

143 FERC ¶ 61,122  
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.

Peetz Logan Interconnect, LLC

Docket No. ER13-1121-000

ORDER CONDITIONALLY ACCEPTING MODIFICATIONS TO OPEN ACCESS  
TRANSMISSION TARIFF

(Issued May 16, 2013)

1. In this order, the Commission conditionally accepts a March 18, 2013 filing by Peetz Logan Interconnect, LLC (Peetz Logan) proposing modifications to its open access transmission tariff (OATT), effective May 17, 2013. Peetz Logan filed the proposed modifications under section 205 of the Federal Power Act (FPA)<sup>1</sup> in response to the Commission's January 17, 2013 order<sup>2</sup> that directed Peetz Logan to identify and support any OATT revisions that were not directed or explained in its previous filings.<sup>3</sup>

**I. Background**

2. On February 28, 2011, Peetz Logan filed an OATT in Docket No. ER11-2970-000 in response to a request from Arion Energy, LLC (Arion) for interconnection and transmission services over Peetz Logan's existing generator interconnection facility (Peetz Logan Facility). Peetz Logan's proposed OATT contained certain deviations from the *pro forma* OATT, which Peetz Logan argued were needed due to the unique nature of its radial line. Located in Logan County, Colorado, the Peetz Logan Facility consists of an approximately 78-mile, 230 kV transmission line and related equipment and facilities, which were constructed to interconnect wind generation projects of NextEra Energy Resources, LLC (NextEra Energy) to the Public Service Company of Colorado (PSCo) transmission system. On January 17, 2013, the Commission granted priority rights to the

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> *Peetz Logan Interconnect, LLC*, 142 FERC ¶ 61,035 (2013) (January 17 Order).

<sup>3</sup> *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075 (2011) (August 2 Order).  
*See also* January 17 Order, 142 FERC ¶ 61,035 at P 15.

final phase of a series of projects constructed by affiliates of NextEra Energy with a planned interconnection to the Peetz Logan Facility.<sup>4</sup>

3. In the August 2 Order, the Commission conditionally accepted in part and rejected in part Peetz Logan's proposed tariff changes and directed Peetz Logan to file several revisions to its OATT. In response, on September 2, 2011, Peetz Logan submitted a compliance filing containing tariff revisions (September 2 Compliance Filing), which the Commission accepted in part and rejected in part, concluding that Peetz Logan had made a number of changes to its tariff that were neither directed by the August 2 Order nor explained in the September 2 Compliance Filing. Therefore, the Commission directed Peetz Logan to identify in a separate FPA section 205 filing any such revisions and present its reasons as to why such revisions are appropriate.<sup>5</sup>

**A. Peetz Logan Filing**

4. In this filing, Peetz Logan proposes a number of revisions that it explains are intended to align its OATT more closely with the *pro forma* OATT, and it argues that some *pro forma* OATT provisions are not applicable to generator interconnection facilities. Peetz Logan explains that certain exceptions from the *pro forma* OATT are necessary due to the unique characteristics of the Peetz Logan Facility, and it argues that approval of these exceptions would be consistent with previous Commission orders, as discussed in greater detail below.

**1. Section 14.7: Curtailment or Interruption of Service**

5. Peetz Logan acknowledges that certain modifications to this section were not made correctly in earlier submissions and therefore revisions from the currently filed provision are required. First, Peetz Logan proposes to adopt the *pro forma* OATT language with the exception of references in section 14.7 to transmission loading relief and Attachment J (Procedures for Addressing Parallel Flows). Peetz Logan proposes to delete the *pro forma* tariff language on transmission loading relief and Attachment J because it contends that the transmission loading relief requirement only applies to Reliability Coordinators or Balancing Authorities. In support, Peetz Logan notes that it is not authorized to provide such reliability functions, as it is neither registered as a Reliability Coordinator nor as a Balancing Authority.<sup>6</sup>

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<sup>4</sup> *NextEra Energy Resources, LLC, Peetz Logan Interconnect, LLC and PWEC, LLC*, 142 FERC ¶ 61,043 (2013) (Declaratory Order).

