

**Summary of Stakeholder Comments/Questions Received on the Western Area Power Administration Proposed Revisions to its Open Access Transmission Service Tariff under OATT Revision 18-01, and WAPA Responses.**

Background:

Western Area Power Administration (WAPA) posted its proposed Open Access Transmission Service Tariff (OATT) revisions under OATT Revision 18-01 on its Open Access Same-Time Information Systems (OASIS) on 12/28/2018, which began the 30-day comment period. At the outset of the stakeholder process, WAPA agreed to extend the comment period to COB on 2/1/2019. WAPA received the following written comments/questions from Stakeholders, and has summarized the comments and grouped similar comments below by topic along with corresponding WAPA responses. WAPA expresses its appreciation for the feedback from Stakeholders.

**A) Proposed Removal of Transmission Resale Price Cap in OATT Section 23.1:**

1. **Comment:** At the outset, WAPA representatives have explained that it ‘can remain consistent with its statutory obligations while meeting FERC’s objective to encourage utilization of unused transmission capacity by removing the price cap.’ This statement raises two important questions which do not appear answered in the record that WAPA has developed to date. (1) What are the statutory duties that WAPA relies upon to provide transmission service; and (2) Is there a FERC directive or policy that is specifically applicable to non-jurisdictional utilities that is driving this decision?

**WAPA Response:** (1) WAPA relies upon its organic statutory authorities to accomplish its power marketing mission, which includes the provision of transmission services under the OATT. The general statutory authority WAPA relies upon to conduct its power marketing mission includes the Department of Energy Organization Act of August 4, 1977, specifically 42 U.S.C. § 302(a), the Reclamation Project Act of 1939, specifically 43 US.C. § 485(h)(1), and the Flood Control Act of 1944, specifically 16 U.S.C. § 825(s). WAPA is not a public utility subject to FERC’s jurisdiction under sections 205 and 206 of the Federal Power Act (FPA), 16 U.S.C. §§ 824d and 824e. However, WAPA is a transmitting utility subject to FPA sections 210-213, 16 U.S.C. §§ 824i-824l. Of particular relevance, FPA section 211A, 16 U.S.C. § 824j-1, includes the requirement that WAPA provide transmission service at rates

that are comparable to what it charges itself and on terms and conditions comparable to the service it provides itself.

(2) As WAPA noted in the FAQs<sup>1</sup> posting on its OASIS<sup>2</sup>, WAPA proposes to remove the resale price cap for a number of reasons, including FERC's orders and policies for reciprocity. Bonneville Power Administration (BPA) initially proposed to retain its resale price cap in its tariff in a 2013 filing to FERC. BPA's proposed price cap was similar to WAPA's existing OATT language. FERC rejected BPA's approach noting that its "rationale for allowing the price cap to remain in place for the purposes of reciprocity in Western was flawed".<sup>3</sup> FERC's change in position appears to be based in part on its two year pilot test program, where FERC found that lifting the price cap on transmission capacity reassignments fosters a more robust market and allows for more efficient use of the transmission system. As noted during the January 11, 2019, Customer Meeting presentation, subsequent to its Orders 890 and 739, FERC issued Order 739-A indicating it would allow entities to file stand-alone rate schedules to reassign transmission capacity above a price cap if one is imposed by a *non-jurisdictional* transmission provider. Therefore, WAPA believes that FERC has made its policy clear in regards to the resale price cap and that as a general rule it will not approve a resale price cap for transmission capacity reassignments under a safe harbor tariff.

2. **Comment:** In our review of tariffs utilized by the Southwestern Power Administration (SWPA) and BPA, we note that the price cap has not been removed. Have WAPA personnel discussed with SWPA and/or BPA personnel the decision to lift the price cap, and are those discussions and or deliberations part of the record that WAPA is assembling in support of the tariff change?

**WAPA Response:** WAPA has discussed its proposal to remove the resale price cap with other PMAs, and did not receive any concerns. WAPA is aware BPA has been developing a separate open access transmission tariff (BPA Tariff) it intends to administer pursuant to its authority granted under the Northwest Power Act, 16 U.S.C. § 839e(i) and FPA section 212, 16 U.S.C. § 824k(i)(2)(A). Based upon its process and stakeholder feedback outlined in information it has posted, BPA has changed its position on the resale price cap. This new

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<sup>1</sup> FAQ #1

<sup>2</sup> <http://www.oasis.oati.com/WAPA/WAPAdocs/WAPA-Potential-OATT-Revision-18-01-FAQs.pdf>

<sup>3</sup> *Bonneville Power Admin.* 145 FERC ¶ 61,150 at para 81, footnote 103 (2013).

