133 FERC 61,206
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

PPL Montana, LLC Docket No. EL10-47-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued December 7, 2010)

1. On March 10, 2010, PPL Montana, LLC (PPL Montana) filed a Petition for Declaratory Order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.[1] PPL Montana requests the Commission to confirm the rights of a Network Resource Interconnection Service (NRIS) customer and to clarify how NorthWestern should consider NRIS customers in its generation interconnection studies. As discussed below, the Commission grants the petition for declaratory order.

I. Background

2. NorthWestern is a utility that operates electric and natural gas distribution and transmission facilities in Montana and South Dakota. PPL Montana is an exempt wholesale generator that is interconnected to NorthWestern's transmission system and that owns and operates approximately 1,250 MW of generation capacity located in the NorthWestern balancing authority area. PPL Montana's generation facilities are interconnected with the Northwestern transmission system pursuant to a 1999 Generation Interconnection Agreement (1999 GIA)[2] that has been interpreted by the parties to be the equivalent of NRIS.

3. PPL Montana is in the process of upgrading its Rainbow hydroelectric generation facility from an eight unit facility to a single larger turbine. The facility currently

[1] 18 C.F.R. § 385.208 (2010).

[2] The 1999 GIA was entered into by PPL Montana and Montana Power Company (MPC) as part of the transfer of MPC's generation facilities to PPL Montana in 1999.

generates 35 MW. According to PPL Montana, the change will increase the capacity of the Rainbow generation facility by approximately 23 MW. Under NorthWestern's Open Access Transmission Tariff (OATT), a customer seeking to interconnect to the NorthWestern transmission system may elect one of two interconnection services: (1) Energy Resource Interconnection Service (ERIS) or (2) NRIS. The first, ERIS, allows the interconnection customer to connect its generation facility to the transmission system and be eligible to deliver its output using the existing firm or non-firm capacity of the transmission system on an "as available" basis. The second, NRIS, is a higher level of service, allowing the interconnection customer to be designated as a Network Resource, up to the generator's full output, on the same basis as existing Network Resources interconnected to the transmission system. PPL Montana made a request for interconnection service and selected NRIS treatment for the additional 23 MW from the Rainbow facility with NorthWestern.

4. NorthWestern agreed to consider PPL Montana's request under the Large Generator Interconnection Procedures (LGIP) in its OATT. Section 3.2.2.2 of the LGIP requires NorthWestern to conduct a study to ensure that, with the full output of the NRIS customers' generation flowing onto the transmission system at peak, the aggregate of the generation can meet the aggregate of the load reliably, consistent with established criteria.[3] PPL Montana stated that NorthWestern completed the study for PPL Montana's request for NRIS and determined that PPL Montana will be required to pay up to $20 million in Network Upgrades to interconnect the 23 MW from the Rainbow facility.

II. PPL Montana's Petition

5. On March 10, 2010, PPL Montana filed a Petition for Declaratory Order indicating a difference of opinion with NorthWestern as to the interpretation of the Commission's directives in Order Nos. 2003[4] and 890.[5] PPL Montana states this has led to a

---

[3] NorthWestern's LGIP is Attachment M of its OATT. *See* NorthWestern Corporation's FERC Electric Tariff, Seventh Revised Volume No. 5 (MT), Original Sheet Nos. 125-174.

[4] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

[5] *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

(continued…)

disagreement as to PPL Montana's rights as an NRIS customer and how NorthWestern should accommodate PPL Montana and other NRIS customers in its generation interconnection studies.

6. PPL Montana argues that in conducting generation interconnection studies, NorthWestern must account for all of the generation facilities of its existing NRIS customers, regardless of whether the generation is designated as Network Resources or has firm point-to-point transmission. PPL Montana argues that doing so is consistent with Order Nos. 2003 and 890. PPL Montana states that NorthWestern has represented that it must only consider those NRIS customers' generation facilities that are currently designated as Network Resources or that have firm point-to-point transmission service.

