

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suede G. Kelly.

PacifiCorp

Docket No. ER05-505-000

ORDER ACCEPTING IN PART AND REJECTING IN PART NETWORK
INTEGRATION TRANSMISSION SERVICE AGREEMENT

(Issued March 25, 2005)

1. In this order, the Commission accepts in part and rejects in part a Network Integration Transmission Service Agreement (Service Agreement) between PacifiCorp and Sempra Energy Solutions (Sempra) under PacifiCorp's Open Access Transmission Tariff, FERC Electric Tariff, Fifth Revised Volume No. 11 (Tariff), to become effective January 1, 2005. This order benefits customers because it provides just and reasonable terms and conditions of transmission service.

I. Background

2. On January 28, 2005, PacifiCorp filed a Service Agreement dated December 29, 2004, between PacifiCorp and Sempra under PacifiCorp's Tariff. The purpose of the Service Agreement is to provide Sempra with the transmission service to serve seventy-one former retail customers of PacifiCorp under the Oregon Direct Access Program (Oregon Direct Access).

3. Under Oregon Direct Access, eligible retail customers have the option of purchasing energy directly from PacifiCorp or a qualified Electric Service Supplier (Alternate Supplier) such as Sempra. When energy is purchased from an Alternate Supplier, that Supplier is required to take transmission and ancillary services¹ from PacifiCorp under its generally applicable FERC Open Access Tariff.

¹ Retail customers under Oregon Direct Access that purchase energy from an Alternate Supplier are to also purchase distribution service under the rate schedules of Oregon Direct Access Delivery Service.

4. In the instant filing, the retail customers have chosen to take service from an Alternate Supplier, Sempra. Accordingly, Sempra has requested Network Integration Transmission Service under Part III of PacifiCorp's Tariff. Provisions in Part III allow for compensation for real power losses at a loss factor level designated in Schedule 9² of the Tariff. Schedule 9 of PacifiCorp's Tariff designates a loss factor of 8.04 percent that will be applied to combined transmission and distribution service taken by all customers.

5. Attachment H of the Tariff outlines a form of service agreement for transmission customers taking service under the Tariff. The Service Agreement in the instant filing conforms to PacifiCorp's form of service agreement in Attachment H, with the exception of Exhibit D to the Service Agreement. Exhibit D designates the transmission customer's points of delivery and application of a loss factor of 13.68 percent which, as indicated by PacifiCorp, includes losses associated with service at the secondary distribution level. PacifiCorp is filing this Service Agreement because it includes a loss factor that is different from the generally applicable 8.04 percent loss factor in its current Tariff. Sempra sent a letter dated December 28, 2004 objecting to the loss factor, but still executed the Service Agreement on December 29, 2004. The retail customers began taking service from Sempra on January 1, 2005.

II. Filing

6. In Exhibit D to the Service Agreement with Sempra, PacifiCorp includes a loss factor equal to 13.68 percent, which includes secondary distribution losses.³ PacifiCorp proposes to apply the loss factor to all energy metered at the service delivery location for Sempra's customers. The service delivery location for all seventy-one of Sempra's retail customers is on PacifiCorp's secondary distribution system which is 480 volts or less. PacifiCorp states that Sempra objected to the 13.68 percent loss factor during negotiation of the Service Agreement because Schedule 9 of PacifiCorp's current Tariff lists PacifiCorp's combined transmission and distribution losses at 8.04 percent. PacifiCorp argues that the 8.04 percent loss factor is only applicable to the use of its transmission and primary distribution system on a system-wide rolled-in basis.

7. PacifiCorp states that Sempra's network resource is the interconnection between PacifiCorp and the Bonneville Power Administration at the transmission voltage level. Therefore Sempra utilizes PacifiCorp's transmission system (46 kV and above), primary distribution system (between 46 kV and 480 volts), and secondary distribution system (480 volts and below) when delivering energy to its retail customers. PacifiCorp also

² Schedule 9 sets forth the assessment of real power losses based upon the use of various portions of PacifiCorp's transmission and distribution system.

³ PacifiCorp submitted a 1991 Loss Study to support increased losses associated with taking service at the secondary distribution level.

states that the energy imbalance Sempra is responsible for consists of the hourly difference between the hourly amount of energy delivered to PacifiCorp from Sempra's network resource and the amount of energy delivered to Sempra's network load plus applicable losses. This includes losses on the transmission system, primary distribution system and the secondary distribution system. PacifiCorp asserts that a 13.68 percent loss factor must be applied to compensate PacifiCorp for losses associated with service extending across PacifiCorp's secondary distribution system in the state of Oregon and that application of the 8.04 percent factor where service is extending down to the secondary distribution system is inaccurate and inconsistent with Commission policy.

III. Notice of Filing and Interventions

8. Notice of PacifiCorp's filing was published in the *Federal Register*, 70 *Fed. Reg.* 6,643 (2005), with comments, protests and motions to intervene due on or before February 18, 2005. On February 18, 2005 Sempra filed a timely motion to intervene and protest.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Responsive Pleading

10. In its protest Sempra argues that the relief sought by PacifiCorp is contrary to a plain reading of the tariffs at issue, and will have the effect of choking off the beginnings of direct access in its service territory.

11. Sempra argues that Schedule 9 of PacifiCorp's generally applicable Tariff indicates that a loss factor of 8.04 percent will apply to the combined use of the transmission system and distribution system. Sempra further states that in the Schedule 9 of the Tariff, the transmission system is defined as 46 kV or greater and the distribution system is defined as 34.5 kV or less. Sempra argues that in any reasonable reading, 34.5 kV or less encompasses secondary delivery. Sempra asserts that the 13.68 percent loss factor for secondary delivery to retail customers that purchase energy directly from PacifiCorp does not apply to retail customers who elect to take service from an Alternate Supplier.

C. Commission Determination

12. The Commission finds that Schedule 9 of PacifiCorp's generally applicable Tariff does not make a distinction between primary and secondary distribution levels. We agree with Sempra, as stated, Schedule 9 provides for a loss factor of 8.04 percent which applies to "*Use of a combination of the Transmission System and the Distribution System.*"⁴ A plain reading of the delineation of the transmission and distribution system in Schedule 9 indicates that the distribution system is defined as voltage levels of 34.5 kV or less. Clearly the secondary distribution level of 480 volts or less, as described by PacifiCorp, falls within the category of distribution system as defined in Schedule 9. The term distribution as defined in Schedule 9 encompasses all distribution. Therefore, we reject the imposition of a 13.68 percent loss factor in the Service Agreement. We will direct PacifiCorp to apply the 8.04 percent loss factor on file in its Tariff.

13. Furthermore, we note that retail customers are buying distribution service from PacifiCorp for the delivery of the Alternate Supplier energy. It is unclear from the record whether or not compensation for losses over the secondary distribution system are collected therein.

The Commission orders:

(A) The revised Service Agreement 299 is accepted for filing subject to PacifiCorp refiling to revise its loss factor to 8.04 percent, effective January 1, 2005, within 30 days.

(B) Waiver of the Commission's notice requirements pursuant to section 35.11 of the Commission's rules and regulations is granted.⁵

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁴ PacifiCorp FERC Electric Tariff, 5th Rev Volume No. 11, Schedule 9.

⁵ *Central Hudson Gas and Electric Company*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992), and *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).