

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Iberdrola Renewables, Inc.;)	
PacifiCorp;)	
NextEra Energy Resources, LLC)	
Invenergy Wind North America LLC)	
and)	
Horizon Wind Energy LLC)	
Complainants,)	Docket No. EL11-44-000
)	
v.)	
)	
Bonneville Power Administration)	
Respondent)	

**COMMENTS OF
XCEL ENERGY SERVICES INC.**

Pursuant to Rule 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011) and the Commission’s Notice of Compliance Filing in this docket, issued on March 7, 2012, Xcel Energy Services Inc. (“XES”) hereby files these comments on behalf of its utility operating company affiliate Public Service Company of Colorado (“PSCo”) in the above-captioned proceeding. XES respectfully requests the Commission consider its comments.

In the Commission’s Order Granting Petition, it directed Bonneville Power Administration (“Bonneville” or “BPA”) to file tariff revisions that address the comparability concerns raised in this proceeding and reconcile the provision of comparable services that is not unduly discriminatory or preferential with Bonneville’s organic (or enabling) statutes.¹ Bonneville’s proposed Oversupply Management Protocol

¹ Bonneville’s organic (or enabling) statutes include the Northwest Power Act, 16 U.S.C. §§ 839(b) *et seq.* (2006); the Federal Columbia River Transmission System Act, 16 U.S.C. § 838d (2006); the Pacific Northwest Power Preference Act, 16 U.S.C. § 837 (2006); and the Bonneville Project Act, 16 U.S.C. § 832 (2006).

("OMP") does not clearly address comparability concerns raised in the proceeding, nor does it reconcile comparability with its organic statutes. Therefore the Commission should reject this compliance filing, or alternatively, require additional compliance filings.

I. BACKGROUND

On June 13, 2011, Iberdrola Renewables, Inc.; PacifiCorp; NextEra Energy Resources, LLC; Invenergy Wind North America LLC; and Horizon Wind Energy LLC (collectively, "Complainants") jointly filed a *Complaint and Petition for Order* ("Complaint") with the Commission against Bonneville. The Complaint concerned Bonneville's issuance and subsequent implementation of an Administrator's Final Record of Decision on Bonneville's Interim Environmental Redispatch and Negative Pricing Policies ("Environmental Redispatch Policies"). Bonneville issued its Environmental Redispatch Policies on May 13, 2011, intending that they remain in place until March 30, 2012. Under the terms of its Environmental Redispatch Policies, when certain system conditions occur, Bonneville would have replaced the scheduled generation of non-federal generators² in the Bonneville Balancing Authority Area ("BAA") with Bonneville's hydropower generation. Bonneville began implementing its Environmental Redispatch Policies on May 18, 2011.

On July 19, 2011, XES filed a motion to intervene and comments in this proceeding. XES suggested, *inter alia*, that the Commission should direct Bonneville to comply with established open access transmission service principles should the allegations of the Complainants' prove true.

² XES notes that the Bonneville's policies apply to all non-federal generators, including thermal generation. Bonneville reports there is over 3500 MW of wind generation capacity in its BAA.

On December 7, 2011, the Commission granted the Complainants' Petition and made XES, among others, a party to this proceeding.³ The Commission found that Bonneville's "Environmental Redispatch Policy results in noncomparable transmission service that unfairly treats non-Federal generating resources connected to Bonneville's transmission system."⁴ The Commission therefore directed Bonneville to file "tariff revisions that address the comparability concerns raised in this proceeding in a manner that provides transmission service on terms and conditions that are comparable to those under which Bonneville provides transmission services to itself and that are not unduly discriminatory or preferential[.]"⁵ The Commission continued, "Bonneville must also reconcile the provision of comparable services that is not unduly discriminatory or preferential with its organic statutes."⁶

On March 6, 2012, Bonneville submitted a filing in this docket. The filing contained a new Attachment P to its tariff, which sets forth an OMP.⁷ Bonneville proposes that the Commission consider the OMP a "short-term approach to Bonneville's overgeneration problem while Bonneville and the region seek longer-term solutions."⁸ As discussed in the March 6 Filing, Bonneville proposes to implement its OMP when it determines that it is probable that the total dissolved gas ("TDG") levels will exceed, or exceed, Oregon and Washington water quality standards at projects spilling water past

³ *Iberdrola Renewables, Inc., Pacific Corp, NextEra Energy Resources, LLC, Invenergy Wind North America LLC, Horizon Wind Energy LLC v. Bonneville Power Administration*, Order Granting Petition, 137 FERC ¶ 61,185 at P 16 and App. A (2011) (hereinafter "Order Granting Petition").

