

122 FERC ¶ 61,073
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.

Maine Public Service Company

Docket No. OA07-61-000

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 Maine Public Service Company (MPS) submitted its compliance filing as required by Order No. 890.² In this order, we will accept MPS'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 whose transmission facilities are not under the control of an ISO or RTO, were directed

¹ 16 U.S.C. § 824e (2000).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

to submit, within 120 days from the 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. MPS states that its revised tariff sheets incorporate the Order No. 890 *pro forma* OATT revisions.⁴ MPS states that, consistent with previously approved variations in the MPS OATT reflecting that MPS does not employ transmission loading relief procedures, it has not included in its instant filing the Attachment J Procedures for addressing parallel flows or any references thereto.⁵ Additionally, MPS states that the new attachments and references thereto have been labeled with the next available letters for the MPS OATT.

5. MPS requests that its filing become effective July 13, 2007.

III. Notice of Filing and Responsive Pleadings

6. Notice of MPS's filing was published in the *Federal Register*, 72 Fed. Reg. 41,728 (2007), with interventions and protests due on or before August 3, 2007. None were filed.

IV. Discussion

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

³ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁴ In separate filings, MPS submitted certain non-rate terms and conditions that differ from those set forth in Order No. 890, seeking determinations that those variations are "consistent with or superior" to the *pro forma* OATT. See *Maine Pub. Serv. Co.*, Docket No. OA07-14-000 (June 20, 2007) (unpublished letter order); and *Maine Pub. Serv. Co.*, Docket No. ER07-1170-000 (September 10, 2007) (unpublished letter order).

⁵ See *Maine Pub. Serv. Co.*, Docket No. OA07-14-000 (June 20, 2007) (unpublished letter order).

A. Unreserved Use Penalty

8. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties when 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.⁶ We note that MPS's revised OATT does not contain an unreserved use penalty rate and, as a result, MPS may not charge transmission customers for unreserved use penalties.

B. Rollover Rights

9. In Order No. 890, the Commission adopted both a five-year minimum contract term in order for a customer to be eligible for a rollover right and 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.⁷

10. MPS has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, MPS's Attachment K, setting forth its transmission planning process, which was filed December 7, 2007 in Docket No. OA08-21-000, has not yet been accepted. This is contrary to Order No. 890's requirement that rollover reforms cannot become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct MPS to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. MPS 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.

C. Clustering

11. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved request a cluster and the transmission provider can reasonably accommodate the request. As a result, the Commission directed transmission providers

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

⁷ *Id.* P 1231, 1265.

to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.⁸

12. MPS has not responded to the Commission's directive regarding clustering. We direct MPS to file, within 30 days of issuance of this order, a further compliance filing that describes how it will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.

D. Creditworthiness

13. 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.⁹

14. In its filing, MPS explains that it uses certain quantitative and qualitative criteria to evaluate a customer's creditworthiness, and that it will determine a credit score based on whether a customer meets or exceeds certain requirements for each of these criteria.¹⁰ We have reviewed MPS's filing and find that while MPS has listed the quantitative and qualitative criteria it uses in its evaluation, MPS has not explained in sufficient detail what its specific requirements are for each of the criteria.¹¹ Furthermore, MPS proposes that the "specific requirements for each criteria may vary for Non-Public Power Entities and Public Power Entities", yet MPS provides no further detail in support of how its criteria may vary for such customers. MPS must specify what its requirements are for each of these criteria, and how these requirements vary for Non-Public Power Entities and Public Power Entities. Also, the proposed creditworthiness provisions provide that a customer's creditworthiness may be reevaluated at any time, upon MPS's discretion. MPS must provide specific criteria as to when it will reevaluate a customer's creditworthiness which would protect the customer against constant "ratcheting up" of its financial assurances.¹² Additionally, MPS must specify the timeframe in which a

⁸ *Id.* P 1370-71.

⁹ *Supra note 2 at P 1370-71.*

¹⁰ *Id.* P 1656-61.

¹¹ For example, MPS should specify if it requires a specific minimum credit rating.

¹² *Entergy Services, Inc.*, 106 FERC ¶ 61,039, at P 14 (2004).

customer may post additional collateral. We direct MPS 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.

The Commission orders:

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

(B) MPS 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)

Kimberly D. Bose,
Secretary.