

Comments of Bonneville Power Administration on
PacifiCorp's Business Practice #34 Revision 12.0

PacifiCorp has posted for comment revised Business Practice #34 – Self-Supply or Third-Party Supply of Ancillary Services-Certification Process and Requirements (BP #34). This revision purports to clarify the self-supply process and procedures. BPA does not support the revisions made to BP #34 because they 1) remove language recognizing transmission customers' ability to self-supply reserves from resources external to the transmission provider's Balancing Authority Area (BAA)—a practice consistent with FERC precedent, WECC standards, and industry norms; and 2) make fundamental changes to the tariff that should be filed with the Commission and not shepherded through as a change to a Business Practice.

BP #34 describes PacifiCorp's requirement for customers electing to self-supply or to utilize third-party purchases for certain Ancillary Services. The revised BP #34 significantly changes the conditions in which a transmission customer can self-supply both spinning and supplemental reserves. Prior to BP #34 Revision 12, PacifiCorp expressly allowed customers to self-supply operating reserves from external resources. This is wholly consistent with industry practice throughout the Western Interconnection. In February 2017, PacifiCorp informed Bonneville that generation for self-supplying reserves must be internal to the PacifiCorp BAA. Based on conversations with PacifiCorp staff, it is our understanding that the BP #34 revisions are being made to exclude the use of external resources to self-supply reserves. Specifically, section A.1 requires self-supply generation resources to be located in PacifiCorp's BAA. PacifiCorp staff reasoned that this change is necessary to conform to the current WECC Standard

BAL-002-WECC-2a. This change is not necessary and Bonneville opposes PacifiCorp's revisions to BP #34.

A. Regional Reliability Standard BAL-002-WECC-2 – Contingency Reserve continues to allow transmission customers to self-supply reserves with resources external to the Balancing Authority Area.

In FERC Order 789, the Commission issued a final rule that approved the retirement of WECC Regional Reliability Standard BAL-STD-002-0 (Operating Reserves) and approved the regional Reliability Standard BAL-002-WECC-2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.¹ The Commission approved BAL-STD-002-0 in 2007. In 2009, NERC submitted to the Commission for approval BAL-002-WECC-1.² The Commission remanded the proposed reliability standard and identified five issues for NERC to resolve. The issues on remand included: “(1) the restoration period for contingency reserve; (2) the calculation of minimum contingency reserves; (3) the use of firm load to meet the contingency reserve requirement; (4) the use of demand-side management as a resource; and (5) miscellaneous directives.”³ After addressing the Commission's concerns, NERC and WECC requested approval of BAL-002-WECC-2. The Commission issued a Notice of Proposed Rule Making, responded to comments, and then issued a final rule in Order 789 approving BAL-002-WECC-2.⁴ The Commission approved BAL-002-WECC-02 because it found that the standard was more stringent than BAL-STD-002-0.

¹ *Regional Reliability Standard BAL-002-WECC-2 – Contingency Reserve*, Order No. 789, 145 FERC ¶ 61,141 (2013).

² *North American Electric Reliability Corporation*, Docket No. RM09-15-000, (March 25, 2009).

³ *Version One Regional Reliability Standard for Resource and Demand Balancing*, Order No. 740, 133 FERC ¶ 61,063 (2010) at PP 26, 39, 49, 60, 66.

⁴ The current standard is BAL-002-WECC-2a, which includes an interpretation requested by Arizona Public Service. The substantive rule from BAL-002-WECC-2 to BAL-002-WECC-2a did not change. *See Interpretation of Regional Reliability Standard BAL-002-WECC-2a*, NERC Docket No. RD17-3-000 (Jan. 24, 2017) (“NERC states that the proposed interpretation incorporates into the standard document the Commission's determination, in Order No. 789, approving regional Reliability Standard BAL-002-WECC-2, that non-traditional resources may qualify as

It is our understanding that PacifiCorp believes the transition from BAL-STD-002-0 to the current BAL-002-WECC-2 removed a transmission customers' ability to self-supply reserves with resources external to the BAA. PacifiCorp Staff argue this position pointing out that BAL-STD-002-0 included the language "on-demand rights from other entities or Balancing Authorities" as an acceptable type of non-spinning reserve, whereas the current BAL-002-WECC-2 standard no longer includes this exact language. PacifiCorp staffs argue that, because the current standard does not include the same language, the new standard excludes that type of resource. We disagree.