<sup>5</sup> January 17 Order, 142 FERC ¶ 61,035 at P 15.

<sup>6</sup> Peetz Logan states that NextEra Energy is registered as a Generation Owner, Generation Operator and Transmission Owner for its affiliates, including Peetz Logan.

6. Peetz Logan also proposes to delete provisions associated with network service, explaining that the Commission has previously authorized such deletions.<sup>7</sup> Peetz Logan also proposes to add references to “Tie Line Owner” and “OATT Administrator” that previously were accepted by the Commission.<sup>8</sup> Peetz Logan states that, with these three exceptions, any other changes it made to the *pro forma* language were made in error and are corrected in its March 18 filing.

## **2. Section 19.1: Notice of Need for System Impact Study**

7. Peetz Logan seeks to add back *pro forma* OATT language in section 19.1 that should have been included in its September 2 Compliance Filing. Peetz Logan explains that it mistakenly deleted *pro forma* language stating that: “If notification is provided prior to tender of the System Impact Study Agreement, the Eligible Customer can avoid the costs associated with the study of these options.”<sup>9</sup> Peetz Logan also proposes to correct two references to “Transmission Provider” that should be changed to “Tie Line Owner.”

## **3. Section 19.3: System Impact Study Procedures**

8. Peetz Logan proposes to delete references in section 19.3 and in other provisions of the OATT related to redispatches,<sup>10</sup> because Peetz Logan contends that redispatch over a radial line that interconnects to a single point of interconnection is technically infeasible. Peetz Logan requests that the Commission confirm that deletion of such provisions in Peetz Logan’s OATT is acceptable based on the technical limitations of a radial line.

## **4. Attachment L: Creditworthiness**

9. The January 17 Order identified revisions to Attachment L (Creditworthiness) that were not directed by the Commission and were not explained by Peetz Logan in the September 2 Compliance Filing.<sup>11</sup> Peetz Logan explains that it addressed these revisions in response to a Commission staff deficiency letter, and that these provisions had been taken from Florida Power and Light’s previously-approved OATT. Peetz Logan explains

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<sup>7</sup> Peetz Logan Transmittal at 4 (citing August 2 Order, 136 FERC ¶ 61,075 at P 32).

<sup>8</sup> January 17 Order, 142 FERC ¶ 61,035 at P 11.

<sup>9</sup> Peetz Logan Transmittal at 6.

<sup>10</sup> Peetz Logan OATT §§ 13.5, 15.4, 19.1, 19.3, 19.7, and 27.

<sup>11</sup> January 17 Order, 142 FERC ¶ 61,035 at P 15.

that the April 24, 2011 deficiency letter pointed out that Peetz Logan's Attachment L does not clearly provide a procedure for providing customers, upon request, with a written explanation for any change in credit levels or collateral requirements, nor does it provide a reasonable opportunity to contest determinations of credit levels or collateral requirements. The deficiency letter directed Peetz Logan to explain how customers will be assured of these protections under Peetz Logan's proposed OATT. According to Peetz Logan, the September 2 Compliance Filing includes additional creditworthiness protection by allowing customers to request a credit reevaluation.<sup>12</sup> In addition, Peetz Logan asserts that this revision is consistent with a provision previously accepted by the Commission and is just and reasonable. Peetz Logan offers this explanation because the January 17 Order directed Peetz Logan to explain any revisions to its Attachment L that were not directed by the August 2011 Order.

### 5. Other Revisions

10. Peetz Logan also proposes changes to Large Generator Interconnection Agreement (LGIA) Article 17.1.3 (Failure to Construct [Interconnection Customer's Interconnection Facility]) and Large Generator Interconnection Procedures (LGIP) Article 21 (Comparability) that it maintains are consistent with the *pro forma* OATT. Peetz Logan explains that it mistakenly concluded that LGIA Article 17.1.3 should be deleted and, for this reason, Peetz Logan adds back the *pro forma* language that allows the Tie Line Owner to terminate the LGIA if an interconnection customer fails to complete construction of the Interconnection Customer's Interconnection Facilities.<sup>13</sup> Peetz Logan also includes LGIP Article 21 which requires parties to "comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time." Peetz Logan explains that this provision is consistent with the *pro forma* OATT.<sup>14</sup> Finally, Peetz Logan proposes revisions to its OATT Table of Contents that it maintains correspond with the currently accepted revisions of its OATT.

