



DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: TC-22]

Proposed Modifications to Open Access Transmission Tariff; Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy (DOE).

ACTIONS: Notice of public hearing and opportunity to review and comment.

SUMMARY: Bonneville is holding a proceeding to modify the non-rate terms and conditions of a generally applicable open access transmission tariff (Tariff). Bonneville has designated this proceeding Docket No. TC-22. The Bonneville Project Act of 1937 as reaffirmed in the Pacific Northwest Electric Power Planning and Conservation Act grants the Bonneville Administrator broad authority to enter into contracts upon such terms and conditions and in such manner as the Administrator may deem necessary. The Federal Power Act and Bonneville's Tariff provide procedures the Administrator may use to establish and modify terms and conditions of general applicability for transmission service across the Federal Columbia River Transmission System (FCRTS). By this notice, Bonneville announces the commencement of a proceeding to modify terms and conditions of the Tariff to be effective on October 1, 2021.

DATES:

Prehearing Conference: The TC-22 tariff proceeding will begin with a prehearing conference on Monday, December 7, 2020, which will be held telephonically.

Intervention: Anyone intending to become a party to the TC-22 tariff proceeding must file a petition to intervene on Bonneville's secure website. Petitions to intervene may be filed beginning on the date of publication of this Notice and are due no later than 4:30 p.m. on Tuesday, December 8, 2020.

ADDRESSES: Interested parties may obtain call-in information by accessing Bonneville's TC-

22 tariff proceeding web page at www.bpa.gov/goto/TC22 or by contacting the Hearing Clerk at TC22clerk@gmail.com. The TC-22 prehearing conference will begin immediately following the conclusion of the prehearing conference for Bonneville's BP-22 Power and Transmission Rate Proceeding, which begins at 9:00 a.m.

Participant Comments: Written comments by non-party participants must be received by March 1, 2021, to be considered in the Hearing Officer's recommended decision and the Administrator's Record of Decision (ROD).

Part III of this notice, "Public Participation in TC-22," provides details on requesting access to the secure website, filing a petition to intervene, and submitting participant comments.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Rhoads, DKE-7, BPA Communications, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; by phone toll-free at 1-800-622-4519; or by e-mail to amhoward@bpa.gov.

The Hearing Clerk for this proceeding can be reached via e-mail at TC22clerk@gmail.com or via telephone at (503) 960-8722.

Please direct questions regarding Bonneville's secure website to the Rate Hearing Coordinator via e-mail at cwgriffen@bpa.gov or, if the question is time-sensitive, via telephone at (503) 230-5107.

Responsible Official: Rebecca Fredrickson, Manager of Transmission Tariff, Rates and Regulatory Activities, is the official responsible for the development of Bonneville's open access transmission tariff.

SUPPLEMENTARY INFORMATION:

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Part I – Introduction and Procedural Matters

A. Introduction and Procedural Background

Section 9 of Bonneville’s Tariff provides that the Bonneville Administrator may use the procedures set forth in Section 212(i)(2)(A) of the Federal Power Act to establish and modify non-rate terms and conditions of the Tariff. The Section 212(i)(2)(A) procedures include giving notice in the *Federal Register* and conducting a hearing that adheres to the procedural requirements of paragraphs (1) through (3) of Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i) (the same procedures Bonneville uses to set rates). In accordance with these procedures, the Hearing Officer conducts one or more hearings to develop a full and complete record, which includes the opportunity for both oral presentation and written submission of views, data, questions, and arguments related to the proposal. Unless the Hearing Officer becomes unavailable to Bonneville, upon conclusion of the hearing, the Hearing Officer shall make a recommended decision to the Administrator, and the Administrator then makes a separate and final determination to establish or modify the Tariff terms and conditions (discussed further in Part III, Section C of this notice).

Bonneville’s Rules of Procedure govern the TC-22 tariff proceedings. The rules are posted on Bonneville’s website at <https://www.bpa.gov/Finance/RateCases/RulesProcedure/Pages/default.aspx> and published in the *Federal Register*, 83 FR 39993 (Aug. 13, 2018).

B. Proposed Procedural Schedule

A proposed schedule for the proceeding is provided below. The official schedule will be established by the Hearing Officer and may be amended by the Hearing Officer as needed during the proceeding.

Prehearing Conference	December 7, 2020
BPA Files Initial Proposal	December 7, 2020

Deadline for Petitions to Intervene	December 8, 2020
Clarification	December 16-17, 2020
Motions to Strike Due	January 11, 2021
Data Request Deadline	January 11, 2021
Answers to Motions to Strike Due	January 18, 2021
Data Response Deadline	January 18, 2021
Parties File Direct Cases	January 29, 2021
Clarification	February 8-9, 2021
Motions to Strike Due	February 15, 2021
Data Request Deadline	February 15, 2021
Answers to Motions to Strike Due	February 22, 2021
Data Response Deadline	February 22, 2021
Close of Participant Comments	March 1, 2021
Litigants File Rebuttal Cases	March 8, 2021
Clarification	March 12, 2021
Motions to Strike Due	March 16, 2021
Data Request Deadline	March 16, 2021
Answers to Motions to Strike Due	March 23, 2021
Data Response Deadline	March 23, 2021
Parties Give Notice of Intent to Cross-Examine	March 24, 2021
Cross-Examination	March 29-30, 2021
Initial Briefs Filed	April 16, 2021
Oral Argument	April 26, 2021
Hearing Officer's Recommended Decision Issued	May 25, 2021
Draft ROD Issued	June 30, 2021
Briefs on Exceptions Filed	July 14, 2021

