

171 FERC ¶ 61,022
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Wilderness Line Holdings, LLC

Docket No. ER20-511-002

ORDER ACCEPTING TARIFF FILING AND DENYING WAIVER

(Issued April 16, 2020)

1. This order addresses an open access transmission tariff (OATT) submitted by Wilderness Line Holdings, LLC (Wilderness Holdings) in anticipation of a proposed transaction (Transaction) pursuant to which Wilderness Holdings intends to acquire from Sky River LLC (Sky River) a majority ownership interest in a nine-mile, 230 kV radial transmission line located in Kern County, California (Wilderness Line). As discussed below, the Commission accepts Wilderness Holdings' proposed OATT to become effective as of the date Wilderness Holdings consummates the Transaction. We also deny Wilderness Holdings' requests for waiver, as discussed below.

I. Background

2. Wilderness Holdings states that it is a Delaware limited-liability company and a wholly-owned indirect subsidiary of Terra-Gen, LLC (Terra-Gen). Wilderness Holdings states that it has been formed for the purpose of owning an undivided interest in the Wilderness Line, which it will acquire from Sky River. Several qualifying facilities (collectively, Co-Tenants) also own an interest in the Wilderness Line and are parties to a co-tenancy agreement originally executed in 1990 (Co-Tenancy Agreement). The output of these facilities is transmitted over the Wilderness Line and then over other transmission facilities before reaching the transmission grid controlled by California Independent System Operator Corporation (CAISO) at Southern California Edison Company's (SoCal Edison) Vincent Substation.

3. Wilderness Holdings further states that the Wilderness Line is a radial transmission line that was developed to interconnect the individual generation facilities of its owners to the integrated transmission system pursuant to the Co-Tenancy Agreement. In response to a Commission order issued in 2011, Sky River filed an OATT to govern the terms of new

transmission and interconnection service on the Wilderness Line.¹ Prior to the Transaction, Sky River owned a majority interest in the Wilderness Line and related equipment. As a result of the Transaction, Wilderness Holdings states that it will acquire all of Sky River's interests in the Co-Tenancy Agreement and the Wilderness Line. Windstar Energy, LLC (Windstar), the owner of a 60 MW wind-powered electric generation facility, is the only customer currently receiving interconnection and firm transmission service on the Wilderness Line pursuant to service agreements under Sky River's OATT. Windstar is not a party to the Co-Tenancy Agreement.

II. **Wilderness Holdings Filing**

4. On December 4, 2019, as amended on January 23, 2020, and February 19, 2020, Wilderness Holdings filed a proposed OATT with the Commission. Wilderness Holdings states that it submits this OATT in anticipation of the Transaction's consummation.²

5. Wilderness Holdings states that its proposed OATT incorporates the same terms and conditions for services on the Wilderness Line as Sky River's OATT, which the Commission previously found to be consistent with or superior to the Commission's *pro forma* OATT.³ Similarly, Wilderness Holdings is proposing the same rate for transmission service applicable to the Wilderness Line as it currently exists in the Sky River OATT. Wilderness Holdings states that its proposed OATT reflects only those changes from Sky River's OATT that are necessary, none of which will interfere with existing service on the Wilderness Line. Specifically, to address the change in ownership following the Transaction's closing, Wilderness Holdings has replaced all references to Sky River, updated contact information, and removed references to the transmission line that will still be owned by Sky River, the Sky River Line.

6. In addition, Wilderness Holdings proposes certain limited revisions to Sky River's OATT in Section 2.2(a), Attachment E, and Section 4.10 of Attachment K, which it describes as ministerial in nature. Specifically, Wilderness Holdings submits a revised Section 2.2(a) of the Sky River OATT to reflect the correct name of the Co-Tenancy Agreement, a revised Attachment E of the Sky River OATT to notify parties that a complete index of point-to-point transmission customers will be publicly available in

¹ *Sky River LLC*, 136 FERC ¶ 61,162 (2011) (Sky River 2011 Order).

² Wilderness explains that it cannot assume the Sky River OATT, which after the Transaction Sky River will only use for its independent transmission line, and the Sky River Line is not part of the Transaction. Wilderness Holdings December 4, 2019 OATT Filing at 3 (OATT Filing).