7. PPL Montana argues that NorthWestern's approach will not prevent NRIS customers' generation from being bottled up and may result in customers paying more than once for NRIS rights. PPL Montana also maintains that because the additional 23 MW from PPL Montana's Rainbow facility is not currently designated as a Network Resource and does not have firm point-to-point transmission service, NorthWestern will interpret the Commission's regulations to provide that NorthWestern does not have to consider the additional output from the Rainbow facility in future interconnection studies. PPL Montana is concerned that this approach will diminish its NRIS rights and is contrary to Order Nos. 2003 and 890 and force NRIS customers to pay for Network Upgrades twice.

8. PPL Montana argues that in Order No. 2003, the Commission provides NRIS customers with certain rights, including the right to be designated as a Network Resource without further Network Upgrades.[6] PPL Montana states that because these rights are associated with the interconnection process and not the transmission process, they exist regardless of the type or firmness of the NRIS customers' transmission service.

9. PPL Montana states that this distinction is important because there are times when portions of PPL Montana's existing NRIS generation facilities are undesignated as Network Resources and may not have long-term firm point-to-point transmission service contracts. PPL Montana asserts that Network Resource designations are subject to

---

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 reh'g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[6] PPL Montana's March 10, 2010 Petition for Declaratory Order at 2 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 768; Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531).

change as often as daily and that an NRIS generator does not lose its NRIS rights because it does not have long-term firm or network integration transmission service. Accordingly, PPL Montana contends that NorthWestern must account for all NRIS generation capacity in its interconnection studies.

10. PPL Montana argues that NorthWestern's failure to take into account all NRIS customers' generation in its interconnection studies may allow a new generation facility to interconnect with the transmission system without performing the Network Upgrades necessary to allow all NRIS customers to flow their full output onto the transmission system. PPL Montana argues that once the extra capacity from the Rainbow facility is interconnected to NorthWestern's transmission system, PPL Montana should not be required to pay for additional upgrades to flow power from the Rainbow facility onto the transmission system if and when it obtains transmission service.

11. PPL Montana acknowledges that NRIS rights do not provide for the ability to deliver power to any particular customer on the transmission system or to reserve transmission capacity, and that upgrades may be necessary to move the energy across NorthWestern's system to a specific delivery point at the time transmission service is requested. PPL Montana maintains that no further upgrades should be necessary at or near the point of injection to allow PPL Montana to make use of the transmission service.

12. Accordingly, PPL Montana requests the Commission to rule on the following questions:

- Whether, in Order No. 890, the Commission intended to change either the rights of an NRIS customer delineated in Order No. 2003 or how a transmission provider must account for an NRIS customer's generation facilities in its generation interconnection studies?

- Whether in conducting generation interconnection studies, NorthWestern must account for the entire capability of PPL Montana's generation facilities and all other NRIS generators, to inject their full output onto NorthWestern's transmission system at their respective point(s) of interconnection without being "bottled up" regardless of whether those facilities currently are designated at Network Resources at any amount or have any specifically identified transmission service arrangements?

- Whether, if PPL Montana's generation facilities are undesignated, but later are designated or redesignated, as a Network Resource or obtain transmission service, PPL Montana can inject the full output of its generation facilities onto NorthWestern's transmission system at the point(s) of interconnection without incurring any additional generation interconnection study or Network Upgrade costs (other than costs identified through the transmission service studies) as long as an NRIS or NRIS-equivalent interconnection agreement is in place?

III. Notice of Filing and Responsive Pleadings

13. Notice of PPL Montana's petition was issued on March 17, 2010. Interventions and protests were due as provided in Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.211, § 385.214 (2010). On April 9, 2010, NorthWestern filed a motion to intervene and protest. On April 26, 2010, PPL Montana filed an answer to NorthWestern's protest.

14. NorthWestern states that, although it agrees with PPL Montana that existing NRIS facilities retain injection rights at their interconnection points, it does not agree that when conducting generation interconnection studies, transmission providers should model existing NRIS facilities as though they can be dispatched and moved to loads when those facilities are not designated as a Network Resource or do not have firm point-to-point transmission service.