BPA Tariff and associated Federal Register Notice, publicly posted on their web site, proposes to remove the price cap on the resale of transmission service.<sup>4</sup>

3. **Comment:** On January 11, WAPA personnel indicated that: WAPA does not expect abuses by resellers upon removal of the price cap; and removing the price cap potentially increases benefits to WAPA’s customers. Has WAPA published studies supporting these conclusions on the Source or other easily accessed portion of WAPA’s website? If not, does WAPA anticipate preparing such reports in support of the proposed elimination of the price cap in Section 23.1 of the OATT? Further, will any reports prepared in support of this decision be made available before WAPA files the proposed change to the OATT at FERC?

**WAPA Response:** As noted during the January 11, 2019, Customer Meeting presentation and in the FAQs posted on WAPA’s OASIS, WAPA utilized FERC’s “Staff Report on Capacity Reassignment” published on April 15, 2010, to conclude that removal of the resale price cap should not result in abuses by resellers, and could also potentially lower the cost of energy. Based upon the Stakeholder comment, WAPA has posted that FERC study on its OASIS at the following URL: <http://www.oasis.oati.com/WAPA/WAPAdocs/FERC-Staff-Report-on-Capacity-Reassignment-2010-0415.pdf>. WAPA’s Regional Transmission Providers will also be monitoring for any possible abuses by resellers following the removal of the resale price cap.

4. **Comment:** In addition to the analysis highlighted in Comment #3 above, has WAPA examined the impact of a Firm Electric Service (FES) customer reselling OATT transmission service and whether those sales would be subject to a separate price cap imposed by WAPA? Notably, the General Power Contract Provisions (GPCP) contemplate no sales for resales of wholesale power. Would WAPA consider the resale of OATT transmission capacity by an FES customers a violation of the GPCPs? Further, is WAPA proposing any amendments to the GPCPs to reconcile any discrepancies in rights retained by FES customers and the revised OATT?

**WAPA Response:** If a FES customer has obtained transmission service under WAPA’s OATT,

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<sup>4</sup> <https://www.bpa.gov/Finance/RateCases/Tariff%20Proceedings/Pages/default.aspx>. Based upon its Federal Register Notice issued on 12/6/2018, BPA has proposed entering into a settlement agreement to establish a new tariff. In the posted TC Settlement Agreement (“TC-20 Tariff Proceeding Initial Proposal Settlement Agreement”, TC-20-E-BPA-01, December 2018), BPA noted that “Bonneville shall remove the price cap on resales of point to point transmission service, as reflected in Section 23.1 of the Settlement Tariff in Attachment 2”.

that FES customer has the same rights, pursuant to the OATT provisions, to resell that transmission service as other customers. Those WAPA OATT sales of transmission capacity would not be subject to a separate price cap. WAPA's Merchants generally obtain and retain the rights to the transmission service for FES deliveries, and any transmission service obtained and resold by a FES customer as a transmission customer would generally be for other purposes. Therefore, resale of transmission capacity by a FES customer of transmission service it obtains under the WAPA OATT would not be in violation of its power contract(s) or GPCPs. In fact, resale of OATT service by FES customers is allowed today under Section 23.1 of the WAPA OATT, just currently with the price cap. WAPA is not considering any changes to the GPCPs as a result of the proposed removal of the transmission resale price cap as part of OATT Revision 18-01, as it does not believe there is a conflict between the GPCPs and the revised Section 23.1 of the OATT. The GPCP's (i.e. GPCP #17) prohibit the FES customer from reselling its FES (i.e. power and energy) obtained from WAPA, not transmission service it obtains as a transmission customer under WAPA's OATT.

5. **Comment:** Removal of the resale price cap is described as providing benefits to WAPA's customers. Please explain how the removal of the resale price cap will benefit CRSP customers and CVP power customers, and how those benefits are determined.

**WAPA Response:** WAPA generally believes that its Transmission Customers will be able to more fully participate in the secondary market for transmission capacity with the resale price cap removed, which would provide our customers in all the Regions with additional opportunities to reduce their costs associated with unused transmission capacity. As the Transmission Provider, WAPA may also be able to sell additional point-to-point transmission service in all the Regions, which would reduce the overall cost of service.