³ *Id.*

Wilderness Holdings' Electric Quarterly Reports, and a revised Section 4.10 of Attachment K of the Sky River OATT to remove the bracketed reference to the Board of Directors, because no such board exists for Wilderness Holdings.⁴

7. Wilderness Holdings states that certain provisions of the proposed OATT deviate from the Commission's *pro forma* OATT due to the nature of the Wilderness Line as a radial generator lead line and Wilderness Holdings' requests for waivers of the requirements of Order Nos. 889 and 1000.⁵ Wilderness Holdings states that, as previously demonstrated by Sky River, these deviations are necessary because Wilderness Holdings will not be a traditional transmission provider, given the radial nature of the Wilderness Line, and because the co-tenants have certain existing usage rights. Moreover, Wilderness Holdings states that, similar to Sky River, it cannot provide certain services that a traditional transmission provider would supply, including network transmission service, ancillary services, and scheduling service, among others. Wilderness Holdings proposes to adopt the same deviations from the Commission's Open Access-Same Time Information System (OASIS) posting requirements and regional planning processes that the Commission approved for Sky River.⁶ Wilderness Holdings' proposed OATT also updates Sky River's previously accepted Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA) to incorporate the requirements of Order Nos. 845 and 845-A.⁷

8. Finally, Wilderness Holdings requests temporary waiver of Section 3.5 of the LGIP regarding maintaining interconnection queue statistics. Wilderness Holding states that, as it requested an effective date of one day after filing, it will lack the authority and information necessary to comply with Section 3.5 of the LGIP. Therefore, Wilderness Holdings requests a limited waiver of the requirements of Section 3.5 of the LGIP until

⁴ *Id.* at 4

⁵ Wilderness Holdings February 19, 2020 Amendment at 2 (Amendment Filing).

⁶ In a concurrently issued order, in Docket No. ER20-519-000, the Commission grants Wilderness Holdings waiver of the OASIS requirements. *Wilderness Line Holdings, LLC*, 171 FERC ¶ 61,023 (2020).

⁷ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019), *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

the consummation of the Transaction, at which point Wilderness Holdings states that it will be able to assume these obligations.⁸

III. **Notice and Responsive Pleadings**

9. Notice of Wilderness Holdings' filings in Docket Nos. ER20-511-000, ER20-511-001, and ER20-511-002 were published in the *Federal Register*, 84 Fed. Reg. 67,440 (Dec. 10, 2019), 85 Fed. Reg. 5417 (Jan. 30, 2020), and 85 Fed. Reg. 10,669 (Feb. 25, 2020), with interventions and protests due on or before December 26, 2019, February 13, 2020, and March 11, 2020, respectively. On December 10, 2019, Windstar filed a motion to intervene in Docket No. ER20-511-000.

IV. **Discussion**

A. **Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), Windstar's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. **Substantive Matters**

11. In Order No. 890,⁹ the Commission allowed transmission providers to propose non-rate terms and conditions that differ from those in Order No. 890 if those provisions are consistent with or superior to the *pro forma* OATT.¹⁰ To the extent that deviations from the *pro forma* OATT are necessary, we have found that applicant transmission owners must explain and support the deviations sufficiently,¹¹ and we will evaluate proposed deviations from the *pro forma* OATT on a case-by-case basis.¹² The

⁸ Amendment Filing at 7.

⁹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹⁰ Order No. 890, 118 FERC ¶ 61,119 at P 135.

¹¹ See, e.g., *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009); *Zephyr Power Transmission, LLC*, 126 FERC ¶ 61,134, at P 47 (2009).

¹² See *Mont. Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at PP 55-60 (2006) (*MATL*).

Commission will find that deviations from the *pro forma* OATT are just and reasonable only if the filing party explains how the deviations in the proposed OATT are consistent with or superior to the *pro forma* OATT or fully explains how the *pro forma* provisions are not applicable given the filing party's business model.¹³ As discussed below, we accept Wilderness Holdings' proposed OATT.

1. Wilderness Holdings Proposed OATT

a. Rates

12. Wilderness Holdings' proposed OATT adopts Sky River's stated rates for transmission service on the Wilderness Line that have been accepted by the Commission as just and reasonable.¹⁴ Wilderness Holdings does not propose a rate increase or change to the Commission-accepted rates. Wilderness Holdings maintains that, although the Transaction will change a portion of the ownership of the Wilderness Line, the costs associated with the underlying transmission revenue requirement, specifically the components of the rate base and the revenue requirement, will not be affected.¹⁵

b. Commission Determination

13. We find that the rates for transmission service on the Wilderness Line proposed by Wilderness Holdings are just and reasonable. The Commission previously has found these rates to be just and reasonable when the rates were contained in the Sky River OATT.¹⁶ Wilderness Holdings proposes to maintain these rates without change.

