



**Department of Energy**  
Western Area Power Administration  
P.O. Box 281213  
Lakewood, CO 80228-8213

March 2, 2011

VIA ELECTRONIC SERVICE AND eTARIFF

Honorable Kimberly D. Bose  
Office of the Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Room 1A, East  
Washington, DC 20426

Re: Western Area Power Administration  
Docket No. NJ10-1-001

Dear Secretary Bose:

Pursuant to the Federal Energy Regulatory Commission's (Commission) Order dated December 2, 2010<sup>1</sup> (Order), and the informational filing of the United States Department of Energy, Western Area Power Administration (Western) on January 3, 2011, Western hereby submits revisions to its non-jurisdictional open access transmission tariff (OATT) in compliance with the Order.

**I. BACKGROUND**

On October 1, 2009, Western filed a petition for declaratory order (Petition) requesting that revisions to its OATT continue to be considered an acceptable reciprocity tariff. On December 2, 2010, the Commission issued an order in which it conditionally granted Western's petition and found that Western had submitted an acceptable reciprocity tariff, subject to Western making a revised filing within 30 days of the date of the order. As explained in Western's informational filing submitted in this docket on January 3, 2011, Western encountered difficulty with its electronic baseline tariff (eTariff) filed in Docket No. EF10-10-000. This original eTariff ultimately had

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<sup>1</sup> Western Area Power Administration, 133 FERC ¶ 61,193 (2010).

to be withdrawn and a new baseline eTariff was submitted on February 3, 2011, in Docket No. EF11-4-000. This compliance filing revises that new baseline eTariff, which is substantively the same tariff originally submitted in Docket No. NJ10-1-000.

As provided by Sections 35.28(e) and (f) of the Commission's Regulations<sup>2</sup>, Western's Petition requested that the Commission issue a declaratory order determining that Western's amended OATT maintains its status as a "safe-harbor" tariff, ensuring that it may not be denied transmission access by any Commission-jurisdictional public entity. The Commission's Order conditionally granted Western's Petition, thereby maintaining the status of Western's OATT as a reciprocity or "safe-harbor" tariff. In so doing, the Commission's Order conditioned its approval upon Western making this instant compliance filing to revise its OATT in the following areas: 1) transmission service request clustering under OATT section 19.2; 2) creditworthiness determinations under OATT Attachment Q; 3) treatment of rollover rights under OATT Attachment C; and 4) cost allocation under OATT Attachment P.

These revisions, along with a clarification to the effective date of the revised rollover language in OATT section 2.2 and correction of an inadvertent omission in Schedule 2 in Western's initial filing, have been made in this compliance filing as discussed in more detail below. As such, this compliance filing fully complies with the Commission's Order conditionally granting Western's Petition.

## **II. AMENDED OATT REVISIONS**

### **A. TSR Clustering under OATT Section 19.2**

The Commission found that Western's proposed transmission service request clustering provisions in OATT section 19.2 did not adequately describe how a transmission customer may submit a request to cluster a group of studies. Western has modified OATT section 19.2 to include the following changes, thereby rendering Western's transmission service request clustering provision more descriptive than the process contained in section 19.4 of the Public Service Company of New Mexico's (PNM) OATT,

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<sup>2</sup> 18 C.F.R. § 35.28(e) and (f) (2010).

which the Commission accepted without modification and on which Western's provision is largely based:<sup>3</sup>

"19.2 Clustering of System Impact Studies: Clustering is intended to facilitate the Transmission Provider's performance of System Impact Studies for multiple Long-Term Firm Point-to-Point Transmission Service requests. At the written request of an Eligible Customer and with the written concurrence of all other Eligible Customers proposed to be included in the System Impact Study cluster, two or more Long-Term Firm Point-to-Point Transmission Service requests may be studied in a cluster for the purpose of the System Impact Study. . . . If the Transmission Provider determines based on an Eligible Customer's written request and with the written concurrence of other Eligible Customers within the proposed cluster to study Long-Term Firm Point-to-Point Transmission Service requests using Clustering, all Transmission Service requests within the cluster shall be studied together."