C. *Ex Parte Communications*

Section 1010.5 of the Rules of Procedure prohibits *ex parte* communications. *Ex parte* communications include any oral or written communication (1) relevant to the merits of any issue in the proceeding; (2) that is not on the record; and (3) with respect to which reasonable prior notice has not been given. The *ex parte* rule applies to communications with all Bonneville and DOE employees and contractors, the Hearing Officer, and the Hearing Clerk during the proceeding. Except as provided, any communications with persons covered by the rule regarding the merits of any issue in the proceeding by other Executive Branch agencies, Congress, existing or potential Bonneville customers, nonprofit or public interest groups, or any other non-DOE parties are prohibited. The rule explicitly excludes and does not prohibit communications (1) relating to matters of procedure; (2) otherwise authorized by law or the Rules of Procedure; (3) from or to the Federal Energy Regulatory Commission (Commission); (4) which all litigants agree may be made on an *ex parte* basis; (5) in the ordinary course of business, about information required to be exchanged under contracts, or in information responding to a Freedom of Information Act request; (6) between the Hearing Officer and Hearing Clerk; (7) in meetings for which prior notice has been given; or (8) otherwise specified in Section 1010.5(b) of the Rules of Procedure. The *ex parte* rule remains in effect until the Administrator's Final ROD is issued.

Part II – Scope of the TC-22 Tariff Proceeding

The TC-22 tariff proceeding is a proceeding for the adoption of modifications to the non-rate terms and conditions in Bonneville's Tariff. A summary of Bonneville's proposed Tariff modifications is provided in Part IV of this notice. This section provides guidance to the Hearing Officer regarding the specific issues that are outside the scope of the TC-22 tariff proceeding. In addition to the issues specifically listed below, any other issue that is not a Tariff term and condition issue is outside the scope of this proceeding.

Bonneville may revise the scope of the proceeding to include new issues that arise as a result of circumstances or events occurring outside the proceeding that are substantially related to the Tariff terms and conditions under consideration in the proceeding. *See* Rules of Procedure, Section 1010.4(b)(8)(iii), (iv). If Bonneville revises the scope of the proceeding to include new issues, Bonneville will provide public notice on its website, present testimony or other information regarding such issues, and provide a reasonable opportunity to intervene and respond to Bonneville's testimony or other information. *Id.*

A. Business Practices

Bonneville's business practices provide implementation details for the Tariff and are outside the scope of the TC-22 tariff proceeding. Bonneville's decisions regarding the business practices are determined in other forums and follow the procedures in Bonneville's Business Practice Process. If business practices are developed for the proposed terms and conditions in this proceeding, such development will occur outside the terms and conditions proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that proposes or challenges Bonneville's current and future business practices.

B. Customer-Specific Contracts and Disputes

Contracts and contract disputes between Bonneville and its customers are outside the scope of the TC-22 tariff proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence related to contracts and contract disputes of Bonneville customers.

C. Oversupply Management Protocol

The Oversupply Management Protocol (Tariff Attachment P) includes the Tariff requirements and procedures used to moderate total dissolved gas levels in the Columbia River to protect endangered fish and other aquatic species. Bonneville does not propose to modify the

terms of the Oversupply Management Protocol in the TC-22 tariff proceeding. The Hearing Officer is directed to exclude from the record all argument, testimony, or other evidence related to the terms of the Oversupply Management Protocol (Tariff Attachment P), including whether the Oversupply Management Protocol complies with orders of the Commission; whether Bonneville took all actions to avoid using the Oversupply Management Protocol, including the payment of negative prices to generators outside of Bonneville's balancing authority area; and issues concerning the rates for recovering the costs of the Oversupply Management Protocol.

D. Program Cost Estimates

Bonneville's projections of its program costs and spending levels are not determined in terms and conditions proceedings. These projections are determined by Bonneville in other forums, such as the Integrated Program Review public process, with input from stakeholders. Bonneville's decisions regarding cost projections are outside the scope of the TC-22 tariff proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that challenges the appropriateness or reasonableness of the Administrator's decisions on costs and spending levels. If any re-examination of program costs and spending levels is necessary, such re-examination will occur outside the TC-22 tariff proceeding.

