

Commission Orders BPA to Provide Comparable Transmission Access

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On December 7, the Federal Energy Regulatory Commission (Commission) used its authority under Section 211A of the Federal Power Act to direct Bonneville Power Administration (BPA) to submit a revised Open Access Transmission Tariff (OATT) that, according to the Commission, will provide “comparable transmission service that is not unduly discriminatory or preferential.” Section 211A, added to the Federal Power Act by the Energy Policy Act of 2005, grants the Commission the discretion to require unregulated transmission utilities to provide comparable, nondiscriminatory, open access to their transmission systems similar to the requirements imposed on jurisdictional public utilities. The order will have a significant impact on nonjurisdictional transmission providers’ reciprocity OATTs and may influence how these entities comply with the regional planning obligations of Order No. 1000.

The Commission’s order was the result of a complaint filed by a group of wind developers in the Pacific Northwest, alleging that BPA uses its environmental redispatch policy to curtail wind generators in an unduly discriminatory manner. Under the policy, BPA issues dispatch orders to curtail generation and uses the firm transmission rights associated with the wind generation output to deliver federal hydropower to the wind generators’ customers. The environmental redispatch policy also provides that BPA will not pay negative prices during environmental redispatch. BPA unilaterally amended its large generator interconnection agreements to reference the policy, requiring all generators with an interconnection agreement to comply with BPA’s redispatch orders and reduce generation when ordered to do so.

Despite BPA’s contention that challenges to its environmental redispatch policy are within the exclusive jurisdiction of the Ninth Circuit, the Commission determined it was appropriate for it to act under Section 211A because BPA’s environmental redispatch policy significantly diminishes open access to transmission and permits BPA to provide transmission service to others on terms and conditions that were not comparable to those it provides itself. BPA’s ability to order generators to reduce generation interrupts the transmission service obtained by customers in order to deliver federal hydropower from BPA’s system. Additionally, according to the Commission, the environmental redispatch policy harms load-serving entities by curtailing generation from renewable resources that would have been eligible to help satisfy state renewable portfolio standard requirements. As a result, the Commission ordered BPA to file tariff revisions within 90 days addressing the comparability concerns and providing transmission service on terms and conditions that are not unduly discriminatory or preferential.

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