



NIPPC Comments on TC-20 August 21 Workshop

The Northwest and Intermountain Power Producers Coalition (“NIPPC”) submits these comments in response to the materials presented to customers as part of the Bonneville Power Administration’s workshop on August 21, 2018.

General Comments

Throughout the course of the TC-20 workshop process, BPA has consistently pointed to the South of Alston decision as a tipping point in BPA’s history. BPA has come to the conclusion that it can no longer rely on building transmission lines as its sole solution to solving congestion on its system. BPA has repeatedly told customers that as part of its strategic plan, BPA needs to make new and different “flexible, scalable, economical and operationally efficient transmission investments.” The principles BPA has laid out to guide the TC-20 process and guide decisions about whether to pursue deviations from the pro forma¹ are intended to be consistent with BPA’s Strategic Plan and its “Transmission Business Model.”

From the perspective of NIPPC and many of its members, however, the TC-20 process has completely ignored the principal underlying purpose of the Open Access Transmission Tariff (the OATT). FERC adopted the OATT to:

¹ Implement BPA’s statutory and legal obligations, authorities, or responsibilities; Maintain the reliable and efficient operation of the federal system; Prevent significant harm or provide significant benefit to BPA’s mission or the region, including BPA’s customers and stakeholders; or Align with industry best practice when the FERC pro forma tariff is lagging behind industry best practice, including instances of BPA setting the industry best practice.

remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.²

Unfortunately, BPA appears to have consistently overlooked the underlying purpose of the OATT in determining whether to include specific changes to the BPA OATT in TC-20. BPA has evaluated its proposals against a wide variety of standards, but the impact to competition in the wholesale market in the Pacific Northwest does not appear to have been one of them. This failure to even consider, let alone the failure to conduct any in depth analysis of, the impacts that BPA's proposed tariff changes will have on the competitive wholesale market lead to the conclusion that the entire TC-20 process has been flawed from its inception.

BPA has consistently lauded its proposals as providing BPA with needed flexibility in light of its South of Alston decision. But BPA has also consistently overlooked - and ignored customers' entreaties - of the reality that in the context of a contract (like the OATT) flexibility for one party creates risk for the other parties. In proposing to adopt a suite of tariff reforms that give BPA the flexibility it claims to need to manage its transmission grid, BPA is also increasing the contractual risk for its transmission customers. While customers will continue to do business with BPA (BPA is after all a monopoly), customers will likely adapt to this risk by decreasing their exposure and increasing the prices they charge to their own customers. The impact of BPA giving

² *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. ¶ 31048, *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).

itself more flexibility in its OATT and business practices will likely be reduced liquidity in the Pacific Northwest wholesale energy market and increased wholesale energy prices for electricity consumers. If these impacts come to pass, they would be at odds with the primary purpose of the OATT. BPA's complete failure to consider - let alone analyze in depth - these implications is troubling. While BPA may think that the OATT is "holding it back" and that the OATT needs changes to allow BPA to be "more agile", that very agility is what creates uncertainty and risk for BPA's customers.

And as a final general comment, NIPPC is disappointed with the lack of analysis underlying many of BPA's decisions. Frequently, BPA rejects customer concerns and arguments with the mere statement that BPA "believes" the opposite. NIPPC suggests that blind faith in a different outcome is not a substitute for reasoned analysis.

Rollover/Remainder

The specific changes proposed by BPA are complicated and the slides that are intended to explain the proposal are confusing. Such complicated changes deserve a more detailed narrative explanation than has been provided to date. NIPPC notes that in substantial part the problem associated with the need for the proposed changes arises from BPA's consistent inability to process transmission requests prior to the service commencement date and the frequent delays of its cluster study process. Speeding evaluation of service requests and offers of service; and timely completion of its cluster study should allow BPA to avoid impacting customers.

Nevertheless, it appears clear that customers will still be able to submit for evaluation transmission requests that will qualify for rollover rights. NIPPC's primary concerns are how BPA will treat requests currently in the queue and the support BPA

will provide to customers in the early days of the new paradigm. Regardless of whether BPA operates a single OATT, or operates two OATT in parallel for a period of time, NIPPC asks BPA to provide customers with staff who can provide clear and accurate information to customers and advise them on how to craft transmission service requests that will meet their commercial needs. In the event a settlement allows BPA to operate a single OATT implementing these changes immediately, NIPPC asks BPA to provide customers with an opportunity to conform requests currently in the queue to the new paradigm without risking loss of their queue position. NIPPC also asks BPA to provide not only an opportunity to conform their requests but to make sure that customers have sufficient time and staff support to identify which of their requests in the queue need to be modified to continue to qualify for rollover rights.

