

149 FERC ¶ 61,230
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

NV Energy, Inc.

Docket Nos. ER14-2979-000
ER14-2979-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued December 18, 2014)

1. On September 30, 2014, as amended on October 22, 2014, Sierra Pacific Power Company (Sierra Pacific) and Nevada Power Company (Nevada Power) (collectively, NV Energy) filed revisions to Schedule 5 (Spinning Reserve Service) and Schedule 6 (Supplemental Reserve Service) of their joint Open Access Transmission Tariff (OATT) to conform to the new Western Electricity Coordinating Council (WECC) regional Reliability Standard BAL-002-WECC-2 (Contingency Reserve) requirements. In this order, we conditionally accept the revisions for filing, effective October 1, 2014, as requested.

I. Background

2. Pursuant to section 215 of the Federal Power Act, a Commission-certified Electric Reliability Organization is responsible for developing mandatory and enforceable Reliability Standards, subject to Commission review and approval.¹ In July 2006, the Commission certified the North American Electric Reliability Corporation (NERC) as the Electric Reliability Organization.² WECC, as a Regional Entity, may also develop a Reliability Standard for Commission approval to be effective in that region only.³ Once

¹ 16 U.S.C. § 824o (2012).

² *North American Elec. Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on clarification and reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

³ A Regional Entity is an entity that has been approved by the Commission to
(continued ...)

approved, Reliability Standards may be enforced by NERC, or the relevant Regional Entity, subject to the Commission's oversight, or by the Commission independently.⁴

3. In April 2013, NERC and WECC petitioned the Commission to approve BAL-002-WECC-2, which specifies the quantity and types of contingency reserve that balancing authorities and reserve sharing groups in the WECC region are required to maintain to ensure reliability during normal and abnormal conditions.⁵ In November 2013, the Commission approved BAL-002-WECC-2, which, among other things, requires that balancing authorities and reserve sharing groups maintain a minimum amount of contingency reserve equal to the greater of (1) the loss of the most severe single contingency, or (2) the sum of three percent of hourly integrated load plus three percent of hourly integrated generation.⁶ Requirement R1.1.3 of BAL-002-WECC-2 provides that the minimum contingency reserve calculation is based on real-time hourly load and generating energy values averaged over each clock hour⁷ (excluding qualifying facilities covered in 18 C.F.R. § 292.101, as addressed in FERC Opinion No. 464).⁸

II. NV Energy's Filing

4. On September 30, 2014, NV Energy submitted revisions to Schedule 5 and Schedule 6 of its OATT to conform to the new WECC regional Reliability Standard BAL-002-WECC-2 requirements.⁹ NV Energy states that, consistent with the new

enforce Reliability Standards under delegated authority from the electric reliability organization. 16 U.S.C. § 824o(a)(7) and (e)(4).

⁴ 16 U.S.C. § 824o(e).

⁵ The NERC Glossary of Terms Used in NERC Reliability Standards defines Contingency Reserve as “[t]he provision of capacity deployed by the Balancing Authority to meet the Disturbance Control Standard (DCS) and other NERC and Regional Reliability Organization contingency requirements.”

⁶ *Regional Reliability Standard BAL-002-WECC-2 - Contingency Reserve*, Order No. 789, 145 FERC ¶ 61,141 (2013) (Order No. 789), at Requirement R1.

⁷ *Id.* at Requirement R1.1.3.

⁸ *Calif. Indep. Sys. Operator Corp.*, 104 FERC ¶ 61,196 (2003) (Opinion No. 464).

⁹ NV Energy, Sept. 30, 2014, Transmittal Letter.

regional reliability standard, the revised OATT will require transmission customers to purchase an amount of spinning reserves under Schedule 5 equal to the sum of (1) 1.5 percent of the customer's reserved capacity for point-to-point service or 1.5 percent of the customer's monthly network load for network integration transmission service; plus (2) 1.5 percent of the capacity of a generating resource (including designated network resources) identified as the source in the transmission customer's transmission schedule and located within or dynamically transferred to NV Energy's control area.¹⁰ NV Energy adds that transmission customers must purchase an equivalent quantity of supplemental reserves under the revised Schedule 6.¹¹

5. On October 22, 2014, NV Energy submitted amendments to the proposed revisions, deleting certain legacy language from Schedules 5 and 6 that the September submission failed to remove, and the removal of which was necessary to comply with the new reliability standard.¹² NV Energy also briefly addresses a protest filed by Deseret Generation & Transmission Co-operative, Inc. (Deseret) and asserts that the penalty issue Deseret raises is beyond the scope of complying with regional Reliability Standard BAL-002-WECC-2 and would meaningfully change the tariff in ways not contemplated by Order No. 789.¹³

6. NV Energy requests waiver of the Commission's 60-day prior notice requirement, pursuant to section 35.11 of the Commission's regulations, in order for the revisions to become effective October 1, 2014, which is the date BAL-002-WECC-2 became effective.¹⁴ NV Energy contends that good cause exists to grant the waiver because the proposed OATT amendments involve tariff records that were pending resolution of a rate case through and until September 24, 2014. NV Energy adds that the OATT revisions are being filed to make NV Energy's transmission customer reserve obligations under

¹⁰ *Id.* at 2.

