

122 FERC ¶ 61,226
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Portland General Electric Company

Docket Nos. OA07-40-000
OA07-15-001

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued March 11, 2008)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ Portland General Electric Company (PGE) submitted its compliance filing as required by Order No. 890² and by a June 21, 2007 Letter Order in Docket No. OA07-15-000.³ In this order, we will accept PGE's filing, as modified, as in compliance with Order No. 890, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007).

³ *Portland General Elec. Co.*, Docket No. OA07-15-000 (June 21, 2007) (unpublished letter order) (June 21, 2007 Letter Order).

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.⁴

4. The Commission recognized, however, that some of these non-ISO/RTO transmission providers may have provisions in their existing OATTs that the Commission previously deemed to be consistent with or superior to the terms and conditions of the Order No. 888⁵ *pro forma* OATT, but which *pro forma* terms and conditions were modified by Order No. 890. The Commission provided an opportunity for such transmission providers to submit an FPA section 205 filing seeking determination that a previously-approved variation from the Order No. 888 *pro forma* OATT substantively affected by the reforms adopted in Order No. 890 continues to be consistent with or superior to the revised *pro forma* OATT. The Commission directed applicants to make those filings within 30 days from publication of Order No. 890 in the *Federal Register*, (i.e., April 16, 2007), and to request that the proposed tariff provisions be made effective as of the date of the transmission provider's FPA section 206 compliance filing, described above, except for imbalance-related provisions, which may become effective on the first day of the billing cycle following that date. The Commission also requested that applicants state that the Commission has 90 days following the date of submission to act under section 205.⁶

⁴ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, FERC Stats. & Regs. ¶ 31,261 (2007).

⁵ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 138-139.

5. In addition, after submission of their FPA section 206 compliance filings, non-ISO/RTO transmission providers may submit FPA section 205 filings proposing rates for the services provided for in their tariffs, as well as non-rate terms and conditions that differ from those set forth in Order No. 890 if those provisions are “consistent with or superior to” the *pro forma* OATT.⁷

II. PGE’s Filing

6. In its July 13, 2007 filing, PGE states that it has revised its OATT to include the non-rate terms and conditions required under Order No. 890 as well as certain revised tariff sheets in compliance with the June 21, 2007 Letter Order. PGE explains that on April 16, 2007, in Docket No. OA07-15-000, it submitted an FPA section 205 filing to retain provisions of its existing OATT that the Commission had previously deemed to be consistent with or superior to the terms and conditions of the Order No. 888 *pro forma* OATT. PGE states that its April 16, 2007 filing was conditionally accepted and that it was directed to resubmit revised tariff sheets concurrently with its FPA section 206 filing pursuant to Order No. 890. PGE requests a July 13, 2007 effective date.

III. Notice of Filing and Responsive Pleadings

7. Notice of PGE’s filing was published in the *Federal Register*, 72 Fed. Reg. 41,727 (2007), with interventions and protests due on or before August 3, 2007. Powerex Corporation (Powerex) filed a timely motion to intervene and comments.⁸ On August 20, 2007, PGE filed an answer to Powerex’s protest.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

9. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PGE’s answer because it has provided information that assisted us in our decision-making process.

⁷ *Id.* P 135.

⁸ In its comments, Powerex opposes certain of PGE’s OATT revisions and suggests that the Commission direct PGE to modify certain provisions. Accordingly, we will treat Powerex’s comments as a protest.

B. Substantive Matters**Docket No. OA07-15-001**

10. The June 21, 2007 Letter Order, found that the tariff sheets PGE submitted on April 16, 2007 did not fully comply with Order No. 614⁹ and with section 35.9(a) of the Commissions regulations.¹⁰ Accordingly, PGE was directed to resubmit its tariff sheets concurrently with its FPA section 206 filing pursuant to Order No. 890.

11. PGE has revised its tariff sheets as required by the June 21, 2007 Letter Order. We therefore accept for filing PGE's tariff sheets submitted in Docket No. OA07-15-001 effective July 13, 2007, as requested.

