

144 FERC ¶ 61,222
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Integration of Variable Energy Resources

Docket No. RM10-11-002

ORDER NO. 764-B

ORDER ON CLARIFICATION AND REHEARING

(Issued September 19, 2013)

I. Introduction

1. On June 22, 2012, the Commission issued the *Integration of Variable Energy Resources* Final Rule,¹ requiring each public utility transmission provider to: (1) offer intra-hourly transmission scheduling at 15-minute intervals; and (2) incorporate provisions into the *pro forma* Large Generator Interconnection Agreement (LGIA) requiring interconnection customers whose generating facilities are variable energy resources (VER)² to provide meteorological and forced outage data to the public utility transmission provider for the purpose of power production forecasting. The Commission also provided guidance regarding the development and evaluation of proposals related to recovering the costs of regulation reserves associated with VER integration.³ On December 20, 2012, the Commission issued Order No. 764-A, largely affirming the reforms adopted in Order No. 764. Here, the Commission grants in part and denies in part the requests for clarification and denies the requests for rehearing of the Commission's determinations in Order No. 764-A.

¹ *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, *order on reh'g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012).

² Order No. 764 defined a VER as a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

³ Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 4.

II. Requests for Clarification and/or Rehearing

2. Iberdrola Renewables, LLC (Iberdrola), and Powerex Corporation (Powerex) sought clarification and/or rehearing of Order No. 764-A. Bonneville Power Administration (Bonneville) filed an answer in response to the requests for clarification and/or rehearing.

III. Discussion

3. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2013) prohibits answers to requests for rehearing. Accordingly, we reject Bonneville's answer.

A. E-Tagging and Transmission Curtailment

1. Order No. 764-A

4. Following the issuance of Order No. 764, Powerex submitted a request for clarification and/or rehearing, requesting that the Commission clarify that transmission customer transactions must be properly e-Tagged to ensure that sink balancing authorities are fully aware of the firmness of energy that they are receiving and whether they should procure additional reserves to back particular schedules. In Order No. 764-A, the Commission found Powerex's concerns about e-Tagging to be beyond the scope of the proceeding.

5. The Commission also found that Powerex's concern appeared to be "based primarily on the firmness of the energy that is scheduled by the e-Tag and not on the firmness of the transmission service."⁴ The Commission noted that e-Tags only reflect the firmness of transmission service priorities that transmission customers reserved prior to scheduling; they do not reflect the firmness of energy.

6. Finally, the Commission responded to concerns expressed about a transmission provider's obligation to provide transmission service when balancing reserves were limited or insufficient. The Commission affirmed its Order No. 890-A policy that a transmission provider must attempt to procure sufficient reserves, and may after exhausting all other options (e.g., procure alternative balancing resources, allow dynamic transmission scheduling) limit transmission service on a not unduly discriminatory basis.⁵ The Commission also stated that, "[w]hile Order No. 764 allows public utility

⁴ Order No. 764-A, 141 FERC ¶ 61,232 at P 97.

⁵ *Id.* P 93.

transmission providers to require different customers to purchase or otherwise account for different amounts of regulating reserves, such distinctions must be reasonable and well-supported.”⁶

2. Requests for Clarification and/or Rehearing

7. Powerex seeks clarification that “when a transmission provider seeks to curtail transmission customer schedules because the transmission provider does not have sufficient reserve capacity, such curtailments should apply to all schedules where the transmission customers are over-scheduling relative to generation output, rather than curtail any schedules that may provide generation imbalance relief.”⁷ Powerex believes that this is consistent with the requirement that a transmission provider be non-discriminatory with respect to transactions that effectively relieve the constraint. Powerex reasons that a transmission provider should not curtail customers that are scheduling accurately and/or are currently under-scheduled relative to output, because doing so would result in the loss of the transmission customer’s excess generation that may mitigate the reserve deficiency that the transmission provider is experiencing. To the extent that a curtailment occurs because the transmission provider has insufficient reserve capacity, Powerex argues that the Commission should confirm that transmission customers that are wheeling power through the transmission provider’s balancing authority area and are not taking generator imbalance service should not have their transmission schedules curtailed. Powerex submits that these customers would not affect the transmission provider’s available reserves, such that curtailment of these schedules would disrupt power flows on the grid without any benefit.

8. Powerex also requests that the Commission clarify its statement that “[e]-Tags only reflect the firmness of transmission service priorities that transmission customers reserved prior to scheduling; they do not reflect the firmness of energy.”⁸ Powerex asserts that this statement is not accurate in the Western Interconnection where the Western Electricity Coordinating Council’s (WECC) Regional Business Practice INT-018-WECC-CRT-1 specifies E-Tag Energy Product Codes specific to WECC. Powerex

⁶ *Id.* P 94.

⁷ Powerex Request for Clarification or, in the Alternative, Rehearing at 3 (Powerex).

