

133 FERC ¶ 61,160
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.

Puget Sound Energy, Inc.

Docket No. EL10-72-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued November 18, 2010)

1. On June 11, 2010, Puget Sound Energy, Inc. (Puget) filed a petition for declaratory order (Petition) requesting that the Commission confirm Puget's firm priority rights to use capacity on 230 kV generator lead lines (Lead Lines) that will connect its planned multi-phased wind generation project (Project) to Bonneville Power Administration's (Bonneville) integrated transmission system. The order denies the declaration sought by the Petition. Instead, the order finds that the Lead Lines are governed by Puget's existing Open Access Transmission Tariff (OATT) that is on file with the Commission. Consistent with the terms and conditions of its OATT, Puget may reserve transmission capacity over the Lead Lines for designated network resources to serve its reasonably forecasted native load requirements, as discussed below. Consequently, the order concludes that it is unnecessary for Puget to seek the Commission's confirmation that it has firm priority rights to use the capacity on the Lead Lines.

I. Background

2. Puget explains that it is developing its wind generation Project, which will be located in Garfield and Columbia Counties, Washington, in multiple phases. Puget states that, upon completion, the Project will interconnect approximately 1,250 MW of generating capacity from 795 wind turbines to Bonneville's integrated transmission system, and is intended to help satisfy Puget's native load growth and meet Washington's renewable portfolio standard requirements.¹ The Project will be supported by the Lead

¹ Puget explains that in order to meet projected electricity demand, it must replace, renew, and acquire 934 MW of electricity resources by 2012, 1,362 MW by 2016, 2,787 MW by 2020, and 4,727 MW by 2029. *See* Petition at 3 (citing Puget's 2009 Integrated Resource Plan).

Lines, which will ultimately span 53 miles and will run from the wind generation sites to the Bonneville transmission system. The Lead Lines will interconnect with the Bonneville's transmission grid at a new substation to be constructed and owned by Bonneville.² Puget explains that, from there, the energy will be delivered to serve Puget's native load customers.³ Puget states that it will be the sole owner of the wind generating units and the associated Lead Lines, and notes that its transmission function presently has no role in the Project's development.

3. According to Puget, the Project will be constructed in sequential phases for financing purposes, state regulatory approval requirements, and to satisfy Puget's least-cost planning process. Puget states that construction of Phase I, involving six or seven miles of Lead Lines and approximately 340 MW of generation capacity, began earlier this year, with commercial operation slated for mid-2012. Phase II, consisting of approximately 160 MW of wind capacity, is planned to have an in-service date of 2015. Phase III, consisting of approximately 170 MW of wind capacity, is planned to have an in-service date of 2017. Puget states that approximately 28 miles of Lead Lines will be constructed to support Phases II and III. Puget notes that Phases IV and V of the multi-phase project, which would include an additional 25 miles of Lead Lines and approximately 580 MW of wind generation, are targeted for 2029. Puget's specific request in its Petition relates to Phases I to III of the Project, and not to Phases IV and V.⁴

4. Puget states that all necessary environmental impact studies have been conducted for the Project and it has secured siting permits for all phases of the Project. Puget explains that a final environmental impact statement for the Project has been issued by Garfield County, Washington. Puget has also obtained conditional use permits for Phases I, IV, and V from the relevant Garfield County authority and for Phases II and III from the relevant Columbia County authority. Puget further states that Bonneville issued a Record of Decision on environmental issues in January 2010. Finally, Puget states that it has executed a large generator interconnection agreement with Bonneville.

II. Petition

5. Puget requests that the Commission confirm that it will have firm priority rights to use the capacity on the 35 miles of Lead Lines constructed to support Phases I to III of

² Specifically, Bonneville will construct, operate, and maintain a new substation at a point along Bonneville's existing Little Goose - Lower Monumental 500-kV transmission line. Petition at 13.

³ Petition at 4.

⁴ Puget notes that, should its request be granted, then it may seek similar treatment for Phases IV and V in a future filing.

the Project. Puget states that the seven miles of Lead Lines constructed in Phase I will be sized to transmit up to 1,250 MW, which is the total output of the Project, even though the energy to be produced as part of Phase I of the Project will be less than 350 MW. The Petition further notes that the generating capacity associated with Phases I to III of the Project will total approximately 670 MW,⁵ although the Lead Lines constructed in these phases will be sized to accommodate 1,250 MW of capacity. Puget asserts that generation project developers should be assured use of the generator lead lines built to support generating projects when the generation comes online. Puget states that other wind developers have equal ability to build generator lead lines to serve their own projects, or they may seek an expansion of the capacity of Puget's Lead Lines in order to connect additional wind generating facilities.

6. Puget explains that projects, such as the one at issue here, are regularly developed in phases due to capital constraints faced by developers. Puget points out that a phased approach for constructing a project, sized to accommodate the generating capacity of all phases of a project, is also environmentally sensible. Further, Puget argues that the phased approach is economically efficient given the difficulties and expense of increasing the capacity of lead lines once they have been constructed. By eliminating later upgrades, Puget argues, developers can reduce the unit cost of power generated by wind projects.

7. Puget reasons that, in light of the significant costs of developing wind projects and associated risks, project developers should be permitted to use the generator lead lines built to support those projects when they come online; otherwise, the costs and risks will be significantly magnified. Puget reiterates that building the generator lead lines to accommodate the full capacity of a phased wind project is prudent and often necessary for large-scale wind projects, and contends that third-party developers should not be permitted to infringe on the developer's rights to transmission capacity that has been built to serve generating capacity that will come online in a later phase of project. Puget argues that developers need to know that lead lines will be available to move energy from the wind turbines once they begin production.