Docket No. OA07-40-000**1. Clustering****a. PGE's Filing**

12. PGE proposes, in section 19.5 of its OATT (Clustering Transmission Service Request Studies),¹¹ to study transmission service requests in a cluster if the customers involved request the cluster and if PGE can reasonably accommodate the request. Under PGE's proposal, a request to study a transmission service request in a cluster must be made prior to execution of the system impact study agreement. If a request to study transmission service requests in a cluster is submitted by only one customer, PGE will ask other comparably situated customers (i.e., customers with comparable physical location, paths, etc.) in the transmission request queue whether they want to participate in the requested cluster study. In addition, all customers involved in a cluster study will be required to execute individual system impact study agreements which provide that the system impact study will be performed as a cluster study. PGE also proposes to allocate costs to perform a clustered system impact study or facilities study equally among the customers in the cluster.

⁹ *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

¹⁰ 18 C.F.R. § 35.9 (2007).

¹¹ A similar proposed clustering provision for network integration transmission service is included in section 32.5 of PGE's OATT.

b. Protest and Answer

13. Powerex argues that PGE's proposed clustering provision does not specify whether PGE's customers may opt out of a cluster in favor of an individual study. Powerex asserts that Order No. 890 requires transmission providers to include tariff language in their OATTs describing how they will structure the transmission customers' obligations when they have joined a cluster, including whether a transmission customer can opt out of a cluster and request an individual study. Powerex requests that the Commission direct PGE to modify its clustering provision to comply with Order No. 890's requirement that opt out rights be clearly defined.

14. In response, PGE states that under its proposed clustering provision, PGE will study transmission service requests in a cluster if the eligible customers involved request the cluster and the transmission provider can reasonably accommodate the request. PGE also states that if only one customer requests PGE to perform a study in a cluster, PGE will ask other comparably situated customers if they wish to participate in the study. Thus, PGE argues, a customer can choose initially whether or not to participate in a clustered study. In addition, PGE states that under section 19.5(iv) of its OATT, once a system impact study is completed, a customer may choose to have its facility study performed on an individual, rather than a clustered, basis. PGE asserts that because its proposed clustering provision does not require a customer to participate in a cluster study initially and allows a customer to discontinue with a clustered process once a system impact study is complete, no other opt out provision is necessary. PGE also argues that an opt out provision is not required under Order No. 890 which provides the transmission provider with the "discretion to determine whether a transmission customer can opt out of a cluster and request an individual study."¹²

c. Commission Determination

15. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved request a cluster and the transmission provider can reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligation when they have joined a cluster.¹³ In

¹² PGE Answer at n. 2 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1371).

¹³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

addition, the Commission gave each transmission provider the discretion to develop the clustering procedures it will use because the transmission provider is in the best position to determine the clustering procedures that it can accommodate and that will prevent a customer from strategically participating in clusters to avoid costs for needed transmission system upgrades.¹⁴ Further, Order No. 890 gave the transmission provider discretion to determine whether a transmission customer can opt out of a cluster and request an individual study.

16. We accept PGE's proposed section 19.5, as modified further below.

17. Under PGE's proposal, "[a]ll Eligible Customers involved in a cluster study will be required to execute individual System Impact Study Agreements which provide that the System Impact Study will be performed as a cluster study."¹⁵ Further, section 19.5(iv) of PGE's OATT provides:

Once the System Impact Study is complete, the Transmission Provider will tender a Facilities Study Agreement to each Eligible Customer. Each Facilities Study Agreement will require the Facilities Study be performed as a cluster study. The procedures in Section 19.4 [Facilities Study Procedures] will apply with the exception that if any of the Eligible Customers elects not to execute the Facilities Study Agreement, the Transmission Provider may revise the System Impact Study, as necessary.¹⁶

18. Thus, under PGE's proposed clustering provision, once a customer decides to participate in a clustered system impact study, it must execute a system impact study agreement that specifies that the system impact study will be performed as a cluster. In addition, upon completion of the clustered system impact study, each customer will be required to execute a facilities study agreement that specifies that the facilities study will be performed as a cluster. Accordingly, a customer that chooses not to execute a clustered facilities study agreement will effectively opt out of the clustered facilities study. However, contrary to PGE's statement in its answer, section 19.5(iv) does not specify that a customer that opts out of a facilities study agreement may choose to have its facility study performed on an individual basis.