⁸ *Id.* at 4 (citing *Integration of Variable Energy Resources*, Order No. 764-A, 141 FERC ¶ 61,232 at P 97).

submits that this business practice requires that e-Tag authors within the Western Interconnection utilize and specify generation product codes on e-Tags.⁹

9. Powerex explains that some transmission providers' Business Practices refer to product codes and their use in relation to energy that is sourced from, or sinks in, their balancing authority area. Powerex further states that the North American Energy Standards Board (NAESB) has promulgated E-Tagging Functional Specifications that require the generation segment of an e-Tag to describe the firmness of energy being supplied in a particular transaction.¹⁰ According to Powerex, entities must enter a generation product code on an e-Tag in order for that e-Tag to be validated by a balancing authority. For these reasons, Powerex is concerned that the Commission's statement that e-Tags do not reflect the firmness of energy could be misinterpreted to undermine WECC's regional business practice requirements, NAESB specifications, and transmission providers' Business Practices. Therefore, Powerex requests that the Commission clarify its statement that e-Tags do not reflect the firmness of energy. To the extent the Commission declines to provide this clarification, Powerex requests rehearing as the Commission's statement is not supported by substantial evidence.

3. Commission Determination

10. The Commission grants in part and denies in part the request for clarification and denies the request for rehearing. In Order No. 764-A, the Commission reaffirmed that under the *pro forma* OATT, "curtailments are required to be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint and to network customers and transmission customers taking firm point-to-point transmission service on a basis comparable to the curtailment of service to the transmission provider's native load customers."¹¹ We deny Powerex's request for clarification that "when a transmission provider seeks to curtail transmission customer schedules because the transmission provider does not have sufficient reserve capacity, such curtailments should apply to all schedules where the transmission customers are over-scheduling relative to generation output, rather than curtail any schedules that may provide generation imbalance relief,"¹² as beyond the scope of this proceeding. Order No. 764-A did not

⁹ Powerex states that the use of these generation product codes is not a North American Electric Reliability Corporation (NERC) requirement.

¹⁰ Powerex at 4.

¹¹ Order No. 764-A, 141 FERC ¶ 61,232 at P 94.

¹² Powerex at 3.

address the specific application of curtailments, but rather reiterated the requirement that the transmission provider exhaust all other options before curtailing service on a not unduly discriminatory basis, so that Powerex's requested clarification is not properly before the Commission in this proceeding.¹³ Similarly, we find that Powerex's request that we confirm that transmission customers that are wheeling power through the transmission provider's balancing authority area and are not taking generator imbalance service should not have their transmission schedules curtailed, is beyond the scope of this proceeding. In response to Powerex's request that we clarify our statement that e-Tags only reflect the firmness of transmission service priorities and do not reflect the firmness of energy, we acknowledge that, contrary to the Commission's statement in Order No. 764-A, under some regional practices information reflecting the firmness of *energy*, in addition to the typical e-Tag data reflecting the firmness of the *transmission*, may be included in an e-Tag. Therefore, the Commission's statement in Order No. 764-A should not be read to require any change to regional e-Tag practices.

B. Specific Transmission Curtailment Practices

1. Order No. 764-A

11. On rehearing of Order No. 764, Powerex raised concerns regarding curtailment of energy e-Tagged as firm. In Order No. 764-A, the Commission found Powerex's concerns regarding e-Tagging to be beyond the scope of Order No. 764. Specifically, the Commission noted that Powerex's concern appears to be specific to power being exported from Bonneville's system and the extent to which Bonneville's curtailment practices pursuant to Dispatcher Standing Order 216 (DSO 216) render certain transactions sufficiently "firm."¹⁴ The Commission found Powerex's concern regarding the importance of e-Tagging energy as firm or non-firm to be "more of a commercial matter between the buyer and the seller of power being exported from Bonneville's system."¹⁵ The Commission also noted that to the extent power is being exported from Bonneville's system, customers and neighboring balancing authorities are aware that Bonneville has implemented DSO 216 and that export transactions are subject to curtailment. Thus, the Commission found that it is up to these customers to decide whether such transactions can be marketed as "firm."

¹³ Order No. 764-A, 141 FERC ¶ 61,232 at P 93.

¹⁴ *Id.* P 96.