2. Deviations Consistent with the *Pro Forma* OATT

14. Wilderness Holdings adopts many of the deviations Sky River included in its OATT, which currently governs interconnection and transmission service on the

¹³ See *id.* P 60.

¹⁴ See *Sky River LLC*, 165 FERC ¶ 61,097 (2018) (accepting tax rate-related rate change on Wilderness Line) (Sky River Tariff Order). The Commission previously determined that the stated rate for service on the Wilderness Line was just and reasonable and in the public interest. See *Sky River 2011 Order*, 136 FERC ¶ 61,162 (2011); *Sky River LLC*, Docket No. ER11-3277-002 (Dec. 19, 2013) (unpublished letter order) (accepting compliance filing).

¹⁵ Amendment Filing at 7-8.

¹⁶ Sky River Tariff Order, *supra* note 14.

Wilderness Line through Sky River's OATT, as well as certain other deviations, as discussed in greater detail below.

a. Proposed Deviations

15. Wilderness Holdings states that it has replaced the term "Transmission Operator" with "Tie Line Owner" throughout the OATT. Wilderness Holdings states that Sky River previously made this change, which was accepted by the Commission.¹⁷ Wilderness Holdings states that it is assuming the same responsibilities as Sky River in the operation of the Wilderness Line and that the OATT designates SoCal Edison as the "Transmission Operator."¹⁸

16. Wilderness Holdings included the definition of "OATT Administrator" to align with the *pro forma* term "Designated Agent," who is responsible for the implementation of the provisions of the OATT.¹⁹ Wilderness Holdings states that the OATT Administrator is responsible for individual interconnection and transmission service requests and for coordinating interconnection service, operation, maintenance, and any expansion of the Wilderness Line.

17. Wilderness Holdings has omitted from its proposed OATT the *pro forma* OATT requirements of providing network service. Wilderness Holdings maintains that it does not integrate generators to serve native load customers and therefore cannot offer network service.²⁰ Wilderness Holdings asserts that it is a single radial transmission line that is unable to provide such service.

18. Wilderness Holdings also omits from its proposed OATT the *pro forma* OATT requirements of providing ancillary services to customers of the Wilderness Line. Wilderness Holdings states that the Wilderness Line is a radial transmission line, without a control area or the generation resources necessary to provide ancillary services.²¹

19. Further, Wilderness Holdings' proposed OATT modifies Section 2.2 of the *pro forma* OATT to continue, or grandfather, the existing use of the Wilderness Line by the Co-Tenants. Wilderness Holdings asserts that the Co-Tenants will have the right to continue to take service under the Co-Tenancy Agreement rather than the OATT, and any

¹⁷ Sky River 2011 Order, 136 FERC ¶ 61,162 at P 7.

¹⁸ OATT Filing, attach. A.

¹⁹ Amendment Filing, attach. A.

²⁰ *Id.*, attach. B.

²¹ *Id.*, attach. A.

future request for additional transmission service outside the terms of the Co-Tenancy Agreement will be governed by the proposed OATT.²²

20. Wilderness Holdings includes in section 15.7 of its OATT a real power loss factor of .45% for deliveries from the Tehachapi Substation to the Wilderness Substation. This is the same real power loss factor used by Sky River.²³

21. Wilderness Holdings' proposed Attachment K describes its transmission planning process, including its planning methodology and criteria for how it will develop a transmission plan. Wilderness Holdings proposes to adopt the transmission planning process provisions accepted by the Commission in *Sky River*,²⁴ because the Wilderness Line is only a single transmission line that is not used to serve native load that is only capable of providing point-to-point transmission service. Wilderness Holdings further has no native load customers or captive customers from which it can assess transmission planning-related costs.

