

# **Section 9**

## **Customer Comments**

### **Horizon Wind Energy LLC**

The following are customer comments received from Horizon Wind Energy LLC regarding BPA's proposed revision to Section 9 of the Open Access Transmission Tariff

Posted July 28, 2008

July 7, 2008

Ms. Cathy Ehli  
Vice President, Transmission Marketing  
Bonneville Power Administration  
Transmission Services  
PO Box 491  
Vancouver, WA 98666

Re: Bonneville Power Administration's Proposed Revision to Section 9 of Its Open Access Transmission Tariff

Dear Ms. Ehli,

I am writing to you regarding the Bonneville Power Administration's ("BPA") proposed revision to Section 9 of its Open Access Transmission Tariff ("OATT"). Horizon Energy, LLC ("Horizon") believes that BPA should not adopt the changes proposed for Section 9.

BPA proposes to delete provisions of Section 9 that require a change to OATT terms and conditions to be effective "upon, and only upon, a determination by the Commission that (i) such change is just and reasonable and not unduly discriminatory or preferential, or (ii) such change meets the non-public utility reciprocity requirements pursuant to a request for declaratory order under 18 CFR § 35.28(e)." BPA proposes that a change be subject only to BPA providing notice of proposed changes, an opportunity for Transmission Customers ("Customers") and other interested parties to comment, and a response to comments by BPA. BPA acknowledges that it may lose BPA's safe-harbor reciprocity status. Nevertheless, BPA argues that "Customers can benefit" by permitting BPA to adopt OATT terms and conditions that would not be approved by the Federal Energy Regulatory Commission (the "Commission"). Response to Questions, posted June 18, 2008, at page 4 (the "Response").

The proposed revision to Section 9 appears to be a solution in search of a problem. The Response cites a single example of BPA's perceived need to modify Section 9, and even that need (designation of system resources as Network Resources) disappeared when the Commission adopted Order 890-A. The Commission's recent decision regarding BPA's Network Open Season OATT revisions demonstrated that the Commission is willing to afford BPA substantial flexibility to accommodate BPA and Customer needs without sacrificing the Commission's role. Indeed, BPA can leave Section 9 unchanged and continue to do what it has done from the last decade: file a petition for a declaratory order asking the Commission to determine that BPA's OATT changes substantially conform to or are superior to the Commission's *pro forma* OATT. If the Commission decides that a change does not meet this standard, and BPA does not want to fix the deficiency, BPA can ignore the Commission.

BPA's transmission system is absolutely essential to a robust, competitive regional power system. The terms and conditions under which BPA provides transmission service are an important part of that system, and it is critical that the terms and conditions be just and reasonable and not unduly discriminatory or preferential.

The Response broadly asserts that "Customers can benefit" by substituting a BPA process for Commission for review, but Customers have diverse, competing commercial interests. An OATT revision that might be sought by some Customers, or even most Customers, may be anticompetitive and damaging to others. That is why it is important to Horizon that the Commission decide whether a proposed OATT change substantially conforms to or is superior to the *pro forma* OATT, or is "just and reasonable and not unduly discriminatory or preferential." BPA offers only the assurance that, in adopting a tariff change not approved by the Commission, BPA "would not make such a change lightly."

Horizon is making substantial commitments in the Pacific Northwest, including development of several wind generating facilities with a significant installed capacity. Horizon has pending transmission service requests for 1,000 megawatts, for which Horizon paid initial deposits totaling \$1.3 million dollars. On June 27, 2008, Horizon submitted a letter of credit in the amount of \$15.6 million dollars as Security for its Precedent Transmission Service Agreements. Horizon made these commitments after careful deliberation, including consideration of the nondiscriminatory nature of BPA's OATT. Horizon, like other entities that make substantial investments in generating facilities, requires confidence that tariff change will not be just and reasonable and not be unduly discriminatory or preferential. This assurance can only be provided in the context of Commission review and approval.

Yours Truly,

Denise Hill  
Director, Transmission  
Horizon Wind Energy, LLC  
808 Travis St., Suite 700  
Houston, TX 77006

cc: Steve Wright  
Vicki VanZandt