6. **Comment:** Please describe how removal of the resale price cap could impact WAPA or its customers if WAPA chose to join an organized market, or to join and participate in the CAISO Energy Imbalance Market (EIM) at some point in the future.

**WAPA Response:** WAPA does not believe the removal of the transmission resale price cap will impact WAPA or its customers if any of the WAPA Regional Transmission Providers chose to join a Regional Transmission Organization (RTO) or Independent System Operator (ISO) with an organized market. Should a WAPA Regional Transmission Provider join an RTO/ISO, it would transfer functional control of its eligible transmission facilities to the RTO/ISO and transmission service on those facilities would then be obtained under the

RTO/ISO's FERC-approved tariff. The RTO/ISO's tariff should already allow for transmission resales at rates agreed to between the reseller and the assignee without a price cap. WAPA does not believe the removal of the resale price cap would impact WAPA or its customer's ability to join and participate in the CAISO EIM.

7. **Comment:** Will removal of the resale price cap affect WAPA's ability to reliably meet its firm electric service and transmission obligations, or to reliably deliver Base Resource energy to its customers?

**WAPA Response:** The removal of the resale price cap will not impact WAPA's Firm Electric Service (FES) deliveries and associated transmission obligations, or the ability to reliably deliver Base Resource energy to its customers. WAPA's Regional Offices have reserved sufficient transmission service on the respective transmission systems and projects to meet existing and planned FES and Base Resource delivery needs. In addition, WAPA's OATT already provides additional contractual protections to ensure FES and Base Resource deliveries, including the ability to deny rollover rights under the OATT, to meet new or revised WAPA Marketing Plan needs.

**B) Other Proposed OATT Revisions:**

8. **Comment:** Do any of the FERC Order clarifications included in the OATT revisions establish a new service or require existing rate schedule, or Scheduling, Accounting and Billing Procedure (SABP) changes, or do they constitute a change from current business procedures or practices? If so, Stakeholder(s) would like to discuss those changes prior to WAPA making a final decision on this process, and Stakeholder(s) would like to understand when the changes become effective and whether changes affect preference power delivery or cost.

**WAPA Response:** None of the proposed OATT revisions in OATT Revision 18-01 establish a new service or require changes to any existing rate schedules. WAPA is not proposing any changes to its already-implemented energy scheduling procedures, or to its accounting and billing procedures. As noted in the FAQs<sup>5</sup> posted on WAPA's OASIS<sup>6</sup>, WAPA is not proposing changes to its billing procedures for transmission resales (i.e. WAPA has not proposed to act

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<sup>5</sup> FAQ #6

<sup>6</sup> <http://www.oasis.oati.com/WAPA/WAPAdocs/WAPA-Potential-OATT-Revision-18-01-FAQs.pdf>

as the financial intermediary). As noted during the January 11, 2019, Customer Meeting presentation, WAPA will be revising its Business Practice related to Transmission Service Resales to reflect the removal of the resale price cap to become effective concurrently with the effective date of OATT Revision 18-01. Stakeholders will have a subsequent opportunity to review/comment on any revisions to Business Practices pursuant to WAPA's Business Practice change procedures. None of the Business Practice changes associated with OATT Revision 18-01 will negatively affect preference power delivery or costs.

9. **Comment:** Stakeholder expressed support for WAPA's adoption or review of Orders 676-H, 764, 784, 792, 827, 828, 842, 845, and 1000. Stakeholder asked if WAPA will revise its OATT in accordance with FERC Order 841.

**WAPA Response:** WAPA will not be revising its OATT to address FERC Order 841 because that FERC Order only applies to RTO and ISO tariffs. Information regarding FERC Order 841 "Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators" can be found at the following URL:

<https://www.ferc.gov/whats-new/comm-meet/2018/021518/E-1.pdf>.

10. **Comment:** WAPA must resist FERC and clarify its obligations to Congress under the Parker Davis Project (PDP) and Intertie Project Acts and continue to object to include the PDP and Intertie systems and FTS from any FERC proscribed regional cost allocation methodology from a FERC 1000 cost allocation process.

**WAPA Response:** Thank you for the comment. WAPA is not proposing any changes in OATT Revision 18-01 to its current participation in the WestConnect planning region related to FERC Order 1000. As noted during the January 11, 2019, Customer Meeting presentation, WAPA is monitoring the discussions within the WestConnect planning region to determine whether Rocky Mountain Region (RMR), Desert Southwest Region (DSW), and Sierra Nevada Region (SNR) can continue to participate in the WestConnect planning region, and when/if WAPA will be in a position to propose subsequent OATT revisions to address Order 1000 for those WAPA Regions. Stakeholders will have a subsequent opportunity to provide comments related to WAPA's proposed OATT Revisions to address RMR, DSW, and SNR's approach to FERC Order 1000.