22. Wilderness Holdings proposes an Attachment L that describes the criteria and specific elements it will use to determine a customer's level of secured and unsecured credit. Wilderness Holdings will use a customer's ability to maintain an investment grade credit rating for its long-term senior unsecured debt to determine whether it will establish an unsecured credit amount in its proposed OATT. Attachment L further provides that, if Wilderness Holdings determines that a customer must provide additional credit, Wilderness Holdings will provide sufficient notice and an explanation for its conclusion, and a provision providing for a transmission customer's right to request a credit reevaluation is included.²⁵

23. Finally, Wilderness Holdings excludes from its proposed OATT all of the *pro forma* OATT references to native load customers, third-party sales, and wholesale requirements customers. Wilderness Holdings also excludes provisions regarding local furnishing bonds, reciprocity, Co-Tenants' existing use of the Wilderness Line, redispatch, and stranded cost recovery, as inapplicable. Wilderness Holdings attests that these references are not applicable here, as they were not applicable to Sky River.²⁶

²² *Id.*

²³ *Id.*

²⁴ Sky River 2011 Order, 136 FERC ¶ 61,162.

²⁵ *Id.*

²⁶ *Id.*

b. Commission Determination

24. We find that Wilderness Holdings' proposed deviations from the *pro forma* OATT that were previously accepted by the Commission when it reviewed Sky River's OATT are just and reasonable in this case. Wilderness Holdings' position as a generator tie line, which does not operate a transmission network, justifies these deviations from the *pro forma* OATT. Wilderness Holdings will be in the same position as Sky River and therefore we find that these deviations are just and reasonable as applied to Wilderness Holdings.

3. Variations from the *pro forma* LGIA and LGIP

25. As discussed further below, Wilderness Holdings has proposed certain variations from the *pro forma* LGIP and *pro forma* LGIA that were adopted pursuant to the Commission's Order Nos. 2003, 845. In Order No. 2003, when originally adopting the *pro forma* LGIA and LGIP, the Commission permitted transmission providers to seek variations from the *pro forma* LGIP and/or *pro forma* LGIA if they were "consistent with or superior to" the terms of the *pro forma* LGIP and *pro forma* LGIA.²⁷ A transmission provider seeking a "consistent with or superior to" variation must demonstrate why its proposal is consistent with or superior to the *pro forma* LGIP and/or *pro forma* LGIA.²⁸ The Commission also permitted transmission providers to justify a variation to the *pro forma* LGIA or LGIP based on regional reliability requirements and required transmission providers submitting such regional reliability variations to the Commission for approval to identify the proposed variations and explain why such variations are necessary. Wilderness proposes variations in two sections of the *pro forma* LGIP.

a. Transparency Regarding Study Models and Assumptions

i. Wilderness Holdings Filing

26. Wilderness Holdings' proposed LGIP Section 2.3 includes variations that (1) change the word "provide" to "maintain"; (2) delete references to an OASIS website; and

²⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 26 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

²⁸ See, e.g., *Nev. Power Co.*, 167 FERC ¶ 61,086, at P 3 (2019).

(3) delete certain other revisions concerning base case data. Specifically, Wilderness Holdings' proposed Section 2.3 (Base Case Data) states:²⁹

Tie Line Owner shall maintain network models and underlying assumptions and provide this information upon request subject to confidentiality provisions in LGIP Section 13.1. Such network models and underlying assumptions should reasonably represent those used during the most recent interconnection study and be representative of current system conditions. Tie Line Owner is permitted to require that Interconnection Customer sign a confidentiality agreement before the release of commercially sensitive information or Critical Energy Infrastructure Information in the Base Case data. Such databases and lists, hereinafter referred to as Base Cases, shall include all (1) generation projects and (2) transmission projects.

27. Wilderness Holdings states that it is not adopting the *pro forma* language regarding posting and maintaining network models and underlying assumptions on an OASIS or password-protected site. Instead, Wilderness Holdings states that it commits to maintain network models and underlying assumptions and provide such information upon request subject to confidentiality provisions.³⁰

ii. Commission Determination

28. We find Wilderness Holdings' new section 2.3, which does not adopt the Commission's *pro forma* LGIP language concerning base case data, is generally consistent with the *pro forma* LGIP. Wilderness Holdings explains that it will maintain the information necessary and provide this information to customers on request. We find that, because Wilderness Holdings does not have a website or OASIS, and will receive few, if any, interconnection requests, the proposal to provide any information on request is consistent with the requirements of the *pro forma* LGIP, as it will provide the requester with the study models necessary to make any decisions regarding potential interconnection requests. Therefore, we accept Wilderness Holdings' proposed LGIP Section 2.3 regarding the posting of interconnection study models.