19. In addition, section 19.5(iv) provides that if any customer elects not to execute the clustered facilities study agreement, "[PGE] may revise the System Impact Study, as necessary." However, PGE does not explain what effect such a revision may have on

¹⁴ *Id.*

¹⁵ PGE FERC Electric Tariff, Third Revised Volume No. 8, Original Sheet No. 79.

¹⁶ PGE FERC Electric Tariff, Third Revised Volume No. 8, Original Sheet No. 80.

customers who have opted to participate in the clustered facilities study or how it will structure those customers' obligations when one or more customers elect not to participate in the clustered facilities study.¹⁷ Accordingly, we direct PGE to file, within 30 days of the date of this order, a further compliance filing revising its proposed section 19.5 to clarify that a customer that chooses not to participate in a clustered facilities study may choose to have its facility study performed on an individual basis and, in the event a customer opts out of a clustered facilities study after participating in a clustered system impact study, how PGE will structure the obligations of customers who choose to participate in the clustered facilities study.

2. Charges and Penalties

a. PGE's Filing

20. In its July 13, 2007 filing, PGE revised Schedules 7 (Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service), and Schedule 8 (Non-Firm Point-to-Point Transmission Service) to include unreserved use penalty provisions pursuant to Order No. 890. PGE's proposed unreserved use penalties are stated as rates per MW based on two times the firm point-to-point transmission rate for a given time period.¹⁸

21. In addition, PGE states that under Order No. 890 changes to the *pro forma* OATT are not necessary to ensure that, consistent with the Commission's "higher of" transmission pricing policy, monthly rates for transmission service are based on incremental costs.¹⁹ PGE states that based on this guidance it is removing provisions in Schedules 7 and 8 related to the determination of opportunity costs and network upgrades. PGE also states that it is removing these provisions from its OATT based on the Commission's statement that existing policy provides sufficient information for transmission customers to make an informed decision regarding a request for service and

¹⁷ For example, if PGE finds it necessary to revise the system impact study it is not clear whether customers who opt to participate in the clustered facilities study will be required to re-execute revised system impact agreements, and when a customer participates in the clustered system impact study but opts not to participate in the clustered facilities study, it is not clear if the queue position of that customer or of the customers participating in the clustered facilities study will be affected.

¹⁸ For example, the penalty rate when a customer uses hourly firm point-to-point service without reservation during on-peak hours is \$40/MW (0.020/kW x 1000kW/MW x 2), which is twice the firm point-to-point rate. See PGE FERC Electric Tariff, Third Revised Volume No.8, Original Sheet No. 152.

¹⁹ PGE Filing at 5 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 883).

to avoid any confusion.²⁰ In addition, PGE states that it is also removing provisions regarding direct assignment costs and facilities not included in rates from Schedules 7 and 8 to avoid confusion.

b. Protest and Answer

22. Powerex states that it does not appear that PGE has specified the charges and penalties and any associated terms and conditions that PGE's tariff allows it to levy charges or penalties. Powerex points out that while PGE has adopted language from section 28.6 (Restrictions on Use of Service) of the Order No. 890 *pro forma* OATT, it has not specified the applicable charges and penalties as required.²¹ Powerex argues that PGE should be required to modify its OATT to specify the applicable charges and penalties, and be prohibited from levying such charges or penalties until PGE makes these modifications.