15. NorthWestern explains it interprets Order No. 2003-A to require transmission providers to study whether the aggregate of generation can serve the aggregate of load with the new generation dispatched at its full output.[7] NorthWestern states that the order also requires transmission providers to assume that some portion of the capacity of existing Network Resources will be displaced by new generation.[8] NorthWestern asserts that if it were to conduct its studies without displacing existing generation to the extent of the new generation interconnection request, there would be more generation output on the system than is needed to serve aggregate load.

16. Thus, NorthWestern explains that when conducting these studies, it must make reasonable assumptions about which generation will be displaced by the new generation interconnection requests. NorthWestern states that it does so by first identifying generation that has been designated as a Network Resource by a Network Integration Transmission Service (NITS) customer, and the level of designation. NorthWestern states that it next identifies generation that is associated with firm point-to-point transmission reservations. NorthWestern contends that it displaces all other NRIS generation capacity in the affected portion of its system as needed on a non-discriminatory basis. NorthWestern asserts that it then determines what amount of Network Upgrades is needed to provide the requested interconnection service.

---

[7] NorthWestern's April 9, 2010 Motion to Intervene and Protest at 6 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 500).

[8] *Id.*

17. NorthWestern states that PPL Montana's position is that, under Order Nos. 2003 and 890, no portion of an existing NRIS resource's capacity can be displaced in the process of studying a new NRIS interconnection request. NorthWestern disagrees, arguing that PPL Montana's interpretation of Order Nos. 890 and 2003 as requiring transmission providers to continue to dispatch all existing NRIS generators at their full capability, regardless of whether they are servicing load on the transmission provider's system, would guarantee transmission service, jeopardize non-discriminatory access to uncommitted network transmission capacity, and lead to inefficient over-building of transmission.[9] NorthWestern argues that this result is contrary to Order Nos. 2003 and 890.

18. NorthWestern contends that in Order No. 2003, the Commission was clear that NRIS does not ensure that an NRIS customer can designate a generating facility as a Network Resource and use the output of that generating facility to serve a particular network load without incurring congestion or redispatch costs.[10] NorthWestern states that the Commission further explained that any capacity created by Network Upgrades constructed for an interconnection customer would be available for use by all customers on an equal basis.[11] NorthWestern interprets Order No. 2003 to mean that those Network Upgrades constructed during the interconnection process only give that project the right to qualify as a Network Resource but do not guarantee future capacity as a Network Resource. NorthWestern asserts that interconnection service provides for the construction of upgrades that allow a customer to flow *onto* the transmission system, but interconnection service does not convey the right to flow *across* the transmission system.

19. NorthWestern states that if it were to follow PPL Montana's interpretation then it would have to set aside network capacity from PPL Montana's generation to the aggregate of loads on the NorthWestern system, potentially at the expense of network point-to-point transmission service customers' request to designate generation other than PPL Montana's resources. NorthWestern contends that this would give preference to deliveries from PPL Montana's resources and call into question the non-discriminatory access to NorthWestern's uncommitted transmission system for service from third-party generation. Moreover, NorthWestern argues that Order No. 890 rejected the argument

---

[9] *Id.* at 7-8.

[10] *Id.* at 11-12 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 533).

[11] *Id.* at 13 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 779).

that transmission providers must set aside transmission capacity associated with NRIS generation that is not designated as a Network Resource.[12]

20. In its answer, PPL Montana disagrees with NorthWestern's interpretation that Order No. 890 changed the way transmission providers account for NRIS customers' generation facilities in their interconnection studies. PPL Montana also challenges NorthWestern's position that accounting for such facilities in interconnection studies amounts to setting aside transmission capacity for potential Network Resources.