²⁹ Amendment Filing, attach. B.

³⁰ *Id.*

b. Interconnection Study Deadlines

i. Wilderness Holdings Filing

29. Wilderness Holdings states that it has largely incorporated the Commission's requirements in Sections 3.5.2, 3.5.2.1, 3.5.2.2, 3.5.2.3, 3.5.2.4, 3.5.3, and 3.5.4 of its LGIP. Wilderness Holdings requests a variation to remove all references to maintaining or posting summary statistics on OASIS or a password-protected website, and instead to maintain and/or provide summary statistics upon request. Wilderness Holdings states that it does not have an OASIS or a website and therefore has removed all references in the *pro forma* OATT related to maintaining or posting summary statistics on OASIS or a password-protected website.³¹

ii. Commission Determination

30. We find that Wilderness Holdings has justified its request for a variation from the *pro forma* LGIP and that its variation is consistent with or superior to the *pro forma* LGIP. We find that, because Wilderness Holdings does not have a website or OASIS, and will perform few, if any, interconnection studies, the proposal to provide any information on request is consistent with the requirements of the *pro forma* LGIP, as it will provide the requester with the relevant information. We also find that, because Wilderness Holdings has included the requirements to report late interconnection studies to the Commission, the Commission will have insight into Wilderness Holdings' study process in the event that it cannot meet the required study timelines. Therefore, we accept Wilderness Holdings' proposed LGIP sections related to interconnection study deadlines.

C. Waiver Requests

1. Wilderness Holdings Filing

31. Wilderness requests waiver of the Commission's 60-day prior notice requirement pursuant to section 35.11 of the Commission's regulations in order to be granted an effective date of February 20, 2020.³² Wilderness states that there is good cause to grant this waiver to ensure that Wilderness Holdings and Sky River are able to consummate the transaction as soon as the Commission issues an order approving the OATT.

³¹ *Id.*

³² 18 C.F.R. § 35.11 (2019); *see also* *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

32. Wilderness Holdings requests a temporary waiver of Section 3.5 of the LGIP regarding maintaining interconnection queue statistics.³³ Wilderness Holding states that, as it requested an effective date of one day after filing, it will lack the authority and information necessary to comply with Section 3.5 of the LGIP. Wilderness Holdings states that it will not have the authority or information to fulfill this obligation in its tariff until the transaction is consummated. In support, Wilderness Holdings notes that the waiver would be limited in scope, addresses a concrete problem that needs to be remedied, and has no undesirable consequences. Therefore, Wilderness Holdings requests a limited waiver of the requirements of Section 3.5 of the LGIP until the consummation of the Transaction, at which point Wilderness Holdings states that it will be in a position to assume these obligations.³⁴

2. Commission Determination

33. We do not find good cause to grant Wilderness Holdings' request for waiver of the Commission's 60-day prior notice requirements to grant an effective date of February 20, 2020. Wilderness Holdings has not demonstrated why its OATT needs to become effective before the date of the consummation of the Transaction. Therefore, we deny Wilderness Holdings' request for waiver of the 60-day prior notice requirement and instead grant an effective date of the date of the consummation of the Transaction.

34. We also deny Wilderness Holdings' request for limited waiver of Section 3.5 of the LGIP regarding maintaining interconnection queue statistics for the period between the effective date of the OATT and the consummation of the transaction. As discussed above, the effective date of Wilderness Holdings' OATT is the date of the consummation of the Transaction. Therefore, this waiver request is no longer relevant. Further, we direct Wilderness Holdings to file a notification with the Commission of the date that the Transaction was consummated, within 30 days of the consummation of the Transaction.

The Commission orders:

(A) Wilderness Holdings' proposed OATT is hereby accepted for filing, to be effective the date of the consummation of the Transaction, as discussed in the body of this order.

(B) Wilderness Holdings' requests for waiver are hereby denied, as discussed in the body of this order.

³³ Amendment Filing, attach. B.

³⁴ *Id.*

(C) Wilderness Holdings is hereby directed to file, within 30 days of the consummation of the Transaction, a notification of the date that the Transaction was consummated, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.