23. In response, PGE states that it has included a number of the Order No. 890 penalties in its OATT. PGE also states that Schedules 7, 8 and 9 (High Voltage Direct Assignment Facilities) of its OATT include charges for unreserved use of point-to-point transmission service. PGE agrees that penalties may not be charged if they are not included in the OATT.²²

c. Commission Determination

24. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstances where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.²³ In addition, the Commission established a rebuttable presumption that unreserved use penalties no greater than twice the firm point-to-point rate for the appropriate penalty period are just and reasonable, provided that the penalty rates were consistent with certain principles articulated in Order No. 890.²⁴

²⁰ *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 883).

²¹ Powerex states that a similar issue can be found in section 30.4 of PGE's OATT (Operation of Network Resources).

²² PGE Answer at 2.

²³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

²⁴ *See id.* P 848.

25. We find that PGE's proposed unreserved use penalties in Schedules 7, 8, and 9 are based on twice the firm point-to-point rate for each applicable service period and are consistent with the principles articulated in Order No. 890. Further, we note that Powerex asserts that PGE should not be permitted to levy any charges or penalties which are not stated in its OATT and that PGE acknowledges that it may not access charges for penalties that it has not included in its OATT. We also note that PGE's section 28.6 (Restrictions on Use of Service) uses the language from the *pro forma* OATT and is therefore consistent with the language from the *pro forma* OATT, therefore, we find that no further modifications are necessary to this section.

26. Finally, we find PGE's proposed deletion from Schedules 7 and 8 of provisions related to the determination of opportunity costs, network upgrades, direct assignment costs, and facilities not included in rates to be outside the scope of this compliance filing. As stated above, in Order No. 890-A, the Commission directed transmission providers that have not been approved as ISOs or RTOs and whose transmission facilities are not under the control of an ISO or RTO to submit FPA section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT. The Commission stated that in a compliance filing the revised OATT should only be changed to the extent that the provisions were revised in Order No. 890. Further, if a transmission provider wishes to propose different terms and conditions, it must make a separate FPA section 205 filing.²⁵ Accordingly, we reject without prejudice PGE's proposed deletions from Schedules 7 and 8. If PGE wishes to revise these provisions, it must file the proposed revisions in a separate FPA section 205 filing. Therefore, we direct PGE to make a compliance filing, within 30 days of the date of this order, to reinstate the deleted provisions of Schedules 7 and 8.

3. Mechanisms for Distribution of Penalty Revenues

a. PGE's Filing

27. PGE did not file a mechanism for the distribution of penalty revenues.

b. Protest and Answer

28. Powerex asserts that PGE does not appear to include a penalty crediting mechanism for every category of penalty under the tariff. For example, Powerex states

²⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n. 106. We note that on August 13, 2007, PGE submitted an FPA section 205 filing in Docket No. ER07-1280-000, which among other things, removed Attachment J (Calculation of Opportunity Costs) from its OATT. Our determination here has no affect on that filing which was accepted for filing on October 4, 2007. *See Portland General Elec. Co.*, Docket No. ER07-1280-000 (October 4, 2007) (unpublished letter order).

that PGE's OATT does not specify the mechanism through which PGE will credit late study penalty revenues to unaffiliated transmission customers, as required under Order No. 890. Powerex requests that PGE be required to modify its OATT to add a penalty revenue crediting provision as specified in Order No. 890.

29. PGE states that its understanding of the requirements of Order No. 890 is that the crediting mechanisms related to charges for unreserved uses of transmission service and late study penalties are to be the subject of a subsequent annual compliance filing. PGE states that it recognizes that P 861 of Order No. 890 is susceptible to an alternative interpretation and that it agrees to make a further compliance filing if its understanding of P 861 is incorrect.