¹¹ *Id.* NV Energy notes that the rates contained in the tariff records in the instant proceeding went into effect on January 1, 2014, and do not reflect the rates filed on September 19, 2014 in a settlement agreement in Docket No. ER13-1605-005. NV Energy adds that Chief Administrative Law Judge Wagner accepted the settlement rates and authorized NV Energy to institute the settlement rates effective September 1, 2014. NV Energy states that should the Commission approve the settlement, they will submit revised tariff sheets for Schedules 5 and 6 that reflect the settlement rates. *Id.* at n.4.

¹² NV Energy, Oct. 22, 2014, Transmittal Letter at 2.

¹³ *Id.* n.4.

¹⁴ NV Energy, Sept. 30, 2014, Transmittal Letter at 3.

Schedules 5 and 6 of its OATT comply and be consistent with an obligation under a new, mandatory regional reliability standard being implemented on October 1, 2014.¹⁵

III. Notice of Filings and Responsive Pleadings

7. Notice of the September 30, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 61,074 (2014), with interventions and protests due on or before October 21, 2014. Notice of the October 22, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 64,587 (2014), with interventions and protests due on or before November 12, 2014. Timely motions to intervene were filed by Truckee Donner Public Utility District and Powerex Corp. Deseret filed a timely motion to intervene and protest. Deseret later filed a timely supplemental protest.

8. Deseret argues that NV Energy has not justified the continued use of a penalty mechanism in the first paragraphs of Schedules 5 and 6. This provision allows NV Energy to bill a transmission customer for a resulting energy imbalance at 200 percent of the applicable Schedule 4 Energy Imbalance Market Proxy Price plus spinning or supplemental reserve obligations equivalent to three month's charges if the spinning or supplemental reserves that a transmission customer made alternative arrangements to procure are not available.¹⁶ Deseret contends that the *pro forma* OATT contains no such penalty, other transmission providers in WECC propose no such penalty, and that NV Energy has the burden of justifying a penalty, which Deseret asserts NV Energy has not done.¹⁷ In its Supplemental Protest, Deseret counters NV Energy's assertion that challenging the penalty mechanism is beyond the scope of the compliance filing.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

10. The Commission will accept, subject to modification, NV Energy's proposed revisions to their OATT, effective October 1, 2014, as requested. We find NV Energy's

¹⁵ *Id.*

¹⁶ Deseret Generation and Transmission Coop., Oct. 21, 2014, Protest at 4.

¹⁷ *Id.*

proposed OATT revisions, which would calculate transmission customer charges under Schedules 5 and 6 using the customer's reserved capacity for point-to-point transmission service (or the customer's monthly network load for network service customers) plus the capacity of the generating resource identified as the source in the transmission customer's transmission schedule, are just and reasonable and not unduly discriminatory or preferential.

11. We reject, as beyond the scope of this proceeding, Deseret's argument that NV Energy has not justified the continued use of a penalty mechanism. The penalty mechanism previously was accepted by the Commission and Deseret has not shown any change in circumstances that would render the previously accepted approach unjust or unreasonable.¹⁸ To the extent that Deseret believes that the continued use of the penalty mechanism in Schedules 5 and 6 is no longer just and reasonable, it may file a complaint at the Commission pursuant to section 206 of the Federal Power Act.¹⁹

12. However, with respect to the rates contained in Schedules 5 and 6, NV Energy states that the rates contained in the tariff records do not reflect the rates filed on September 19, 2014 in a settlement agreement in Docket No. ER13-1605-005.²⁰ NV Energy adds that Chief Administrative Law Judge Wagner accepted the settlement rates and authorized NV Energy to institute the settlement rates, which became effective September 1, 2014.²¹ By NV Energy's own admission, Schedules 5 and 6 do not contain the currently-effective rates that were accepted effective September 1, 2014. Accordingly, we direct NV Energy to file, within 15 days of the date of issuance of this order, a compliance filing revising the rates in Schedules 5 and 6 to reflect the currently-effective rates. Our acceptance here is subject to the outcome of the proceeding in Docket No. ER13-1605-005.

The Commission orders:

(A) NV Energy's proposed revisions to its OATT are hereby accepted, effective October 1, 2014, subject to a further compliance filing, and subject to the outcome of the proceeding in Docket No. ER13-1605-005, as discussed in the body of this order.

¹⁸ See *Sierra Pacific Power Co.*, 104 FERC ¶ 61,003 (2003).

¹⁹ 16 U.S.C. § 824e.

²⁰ NV Energy, Sept. 30, 2014, Transmittal Letter at n.4.

²¹ *Id.*

(B) NV Energy is hereby directed to submit a compliance filing, within 15 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.