Northwest & Intermountain Power Producers Coalition

NIPPC

TC-20 White Paper

Executive Summary

While BPA has undertaken efforts to modernize its approach to Transmission Service through the development of its Strategic Plan, Transmission Business Model, *Pro Forma* Gap Analysis and now TC-20, the agency has consistently failed to consider the impact of its proposed reforms on competition. In many respects, customers, NIPPC members among them, agree with BPA staff that the status quo is no longer viable.   BPA staff has identified a discrete set of problems with the existing tariff; but in many cases the proposed solutions are unlikely to solve the identified problems. The unavoidable consequence is to inject significant long-term uncertainty into customers' contractually based interaction with BPA. NIPPC suggests that the best course of action is to temporarily set aside tariff reform and re-direct the region's resources towards solving the many underlying operational challenges Bonneville faces. Once solutions to those problems are implemented and BPA has made a decision regarding participation in the California System Operator Energy Imbalance Market (EIM) Bonneville and its customers should then resume negotiations on a tariff that includes topics identified for reform in TC-20 as well as items deferred to TC-22 and any additional reforms required for BPA to join the EIM.

Introduction

Throughout the course of the TC-20 workshop process, BPA has consistently pointed to the South of Alston decision as a tipping point in its 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. As part of its strategic plan, BPA now strives "to develop a more flexible, scalable, economical and operationally efficient approach to meeting the needs of transmission customers."[1] BPA's new approach is intended to guide the management of the transmission system, planning decisions, servicing Network Integration customers, and standardizing products and services to better align with FERC's pro forma tariff and industry best practices. These principles, which are spelled out in both the strategic plan and BPA's Transmission Business Model, are to guide the TC-20 (Tariff Terms and Conditions) process and the specific decisions about whether to align with the *pro forma* or pursue deviations from the *pro forma*[2].

FERC, however, did not adopt the *pro forma* OATT to make operations easier for transmission providers. FERC adopted the OATT to:

> remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.[3]

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[1] BPA 2018 - 2023 Strategic Plan, page 46.

[2] BPA's principles for considering deviations from the *pro forma* OATT are: 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.

[3] *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,

Despite requests from customers, BPA has refused to expand its tariff revision principles to include additional and equally important considerations.   Among additional factors that BPA should have considered in the TC-20 process are:

- Non-Discriminatory open access
- Fair, competitive wholesale power market
- Reduced prices for all consumers
- Contractual certainty for BPA's customers
- Stable, predictable regulatory environment

Non-Discriminatory Open Access

Unfortunately, BPA appears to have consistently ignored the underlying purpose of the OATT in determining whether to include specific changes to its OATT in TC-20 and TC-22. Moreover, BPA's financial policies (individually and in aggregate), which will be reflected in BPA's tariff and its rates, represent a cross subsidy shifting substantial costs that should be borne by BPA's Power Customers to its Transmission Customers.

Fair, competitive wholesale power market and impact to market prices

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

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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).

the competitive wholesale market lead to the conclusion that the entire TC-20 process has been flawed from its inception.

Many of the changes BPA has proposed are intended to allow BPA's Network customers greater or enhanced access to transmission service, but without requiring Network customers to comply with all of the requirements of Network Service under the OATT. Among the *pro forma* OATT obligations that BPA does not enforce on its Network customers are the obligation to make Designated Network Resources (DNR) available for redispatch, and the requirement for NT customers to un-designate their DNRs when making short term sales from those resources. BPA should undertake a detailed review of the requirements of Network Service customers under the *pro forma* OATT and enforce them.

At the same time, Bonneville is seeking to reduce the requirements and obligations on Network Customers and actively implementing reforms designed to enhance the value of Network Service while doing the exact opposite with regard to its Point-to-Point Customers. Elimination of the Hourly Firm service will require modification of Sections 9 and 13.8 of BPA's existing OATT.[4] BPA's proposal to

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[4] 13.8 Scheduling of Firm Point-To-Point Transmission Service
Schedules for the Transmission Customer's Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than 10:00 a.m. [or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider] of the day prior to commencement of such service. Schedules submitted after 10:00 a.m. will be accommodated, if practicable. Hourly Firm Point-To-Point Transmission Service can be requested on the day of delivery up to twenty (20) minutes prior to the hour of delivery. Hour-to-hour schedules of any capacity and energy that is to be delivered must be stated in increments of 1,000 kW per hour [or a reasonable increment that is generally accepted in the region and is consistently adhered to by the Transmission Provider]. Transmission Customers within the Transmission Provider's service area with multiple requests for Transmission Service at a Point of Receipt, each of which is under 1,000 kW per hour, may consolidate their service requests at a common point of receipt into units of 1,000 kW per hour for scheduling and

eliminate Hourly Firm service will likely reduce liquidity in the Northwest power market and increase wholesale prices. During workshops, BPA attempted to justify its proposal in a variety of ways, but on closer analysis none of staffs' justifications bear any correlation to the problem. BPA has argued that the Hourly Firm product sends the wrong price signals to the market, requires a high level of customization, and undermines curtailment priorities with other Network and Point to Point products.