⁴ *Id.* at P 62.

⁵ *Id.* at P 64.

⁶ *Id.* at P 65.

⁷ As Bonneville noted in its March 6 Filing at p. 30, it does not have a baseline tariff on file with the Commission. Bonneville thus filed only certain sections of its Tariff and included as an exhibit definitions from its tariff and rate schedules that it used in Attachment P.

⁸ Bonneville's March 6 Filing at p. 12 (hereinafter the "March 6 Filing").

unloaded turbines.⁹ In that situation, Bonneville will displace generation, in order from facilities costing the least to displace to those costing the most to displace, until the required displacement is achieved.¹⁰ Under the OMP, Generators can be compensated to a certain degree for their displacement. Bonneville proposes that displacement costs be allocated fifty percent to Generators that submit displacement costs under the OMP and fifty percent to purchasers of power from the Federal Based System.¹¹ Bonneville emphasizes, however, that the allocation methodology is only a proposal because Bonneville can only establish rates under the procedures provided in section 7 of the Northwest Power Act.¹²

II. COMMENTS

When the Commission reviews a compliance filing, it must determine “whether the changes proposed comply with the Commission’s previously stated directives.”¹³ In this case, the Commission directed Bonneville to file “tariff revisions that address the comparability concerns raised in this proceeding in a manner that provides transmission service on terms and conditions that are comparable to those under which Bonneville provides transmission services to itself and that are not unduly discriminatory or preferential”¹⁴ and “reconcile the provision of comparable services that is not unduly

⁹ *Id.* at p. 13-14.

¹⁰ *Id.* at p. 14.

¹¹ *Id.* at p. 21.

¹² *Id.* at p. 23 (citing 16 U.S.C. § 839e (2009)).

¹³ *See New York Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,042, at P 28 (2009); *see also AES Huntington Beach, LLC*, 111 FERC ¶ 61,079, at P 60 (2005); *Midwest Indep. Transmission Sys. Operator, Inc.*, 99 FERC ¶ 61,302, at 62,264 (2002).

¹⁴ Order Granting Petition at P 64.

discriminatory or preferential with its organic statutes.”¹⁵ Some of the comparability concerns raised by parties included, *inter alia*, that Bonneville did not subject its own generation or its own transmission to similar treatment under its Environmental Dispatch Policy¹⁶ and that Bonneville sought to use its market power over transmission to prevent negative prices and to avoid costs to its preference customers.¹⁷ Bonneville’s proposed OMP does not address these comparability concerns, nor does it reconcile comparability with its organic statutes. Therefore, the Commission should reject the March 6 Filing, or alternatively, accept the filing as partial compliance and require additional Bonneville compliance filings within 90 days of the Commission’s order on the OMP.

Bonneville proposes that “[a]ll Transmission Customers that own or operate generating facilities in [Bonneville’s] Control Area and all generators that own and operate generating facilities in [Bonneville’s] Control Area” are subject to displacement under the OMP.”¹⁸ The OMP then provides that Bonneville “will deliver Federal hydroelectric energy to replace the reduced generation. . .”¹⁹ This proposal does not provide comparable service to all users of the Bonneville transmission system as the Commission ordered. Instead, the proposed OMP would improperly provide Bonneville the right to curtail third-party generators whose operation is not the cause of the TDG problems on Bonneville’s system. Bonneville has not established through an appropriate reconciliation that this proposal is reasonable or consistent with the Commission’s order.

¹⁵ *Id.* at P 65.

¹⁶ *Id.* at P 61.

¹⁷ *Id.* at P 48.

¹⁸ March 6 Filing at Exhibit A, Original Sheet No. 453.

¹⁹ *Id.*

One approach that Bonneville could have proposed in the OMP would have been to allow negative market pricing for generation on its system during periods of high run-off. Modern electricity markets routinely use negative prices for generation during excess conditions to drive the markets to an approach that addresses the over-supply conditions. It should also be noted that the negative costs are borne by the generators causing the oversupply condition, which in this case is Bonneville. Yet Bonneville has apparently rejected this common market solution to address its run-off issues. A negative market pricing proposal would also provide assurance to third parties that Bonneville has taken all reasonable alternative measures to address its oversupply situation by providing Bonneville a significant financial incentive to implement alternative measures that would avoid negative market pricing.

