

174 FERC ¶ 61,072  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
Neil Chatterjee, James P. Danly,  
Allison Clements, and Mark C. Christie.

Western Area Power Administration

Docket No. NJ21-4-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued January 29, 2021)

1. On December 2, 2020, Western Area Power Administration (WAPA) submitted a petition for declaratory order requesting that the Commission find that revisions to its non-jurisdictional Open Access Transmission Tariff (OATT) substantially conform with or are superior to the Commission's *pro forma* OATT.<sup>1</sup> WAPA states that the purpose of these tariff revisions is to modify its OATT to address the WAPA Colorado River Storage Project Management Center's (WAPA Colorado River) and WAPA Rocky Mountain Region's (WAPA Rocky Mountain) planned participation in the Western Energy Imbalance Service Market (WEIS Market) administered by Southwest Power Pool, Inc. (SPP).<sup>2</sup> WAPA, however, explains that it has deferred making tariff revisions implementing the mandates of certain Commission orders until a later date. Accordingly, in this order, we grant the petition in part, but we also find that WAPA's OATT as revised is not yet an acceptable reciprocity tariff, as discussed below.

**I. Background**

**A. WAPA's Reciprocity Status**

2. WAPA is a federal power marketing administration that markets federal power and owns and operates transmission facilities in 15 western and central states. WAPA

---

<sup>1</sup> WAPA seeks an exemption from the filing fee applicable to petitions for declaratory orders based on its status as an agency of the United States Department of Energy.

<sup>2</sup> WAPA Transmittal at 1.

operates such facilities in the Desert Southwest Region, Rocky Mountain Region, Sierra Nevada Region, and Upper Great Plains Region. WAPA is not a public utility within the Commission's jurisdiction under sections 205 and 206 of the Federal Power Act (FPA).<sup>3</sup> WAPA is, however, a transmitting utility subject to sections 210 through 213 of the FPA.<sup>4</sup>

3. In Order No. 888, the Commission established a safe harbor procedure for the filing of reciprocity transmission tariffs by non-public utilities.<sup>5</sup> Under this procedure, non-public utilities, such as WAPA, may voluntarily submit to the Commission an OATT and request for declaratory order finding that the tariff meets the Commission's comparability (non-discrimination) standards. If the Commission finds that the tariff contains terms and conditions that substantially conform or are superior to those in the Commission's *pro forma* OATT, the Commission will deem it to be an acceptable reciprocity tariff and will require public utilities to provide open access transmission service upon request to that particular non-public utility.<sup>6</sup> WAPA's OATT was previously determined to be an acceptable reciprocity tariff under Order No. 888.<sup>7</sup>

4. Subsequently, in Order No. 890,<sup>8</sup> the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission

---

<sup>3</sup> 16 U.S.C. §§ 824, 824d, 824e.

<sup>4</sup> 16 U.S.C. §§ 824i-824l.

<sup>5</sup> *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) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *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).

<sup>6</sup> In Order No. 888-A, the Commission clarified that, under the reciprocity condition, a non-public utility must also comply with the Open Access Same-Time Information System (OASIS) and standards of conduct requirements, or obtain waiver of them. *See* Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,286.

<sup>7</sup> *W. Area Power Admin.*, 119 FERC ¶ 61,329 (2007).

<sup>8</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008),

service is provided on a non-discriminatory basis, and required any non-public utility with a safe harbor tariff to amend its OATT so that its provisions substantially conform or are superior to the revised *pro forma* OATT, if it wishes to continue to qualify for safe harbor treatment.<sup>9</sup> In 2010, WAPA submitted tariff revisions to comply with Order No. 890 and the Commission found that WAPA had an acceptable reciprocity tariff.<sup>10</sup>

5. In 2019, WAPA submitted a petition for declaratory order for a Commission finding that its tariff revisions made to comply with the Commission's mandates in Order Nos. 676-H,<sup>11</sup> 764,<sup>12</sup> 784,<sup>13</sup> 792,<sup>14</sup> and 828<sup>15</sup> substantially conform or are superior to the *pro forma* OATT, and qualify WAPA's OATT as an acceptable reciprocity tariff. The Commission granted WAPA's petition in part, but found that WAPA's OATT, as revised, was not then an acceptable reciprocity tariff. The Commission stated that "to find that

---

*order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>9</sup> Order No. 890, 118 FERC ¶ 61,119 at P 191.

<sup>10</sup> See *W. Area Power Admin.*, 133 FERC ¶ 61,193 (2010); *W. Area Power Admin.*, Docket Nos. EF11-4-000 and EF11-4-001 (Apr. 25, 2011) (delegated order).

