

122 FERC ¶ 61,072
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.

Alcoa Power Generating Inc. - Yadkin Division

Docket No. OA07-50-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued January 31, 2008)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ the Yadkin Division of Alcoa Power Generating Inc. (Yadkin) submitted its compliance filing as required by Order No. 890.² In this order, we will accept Yadkin'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.

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

¹ 16 U.S.C. § 824e (2000).

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, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

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. 890.³

II. Compliance Filing

4. Yadkin states that its revised OATT contains all of the non-rate terms and conditions set forth in the *pro forma* OATT, except for the changes concerning Attachments C and K, which will be the subject of subsequent compliance filings. Additionally, Yadkin states that it is not making a separate compliance filing to submit redesigned transmission charges reflecting the CBM set-aside as part of its initial Available Transfer Capability-related compliance filing. According to Yadkin, its current transmission rates do not reflect the cost of a CBM set-aside, and therefore, do not need to be redesigned.⁴

III. Notice of Filing and Responsive Pleadings

5. Notice of Yadkin's filing was published in the *Federal Register*, 72 Fed. Reg. 41,726 (2007), with interventions and protests due on or before August 3, 2007. None was filed.

IV. Discussion

6. As discussed below, we will accept Yadkin's compliance filing, as modified, to be effective July 13, 2007. We also direct Yadkin to file, within 30 days of the date of this order, a further compliance filing as discussed below.

A. Effective Date

7. We deny Yadkin's request for a May 14, 2007 effective date for the proposed tariff sheets. 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, were directed

³ 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*, 119 FERC ¶ 61,037 (2007).

⁴ CBM is the amount of total transfer capability preserved by the transmission provider for load-serving entities, whose loads are located on the transmission provider's system, to enable access by the load-serving entities to generation from interconnected systems to meet generation reliability requirements, or such definition as contained in Commission-approved reliability standards.

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. 890.⁵ Therefore, we direct Yadkin to remove all references to May 14, 2007 in its proposed tariff sheets and to submit, in a compliance filing to be filed within 30 days of the date of this order, the proposed tariff sheets to be effective July 13, 2007.

B. Imbalance Penalty Revenues

8. In Order No. 890, the Commission determined that charges for both energy and generator imbalances would be based upon a tiered approach that reflects incremental costs. The Commission also determined that transmission providers must credit revenues in excess of incremental costs to all non-offending customers. As a result, the Commission directed transmission providers to develop, as part of their Order No. 890 compliance filings, a mechanism for crediting such revenues to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.⁶ Yadkin has not responded to the Commission's directive regarding the distribution of imbalance revenues in Order No. 890.⁷ We direct Yadkin to file, within 30 days of the date of issuance of this order, a further compliance filing that proposes, consistent with Order No. 890, a mechanism to credit revenues above the transmission provider's incremental costs to all non-offending transmission customers (including affiliated transmission customers) and the transmission provider on behalf of its own customers.

C. Unreserved Use Penalty

9. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance 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.⁸ We note that Yadkin's OATT does not contain an unreserved use penalty rate and, as a result, it may not charge transmission customers for unreserved use penalties.

⁵ *Id.*

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 663, 667, 727.

⁷ *Id.* P 727.

⁸ *See id.* P 834, 848.

D. Rollover Rights

10. 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.⁹

11. Yadkin has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of May 14, 2007. However, Yadkin's Attachment K, setting forth its transmission planning process, which was filed December 7, 2007 in Docket No. OA08-24-000, 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 Yadkin to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. Yadkin 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.

E. Creditworthiness

12. 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.¹⁰

13. We have reviewed Yadkin's filing and find that it has not addressed all the elements required by Order No. 890 in sufficient detail. Specifically, it is unclear what qualitative and quantitative criteria Yadkin uses to determine the level of secured and unsecured credit required. Yadkin explains that its analysis of credit risk for each customer is based on a financial review and other pertinent information, but it has not identified the specific quantitative criteria that it uses for the financial review (e.g., the

⁹ *Id.* P 1231, 1265.

¹⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

customer's credit rating). Additionally, it should identify what "other pertinent information" it uses in making its determination.

14. For customers who are not deemed creditworthy, Yadkin must include an explanation of how the collateral requirement is calculated. Further, it must provide more detail relating to the following elements required by Order 890: (1) a procedure for providing customers with reasonable notice of changes in credit levels and collateral requirements, (2) a procedure for providing customers, upon request, a written explanation for any change in credit levels or collateral requirements, (3) a reasonable opportunity to contest determinations of credit levels or collateral requirements, and (4) a reasonable opportunity to post additional collateral, including curing any non-creditworthy determination.¹¹ We direct Yadkin to file, within 30 days of the date of issuance of this order, a further compliance filing that addresses its creditworthiness standards consistent with Order No. 890.

F. Capacity Benefit Margin

15. In Order No. 890 the Commission required transmission providers to file redesigned transmission charges that reflect the CBM set-aside to ensure that customers not benefiting from the CBM set-aside (i.e., point-to-point customers) do not pay for CBM. In its response to that compliance requirement, Yadkin indicates that it has not received a customer request for CBM and, therefore, has not reserved CBM on the Yadkin transmission system. Because Yadkin does not reserve CBM for native load or any other customer no changes are needed to its rate design. We conclude that Yadkin's statement in its filing with regard to CBM complies with Order No. 890 and, accordingly, we will accept it.¹²

The Commission orders:

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

¹¹ For example, Yadkin should identify if it or the customer must act within a certain timeframe, or list any additional information that it requires.

¹² We note that to the extent Yadkin uses CBM in the future or provides a CBM set-aside at the request of a customer, it must revise its transmission charges consistent with the requirements of Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 263.

(B) Yadkin 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.