The OMP is also not clear as to whether Bonneville will ensure that its grid is fully utilized before it curtails any generation on its system. This issue is simply not addressed in the OMP. The OMP provides in relevant part “[b]efore displacing generation under [the OMP, Bonneville] will take all actions that, *in its determination*, are reasonable means to reduce or avoid the need for displacement.”²⁰ Typically transmission usage should be curtailed only during times of congestion.

Before Bonneville curtails third-party generation, it should be required to use reasonable measures to redispatch the system to avoid an overload of the system; e.g., redispatch should be used unless the system will overload absent curtailment. The *pro forma* tariff requires redispatch prior to curtailment.²¹ Order No. 890 requires

²⁰ *Id.* (emphasis added).

²¹ See *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶

transmission providers to make their Available Transmission Capacity calculation procedures transparent.²² This requirement should not be limited to whether the limits of a contract path have been (or will be) exceeded. Rather, curtailments should be made on a pro-rata basis based on actual system flows rather than the fictional determination of impacts on contract paths. **Absent utilization of actual system flows as a basis of curtailment, Bonneville's grid will be underutilized and generation unnecessarily curtailed.**

The OMP would also authorize Bonneville to use transmission service sold to other users and then impose a cost on those other users associated with Bonneville's confiscation of their transmission service. While this proposal has not yet been approved by the Bonneville Administrator, it demonstrates another comparability concern: Bonneville has shifted and is proposing to continue to shift costs from its preference customers to third parties. Generally, entities are charged for services provided. **In the cost allocation methodology under the OMP, however, Bonneville proposes to charge entities for services for which they contracted but were not provided.**

During times of high run-off, Bonneville apparently requires more load to serve. The OMP effectively proposes to allow Bonneville to take loads (inside or outside of the Bonneville BAA) from other generators under conditions less favorable to those generators than would occur if the system were simply redispatched. To the extent Bonneville needs more load to reconcile its TDG obligations and its wholesale energy market performance, the customers that benefit from the Federal Power System (i.e., the

31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC Stats. & Regs. ¶ 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).

²²

Id.

Bonneville loads) should have exclusive responsibility for the costs of that reconciliation, whether it is dictated by reliability or environmental concerns. The cost of that reconciliation should not be borne by those using the transmission system in accordance with their rights established under approved contracts. If the Commission allows this treatment for the generators located in the Bonneville BAA, the Commission should clarify that this treatment applies only to schedules sourcing or sinking in Bonneville's BAA and not to schedules involving transmission through Bonneville's BAA.

In the Commission's Order Granting Petition in this docket, the Commission required Bonneville to reconcile the Commission's comparability concerns with Bonneville's "organic statutes." Bonneville's March 6 Filing does not propose comparable use of the transmission mission system by Bonneville and third parties nor did Bonneville's filing reconcile the Commission's requirements with Bonneville's organic statutes. Bonneville's OMP should therefore be rejected or, in the alternative, Bonneville should be required to provide the reconciliation within 90 days of the Commission's order on the OMP.

III. CONCLUSION

Wherefore, XES respectfully requests the Commission reject Bonneville's compliance filing, or alternatively, require additionally compliance filings once Bonneville has submitted its baseline tariff filing and rate case to the Commission to ensure compliance with all Commission directives contained in its Order Granting Petition.

Respectfully submitted,

XCEL ENERGY SERVICES INC.

/s/ Mara N. Koeller

Mara N. Koeller
Associate Attorney
Xcel Energy Services, Inc.
414 Nicollet Mall – Fifth Floor
Minneapolis, MN 55401
Phone: (612) 215-4605
E-Mail: mara.n.koeller@xcelenergy.com

Attorney for Xcel Energy Services Inc.

Stephen J. Beuning
Director, Market Operations
Xcel Energy Services Inc.
1800 Larimer St, Suite 1000
Denver, CO 80202
Phone: 303-571-2711
Email: stephen.j.beuning@xcelenergy.com

Date: March 27, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Minneapolis, MN this 27th day of March, 2012.

/s/ O'Disha Fields

O'Disha Fields
Xcel Energy Services Inc.
414 Nicollet Mall
Minneapolis, MN 55401