<sup>11</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-H, 148 FERC ¶ 61,205, *as modified, errata notice*, 149 FERC ¶ 61,014 (2014), *order on reh'g*, 151 FERC ¶ 61,046 (2015).

<sup>12</sup> *Integration of Variable Energy Resources*, Order No. 764, 139 FERC ¶ 61,246, *order on reh'g and clarification*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on clarification and reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

<sup>13</sup> *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, 144 FERC ¶ 61,056 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

<sup>14</sup> *Small Generator Interconnection Agreements and Procedures*, Order No. 792, 145 FERC ¶ 61,159 (2013), *as modified, errata notice*, 146 FERC ¶ 61,019, *as modified, errata notice*, 148 FERC ¶ 61,215, *clarifying*, Order No. 792-A, 146 FERC ¶ 61,214 (2014).

<sup>15</sup> *Requirements for Frequency and Voltage Ride Through Capability of Small Generating Facilities*, Order No. 828, 156 FERC ¶ 61,062 (2016).

WAPA has an acceptable reciprocity tariff, WAPA must submit revisions to its OATT to also incorporate changes associated with Order Nos. 827, 842, 845, and 1000.”<sup>16</sup>

6. Also in 2019, WAPA submitted a filing to modify its OATT in order to comply with the Commission’s mandates in Order Nos. 827<sup>17</sup> and 842,<sup>18</sup> but deferred addressing the revisions promulgated in Order Nos. 845<sup>19</sup> and 1000<sup>20</sup> until a later date. The Commission granted WAPA’s petition in part, finding that its revisions substantially conformed with or were superior to the *pro forma* OATT, but also found that “for the Commission to find that WAPA has an acceptable reciprocity tariff, WAPA must submit revisions to its OATT to also incorporate changes associated with Order Nos. 845 and 1000.”<sup>21</sup>

### **B. WEIS Market**

7. On December 23, 2020, in Docket Nos. ER21-3-000 and ER21-4-000, the Commission accepted SPP’s proposal to establish the WEIS Market.<sup>22</sup> Specifically, the Commission accepted SPP’s proposed tariff to implement the WEIS Market (WEIS Tariff), eight Western Joint Dispatch Agreements (WJDA) that establish the legal

---

<sup>16</sup> See *W. Area Power Admin.*, 168 FERC ¶ 61,022, at P 27 (2019).

<sup>17</sup> *Reactive Power Requirements for Non-Synchronous Generation*, Order No. 827, 155 FERC ¶ 61,277, *order on clarification and reh’g*, 157 FERC ¶ 61,003 (2016).

<sup>18</sup> *Essential Reliability Services and the Evolving Bulk-Power System – Primary Frequency Response*, Order No. 842, 162 FERC ¶ 61,128, *order on clarification and reh’g*, 164 FERC ¶ 61,135 (2018).

<sup>19</sup> *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh’g*, Order No. 845-A, 166 FERC ¶ 61,137, *errata notice*, 167 FERC ¶ 61,124, *order on reh’g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

<sup>20</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

<sup>21</sup> See *W. Area Power Admin.*, 171 FERC ¶ 61,092, at P 23 (2020).

<sup>22</sup> *Sw. Power Pool, Inc.*, 173 FERC ¶ 61,267 (2020).

relationship between SPP and the market participants, and the Western Markets Executive Committee Charter that establishes the governing body for the WEIS Market.<sup>23</sup>

8. The WEIS Market will be an energy imbalance market that centrally dispatches all available participating resources across the WEIS Market footprint to help balance load and generation. SPP will calculate each market participant's quantity of imbalance energy within the settlement area every five minutes and settle at the locational marginal price for that area. SPP plans to begin WEIS Market operations on February 1, 2021.

9. At launch, the WEIS Market will consist of the Western Area Colorado Missouri and WAPA Upper Great Plains West balancing authority areas and the following eight utilities: WAPA, separately and individually as WAPA Colorado River, WAPA Rocky Mountain, and WAPA Upper Great Plains Region; Basin Electric Power Cooperative (Basin); Tri-State Generation and Transmission Association, Inc. (Tri-State); Deseret Generation & Transmission Cooperative (Deseret); Municipal Energy Agency of Nebraska; and Wyoming Municipal Power Agency.

## II. WAPA Filing

### A. Proposed Revisions

10. WAPA proposes to incorporate provisions that it states are required by its execution of the WJDA. WAPA states that the instant filing proposes certain changes to the main body of WAPA's OATT as well as a new Attachment R to support WEIS Market participation by WAPA Colorado River and WAPA Rocky Mountain. WAPA requests a February 1, 2021 effective date for the revisions.