Customers have conceded that BPA can no longer offer an unlimited quantity of Hourly Firm service. But BPA does not appear to have seriously analyzed its ability to respond accordingly; to offer a limited quantity of Hourly Firm service. Instead, BPA has proposed to eliminate Hourly Firm for the following reasons:

- Best supports BPA's strategic direction;
- Best supports the Transmission Business Model;
- Best reduces conflict among the products within BPA's product portfolio;
- Provides the most appropriate product differentiation; and
- Promotes better planning by more closely aligning reservations and expected usage patterns and incenting customers to secure transmission further in advance.

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billing purposes. Scheduling changes will be permitted up to twenty (20) minutes [or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider] before the start of the next clock hour provided that the Delivering Party and Receiving Party also agree to the schedule modification. The Transmission Provider will furnish to the Delivering Party's system operator, hour-to-hour schedules equal to those furnished by the Receiving Party (unless reduced for losses) and shall deliver the capacity and energy provided by such schedules. Intra-hour scheduling changes will also be permitted if the Delivering Party and the Receiving Party agree to the modification and if the change is made in accordance with the Transmission Provider's scheduling business practices. Should the Transmission Customer, Delivering Party or Receiving Party revise or terminate any schedule, such party shall immediately notify the Transmission Provider, and the Transmission Provider shall have the right to adjust accordingly the schedule for capacity and energy to be received and to be delivered.

Short of conclusory statements[5], BPA has provided no real analysis of how eliminating Hourly Firm supports its strategic direction. In fact, staff recently indicated that BPA simply has very little short term or hourly transfer capability across most flowgates, which calls into question the ability and value of BPA participating in the EIM. With regard to the Transmission Business Model, BPA suggests that eliminating Hourly Firm provides customers with greater certainty and stability. To the contrary, completely eliminating a core feature of Point-to-Point service under BPA's tariff that has been in place for over 20 years and contributes to market liquidity and lower prices is unlikely to provide customers with certainty and stability.

BPA has also suggested that it must eliminate Hourly Firm because the product is inconsistent with how BPA plans its system. BPA suggests that it plans its system on a long term basis and that Hourly Firm use stresses the system in ways it has not designed to handle. At the same time, BPA suggests customers will shift their transmission use to other short term firm products. But BPA's argument against Hourly Firm should equally apply to daily, weekly and monthly transmission service. There is no reason that shifting customer demand to daily service should not have the same impact in stressing the system in ways it was not designed to handle. BPA's planning process should be just as incapable of anticipating demand for Daily Firm Service as Hourly Firm Service. Moreover, limiting Hourly Firm to ATC (*Available* Transfer Capability) should not negatively impact how BPA plans its system.

[5] At the settlement workshop for TC-20, BPA did finally provide some analysis that purported to show the impacts of Hourly Firm sales on ATC. But the examples presented - when subject to even the slightest scrutiny - fail to convincingly support staff's conclusions.

Bonneville also claims that Hourly Firm Service limits the ability of Network customers to obtain transmission service. The availability of a limited quantity of Hourly Firm Service should not have any impact on Network customers requesting and obtaining long term Network Service. As BPA acknowledges, it plans its system using a ten year horizon. Hourly Firm may limit the ability of Network Customers to use Secondary Network Service, but NERC's priority codes dictate that Secondary Network service has a lower priority than firm transmission service. And if BPA is correct that customers will shift to other Short Term Firm products upon the elimination of Hourly Firm, those other products would also be superior to Secondary Network Service.[6]

BPA has suggested that Hourly Firm Service requires significant customization of systems and processes. But those customization challenges should be sufficiently addressed by the tools that BPA has already developed to determine hourly Available Transmission Capacity (ATC) and Available Flowgate Capability (AFC). It appears that the issue is not one of system awareness but rather *implementation* of the systems that allocate or award the ATC/AFC.[7] This implementation problem is similar to BPA's inability to process its queue in accordance with the timelines FERC expects or to timely process its annual cluster studies. Moreover, BPA has not explained how elimination of the Hourly Firm product will "fix" its queue/study processing problem.

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[6] 28.4 Secondary Service — The Network Customer may use the Transmission Provider's Transmission System to deliver energy to its Network Loads from resources that have not been designated as Network Resources. Such energy shall be transmitted, on an as-available basis, at no additional charge. Secondary service shall not require the filing of an Application for Network Integration Transmission Service under the Tariff. However, all other requirements of Part III of the Tariff (except for transmission rates) shall apply to secondary service. Deliveries from resources other than Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under Part II of the Tariff.

[7] If existing system awareness tools are in fact lacking, then attention should be focused on that work, along with improved implementation efforts.

Contractual Certainty

BPA has consistently lauded its proposals as providing 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 forother 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), they will likely adapt to this risk by decreasing their exposure and increasing the prices they charge to their customers. The impact of BPA giving itself more flexibility in its OATT and business practices will likely lead to reduced liquidity in the Pacific Northwest power market and increase wholesale energy prices for electricity consumers. If these impacts come to pass, they would be directly at odds with the primary purpose of the *pro forma* OATT. BPA's complete failure to consider - let alone analyze in depth - these implications is troubling. While BPA may think that its current OATT is "holding it back" and that its OATT needs changes to allow BPA to be "more agile", that very agility is what creates uncertainty and risk for its customers.