c. Commission Determination

30. As noted in Order No. 890-A, the procedural mechanism for distribution of operational penalties, including late study penalties, set forth in Order No. 890 was somewhat unclear. Accordingly, in Order No. 890-A, the Commission clarified transmission providers' obligations regarding collection and distribution of operational penalty revenues and filing of compliance reports with the Commission.²⁶ First, if a transmission provider elects to impose unreserved use penalties, it must submit to the Commission a tariff filing under FPA section 205 stating the applicable unreserved use penalty rate. Second, each transmission provider must submit a one-time compliance filing under FPA section 206 proposing the transmission provider's methodology for distributing revenues from late study penalties and, if applicable, unreserved use penalties. This one-time compliance filing can be submitted at any time prior to the first distribution of operational penalties. In addition, transmission providers should request an effective date for this distribution mechanism as of the date of the filing and may begin implementing the methodology immediately, subject to refund if the Commission alters the distribution mechanism on review. Finally, the Commission determined that each transmission provider must report on its penalty assessments and distributions in an annual compliance report to be submitted on or before the deadline for submitting FERC Form-1, as established by the Commission's Office of Enforcement each year.

31. We note that PGE has filed unreserved use penalty rates and that PGE has stated that it will make a compliance filing in response to a Commission order. As discussed above, PGE must submit a one-time compliance filing under FPA section 206 proposing its methodology for distributing revenues from late study penalties and, if applicable, unreserved use penalties prior to the first distribution of those operational penalties. This

²⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,241 at P 472.

distribution methodology need not be stated in a transmission provider's OATT.²⁷ We therefore conclude that no additional modification to PGE's OATT addressing the distribution of operational penalties is necessary at this time, given our clarification in Order No. 890-A.

4. Simultaneous Submission Window

a. PGE's Filing

32. PGE states that its revised OATT does not include "no earlier than" language that would require it to revise its tariff to establish a submittal window within which transmission service requests would be deemed to be submitted simultaneously. PGE states that footnote 847 of Order No. 890 mistakenly characterizes a PGE business practice related to the posting of available transfer capability (ATC) on the California-Oregon Intertie (COI) as including a "no earlier than" submission window. PGE explains that it relies on the Bonneville Power Administration, as the operator of the COI, to provide PGE with the total transfer capability (TTC) to allow transmission capacity to be released. According to PGE, it does not receive the final TTC until 7:00 a.m. and its business practice is intended to inform customers that since ATC is not posted on the COI until 7:11 a.m., any requests submitted before then will necessarily be refused. PGE maintains that if the practice mandated a "no earlier than" deadline, requests submitted before 7:11 a.m. would be deemed invalid. In addition, PGE states that because its business practice was mentioned in Order No. 890, PGE addressed the issue of developing a simultaneous window with its customers and its customers did not support the development of a simultaneous window. PGE concludes that because its business practice does not impose a deadline for submitting firm transmission requests, it has not included any language in its tariff addressing the treatment of simultaneous requests.

b. Commission Determination

33. In Order No. 890, the Commission decided to retain its first-come, first-served policy regarding transmission service requests. However, to ensure that transmission service is not awarded in an arbitrary fashion and to ensure that transmission customers who are less sophisticated and have fewer financial resources have equal access to transmission service, the Commission required those transmission providers who set a "no earlier than" time limit for transmission service requests to treat all such requests received within a specified period of time, or window, as having been received simultaneously. Although the Commission left it to the transmission providers to propose the amount of time the window would be open, the Commission stated that the

²⁷ We note that the methodology for distributing imbalance penalties need not be stated in the transmission provider's OATT. *Cf. Florida Power & Light Co.*, 122 FERC ¶ 61,079, at P 25 (2008).

window should be open for at least five minutes unless the transmission provider presents a compelling rationale for a shorter window. The Commission also required each transmission provider that is required to, or decides to, deem all requests submitted within a specified period as having been submitted simultaneously to propose a method for allocating transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period.²⁸

34. We find that while it may not have been PGE's intention to establish a "no earlier than" time limit for the submissions of requests for firm transmission service on the COI, PGE's practice of informing customers that any requests submitted before 7:11 a.m. will be refused effectively creates such a time limit. Accordingly, we direct PGE to file, within 30 days of the date of this order, a further compliance filing that clearly indicates that PGE has satisfied the remaining compliance requirements of Order No. 890 for adoption of a simultaneous submission window