#### B. Creditworthiness Determinations under OATT Attachment Q

To address the Commission's concern that Western's creditworthiness procedures do not sufficiently describe a transmission customer's ability to contest creditworthiness determinations, Western has added a new provision to OATT Attachment Q that is based in large part on OATT section 12 - Dispute Resolution Procedures, as follows:

##### "7.0 CONTESTING CREDITWORTHINESS PROCEDURE DETERMINATIONS

The Transmission Customer may contest a determination by the Transmission Provider by submitting a written notice to the Transmission Provider explaining its reasons for contesting the determination and include the name of a designated senior representative authorized to represent the Transmission Customer. The written notice of a dispute of a determination by the Transmission Provider under these Creditworthiness

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<sup>3</sup> See Public Service Co. of New Mexico, 122 FERC ¶ 61,176 at P 14 (2008); and section 19.4 of PNM's eTariff posted at [http://www.oatiaoasis.com/PNM/PNMdocs/FERC\\_rendition\\_electronically\\_filed\\_tariff\\_records\\_in\\_Docket\\_No.\\_ER10-03188-00.pdf](http://www.oatiaoasis.com/PNM/PNMdocs/FERC_rendition_electronically_filed_tariff_records_in_Docket_No._ER10-03188-00.pdf).

Procedures shall be referred to a designated senior representative of the Transmission Provider for resolution on an informal basis with the designated senior representative of the Transmission Customer as promptly as practicable. It is expected that a final written decision from the Transmission Provider will be issued within thirty (30) days, or such other period as the Parties may agree upon by mutual agreement."

C. Treatment of Rollover Rights and the Definition of ETC under OATT Attachment C

The Commission found that Western did not adequately describe how rollover rights are accounted for in Part I (pertaining to Western's Colorado River Storage Project, Desert Southwest Region (DSWR), Rocky Mountain Region (RMR), and Sierra Nevada Region (SNR)) of proposed OATT Attachment C.<sup>4</sup> To address this concern, Western has modified section (3)b in Part I of OATT Attachment C so that its ETC provision includes language largely mirroring that submitted by Arizona Public Service Company in a compliance filing on May 8, 2008, in Docket No. OA07-109-001, and accepted by the Commission without further modification via a delegated letter order dated September 4, 2008.<sup>5</sup> These modifications are as follows:

"iv. How rollover rights are accounted for:

~~Currently a component does not exist to maintain rollover rights for existing transmission customers past the current stop date/time. Requests for the posted ATC by other customers are held until the existing right holder exercises those rights to~~

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<sup>4</sup> Western notes that the Commission's Order also stated that Western did not provide or explain its definition of existing transmission commitments (ETC). However, since Part I of Western's OATT Attachment C already defines and explains the definition of ETC using the same language that the Commission has accepted for other WestConnect transmission providers, Western interprets the Commission's statement to mean the Western's rollover rights treatment language in Attachment C must define and explain the impact of rollover rights on ETC, not that Western must define and explain ETC itself.

<sup>5</sup> See <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=11794389>.

rollover. Western takes into consideration an existing transmission customer's rollover rights when assessing whether to confirm a new request for long-term firm point-to-point transmission service. Western posts on OASIS potentially available ATC, including capacity associated with the rollover rights, but it does not grant new transmission service until such rollover rights have expired. This approach allows a customer viewing Western's posted ATC to consider all potentially available ATC and submit a request to obtain a queue position, should the existing transmission customer allow its rollover rights to expire. An OASIS assignment reference and queue time will be given to these new requestors. The new requests will be evaluated with the assumption that the existing transmission customer's rollover rights will rollover. If there is insufficient capacity to accommodate the transmission service request, the requests will follow the system impact study procedure outlined in section 19 of Western's Tariff."