## II. Notice of Filing and Responsive Pleadings

11. Notice of Peetz Logan's March 18, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 18,580 (2013), with interventions and protests due on or before April 8, 2013. Arion filed a timely protest.

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<sup>12</sup> Peetz Logan Transmittal at 8.

<sup>13</sup> *Id.* at 9.

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

### A. Arion's Protest

12. Arion asserts that, given the close relationship between Peetz Logan, NextEra Energy, and its affiliates, the language of section 14.7 of Peetz Logan's OATT as amended permits discriminatory treatment of third party transmission providers. Arion states that changing the language in the Peetz Logan OATT from "Transmission Provider" to "Tie Line Owner" and "OATT Administrator" will allow Peetz Logan and NextEra Energy to have unlimited discretion to interrupt service when they determine that "economic reasons" exist. According to Arion, the firm service provided by the NextEra Energy affiliates "arguably always results in an economic benefit" to Peetz Logan and its affiliates. Thus, Arion concludes that this provision will allow Peetz Logan to treat its affiliates preferentially to the harm of third parties that may seek to interconnect. Arion requests that any decisions to curtail transmission service for economic reasons should be made by PSCo (the Transmission Operator of the Peetz Logan Facility) and not by Peetz Logan or NextEra Energy. Arion contends that granting discretion to PSCo alone will limit the risk of undue discrimination against third party providers and would be consistent with the substance and intent of the *pro forma* OATT section 14.7.<sup>15</sup>

### III. Discussion

13. In Order No. 890, the Commission allowed transmission providers to propose non-rate terms and conditions that differ from those in Order No. 890, if those provisions are consistent with or superior to the *pro forma* OATT.<sup>16</sup> To the extent deviations from the *pro forma* OATT are necessary, we have required that applicant transmission owners must explain and support the deviations sufficiently,<sup>17</sup> and we evaluate proposed OATT deviations on a case-by-case basis.<sup>18</sup> The Commission will only find proposed deviations from the *pro forma* OATT to be just and reasonable if the filing party provides an adequate explanation of how the deviations in the proposed OATT are consistent with or

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<sup>15</sup> Arion Protest at 3-4.

<sup>16</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 135, *order on reh'g*, Order No. 890-A, 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).

<sup>17</sup> *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134, at P 47, *order on reh'g*, 128 FERC ¶ 61,074 (2009).

<sup>18</sup> *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at PP 55-60 (2006) (*MATL*).

superior to the *pro forma* OATT, or provides a full and convincing explanation of how the *pro forma* provisions are not applicable, given the filing party's business model.<sup>19</sup>

14. As discussed below, we will conditionally accept Peetz Logan's OATT revisions, effective May 17, 2013, and direct a compliance filing. We find that the revisions proposed by Peetz Logan are consistent with tariff language previously approved by the Commission for other owners of generator interconnection facilities.<sup>20</sup> Given the radial nature of the Peetz Logan Facility, we find that many provisions in the *pro forma* OATT are not applicable to the Peetz Logan Facility.