5. Creditworthiness

35. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.²⁹

36. We have reviewed PGE's filing and find that while PGE has listed the quantitative and qualitative measures it uses in its credit evaluations, PGE has not explained in sufficient detail what its specific requirements are for each of the measures. PGE states that it will determine a credit score for each transmission customer using an internal scoring model and will determine the amount of credit to be extended and any required security. PGE's filing provides no further detail about its internal scoring model or how it will determine the amount of credit to be extended. Nor does it identify what PGE considers to be a minimum acceptable credit limit. Also, section 4B of PGE's proposed Attachment L provides that a cash prepayment may be provided for transmission service prior to the scheduling of such service. PGE states that interest will be paid on cash prepayments only as required by under its tariff; however, PGE fails to identify the section of the tariff that applies to interest on cash prepayments. Accordingly, we direct PGE to file, within 30 days of the date of this order, a further compliance filing that

²⁸ *Id.* P 1418-22.

²⁹ *Id.* P 1656-61.

addresses its creditworthiness standards consistent with Order No. 890 and the creditworthiness requirements as discussed above.

6. Attachment J - Procedures for Addressing Parallel Flows

37. The *pro forma* OATT adopted in Order No. 890 includes a blank Attachment J entitled “Procedures for Addressing Parallel Flows” that is to be “filed by the Transmission Provider.” The Commission in the NERC Transmission Loading Relief Order³⁰ amended the OATT to incorporate NERC’s Transmission Loading Relief (TLR) procedures. The Commission also required that every transmission-operating public utility adopting NERC’s TLR procedures file with the Commission a notice that its tariff shall be considered so modified to reflect the use of such procedures. That order addressed the NERC’s TLR procedures for public utilities in the Eastern Interconnection. Later, in Order No. 693, the Commission approved, as mandatory and enforceable, the IRO-006-3 Reliability Coordination —Transmission Loading Relief Reliability Standard, which includes the NERC’s TLR procedures and, by reference, the equivalent Interconnection-wide congestion management methods used in the WECC (WSCC Unscheduled Flow Mitigation Plan) and ERCOT (section 7 of the ERCOT Protocols) regions.³¹ As a result, all transmission providers must complete Attachment J by incorporating either the NERC TLR procedures, WSCC Unscheduled Flow Mitigation Plan, or ERCOT protocol and must provide a link to the applicable procedures.

38. PGE has not filed any procedures in Attachment J. PGE is directed to file, within 30 days of the date of this order, a further compliance filing with a completed Attachment J as shown below:

The North American Electric Reliability Corporation’s (“NERC”)'s Qualified Path Unscheduled Flow Relief for the Western Electricity Coordinating Council (WECC), Reliability Standard WECC-IRO-STD-006-0 filed by NERC in Docket No. RR07-11-000 on March 26, 2007, and approved by the Commission on June 8, 2007, and any amendments thereto, are hereby incorporated and made part of this Tariff. See www.nerc.com for the current version of the NERC's Qualified Path Unscheduled Flow Relief Procedures for WECC.

³⁰ *North American Electric Reliability Council*, 85 FERC ¶ 61,353, at 62,362 and Ordering Paragraph (B) (1998) (NERC Transmission Loading Relief Order).

³¹ *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 72 Fed. Reg. 16,416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242, at P 961-65 (2007), *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

7. Rollover Rights Effective Date

39. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.³²

40. PGE has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, PGE's Attachment K setting forth its transmission planning process, which was filed December 7, 2007 in Docket No. OA08-45-000, has not yet been accepted. This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct PGE to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. PGE should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date commensurate with the date of that filing.