There is no evidence in the record that suggests BAL-002-WECC-2 or -2a were intended to remove a transmission customer's ability to self-supply operating reserves with resources from outside the BAA. To the contrary, in its initial filing with FERC, WECC said the purpose for removing certain industry terms such as "on-demand" was to eliminate ambiguity. "The intent of the clarifying language in the proposed Regional Reliability Standard is to meet the existing language with concise language that is clear to everyone and eliminate the multiple existing interpretations and ambiguities."⁵

Further, FERC case law demonstrates that BAL-002-WECC-2a did not remove a transmission customer's ability to satisfy operating reserve requirements with generation outside the transmission provider's BAA. Since BAL-002-WECC-2 became effective on October 1, 2014, the Commission has continued to authorize transmission customers to self-supply operating reserves with generation external to the transmission provider's BAA.

'Operating Reserve—Spinning' provided those resources satisfy the technical and performance requirements in Requirement R2.').

⁵ *North American Electric Reliability Corporation*, Docket No. RM09-15-000, 2009 at 23-24.

On February 27, 2015, FERC granted Powerex Corp. (Powerex) authority to sell Operating Reserves to NorthWestern Energy (NorthWestern) at market-based rates.⁶ The applicable generation resources were located in the BC Hydro and the Mid-C BAA, which are external to NorthWestern's BAA.⁷ The Commission found that existing regional scheduling practices—specifically “the WECC Capacity Tag Functionality INT-009-WECC-CRT-2 and BPA's ‘On Demand’ scheduling protocols, in combination with BC Hydro's capacity e-Tagging protocols”—adequately supported Powerex's delivery of operating reserves to NorthWestern.⁸ The Commission noted Powerex has used these protocols “for years” to supply operating reserves to CAISO, and found that this “demonstrates that these protocols and scheduling practices support the delivery of operation reserves (both spinning and supplemental) from one balancing authority area to another within the time periods specified by Order No. 784.”⁹ The very practice PacifiCorp's proposed revision seeks to exclude has been approved by FERC since BAL-002-WECC-2 came into effect.

Finally, the ability for a customer to self-supply reserves with resources external to the BAA falls squarely into two categories of acceptable reserves identified in the current standard. BAL-002-WECC-2 includes amongst others the following resources: “Interchange Transactions designated by the Source Balancing Authority as Operating Reserve – Supplemental;” and “Reserve held by other entities by agreement that is deliverable on Firm Transmission Service.” Regardless of whether or not the current standard retained the precise language from a 10 year old standard, the current language and FERC precedent clearly allow for the use of external resources to self-supply.

⁶ *Powerex*, 150 FERC ¶ 61,145.

⁷ *Id.* at P 9.

⁸ *Id.*

⁹ *Id.* at P 13.

PacifiCorp's attempt to modify its Business Practice so as to deprive its transmission customers of the ability to self-supply operating reserves with external generation resources, on the pretense that this modification is required by BAL-002-WECC-02a, is inconsistent with the current standard and FERC precedent.

B. The proposed revisions to Business Practice #34 are inconsistent with the OATT and commission precedent.

As noted above, the modifications introduced by BAL-002-WECC-2 do not remove the ability of transmission customers to use external resources for self-supplying Ancillary Services. Nonetheless, PacifiCorp intends to prohibit transmission customers from using external resources to self-supply reserves under schedules 5 and 6 through its revisions to Business Practice # 34. PacifiCorp's proposed restrictions are inconsistent with PacifiCorp's own OATT and Commission precedent.

Since Order No. 888, the Commission has been clear that a "transmission customer serving load in the transmission provider's area [must acquire ancillary] services, but it may do so from the transmission provider, a third party or self-supply."¹⁰ The right to self-supply Ancillary Services expressly includes schedules 5 and 6.¹¹ Consistent with these Commission directives, and the *pro forma* OATT, section I.3 of PacifiCorp's OATT expressly permits a transmission customer to self-supply for Ancillary Services, including under Schedules 5 and 6.¹² Both Schedule 5 and 6 state, "A Transmission Customer may choose to self-supply all or a

¹⁰ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,716 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,227 (1997), *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*, 122 S. Ct. 1012 (2002).

¹¹ *Id.* at 31,934.

