additional point-to-point transmission service for self-supplied operating reserves.⁴⁶ Additionally, Bonneville argues that the self-supply business practice is over-inclusive, as it applies to any generator not located within Avista's balancing area, even though Avista justifies it based on assumptions about who needs Bonneville's specific resources in a contingency.⁴⁷

29. As alternative relief in the event the Commission agrees with Avista's reasoning, Bonneville requests that the Commission instead require Avista to designate Bonneville's operating reserves as Avista network resources, so that they would be treated the same as Avista's pseudo-tied off-system resources. Bonneville asserts that this would make Bonneville's operating reserves available at AVA.SYS while avoiding additional transmission charges for either party.⁴⁸

C. Avista May 29 Answer

30. Avista states that it does not view Bonneville's self-supplied operating reserves as third-party power sales, as Bonneville argues, and asserts that operating reserves are a capacity product in that generating capacity must be set aside for the operating reserves. Avista states that its position is that operating reserves do not serve Bonneville network load, and therefore Bonneville cannot use network transmission service to make the generating capacity used to self-supply operating reserves available at AVA.SYS.⁴⁹

31. Avista contends that there are two legs of transmission involved in Bonneville's self-supply of operating reserves from external generation, a "capacity leg" of transmission to make its generating capacity used for the operating reserves available at AVA.SYS, and a "deployment leg" used when there is a contingency to deploy the operating reserves from AVA.SYS. Avista argues that the transmission at issue in this proceeding is the capacity leg transmission, but Bonneville's answer focuses on the

⁴⁵ *Id.* at 14-16.

⁴⁶ *Id.* at 20.

⁴⁷ *Id.* at 21.

⁴⁸ *Id.* at 25-27.

⁴⁹ Avista May 29 Answer at 3-5.

deployment leg. Avista asserts that the only means to make generating capacity available at AVA.SYS is to reserve firm transmission service, and either Bonneville or Avista will need to reserve such firm transmission capacity for Bonneville's self-supplied operating reserves.⁵⁰

IV. Discussion

A. Procedural Issues

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), Calpine's timely, unopposed motion to intervene serves to make it a party to this proceeding.

33. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We accept the Bonneville Answer and the Avista May 29 Answer because they have provided information that assisted us in our decision-making process.

B. Substantive Issues

34. For the reasons discussed below, we grant the complaint in part and dismiss the complaint in part. Specifically, we grant Bonneville's request that it be allowed to self-supply operating reserves using network transmission service, without paying for additional transmission, provided that Bonneville meets all of the requirements for using network transmission service under Avista's Tariff.⁵¹

35. Bonneville purchases network transmission service to serve its load in Avista's balancing area and complains that it should be able to use its operating reserves under its existing network service at no additional charge.⁵² We find that, under Avista's Tariff, network transmission customers may use their existing network transmission service to transmit within Avista's balancing area operating reserves deployed from designated

⁵⁰ *Id.* at 5-6, 8-9.

⁵¹ Because we grant this aspect of Bonneville's complaint, there is no need to address Bonneville's other requests for relief, including its request to void Avista's self-supply business practice and Bonneville's alternative request that the Commission order Avista to file the self-supply business practice with the Commission under FPA section 205. Therefore, we dismiss these other requests for relief.

⁵² *See supra* P 4.

network resources⁵³ located outside of Avista's balancing area. We also find that Avista's requirement that Bonneville reserve and use additional firm point-to-point transmission service to transmit such operating reserves within Avista's balancing area violates Avista's Tariff. However, based on the record before us, we make no determination about whether Bonneville meets all of the Tariff requirements for using network transmission service for its operating reserves deployed from generation outside of Avista's balancing area.

36. There appears to be no dispute in this proceeding that self-supplied operating reserves deployed from designated network resources *located within* Avista's balancing area may use the transmission customer's existing network transmission service, and therefore do not require additional transmission service. Indeed, Avista acknowledges that it does not reserve and use additional transmission service for its own operating reserves.⁵⁴ The question raised in this proceeding is whether, for self-supplied operating reserves deployed from resources *located outside* Avista's balancing area, Avista can require network transmission customers such as Bonneville to purchase additional point-to-point transmission service to transmit the operating reserves within Avista's balancing area.

37. We find that the transmission used by operating reserves deployed *from designated network resources* – regardless of whether those resources are located within Avista's balancing area or outside it – is part of the network transmission service for which the network transmission customer has paid. As the Commission recognized in Opinion No. 462 regarding point-to-point transmission service, operating reserves “are reservation services that do not require additional transmission.”⁵⁵ We are not persuaded by Avista's arguments that the location of the operating reserves, or the fact that Bonneville lacks designated network resources within Avista's balancing area, justifies the assessment of additional transmission charges for operating reserves that are provided in conjunction with taking transmission service. As a result, operating reserves deployed from designated network resources located outside of Avista's balancing area may, within Avista's balancing area, use the transmission capability of the network transmission customer's existing network transmission service, and the network transmission customer does not need to purchase additional transmission service to be able to move these operating reserves within Avista's balancing area.

⁵³ For purposes of this discussion, references to designated network resources refer to resources designated as network resources under Avista's Tariff. *See* Avista Tariff, §§ 30.1, 30.2, 30.7 (6.0.0).

⁵⁴ *See* Avista May 1 Answer at 18.

⁵⁵ Opinion No. 462, 101 FERC ¶ 61,394 at P 13.