D. Cost Allocation under OATT Attachment P

The Commission noted that Western's proposed OATT Attachment P states in Part II (pertaining to planning activities conducted by DSWR, RMR, and SNR) that Western will use a case-by-case approach to allocate costs for new transmission projects. The Commission indicated that Western should submit a compliance filing that explains how the "case-by-case" approach to cost allocation under Part II of OATT Attachment P provides for the certainty required by Order Nos. 890 and 890-A,<sup>6</sup> including, as appropriate, a description of how Western will allocate the costs of new facilities that include regional projects involving several transmission owners in the southwest region, or how Western will allocate the costs of facilities stemming from

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<sup>6</sup> Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh'g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228 (2009), order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

economic studies in the southwest region. To address this concern, Western modified section 5.1 in Part II of OATT Attachment P so that its cost allocation provisions mirror those successfully proposed to the Commission by El Paso Electric Company and later adopted in compliance filings submitted by Arizona Public Service Company, et al., and accepted by the Commission without further modification.<sup>7</sup> Western proposes the following modifications:

"5.1 Western will utilize a case-by-case approach to allocate costs for new transmission projects. This approach will be based on the following principles:

5.1.1 Open Season Solicitation of Interest.

Project sponsor announces project and actively or verbally solicits interest in the project through informational meetings, information posted on the project sponsor's website, and industry press releases. . . .

*(Note: The existing language in this subsection 5.1.1 should be dropped as a separate paragraph under the subsection title, similar to the formatting in the new provisions below.)*

~~It is possible that the cost allocation principles for economic studies may be different from the cost allocation methods for projects involving multiple owners. Western, together with WestConnect and WECC, will seek input from stakeholders in proposing cost allocation method.~~

5.1.2. Western Coordination within a Solicitation of Interest Process.

Western, whether as a project sponsor or a participant, will coordinate as necessary with any other participant or sponsor, as the case may be, to integrate into Western's

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<sup>7</sup> El Paso Electric Co., et al., 128 FERC ¶ 61,063 (2009).

Ten Year Transmission Plan any other planned project on or interconnected with Western's transmission system.

5.1.3 Western Projects without a Solicitation of Interest.

Western may elect to proceed with small and/or reliability transmission projects without an open season solicitation of interest, in which case Western will proceed with the project pursuant to its rights and obligations as a transmission provider.

5.1.4 Allocation of Costs.

(a) Proportional Allocation.

For any transmission project entered into pursuant to an open season solicitation process, project costs and associated transmission rights, will generally be allocated proportionally to project participants' respective ownership shares, subject to a negotiated participation agreement. In the event the open season process results in a single participant, the full cost and transmission rights will be allocated to that participant. Nothing in this section precludes project participants from utilizing another cost allocation methodology, provided, all project participants agree to the alternative.

(b) Economic Benefits or Congestion Relief.

For a transmission project wholly within Western's local transmission system that is undertaken for economic

reasons or congestion relief at the request of a Requester, the project costs will be allocated to the Requester.

(c) Western Rate Recovery.

Notwithstanding the foregoing provisions, Western will not assume cost responsibility for any transmission project if the cost of the project is not reasonably expected to be recoverable in its transmission rates.

(d) Exclusions.

The cost for transmission projects undertaken in connection with requests for interconnection or transmission service on Western's transmission system, which are governed by existing cost allocation methods within Western's OATT, will continue to be so governed and will not be subject to the principles of this section 5.1."

E. Effective Date of Revised Rollover Language in OATT Section 2.2

Order No. 890-A stated that it is only after a transmission provider's OATT Attachment K (Western OATT Attachment P) planning process is accepted by the Commission that the transmission provider should file its revised rollover reform language under OATT section 2.2, and the effective date of that language should be commensurate with the date of that filing. In turn, Order No. 890-B clarified that transmission providers may file the revised rollover language adopted in the Order No. 890 proceeding at any point after the Commission has accepted the transmission provider's OATT Attachment K (Western OATT

Attachment P) compliance filing, even if such acceptance is subject to further compliance obligations.<sup>8</sup>

In order to simplify the process for submitting the revised rollover language, Western's initial Order No. 890 compliance filing contained revisions to OATT section 2.2 that included placeholders for the effective date of the revised language. Therefore, the only necessary modification remaining for OATT section 2.2 is to replace those placeholders with the provision's effective date (i.e., the same date of the filing to make the replacements), and Western is making that change as part of this compliance filing insofar as the Commission has accepted such an approach from jurisdictional transmission providers.<sup>9</sup> Western therefore proposes the following revisions to section 2.2 to replace the initial placeholders originally included in Western's October 1, 2009 filing with a date of March 2, 2011:

"2.2 Reservation Priority For Existing Firm Service Customers: Existing firm service customers (wholesale requirements and transmission-only, with a contract term of five years or more), have the right to continue to take transmission service from the Transmission Provider when the contract expires, rolls over or is renewed. This transmission reservation priority is independent of whether the existing customer continues to purchase capacity and energy from the Transmission Provider or elects to purchase capacity and energy from another supplier. If at the end of the contract term, the Transmission Provider's Transmission System cannot accommodate all of the requests for transmission service, the existing firm service customer must agree to accept a contract term at least equal to a competing request by any new Eligible Customer and to pay the current rate for such service; provided that, the firm service customer shall have a right of first refusal at the end of such service only if the new contract is for five years or more. The existing firm service customer must provide notice to the Transmission Provider whether it will exercise its right of first refusal no less than one year prior to the expiration date of its transmission service agreement. This transmission reservation priority for existing firm service customers is an ongoing right that may be exercised at the end of all firm contract terms of five years or longer. Service agreements subject to a right of first refusal entered into

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<sup>8</sup> Order No. 890-A at P 684, Order No. 890-B at P 154.

<sup>9</sup> See, Arizona Public Service Co., 127 FERC ¶ 61,117 (2009).

prior to ~~{the date of the Transmission Provider's filing adopting the reformed rollover language herein in compliance with Order No. 890}~~ March 2, 2011, or associated with a transmission service request received prior to July 13, 2007, unless terminated, will become subject to the five year/one year requirement on the first rollover date after ~~{the date of the Transmission Provider's filing adopting the reformed rollover language herein in compliance with Order No. 890}~~ March 2, 2011; provided that, the one-year notice requirement shall apply to such service agreements with five years or more left in their terms as of ~~the [date of the Transmission Provider's filing adopting the reformed rollover language herein in compliance with Order No. 890}~~ March 2, 2011."

#### F. OATT Schedule 2 Revisions

In compliance with Order No. 890, Western modified Schedules 2,3,4,5,6, and 9 to respectively indicate that Reactive Supply and Voltage Control, Regulation and Frequency Response, Energy Imbalance, Spinning Reserves, Supplemental Reserves, and Generator Imbalance Service may be provided by generating units as well as other non-generation resources (e.g., demand resources) capable of providing the service.<sup>10</sup> Western inadvertently omitted this change from certain places in the text of Schedule 2, and now proposes the following modifications to correct that error:

"The Transmission System specific charges for Reactive Supply and Voltage Control from Generation or Other Sources Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations and policies.

The Transmission Provider may modify the charges for Reactive Supply and Voltage Control from Generation or Other Sources Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Reactive Supply and Voltage

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<sup>10</sup> Order No. 890 at P 888.

Control from Generation or Other Sources Service shall be as set forth in a subsequent rate schedule promulgated pursuant to applicable Federal laws, regulations and policies and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect."

### III. EFFECTIVE DATE

Western respectfully requests that the Commission deem the revisions to its OATT proposed in this compliance filing effective April 3, 2011, excluding the effective date of the revisions to section 2.2 of Western's OATT which Western requests become effective on March 2, 2011.<sup>11</sup>

### IV. SERVICE

Western shall make copies of this filing available for public inspection on its OASIS. Western has also served this filing electronically on all parties to this proceeding.

### V. COMMUNICATION

Western requests that all correspondence, pleadings, and other communications concerning this filing be served upon:

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Western Area Power Administration  
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<sup>11</sup> Order No. 890-A at P 684, Order No. 890-B at P 154.

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## VI. CONCLUSION

For all the forgoing reasons, Western respectfully requests that the Commission accept the instant filing, as set forth herein.

Dated March 2, 2011.

Respectfully submitted,

/s/

Ronald J. Klinefelter  
Attorney  
Office of General Counsel  
Western Area Power  
Administration

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated March 2, 2011 at Lakewood, Colorado.

By: /s/  
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