21. PPL Montana acknowledges that in Order No. 890, the Commission found that it would be unreasonable to expect the transmission provider to reserve sufficient available transmission capacity to allow NRIS customers to deliver to any customer on the transmission system.[13] However, PPL Montana states that in this finding, Order No. 890 addressed rights to transmission service as it relates to Network Resources. PPL Montana contends that Order No. 890 did not address interconnection service rights, nor did it change the Commission's policy regarding how generation interconnection studies must be conducted. PPL Montana argues that NorthWestern's interpretation of Order No. 890 would make the distinction between NRIS and ERIS meaningless.

22. PPL Montana asserts that the Commission found that a transmission provider has an obligation to preserve the status of existing NRIS generation facilities when conducting generation interconnection studies for new facilities seeking to interconnect to the system.[14] PPL Montana states that in *Southern*, the Commission found that by failing to "consider power flows associated with generating facilities from which there is no existing request for long-term firm transmission delivery service… [Southern] might jeopardize the NRIS status of Generating Facilities that have previously qualified for this interconnection service."[15] PPL Montana contends that in *Southern*, the Commission also found that an important purpose of generation interconnection studies is to ensure

---

[12] *Id.* at 16-17 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1550; Order No. 890-A FERC Stats. & Regs. ¶ 31,261 at P 927).

[13] PPL Montana's March 10, 2010 Petition for Declaratory Order at 23 (citing Order No. 890, FERC Stats. & Regs.¶ 31,241 at P 1550).

[14] PPL Montana's April 26, 2010 Answer at 2 (citing *Southern Co. Servs., Inc.*, 107 FERC ¶ 61,317, at P 15 (2004), *reh'g granted in part and denied in part*, 109 FERC ¶ 61,014 (2004) (*Southern*)).

[15] *Id.* at 4 (citing *Southern*, 107 FERC ¶ 61,317 at P 13).

that new generation facilities interconnecting to the system do not undermine the NRIS status of existing generation facilities.

23. NorthWestern argues, in its answer, that the flow across the transmission system may change with the addition of new generation such that there may be congestion costs for the existing NRIS generator that has been undesignated as a Network Resource when it is later re-designated. NorthWestern asserts that as a result, congestion costs may occur for existing NRIS undesignated generation as a result of not being dispatched in the interconnection study. NorthWestern contends that the Commission recognized this in Order No. 890 when it stated that "[t]he integration of network resources with different network customers presents different effects and flows on the transmission system that must be evaluated by the transmission provider."[16]

IV. Discussion

A. Procedural Matters

24. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

25. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PPL Montana and NorthWestern's answers because they have provided information that assisted us in our decision-making process.

B. Commission Determination

26. In Order No. 2003, the Commission required utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to file a revised OATT to add standard LGIP and a standard Large Generator Interconnection Agreement (LGIA). The standard LGIP sets forth the procedures that transmission providers and interconnection customers are required to follow during the interconnection process. The LGIA sets forth the legal rights and obligations of each party, addresses cost responsibility issues, and establishes a process for resolving disputes.

27. The standard LGIA and LGIP adopted in Order No. 2003 provide for two interconnection service products from which the interconnection customer may choose:

---

[16] NorthWestern's April 9, 2010 Motion to Intervene and Protest at 22 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1550).

ERIS, which is a basic interconnection service, and NRIS, which is a more comprehensive interconnection service.[17] The Commission stated that ERIS allows an interconnection customer to connect its generating facility to the transmission system and be eligible to deliver its output using the existing firm or non-firm capacity of the transmission system on an "as available" basis but no specific rights to transmission.[18] In contrast, NRIS requires that the transmission provider integrate the generating facility into the transmission system in a manner comparable to that in which the transmission provider integrates its own generators to serve native load.[19] However, neither NRIS nor ERIS conveys any transmission delivery service.[20]

28. In Order No. 890, NorthWestern requested clarification regarding the ability of NRIS customers to designate their facilities as Network Resources. The Commission reiterated that funding system upgrades required to interconnect a generator does not mean that any NRIS customer is entitled to access of all related generation at all times, even in the event the NRIS customer indefinitely terminates the designation of that resource.[21] On rehearing in Order No. 890-A, the Commission confirmed that NRIS status does not convey any right to transmit power and does not constitute a reservation of capacity at any point in time.[22] Therefore, the Commission in Order Nos. 890 and 890-A affirmed, rather than changed, the rights of NRIS customers delineated in Order No. 2003.