8. In support of its Petition, Puget cites to a Commission order granting Milford Wind Corridor, LLC's (Milford) request for confirmation of firm rights to capacity on a generator lead line that it was building to accommodate a multi-phased, 1,000 MW wind generation project.⁶ Puget states that the Commission granted Milford's request finding that the petition was consistent with Commission precedent holding that a generation

⁵ See *supra* P 3.

⁶ Petition at 8 (citing *Milford Wind Corridor, LLC*, 129 FERC ¶ 61,149, at P 22 (2009) (*Milford*)).

developer that had specific expansion plans with definite dates and milestones for construction, and that had made material progress toward meeting its milestones, had priority use rights on generator lead lines supporting its project over later requests for transmission service over such lead lines.⁷ Puget argues that, like Milford, it has demonstrated specific plans for Phases I to III of construction of the Project, and claims that it has made material progress toward meeting those plans.⁸ For these reasons, Puget contends, it has shown its firm intention to complete the project as planned, and the Commission should grant its Petition based on demonstrated milestones.⁹

III. Notice of Filing

9. Notice of the Petition was published in the *Federal Register*, 75 Fed. Reg. 39011 (July 7, 2010), with interventions or protests due on or before July 14, 2010. None were filed.

IV. Commission Determination

10. In reviewing the facts and circumstances underlying this proceeding, we decline to grant the declaration requested in the Petition. As discussed herein, we find that Puget may reserve transmission capacity over generator lead lines to serve its native load customers, consistent with the terms and conditions of its existing OATT. We therefore find Puget's reliance on *Milford* to support its request for priority use rights over the Lead Lines is misplaced.

11. While there may be factual similarities between the development of Milford's multi-phased wind project and the Project at issue here, there are material differences between *Milford* and this case, and these differences require a different result. Specifically, as the Petition explains, the output of the Project will ultimately serve Puget's native load customers,¹⁰ even though the Project is located in the Bonneville balancing area and will first interconnect to the Bonneville transmission system. This

⁷ Petition at 11 (citing *Aero Energy, LLC*, 118 FERC ¶ 61,204, at P 7, 19 (2007) (*Aero*)).

⁸ The plans and milestones that Puget cites in support of its request are described above. *See supra* P 3-4.

⁹ Because all power generated from the Project is intended to serve its retail customers, Puget argues that there should be no need for it to document a power purchase agreement in support of its request to obtain firm priority use rights on the Lead Lines. Petition at 12.

¹⁰ *Id.* at 4.

was not the case in *Milford*, which involved a merchant generation project developer that did not have native load customers,¹¹ and did not have an OATT on file. In *Milford*, we granted waiver of the requirement that *Milford* file an OATT until such time it received a third party request for service over its project's lead lines.¹² By contrast, Puget has native load customers and already has an OATT on file with the Commission. Under these circumstances, where an applicant's generation project is serving its native load customers and where the applicant has an OATT on file with the Commission, we find that generator lead lines to support such a project are properly governed by the terms and conditions of that existing OATT.

12. Because the terms and conditions of Puget's existing OATT will govern the Lead Lines, Puget is permitted to reserve transmission capacity on the Lead Lines in a manner consistent with that tariff and the Commission's open access policies. In Order No. 888,¹³ the Commission held that public utility transmission providers may reserve existing transmission capacity needed for native load growth reasonably forecasted within the utility's planning horizon.¹⁴ Such calculations are governed by the public utility's calculation of available transfer capability (ATC). Under its ATC calculation, Puget may reflect its Existing Transmission Commitments (ETC), including, among other things, capacity needed to serve native load, as well as reasonably forecasted native or network load growth over Puget's planning horizon.¹⁵ Attachment C of Puget's OATT sets forth the process that Puget must follow in calculating ETC and other ATC

¹¹ See *Milford*, 129 FERC ¶ 61,149 at P 3 (explaining that *Milford* entered into a power purchase agreement to sell the entire output of the first phase of its project to Southern California Public Power Authority).

¹² See *id.* P 24.

¹³ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

¹⁴ Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,694.

¹⁵ We note that Order No. 890 required public utility transmission providers to make their calculation of ATC and its various components more transparent. See, e.g., *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 243-247 (2007) (addressing ETC calculations).

components.¹⁶ By adhering to this process, Puget may reserve transmission capacity on the Lead Lines if needed to serve native load, based on a reasonable forecast over Puget's planning horizon. However, consistent with Order No. 888, transmission capacity reserved for future native load growth must be posted and made available until such time as the capacity is needed.¹⁷

13. We find that the Lead Lines are governed by Puget's existing OATT, that this tariff already establishes the process by which Puget may reserve transmission capacity in order to serve its forecasted native load, and that it is therefore unnecessary for us to address Puget's request for priority rights to use the Lead Lines under the *Milford* standard.¹⁸ Because Puget's OATT governs the terms and conditions of transmission service over the Lead Lines, we decline to provide the declaration sought in the Petition.

The Commission orders:

The Commission denies the declaration requested in the Petition, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁶ Puget OATT, Original Sheet Nos. 173F.01-173G.01.

¹⁷ See Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,694. Therefore, to the extent Puget does not need capacity on the Lead Lines to serve native load based on a reasonable forecast over Puget's planning horizon, Puget should make that capacity available to other customers.

¹⁸ Because we find it unnecessary for us to address Puget's request for priority use rights under the standard applied in *Milford* to obtain firm priority rights to use transmission capacity on the Lead Lines, we are not making any determination as to whether Puget has satisfied that standard.