¹⁵ *Id.*

12. The Commission further noted that while certain events (e.g., a forced outage or a curtailment pursuant to DSO 216) could interrupt the flow of energy scheduled by an e-Tag, the underlying nature of transmission service does not change. Finally, the Commission found that in terms of reliability, “transmission providers still have the authority to alleviate capacity and energy emergencies according to applicable reliability standards.”¹⁶

2. Requests for Clarification and/or Rehearing

13. Powerex and Iberdrola both seek clarification of the Commission’s statement that “Powerex’s concern is more of a commercial matter between the buyer and the seller of power being exported from Bonneville’s system.”¹⁷ Powerex concurs with the Commission that the question of whether exports from the Bonneville balancing authority that are subject to DSO 216 may be marketed as firm or non-firm energy is a commercial matter. However, Powerex seeks clarification that the Commission did not intend to imply that the firmness of energy transactions, as specified on e-Tags, does not *also* have important reliability implications, particularly in some regions. Powerex explains that in the Western Interconnection, sink balancing authorities are responsible for ensuring adequate reserves to serve firm loads and sellers may deliver a variety of generation products. Thus, Powerex contends that it is critical for the sink balancing authority to know with certainty whether power being imported into its balancing authority area and reported on the e-Tag as firm can be relied upon to meet firm load. Powerex does not believe the Commission intended to imply that generation product designations on e-Tags may not also have reliability, in addition to commercial, implications in some regions. Therefore, Powerex requests that the Commission make this clarification.¹⁸

14. Iberdrola also seeks clarification of the Commission’s statement that while certain events, including DSO 216, “could interrupt the flow of energy scheduled by an e-Tag, that does not change the underlying nature of the transmission service.”¹⁹ Specifically,

¹⁶ *Id.* P 97 (*see, e.g.*, EOP-002-3.1 Capacity and Energy Emergencies (authorizing balancing authorities and reliability coordinator to take whatever actions are needed to ensure the reliability of their respective areas and to alleviate capacity and energy emergencies)).

¹⁷ Powerex at 5 (citing Order No. 764-A, 141 FERC ¶ 61,232 at P 96); Iberdrola Request for Clarification or, in the Alternative, Rehearing at 5 (Iberdrola).

¹⁸ Powerex at 6.

¹⁹ Iberdrola at 5 (citing *Integration of Variable Energy Resources*, Order No. 764-A, 141 FERC ¶ 61,232 at P 97).

Iberdrola seeks clarification that transmission provider policies, such as DSO 216, do not change or diminish the firmness of the underlying transmission service, and any curtailment of such transmission service must be done in accordance with the aforementioned Commission policies. Iberdrola asserts that this clarification is necessary to avoid suggesting that generation curtailment mechanisms have no impact on, and are entirely separate from, transmission service.

15. Iberdrola contends that in Order No. 764-A, the Commission compared the firmness of transmission service and the firmness of the energy that may utilize that transmission service to explain that the curtailment of energy, unlike transmission, was not before the Commission in that proceeding. However, because the Commission referred to Bonneville's curtailment practices, specifically DSO 216, a wind-only curtailment protocol, Iberdrola seeks clarification that the Commission did not intend to make a substantive determination regarding DSO 216.²⁰ Iberdrola seeks clarification that the Commission was not commenting on the appropriateness or lawfulness of DSO 216. Iberdrola contends that generation curtailments and transmission curtailments must be for reliability purposes, and must be comparable and not unduly discriminatory.²¹ If the Commission's reference to DSO 216 was intended to endorse or approve the use of DSO 216, or was intended to hold that DSO 216 is a generation displacement mechanism that does not cause non-comparable or unduly discriminatory transmission curtailments, Iberdrola requests rehearing, arguing that DSO 216 was beyond the scope of the proceeding.²²

3. Commission Determination

16. Powerex and Iberdrola seek clarification, for different reasons, of the Commission's statement that "Powerex's concern is more of a commercial matter between the buyer and the seller of power being exported from Bonneville's system."²³ We clarify, in response to Iberdrola's request, that the Commission was not commenting on the appropriateness or lawfulness of DSO 216. We grant Iberdrola's requested clarification that the Commission's discussion in Order No. 764-A, contrasting the firmness of transmission service with the firmness energy, was illustrative and in no way a substantive determination about the appropriateness or lawfulness of DSO 216. Upon providing this clarification, we find that Iberdrola's request for rehearing is moot.

²⁰ *Id.* at 4.

²¹ *Id.* at 6.

²² *See id.* at 4, 8.

²³ Order No. 764-A, 141 FERC ¶ 61,232 at P 96.

17. In response to Powerex's request for clarification that the marketing of energy as firm or non-firm also has important reliability implications, we acknowledge that a balancing authority area considers many issues, potentially including the firmness of energy being imported into the balancing authority area, in determining how best to adhere to all applicable NERC Reliability Standards. That said, Order No. 764-A does not specify what information is to be included on an e-Tag or the method used by a sink balancing authority to identify the firmness of energy being imported into its system, whether through e-Tag energy product codes or other means.

18. Iberdrola requests clarification that transmission provider policies should not change or diminish the firmness of the underlying transmission service, and any curtailment of such transmission service must be done in accordance with the Commission policies. As a general matter, curtailment of transmission service by public utility transmission providers must be done in accordance with Commission policies. Furthermore, we grant clarification that although certain events could interrupt the flow of energy scheduled by an e-Tag, that does not change or diminish the firmness of the underlying transmission service.

The Commission orders:

(A) The requests for clarification are granted in part and denied in part, as discussed in the body of this order.

(B) The requests for rehearing are denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.