29. Similarly, the Commission's discussion of Network Resource designations in Order Nos. 890 and 890-A did not change how NRIS customers' generation facilities are to be accounted for in generation interconnection studies as delineated in Order No. 2003. As the Commission explained in Order No. 2003-A and affirmed in Order No. 890-A, the purpose of NRIS is to provide only those Network Upgrades needed to allow the aggregate of generation in the facility's local area to be delivered to the aggregate of load on the transmission provider's transmission system, such that the output of the generation

---

[17] Order No. 2003, FERC Stats. & Regs 31,146 at P 752.

[18] *Id.* P 753.

[19] *Id.* P 754.

[20] *Id.* P 753, 756; Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 516.

[21] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1550.

[22] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 927.

facility will not be "bottled up" during peak load conditions.[23] Specifically, the NRIS customer's generation facilities must be able to be operated simultaneously at peak load and any output produced above peak load requirements must be able to be transmitted to other electrical areas within the transmission provider's transmission system.[24]

30. Consistent with the requirements of Order No. 2003-A, NorthWestern must account for the PPL Montana facilities in its generation interconnection studies in a manner that is consistent with PPL Montana's right to operate its facilities simultaneously at peak load and any output produced above peak load requirements must be able to be transmitted to other electrical areas within NorthWestern's transmission system. This will ensure that the PPL Montana facilities are not "bottled up" during peak load conditions. However, this does not mean, that PPL Montana has the right to inject the full output of its generation facilities at any time without incurring additional costs related to transmission. As the Commission explained in Order No. 2003-A, NRIS does not necessarily provide the interconnection customer with the capability to physically deliver the output of its generating facility to any particular load on the system without incurring congestion costs.[25] Although NRIS may allow the generating facility to serve some loads without redispatching other generators or incurring congestion costs, it does not ensure that any particular network customer can designate the generating facility as a Network Resource and use the output of that generating facility to serve a particular network load without incurring congestion (or redispatch) costs.[26] To the extent PPL Montana is seeking at the time it redesignates its facilities to deliver to specific loads or locations,[27] additional studies or upgrades may be necessary to reduce congestion to

---

[23] Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 927.

[24] Order No. 2003-A, FERC Stats. & Regs, ¶ 31,160 at P 531. The Commission noted that this is similar to the procedures used by PJM and other ISOs to identify the Network Upgrades that are needed for a generation facility to qualify as a capacity resource. *Id*.

[25] *Id.* P 502, 533.

[26] *Id.* P 533.

[27] PPL Montana's generation facilities at issue here are hydro facilities. In its Petition, PPL Montana explains that there are times during the year when the flow of the rivers that fuel its facilities change and that during such times, PPL Montana may undesignate its Network Resources and use short-term firm or some other type of non-firm transmission arrangement to make sales with its available capacity as it fluctuates. *See* PPL Montana's March 10, 2010 Petition for Declaratory Order at 19. Given the

(continued…)

levels that are acceptable to PPL Montana.[28] However, there should be no added costs for upgrades associated with generation interconnection.

31. NorthWestern argues that taking into account all NRIS generation in its interconnection studies would in effect reserve transmission capacity for NRIS customers. The Commission disagrees, and points out that it addressed similar concerns in Order No. 2003-A as discussed above.[29] Consistent with Order No. 2003, NRIS customers must be able to operate their facilities simultaneously at peak load and ensure that any output produced above peak load requirements can be transmitted to other electrical areas within the transmission provider's transmission system.

The Commission orders:

This petition for declaratory order is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

---

situation, it is apparent that PPL Montana intends to redesignate these facilities in the future when the necessary water flows return and therefore they should continue to be considered.

[28] Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531.

[29] *Id.* P 515-517.