11. WAPA states that its revisions to the main body of its OATT consist of additions to sections 16.1(g) and 28.1, which state that point-to-point and network transmission customers, respectively, must comply with the WEIS Market provisions in new Attachment R (Provisions for the WEIS Market Administered by SPP) when the WAPA Colorado River and WAPA Rocky Mountain regional transmission providers participate in the WEIS Market.<sup>24</sup> WAPA also proposes to add a new paragraph at the ends of the WAPA Colorado River and WAPA Rocky Mountain sections of Attachment K (Authorities and Obligations) to indicate that transmission service provided under the WAPA OATT related to WAPA Colorado River and WAPA Rocky Mountain participation in the WEIS Market is solely the excess of the capability WAPA

---

<sup>23</sup> *Id.* PP 1, 20. Three WJDAs between SPP and WAPA were among the eight executed WJDAs filed by SPP and accepted by the Commission. *See id.* PP 6-7, 20.

<sup>24</sup> WAPA Transmittal at 3-4.

Colorado River/WAPA Rocky Mountain require for the delivery of long-term firm capacity and energy to their project use and electric service customers.<sup>25</sup>

12. WAPA also makes a clarifying edit to the definition of Transmission Provider in OATT section 1.57 to reference the location of a definition of the term “Regional Office.”

13. WAPA’s new proposed Attachment R consists of five sections and three addendums. Section 1.0 defines the terms used in Attachment R. Section 2.0 provides for the applicability of Attachment R and an overview of WAPA Colorado River and WAPA Rocky Mountain’s participation in the WEIS Market.<sup>26</sup>

14. Section 3.0 outlines the existing WAPA OATT provisions related to network resources, ancillary services, and real power losses that are modified for purposes of Attachment R. Specifically, the section provides that network customers may utilize network resources for the purpose of fulfilling obligations under the WEIS Market, such as generation dispatch instructions. The section also provides that, where applicable, the rates and methodology related to energy imbalance service and generator imbalance service when WAPA Colorado River and WAPA Rocky Mountain are participating in the WEIS Market are described in new Schedules 4R and 9R (described below). The section also provides that the requirements for replacing real power losses associated with transmission service used in WEIS Market dispatch are set forth in section 4.0(i) of Attachment R.<sup>27</sup>

15. Section 4.0 sets forth the terms and conditions for Joint Dispatch Transmission Service used to facilitate the WEIS Market.<sup>28</sup> The section states that Joint Dispatch Transmission Service will be available on a real-time intra-hour basis and is a non-firm service that will be available from transfer capability in excess of what is needed for transmission service. This section also provides that a transmission customer shall not use Joint Dispatch Transmission Service for off-system sales of capacity or energy not related to fulfilling obligations under the WEIS Market.<sup>29</sup>

---

<sup>25</sup> *Id.* at 4.

<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

16. Section 5.0 sets forth the provisions related to unreserved use for resources dispatched by SPP in the WEIS Market. The section provides that unreserved use will apply to the amount of actual metered generation in a dispatch interval in excess of the positive operating instruction above a WEIS Market resource's average setpoint instruction, and that all ancillary service charges that are applicable to such unreserved use will apply.

17. WAPA also proposes three addendums to Attachment R to establish the service schedules that apply when WAPA Colorado River and WAPA Rocky Mountain participate in the WEIS Market: Schedule 4R (Energy Imbalance Service Within the WEIS Market Footprint); Schedule 8R (Joint Dispatch Transmission Service Within the WEIS Market Footprint); and Schedule 9R (Generation Imbalance Service Within the WEIS Market Footprint).<sup>30</sup>

### **B. Deferral of OATT Revisions for Order Nos. 845 and 1000**

18. WAPA states that it will defer revising its OATT to incorporate changes resulting from Order Nos. 845 and 1000. WAPA commits to submit a subsequent filing to the Commission addressing Order No. 845 as soon as practicable after the Commission approves tariff language proposed by other transmission providers, and after WAPA completes its analysis and confirms that the final requirements will not conflict with WAPA's statutory requirements, and obtains input from stakeholders.<sup>31</sup> With regard to Order No. 1000, WAPA states that it will continue to defer the incorporation of any proposed Order No. 1000-related provisions until such time as it can ensure that the final modifications of the WestConnect transmission planning regional documents do not conflict with WAPA's statutory requirements.<sup>32</sup>

### **III. Notice of Filing and Responsive Pleadings**

19. Notice of WAPA's filing was published in the *Federal Register*, 85 Fed. Reg. 81,198 (Dec. 15, 2020), with motions to intervene and protests due on or before January 4, 2021. Xcel Energy Services Inc., Tri-State, Basin, Deseret, Platte River Power Authority, and Black Hills Service Company, LLC, filed timely motions to

---

<sup>30</sup> *Id.* at 7.