11. **Comment:** Modifications to the WAPA OATT for FERC Orders 676, 764, 784, 792, 828, 827, 842, 845 to interconnect variable energy resources and dealing with comparable scheduling

and practices including ancillary service provisions from inverter-based generation sources are all appropriate, necessary, and beneficial to the grid and federal transmission projects as they can be used to deliver renewable resources.

**WAPA Response:** Thank you for the comment. WAPA is proposing to address FERC Orders Nos. 676-H, 764, 784, 792, and 828 in OATT Revision 18-01. As noted during the January 11, 2019, Customer Meeting presentation, WAPA plans to address FERC Order 842 in the near future given the recent FERC order on rehearing. WAPA also plans to address FERC Orders 827 and 845 when WAPA completes its analyses of FERC Order 827 impacts, and reviews the rehearing order on FERC Order 845. WAPA will solicit input from affected stakeholders separately for these potential OATT revisions.

12. **Comment:** WAPA tariffs need to be amended to enable VERs, and therefore, the pro forma changes and WAPA revisions related to price caps should be supported to encourage additional VER projects on the systems. WAPA should work on its drought contingency plan, projected hydropower curtailment and integration costs to examine how its current federal power generators and VERS could share the same reserved federal power transmission rights so federal power customers can integrate VERS for firming federal hydropower sources without increased transmission costs, since they pay for transmission capacity already.

**WAPA Response:** Thank you for the comment related to price cap and VERS. While this comment is beyond the scope of OATT Revision 18-01, these comments and suggestions have been shared with WAPA's Power Marketing functions.

13. **Comment:** WAPA should clarify in its OATT amendment, its integrated operation of the PDP and Intertie Project transmission systems collectively to support each other and enable WAPA to meet its FES obligations. This will clarify that WAPA can and does operate those two systems as a combined system and the transmission facilities are operated to maintain their firm contractual delivery obligations. Given the projected large replacement projects on the PDP system, these clarifications will assist WAPA operators to schedule federal power and contract power during construction by using both systems. These operational changes will restore the operations to contractually integrated that aligns with its operational integration and physical deliveries as the industry moves toward flow-based operations. The stakeholder recommends WAPA acknowledge its Regional practices of operating the PDP and Intertie transmission systems in an integrated basis in accordance



with the purpose of the Projects.

**WAPA Response:** Thank you for the comment. WAPA has shared the comments and suggestions unrelated to this OATT Revision 18-01 with the DSW staff, and recommends that the Stakeholder discuss these concerns with the DSW staff. .

14. **Comment:** If WAPA needs one month's capital to operate its agency, departments, Balancing Authority Areas', and electrical facilities, then WAPA should impose a deposit requirement on all OATT network and point-to-point customers indiscriminately. This clarification would increase PDP and Intertie prepayments to enable the funding of the needed PDP capital replacement projects and treat all PDP and Intertie customers, OATT and Federal Transmission Service (FTS) comparably. Conversely, if WAPA were to be forced to remove deposits from FTS and PTP customers due to discrimination, PDP may not have sufficient funding for its capital programs causing significant impacts on the PDP and its customers.

**WAPA Response:** Thank you for the comment. WAPA's Regional Transmission Providers treat all transmission customers on a comparable non-discriminatory basis, based upon the provisions of the OATT. WAPA's OATT currently includes provisions providing for advance payment of transmission service, in specific instances, and that provision was approved by FERC. WAPA did not propose any change to deposit requirements in this OATT Revision 18-01, and therefore this OATT revision will not affect WAPA's deposit requirements or result in any changes to how it funds its capital programs.

15. **Comment:** WAPA stated transmission use penalties apply whether or not an unauthorized user has a contract with WAPA. Stakeholder would like to understand what this change means under the Western Energy Imbalance Market.

**WAPA Response:** The proposed changes to WAPA's OATT Schedule 10 clarifying the application of unreserved use charges is not a change to WAPA's current practice. Therefore, this proposed OATT clarification will not impact WAPA's existing treatment of transactions across WAPA's transmission system that may be associated with the Energy Imbalance Market.