BPA has also indicated that the TC-20 process is simply the first stage of an ongoing tariff reform effort. Many topics have already been targeted for revision in "TC-22." Customers have no certainty that any agreement coming out of the TC-20 settlement process will survive more than two years. Any concessions customers make in current settlement talks will be gone forever, but any concessions BPA makes may be back on the table in TC-22.

Two Transmission Tariffs

BPA recognizes that it cannot unilaterally terminate its existing tariff and convert customers to the new tariff without their consent. The agency's initial concept was to draft the "new" OATT and gradually transition customers to the new tariff as their service agreements came up for renewal. BPA now claims it will be difficult and confusing for BPA and customers to operate two tariffs in parallel, and potentially two sets of rates. BPA also claims that it will not be able to join the EIM if managing two separate transmission tariffs. But the idea to have two separate tariffs was BPA's. Bonneville can today go to FERC under Section 9 of the existing OATT to request modifications of the OATT to address any changes it believes it needs. But BPA made the decision to not pursue that solution and instead proposed to develop a new tariff and manage it in parallel with the existing OATT, with all the challenges and risks that decision would entail.

Settlement

A BPA decision to unilaterally eliminate Hourly Firm would most certainly result in litigation, as unilateral changes would be a violation of the contract, and any change to the existing tariff requires FERC review. Any breach of an existing Transmission Agreement would be decided in the Court of Claims or the Federal District Court. In an effort to encourage customers to agree to transition en masse to the new tariff, BPA has suggested that all topics are on the table for settlement of the TC-20 process. But the concessions BPA has hinted it is willing to make are all problematic.

As a threshold matter, there are no guarantees that any concessions BPA makes will last more than two years. Bonneville has indicated that it plans to modify its tariff significantly in TC-22 and regularly thereafter. Customers have no assurance that BPA will not reverse itself on concessions made to customers in settling TC-20.

BPA has hinted that it would be willing to provide a 10 year conditional firm product within the next six months. But a 10 year product is not long enough to support financing for a generation project with a projected useful life of 20 or more years. It is also apparent that a significant quantity of conditional firm service would have the same impact on operations and impact on requests for Network Service as the Hourly Firm Service which BPA indicates it can no longer support.

BPA has hinted that it would be willing to offer Daily Firm or Shapeable Day-Ahead service instead of Hourly Firm, however, this will simply result in an incremental cost for a service that was part of Firm service, and it will shift the flexibility that BPA claims is problematic to another service. And again, BPA staff claims that short term ATC is not actually available.

BPA has also hinted that it will consider delaying its leverage policy. But realistically, how can BPA implement a "leverage[8]" policy that would result in a 10% rate increase to transmission rates on top of an already proposed 10% rate increase to maintain BPA's existing program levels while at the same time ensuring power rate increases do not exceed 4%? A review of the proposed leverage policy also reveals that it is a significant cost shift from Transmission Customers to Power Customers.[9]

In short, BPA is asking Transmission Customers to give up terms of service which provide them with real value (Hourly Firm) while taking on significant regulatory

[8] Leverage refers to BPA's Debt to Asset ratio

[9] Transmission's debt to asset ratio (while forecast to increase) is already within BPA's near term target; but transmission customers bear the entire rate increase under the leverage policy even though Power's debt to asset ratio is nearly 10% higher than Transmission's ratio.

and contractual risk for the future while offering them nothing of any real or sustainable value in return.

Recommended Next Steps

BPA staff is to be commended on recent efforts to update its long-term ATC methodology or what is called the “Commercial Assessment”. We believe this effort provides an important example of how technical, mechanical and methodological challenges could be addressed. Most importantly, these challenges, left unresolved, will undermine whatever transmission tariff is in place.

From our perspective, BPA and its customers would be best served by redirecting our collective focus away from the tariff and onto a handful of priority issues. In this document, NIPPC puts forward the following topics for consideration:

(1) BPA’s financial challenges and the importance of the Power and Transmission business lines each shouldering their fair share;

(2) The need for BPA to better understand its daily and hourly Available Transfer Capability in order to allow “limited” Hourly Firm, and to position the agency to participate in the EIM, operated by the California Independent System Operator; and

(3) The apparent confusion in terms of what Network Integration Transmission Service is and is not, which includes clarifying the interplay between NT and Point-to-Point service.

In addition, NIPPC believes that additional attention on the timely processing of requests for service, Cluster Studies, and generation-interconnection procedures is badly needed.

We do not see this list as being definitive – other customers will undoubtedly suggest additional topics for consideration. However, and most importantly, we believe that the efforts currently directed towards developing a new tariff should be redirected to solving these technical issues in the short term. Doing so will provide two side benefits; a single tariff will facilitate participation in the EIM, and a single tariff will free up BPA staff and customer resources to address issues that need to be resolved, no matter what tariff is in place. The region could use the time between now and the start of the BP-20 proceeding to collaboratively engage on these issues, which could result in tangible successes for the region; successes like the Commercial Assessment.

September 18, 2018