Network Service Issues

NIPPC is neutral on many of the details of the proposed changes to Network Service. NIPPC does appreciate that BPA is finally beginning to take the details of Network Service seriously. Customers taking Network Service under the OATT have many affirmative obligations under the OATT including providing forecasts for load and resources, undesignating network resources used for wholesale transactions, and making their resources available for redispatch. Previously, NIPPC suggested that BPA provide an analysis of the costs and benefits of implementing redispatch of the non-Federal resources identified by Network customers as Designated Network Resources. While BPA has provided the conclusory statement that the costs outweigh the benefits, NIPPC continues to believe that at least some Network customers have dispatchable Designated Network Resources which could provide congestion relief — and that BPA

should call on that redispatch under the terms of the OATT. NIPPC agrees that is long overdue for Network Customers to fully comply with their obligations as OATT customers. Among the obligations Network customers have under the pro forma is the obligation to undesignate Designated Network Resources used to support wholesale sales. NIPPC encourages BPA to adopt the pro forma language requiring Network Service customers to undesignate Designated Network Resources of all wholesale sales, not just those of less than one year.

Hourly Firm

NIPPC is disappointed by BPA's decision to eliminate the hourly firm product. NIPPC notes that BPA has made this decision without any analysis of the resulting impact to the wholesale market in the Northwest. NIPPC members believe BPA elimination of hourly firm will result in higher prices and less liquidity. While this change may benefit BPA's secondary sales revenues and its preference customers, BPA should not use the OATT to protect the value of its own generation. Rather the whole point of the OATT was to increase competition and reduce wholesale power rates and limit the ability of transmission providers to favor their own generation resources in the wholesale market.

Given BPA's decision to eliminate hourly firm in the new tariff, NIPPC has a series of questions related to the transition from the existing tariff to the revised one:

- BPA assumes that BPA will successfully eliminate hourly firm in one fell swoop; Assuming no settlement, how will BPA transition customers between its tariffs?
- Will customers who continue to have service under the existing tariff still be able to take hourly service? If not, why not?
- Will BPA continue to sell unlimited hourly firm to those customers?
- If BPA is able to come up with a way to calculate a limited quantity of hourly firm it can sell to customers taking service under the legacy OATT, why is that also not a long term solution under the new tariff?

- What is to prevent one customer from purchasing hourly firm and transferring it to another?
- How long will it take for BPA to fully transition all customers to the new tariff?
- Will BPA Power purchase hourly firm during the transition?

NIPPC suggests that the only viable solution is for BPA to offer a limited quantity of hourly firm service. BPA will have to implement a limit on the hourly service it can offer to customers continuing to take service under the existing tariff (for all the reasons described in the workshops). Once BPA has done the work to calculate and implement a limit to the quantity of hourly firm service it can sell to customers under the existing tariff, there is no longer any reason to justify refusing to offer customers under the new tariff that same service.

ACS Schedules

NIPPC stands by its earlier comments critical of the proposed language for the ACS schedules. Again BPA dismisses customer concerns with the statement that BPA “believes” its solution is the correct one. As noted in the general comments, the flexibility that BPA seeks simply creates risk and uncertainty for BPA’s customers. BPA’s refusal to clearly state what it is obligated to provide within the bounds of the contract (the OATT) creates concerns for customers that BPA will in the future (as it has in the past) take unilateral actions that benefit BPA and some classes of customers to the detriment of other classes of customers. The reality is that if BPA had not abused its business practices processes in the past in a way that caused actual harm to customers, customers might not now be as concerned about BPA proposals to place important commercial terms and conditions of service in a business practice. As will be further elaborated below and contrary to BPA’s beliefs, BPA’s proposed business practice process actually provides customers with no additional certainty. NIPPC urges

BPA to consider its proposed tariff language from the perspective of a customer; and provide its own customers with the same level of commercial certainty it would expect from one of its own service providers.

Loss Factors

Once again while BPA claims to have “heard” customers’ concerns about the proposal to document loss factors in a business practice, BPA has chosen to ignore those concerns. NIPPC stands by its earlier arguments encouraging BPA to document loss factors - or at least the methodology - in the tariff. Documenting loss factors in a business practice does not provide customers with commercial certainty — especially in light of BPA’s past practice of circumventing its own processes and implementing changes to business practices that have significant impact on customers’ business without notice or customer input.

Business Practices

BPA has proposed a set of guidelines to which it will “adhere” when developing or revising business practices. Only one section of that document (section b) provides any limitation on BPA’s ability to implement a business practice. That section merely requires BPA to give notice and a 20 day comment period. The other operative sections (a, and d-f) describe all the circumstances under which BPA may (at its sole discretion) eliminate the notice period and expedite or eliminate the customer comment period. While these guidelines might be reasonable if they simply documented BPA’s internal processes; these guidelines are not reasonable if BPA plans to use business practices to document material terms and conditions of transmission service. As

NIPPC has argued in earlier comments, some topics (including loss factors and the details related to the quality of service) are not appropriate in a business practice that BPA can unilaterally change after a 20 day comment period, let alone a process that allows BPA to unilaterally decide to expedite that process.

Miscellaneous Tariff Sections

NIPPC notes with disappointment that many topics have been deferred to the TC-22 process. NIPPC questions whether a process that limits changes to the transmission tariff will be “flexible or efficient” for BPA to meet the goals laid out in its strategic plan. For example, the interconnection queue reforms of Order 845 that investor owned utilities will be implementing in November 2018 will not be considered by BPA until 2022 (at the earliest). NIPPC also notes that many topics BPA has deferred to TC-22 are merely compliance issues; BPA needs to take no tariff amendment to begin complying with the underlying policy goals of Attachment K, Attachment C.

August 28, 2018