<sup>31</sup> *Id.* at 9.

<sup>32</sup> *Id.* at 9-10. WAPA's Desert Southwest, Rocky Mountain Region, and Sierra Nevada Region Regional Offices actively participated in the formation of the WestConnect transmission planning region.

intervene. Southwest Transmission Dependent Utility Group<sup>33</sup> filed a timely motion to intervene and comments.

20. Southwest Transmission Dependent Utility Group states that it does not oppose WAPA's filing, and requests that the Commission limit its consideration to the adequacy of the OATT for reciprocity purposes.<sup>34</sup>

#### **IV. Commission Determination**

##### **A. Procedural Matters**

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

22. Because WAPA is an agency of the United States Department of Energy engaged in the official business of the Federal government, we grant WAPA's request for waiver of the filing fee.<sup>35</sup>

##### **B. Substantive Matters**

23. We grant in part and deny in part WAPA's petition for declaratory order. We have compared the non-rate terms and conditions of WAPA's OATT to those in the Commission's *pro forma* OATT. We find that the revised terms and conditions of WAPA's OATT that incorporate WEIS Market-related provisions into WAPA's OATT, as well as the other minor clarifying edits, substantially conform with or are superior to the Commission's *pro forma* OATT. We find that the proposed changes to WAPA's Tariff are necessary to facilitate its participation in the WEIS Market. The Commission accepted both the WEIS Market and the WJDAs establishing WAPA's participation in

---

<sup>33</sup> Southwest Transmission Dependent Utility Group includes: Aguila Irrigation District, Buckeye Water Conservation and Drainage District, Central Arizona Water Conservation District, Electrical District No. 3, Electrical District No. 4, Electrical District No. 6, Electrical District No. 7, Electrical District No. 8, Harquahala Valley Power District, Hohokam Irrigation and Drainage District, Maricopa County Municipal Water District No. 1, McMullen Valley Water Conservation and Drainage District, City of Needles, Roosevelt Irrigation District, City of Safford, Tonopah Irrigation District, and Wellton-Mohawk Irrigation and Drainage District.

<sup>34</sup> Southwest Transmission Dependent Utility Group Comments at 4.

<sup>35</sup> 18 C.F.R. §§ 381.102(a), 381.108(a), 381.302(c).

the WEIS Market in December 2020.<sup>36</sup> The revisions WAPA proposes in the instant proceeding should ensure that WAPA's OATT is consistent with the provisions of the WEIS Tariff and the operation of the WEIS Market.

24. However, for the Commission to find that WAPA has an acceptable reciprocity tariff, WAPA must submit revisions to its OATT to incorporate changes associated with Order Nos. 845 and 1000. Because WAPA has determined to defer implementation to a later date, we cannot find that WAPA's OATT, as revised here, is an acceptable reciprocity tariff.<sup>37</sup> We encourage WAPA to file a further updated OATT once it completes its stakeholder process and review.

The Commission orders:

(A) WAPA's petition for declaratory order is hereby granted in part, effective February 1, 2021, and denied in part, as discussed in the body of this order.

(B) WAPA's request for exemption from the filing fee is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>36</sup> *Sw. Power Pool, Inc.*, 173 FERC ¶ 61,267.

<sup>37</sup> The Commission has found that non-jurisdictional entities' tariffs were not acceptable reciprocity tariffs because they did not implement changes to the *pro forma* OATT. *E.g.*, *U.S. Dep't. of Energy – Bonneville Power Admin.*, 128 FERC ¶ 61,057, at PP 32, 45 (2009), *order denying reh'g*, 135 FERC ¶ 61,023 (2011) (finding that Bonneville Power Administration's tariff did not meet the safe harbor reciprocity requirements because the tariff was incomplete and did not incorporate certain Order No. 890-related provisions); *W. Area Power Admin.*, 168 FERC ¶ 61,022 at P 27 (finding that WAPA's tariff did not meet the requirements to be an acceptable reciprocity tariff because WAPA did not incorporate changes associated with Order Nos. 827, 842, 845, and 1000); *W. Area Power Admin.*, 171 FERC ¶ 61,092 at P 23 (finding that WAPA's tariff did not meet the requirements to be an acceptable reciprocity tariff because WAPA did not incorporate changes associated with Order Nos. 845 and 1000).

Document Content(s)

NJ21-4-000.DOCX.....1