38. Moreover, we find that it is a violation of Avista’s Tariff to not allow operating reserves deployed from designated network resources located outside of Avista’s balancing area to use the network transmission customer’s network transmission service within Avista’s balancing area. Specifically, section 28.3 of Avista’s Tariff states that Avista “will provide firm transmission service over its Transmission System to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads on a basis that is comparable to the Transmission Provider’s use of the Transmission System to reliably serve its Native Load Customers.”⁵⁶ Avista’s requirement to reserve and use additional firm point-to-point transmission service to transmit operating reserves deployed from designated network resources located outside of Avista’s balancing area inappropriately restricts the network transmission customer’s use of its network transmission service. Additionally, Avista’s requirement inappropriately prevents the network transmission customer from using its network transmission service on a basis that is comparable to Avista’s use of the transmission system, given that Avista uses its existing network transmission service to transmit its own operating reserves within Avista’s balancing area.

39. We disagree with Avista’s argument that the terms of its Tariff do not allow Bonneville to use network transmission service for its off-system, self-supplied operating reserves because they will not ultimately serve Bonneville network load. Avista’s Tariff and the *pro forma* OATT provide that network transmission service is “for the delivery of capacity and energy from [the network customer’s] designated Network Resources to service its Network Loads.”⁵⁷ Avista argues that Bonneville’s operating reserves will not serve Bonneville network load because Bonneville’s resources used to self-supply operating reserves replace non-Bonneville generation that was serving non-Bonneville load prior to the contingency.⁵⁸ However, Avista’s view of the Tariff conflates two different concepts—where the operating reserves’ energy ultimately flows is not the same thing as whether the operating reserves were acquired to serve a network load. Bonneville is required to secure operating reserves because it has purchased network transmission service to serve load in Avista’s balancing area, and Bonneville is only required to secure an amount of operating reserves proportional to the level of that network load. Bonneville’s operating reserves are needed for the purpose of serving Bonneville network load—they are not acquired or needed to serve non-Bonneville load.

⁵⁶ Avista Tariff, § 28.3 (6.0.0).

⁵⁷ *Id.*; *pro forma* OATT, § 28.3.

⁵⁸ Avista states that this is the case because Bonneville does not have any generation in Avista’s balancing area, and because the contingency that creates the need for the operating reserves will, in Avista’s balancing area, always be attributable to generation in Avista’s balancing area. *See supra* PP 16-18.

Because Bonneville's operating reserves are acquired to service its network load, we find that Bonneville's use of network transmission service to transmit its operating reserves is consistent with section 28.3 of the Tariff, provided that the operating reserves are deployed from designated network resources.

40. Additionally, we are not persuaded by Avista's argument that Bonneville must make its self-supplied operating reserves available at the AVA.SYS point of delivery on Avista's system in order to satisfy the Tariff requirement that Bonneville make alternative comparable arrangements for its self-supplied operating reserves.⁵⁹ First, given our findings above, Bonneville and other network transmission customers may use their existing network transmission service to deliver, over Avista's transmission system, operating reserves deployed from designated network resources to AVA.SYS, if needed. Avista uses its existing network transmission service to make its own operating reserves available at AVA.SYS, and Bonneville should likewise be able to use existing network transmission service to make its operating reserves at AVA.SYS or a different point of delivery. Second, Avista does not demonstrate why there is a need to deliver operating reserves to AVA.SYS. Although Avista states that all of its operating reserves are made available at AVA.SYS, it does not provide any engineering, operational, or other reason why they need to be available at that specific point of delivery. Thus, even if Bonneville only delivers its operating reserves to AVA.BPAT, Avista has not demonstrated why such an arrangement would not be comparable to Avista supplying its operating reserves from AVA.SYS.

41. We disagree with Avista's argument that because Bonneville will simultaneously use its network transmission service to transmit its scheduled power (which Avista says will not decrease) and to transmit its self-supplied operating reserves, either Bonneville or Avista will need to acquire additional transmission capacity to transmit Bonneville's operating reserves.⁶⁰ If Bonneville's operating reserves meet the Tariff requirements for using network transmission service, Bonneville may use its existing network transmission service to transmit the operating reserves. Any transmission capability that is required to be set aside to transmit the operating reserves is part of the network transmission service that Bonneville pays for. Although Avista will need to ensure there is sufficient transmission capability to transmit Bonneville's operating reserves, neither Bonneville

⁵⁹ Avista Tariff, Schedule 5 ("The Transmission Customer must either purchase [spinning reserve] service from the Transmission Provider or make alternative comparable arrangements to satisfy its Spinning Reserve Service obligation."), Schedule 6 ("The Transmission Customer must either purchase [supplemental reserve] service from the Transmission Provider or make alternative comparable arrangements to satisfy its Supplemental Reserve Service obligation.").

⁶⁰ Avista May 1 Answer at 50-52.

nor Avista need to purchase additional transmission service for the operating reserves. Any additional transmission service that Bonneville purchases would be duplicative of transmission service it has already procured.

42. We make no determination regarding whether Bonneville's operating reserves are in fact deployed from designated network resources that would be eligible to use its existing network transmission service. The record is unclear about whether the Bonneville resources from which it will deploy operating reserves meet the requirements to be designated as network resources under the Avista Tariff and nothing in this order finds that the resources that Bonneville wants to rely on for the operating reserves at issue are designated network resources under Avista's Tariff.

43. Finally, because we grant the complaint in part and find that Avista's requirement to reserve and use additional firm point-to-point transmission service to transmit operating reserves deployed from designated network resources located outside Avista's balancing area violates its Tariff, we need not address the other arguments raised in the Complaint.

The Commission orders:

Bonneville's complaint is hereby granted in part and dismissed in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.