¹² PacifiCorp Open Access Transmission Tariff, at 25 ("The Transmission Customer may elect to . . . (iii) secure the Ancillary Services (discussed in Schedules 3, 3A, 4, 5, 6, and 9) from a third-party or by self-supply when technically feasible").

portion of its reserve obligation.”¹³ Nothing in the OATT expressly or implicitly prohibits a transmission customer from self-supplying its reserves from external resources. Indeed, the only limiting factor noted in the OATT relating to self-supplying Ancillary Services is when self-supply is not “technically feasible.”¹⁴ Beyond this narrow technical exception, the Commission has not adopted a restrictive view on what resources may be used in supplying Ancillary Services. In fact, the Commission has sought to *expand* competition in supplying Ancillary Services, as evidenced by policy decisions in Order Nos. 784 and 784-A.¹⁵ As noted above, the Commission permits the use of external resources to serve Ancillary Services when not purchasing Ancillary Services directly from the Transmission Provider.¹⁶

As the foregoing makes clear, Commission precedent and PacifiCorp’s OATT ensure a transmission customer’s right to self-supply Ancillary Services, including under Schedules 5 and 6. Aside from technical feasibility issues with self-supplying Ancillary Services – which PacifiCorp has not raised - nothing in PacifiCorp’s OATT limits a transmission customer to procuring those services *only* from generation located within the transmission provider’s BAA. PacifiCorp’s attempt to suppress this express OATT right by modifying the terms of BP #34 is, therefore, flawed and inconsistent with the PacifiCorp’s OATT and the Commission’s direct precedent in *Powerex*, Order No. 888, and Order No. 784.

C. Substantive changes that affect the terms or conditions of the OATT must be filed with the Commission and cannot be made through a Business Practice revision.

¹³ PacifiCorp Open Access Transmission Tariff at 231 (Schedule 5), 234 (Schedule 6).

¹⁴ *Id.* at 25.

¹⁵ *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, 144 FERC ¶ 61,056 (2013); *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for Electric Storage Technologies*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

¹⁶ *Powerex*, 150 FERC ¶ 61,145.

Finally, even assuming PacifiCorp had a basis for restricting a transmission customer's express OATT right to self-supply Ancillary Services (which it does not), it is impermissible and unlawful for PacifiCorp to propose such a change through a *Business Practice* revision. This modification significantly affects the terms and conditions of the OATT and must be filed with the Commission.

On multiple occasions, the Commission has delineated what information is appropriately included in a Business Practice revision versus what is required to be filed in a public utility's OATT. Provisions that "significantly affect rates, terms, and conditions" must be included in the filed tariff.¹⁷ In contrast, only "implementation details, such as instructions, guidelines, examples and charts, which guide internal operations and inform market participants of how the [public utility] conducts its operations under the...tariff" are permissible in a Business Practice.¹⁸

Prior to PacifiCorp's proposed Revision 12, BP #34 provided general guidelines for transmission customers when using self-supply to cover contingency reserves. This was an appropriate use of a Business Practice, *i.e.*, to provide guidance and instruction on how to implement the use of an acceptable reserve resource. In contrast, PacifiCorp's proposed revisions will have a significant effect on transmission customers' ability to self-supply reserves—something expressly permitted by the OATT. By modifying the Business Practice, PacifiCorp is eliminating a customer's ability to use a resource allowed by FERC and consistent with the WECC standards. This change will "significantly affect rates, terms, and conditions" and must be filed with the Commission as a modification to PacifiCorp's OATT.

¹⁷ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076, at P 656 (2007) (citing *ANP Funding I, LLC v. ISO-NE*, 110 FERC ¶ 61,040, at P 22 (2005); *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ at 61,986-89 (1993), *order on reh'g*, 65 FERC ¶ 61,081 (1993)).

¹⁸ *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008).

D. Conclusion

BPA requests that PacifiCorp fully analyze how Business Practice #34 aligns with standard industry practices and BAL-002-WECC-2a, and ensure that it does *not* affect a transmission customer's right to utilize external resources for self-supplied Ancillary Services. Furthermore, to the extent PacifiCorp intends to restrict a transmission customer's right to use external resources for self-supplying Ancillary Services, it is improper and unlawful for PacifiCorp to propose such a change through a Business Practice revision. Rather, PacifiCorp must make an affirmative filing with the Commission under Section 205 of the Federal Power Act to modify its OATT, wherein it will be required to demonstrate, among other things, that such a restriction is "consistent with or superior to" the rights afforded customers under the *pro forma* OATT.¹⁹

¹⁹ *Southwest Power Pool, Inc.*, 96 FERC ¶ 61,034, at 61,091 (2001).