15. Specifically, we accept Peetz Logan's revisions to section 14.7 of its OATT because, although the removal of references to transmission loading relief and Attachment J, network service, and the addition of references to "Tie Line Owner" and "OATT Administrator" deviate from the *pro forma* OATT, these deviations are consistent with the unique nature of the Peetz Logan Facility and follow the Commission's precedent in prior orders.<sup>21</sup> We find that it is appropriate for Peetz Logan to remove references to Attachment J because transmission loading relief only applies to Reliability Coordinators and Balancing Authorities. We also accept Peetz Logan's deletion of references to network service, as the Commission already authorized this deletion in the August 2 Order.<sup>22</sup> Finally, we accept the proposed references to "Tie Line Owners" and "OATT Administrator," as these changes were previously accepted in the Commission's January 17 Order.<sup>23</sup>

16. We reject Arion's protest because it raises objections that the Commission has already addressed in the August 2 Order and in the Declaratory Order, both of which recognized the unique nature of the Peetz Logan Facility.<sup>24</sup> Moreover, the Commission

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<sup>19</sup> *Id.* P 60.

<sup>20</sup> See *Golden Spread Elec. Coop., Inc.*, 139 FERC ¶ 61,067 (2012); *Sky River, LLC*, 136 FERC ¶ 61,162 (2011); *Terra-Gen Dixie Valley, LLC*, 135 FERC ¶ 61,134 (2011); *Sagebrush, a California Partnership*, 130 FERC ¶ 61,093, *order on reh'g*, 132 FERC ¶ 61,234 (2010).

<sup>21</sup> See *Golden Spread Elec. Coop., Inc.*, 139 FERC ¶ 61,067, at P 15 (2012); *Terra-Gen Dixie Valley, LLC*, 134 FERC ¶ 61,027, at P 12 (2011).

<sup>22</sup> August 2 Order, 136 FERC ¶ 61,075 at P 32.

<sup>23</sup> January 17 Order, 142 FERC ¶ 61,035 at P 11.

<sup>24</sup> August 2 Order, 136 FERC ¶ 61,075 at P 27 ("we agree that a distinction should be made to recognize Peetz Logan's limited role as the owner, but not the operator, of its radial facility"); Declaratory Order, 142 FERC ¶ 61,043 at PP 23, 27.

has already approved the use of the terms “Tie Line Owner” and “OATT Administrator” in prior orders, where Arion was a party to the proceeding.<sup>25</sup>

17. We accept the deletion of provisions relating to the redispach of the transmission system in sections 13.5, 15.4, 19.1, 19.3, 19.7, and 27 of Peetz Logan’s OATT. These deletions are appropriate because they do not apply to service that Peetz Logan will provide on the Peetz Logan Facility.

18. We accept Peetz Logan’s revisions to sections 19.1, LGIA Article 17.1.3, and LGIP Article 21, as these changes make the tariff consistent with the *pro forma* OATT. In addition, we accept Peetz Logan’s revisions to the Table of Contents, as they more accurately reflect the revisions to Peetz Logan’s OATT.

19. On April 29, 2011, the Commission issued a deficiency letter in Docket ER11-2970-000, which found that Peetz Logan’s Attachment L did not clearly provide (1) a procedure for providing customers, upon request, with a written explanation for any change in credit levels or collateral requirements or (2) a reasonable opportunity to contest determinations of credit levels or collateral requirements.<sup>26</sup> Peetz Logan states that its proposed Attachment L, which was taken from a previously-approved OATT, will allow transmission customers the right to request a credit reevaluation. However, Peetz Logan’s revision fails to satisfy the Order No. 890 requirement that a transmission provider’s Attachment L address six specific elements regarding the transmission provider’s credit requirements.<sup>27</sup> Specifically, its Attachment L fails to provide customers, upon request, with a written explanation of any changes in credit level or collateral requirements. Therefore, we direct Peetz Logan to make a compliance filing that explains how customers will be assured of a transparent credit process under the OATT.

The Commission orders:

(A) Peetz Logan’s revised OATT is hereby conditionally accepted, effective May 17, 2013, as discussed in the body of this order.

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<sup>25</sup> See January 17 Order, 142 FERC ¶ 61,035 at P 11.

<sup>26</sup> April 29, 2011 Deficiency Letter at 4.

<sup>27</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1656-61. See also *NorthWestern Corp.*, 128 FERC ¶ 61,202, at PP 8-9 (2009).

(B) Peetz Logan is hereby directed to submit a compliance filing, including revised tariff sheets, within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.