

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Montana Alberta Tie Ltd.

Docket No. ER05-764-001

ORDER ACCEPTING OPEN SEASON REPORT

(Issued July 5, 2005)

1. On May 16, 2005, Montana Alberta Tie Ltd. (MATL) submitted an Open Season Report (Report) describing the procedures for selling capacity on a proposed transmission line. The Commission accepts the report for filing and finds that the procedures employed by MATL as described in the Report appear to be transparent, fair and non-discriminatory. This order benefits customers by promoting the construction of new transmission infrastructure.

Background

2. On April 1, 2005, MATL submitted an application for authority to sell transmission rights at market based rates and acceptance of MATL's proposed open access transmission tariff.¹ MATL seeks to develop a 230kV alternating current transmission line running from Lethbridge, Alberta, Canada to Great Falls, Montana, USA.² The proposed 190-mile transmission line would connect NorthWestern Energy's system (located in Montana) and the Alberta Interconnected Electrical System, operated

¹ On May 26, 2005, MATL requested that the Commission defer action on its application pending MATL's submission of supplemental information.

² The line would have 600 MW of capacity, comprised of 300 MW from north to south and 300 MW from south to north.

by the Alberta Electric System Operator (located in Canada). In its application, MATL stated that it planned to conduct an open season for the allocation of transmission rights during the period February 3, 2005 through April 15, 2005 and that it would file a report with the results of the open season on May 16, 2005.

3. On May 16, 2005, MATL filed its Report with the Commission on its open season process. It explains that the open season was developed “to allow the market sufficient opportunity to assess the benefits and risks of the project and to allow customers time to respond.”³ MATL states that it retained an independent audit firm to observe the process and prepare a report on the open season (the independent auditor’s report is included as Attachment C to MATL’s Report).

4. MATL states that it posted notice of its open season through advertisements with commercial newspapers in Montana in the United States and Alberta and British Columbia in Canada. MATL held an open season informational meeting on February 3, 2005 to distribute information concerning the open season process. MATL states that 21 entities registered as open season participants, all of whom were provided the same information with respect to the open season process.

5. MATL states that the bidding season ended at 4 pm on April 15, 2005. It received ten bids from two companies totaling 295 MW by the scheduled closing time. MATL then waived the closing time to allow for another three bids totaling 125 MW to be submitted (less than one hour past the 4 pm closing time). One of those three bids was received after MATL had opened the other bids. MATL explains that it waived the deadline because the inclusion of the late bids did not result in the exclusion of any other bids and none were affiliated with MATL in any way. As a result, a total of thirteen bids were received from four separate companies for a total capacity bid of 420 MW.

6. MATL states that after opening the bids it became apparent that some bidders had errors in their bids. Specifically, some bidders had bid for transmission rights in the wrong direction. As a result, all bidders were contacted and allowed to clarify their bids until April 20, 2005. Great Plains Wind and Energy (Great Plains) clarified its bid in terms of direction.

7. MATL states that it rejected two bids from Powerex Corp. (Powerex), totaling 100 MW, as non-conforming bids. MATL explains that Powerex modified the terms of the agreement and that MATL contacted Powerex a number of times to allow it to clarify its bids; however, Powerex declined to do so. Therefore, MATL rejected Powerex’s bids.

³ Report at 2.

8. The independent auditor states in its report that it was on MATL's premises on the closing date of the open season process to observe the process. The independent auditor concludes that "while the stipulated bid opening and evaluation procedures were not followed in all cases, MATL took reasonable and appropriate steps in the circumstances to keep the process open and non-discriminatory."⁴

Notice of Filing, Interventions, Comments And Protests

9. Notice of MATL's May 16 filing was published in the *Federal Register*, 70 Fed. Reg. 30,099 (2005), with protests and interventions due on or before June 6, 2005. TransAlta Energy Marketing (US) Inc. (TransAlta) filed a motion to intervene out-of-time. No protests were filed.

Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), we will grant TransAlta's motion to intervene out-of-time given its interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

B. Open Season Report

11. In analyzing the allocation of transmission rights, we have stated that "the open season process should be employed to initially allocate transmission rights and the parameters of the open season process should be non-discriminatory, fair and transparent."⁵

12. As described above, MATL provided public notice and a public information session, with all potential bidders receiving the same material. While MATL reports that it waived the bid deadline in several instances, it also explains that the inclusion of the late bids did not result in the exclusion of any other bids and no bids were received from

⁴ MATL Open Season Report, Attachment C at 3.

⁵ *E.g.*, *Northeast Utilities Service Co.*, 98 FERC ¶ 61,310 at 62,328 (2002).

affiliates. The independent auditor, while noting several waivers of the process (as described above), concludes that reasonable steps were taken to ensure the process was open and non-discriminatory. We also note that no participants have filed protests or raised issues that would lead us to believe otherwise.

13. Based on the information provided by MATL in its Report, we find that the open season process employed by MATL was non-discriminatory, fair and transparent. Accordingly, the open season process as described in the Report is accepted. As requested by MATL, we are not acting at this time on MATL's April 1 application. Thus, our action in this order does not approve or otherwise pre-judge any tariff provisions, market-based rate authority, or market-based rate proposed by MATL.

The Commission orders:

The Commission hereby accepts for filing MATL's Open Season Report, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.