8. Other Tariff Revisions

a. Protest and Answer

41. Powerex claims that there are several references in PGE's OATT that appear to be inaccurate or in error. First, Powerex states that PGE's proposed OATT continues to reference the Western Regional Transmission Association (WRTA) and Northwest Regional Transmission Association (NWRTA) which have been disbanded and/or merged into WECC. Second, Powerex states that PGE's Attachment A-1 (Form for Service for Resale, Assignment or Transfer of Long-Term Firm PTP Service), as labeled, is applicable only to long-term firm service and as such is inconsistent with the reassignment provisions set out in Order No. 890. Powerex requests that the Commission clarify that Attachment A-1 should govern reassignment of both long-term and short-term firm point-to-point transmission service, and require PGE to modify its attachment accordingly. Finally, Powerex notes that section 19.2(iii) of PGE's OATT includes a reference to system impact studies pursuant to section 8 of PGE's OATT. Powerex believes this is an error and that the appropriate reference should be to section 20.

³² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

42. In response, PGE agrees that references to WRTA and NWRTA should be changed to WECC and states that it made those changes in a filing submitted to the Commission on August 13, 2007 in Docket No. ER07-1280-000. In addition, PGE states that while Order No. 890 references section 20, PGE does not believe that the reference in section 19.2(iii) (System Impact Study Agreement and Cost Reimbursement) should be changed from section 8 (Accounting for the Transmission Provider's Use of the Tariff) to section 20 (Procedures if the Transmission Provider is Unable to Complete New Transmission Facilities for Firm Point-to-Point Transmission Service).

b. Commission Determination

43. PGE filed revised tariff sheets in Docket No. ER07-1280-000 on August 13, 2007, replacing references to WRTA and NWRTA with WECC. The revised sheets were accepted for filing on October 4, 2007;³³ therefore, Powerex's protest regarding this issue is rendered moot.

44. In Order No. 890-A, the Commission recognized that inclusion of the words "long-term firm" in the title of the form of service agreement and the attached specifications in the new Attachment A-1 to the *pro forma* OATT adopted in Order No. 890 may imply that use of the service agreement is limited to long-term firm point-to-point transactions.³⁴ Accordingly, in Order No. 890-A, the Commission revised section 23.1 of the *pro forma* OATT (Procedures for Assignment or Transfer of Service) and the title of Attachment A-1 to remove "long-term firm." PGE has included the words "long-term firm" in its proposed Attachment A-1. We find, however, that because PGE and other transmission providers are required to remove that language from their Attachment A-1s when they submit compliance filings pursuant to Order No. 890-A, it is unnecessary to direct PGE to revise its Attachment A-1 in the instant proceeding.³⁵

45. Finally, we accept the proposed revision of section 19.2(iii) to cross-reference section 8 of PGE's OATT, instead of section 20, as consistent with or superior to the *pro forma* OATT as revised in Order No. 890. Section 19.2(iii) of the Order No. 890 *pro*

³³ *Portland General Elec. Co.*, Docket No. ER07-1280-000 (October 4, 2007) (unpublished letter order).

³⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 424.

³⁵ In Order No. 890-A, transmission providers that have not been approved as RTOs or ISOs, and whose facilities are not in the footprint of an RTO or ISO, were directed to submit, within 60 days of publication of Order No. 890-A in the *Federal Register* (i.e., March 13, 2008), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890-A.

forma OATT provides that “[f]or System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 20.” However, section 20 of the Order No. 890 *pro forma* OATT contains procedures to be followed if the transmission provider is unable to complete new transmission facilities for firm point-to-point transmission service. Section 8 specifies the terms and conditions under which the transmission provider records transmission revenues and study costs and revenues. We therefore agree with PGE that section 19.2(iii) should cross-reference section 8 instead of section 20 and correction of this cross-reference in the PGE OATT is consistent with or superior to the *pro forma* OATT. The Commission will address correcting this typographical error in the *pro forma* OATT in a future order.

46. Accordingly, we will accept PGE’s compliance filing, as modified, to be effective July 13, 2007. We also direct PGE to file, within 30 days of the date of this order, a further compliance filing as required above.

The Commission orders:

(A) PGE’s compliance filing is hereby accepted, as modified, effective July 13, 2007, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Document Content(s)

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