E. Rates

Pursuant to Bonneville's statutes it must set rates to recover costs associated with providing power and transmission services. In addition to and concurrent with this proceeding, Bonneville is holding a separate Power and Transmission Rate Adjustment hearing (the BP-22 proceeding) regarding the proposed fiscal year 2022–2023 power and transmission, ancillary, and control area services rates. Bonneville's decisions regarding rates are outside the scope of the TC-22 tariff proceeding. Bonneville is publishing a separate notice in the *Federal Register* regarding the BP-22 proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or

other evidence related to rates, or that challenges the appropriateness or reasonableness of the Administrator's decisions on rates or seeks in any way to propose revisions to the rates, including rate schedules, rate schedule provisions, rate designs, rate methodologies, rate forecasts, interest expense and credit, Treasury repayment schedules, non-Federal debt repayment schedules, revenue financing, calculation of depreciation and amortization expense, forecasts of system replacements used in repayment studies, transmission acquisition expenses incurred by Power Services, generation acquisition expenses and the in-kind 168 hour delayed capacity incurred by Transmission Services, minimum required net revenue, increase in, or the use of, financial reserves, and the costs of risk mitigation actions resulting from the expense and revenue uncertainties included in the risk analysis.

F. Energy Imbalance Market Policy Decisions

Since 2018, Bonneville has been exploring whether to join the Western Energy Imbalance Market (EIM). The EIM is an extension of the California Independent System Operator's (CAISO) real-time market. It economically dispatches resources that elect to participate in the EIM to solve for the energy imbalance of participating Balancing Authority Areas (BAAs), consistent with transmission and system constraints. Following an extensive public process, on September 26, 2019, Bonneville issued the Energy Imbalance Market Policy Administrator's Record of Decision, in which the Administrator made a number of policy decisions related to Bonneville's potential participation in the EIM. Later, on November 4, 2020, following another public process, Bonneville issued a follow-on decision document, the EIM Phase III Final Decision Document, addressing other policy issues related to Bonneville's potential EIM participation. Further, Bonneville will make its final decision on whether to join the EIM in a separate process that is expected to begin following completion of this case. The Energy Imbalance Market Policy Administrator's Record of Decision and the EIM Phase III Final Decision Document provided direction for the development of the EIM tariff proposals in the TC-22 proceeding, however, none of these decisions or the final decision on whether to join

the EIM are within the scope of the TC-22 proceeding.

Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to raise or revisit the issues or decisions addressed in the Energy Imbalance Market Policy Administrator's Record of Decision or the Phase III EIM Decision Document. In addition, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks to address whether Bonneville should join the EIM.

Part III – Public Participation in TC-22

A. Distinguishing Between “Participants” and “Parties”

Bonneville distinguishes between “participants in” and “parties to” the TC-22 proceeding. Separate from the formal hearing process, Bonneville will receive written comments, views, opinions, and information from participants, who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties. Bonneville customers who will receive transmission or interconnection service under the terms and conditions subject to this proceeding, or their affiliated customer groups, may not submit participant comments. Members or employees of organizations that have intervened in the terms and conditions proceeding may submit participant comments as private individuals (that is, not speaking for their organizations), but may not use the comment procedures to address specific issues raised by their intervener organizations.

Written comments by participants will be included in the record and considered by the Hearing Officer and the Administrator if they are received by March 21, 2021. The proposed Tariff and attachments are provided in Section IV of this notice. Participants should submit comments through Bonneville's website at www.bpa.gov/comment or in hard copy to: BPA Public Involvement, DKE-7, Bonneville Power Administration, P.O. Box 3621, Portland,

Oregon 97208. All comments should contain the designation “TC-22” in the subject line.

B. Interventions

Any entity or person intending to become a party in the TC-22 proceeding must file a petition to intervene through Bonneville’s secure website (<https://www.bpa.gov/secure/Ratecase/>). A first-time user of Bonneville’s secure website must create a user account to submit an intervention. Returning users may request access to the TC-22 proceeding through their existing accounts, and may submit interventions once their permissions have been updated. The secure website contains a link to the user guide, which provides step-by-step instructions for creating user accounts, generating filing numbers, submitting filings, and uploading interventions. Please contact the Hearing Coordinator via e-mail at cwgriffen@bpa.gov or, if the question is time-sensitive, via telephone at (503) 230-5107 with any questions regarding the submission process. A petition to intervene must conform to the format and content requirements set forth in Bonneville’s Rules of Procedure Sections 1010.6 and 1010.11 and must be uploaded to the TC-22 proceeding secure website by the deadline established in the procedural schedule.

A petition to intervene must state the name and address of the entity or person requesting party status and the entity or person’s interest in the hearing. Bonneville customers and affiliated customer groups will be granted intervention based on petitions filed in conformance with Rules of Procedure. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether the petitioners have a relevant interest in the hearing. The deadline for opposing a timely intervention is two business days after the deadline for filing petitions to intervene. Bonneville or any party may oppose a petition for intervention. All petitions will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed within two business days after service of the petition.

C. Developing the Record

The hearing record will include, among other things, the transcripts of the hearing, written evidence and arguments entered into the record by Bonneville and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. Upon conclusion of the hearing, the Hearing Officer will develop a recommended decision for the Administrator. The Hearing Officer's recommended decision must be based on the record and include the Hearing Officer's findings and conclusions, including the reasons or basis thereof, on all material issues of fact, law, or discretion raised by the parties in their initial briefs. The Hearing Officer will review and certify the record to the Administrator for final decision.

The Administrator will make a final determination establishing or modifying Tariff terms and conditions based on the record, the Hearing Officer's recommended decision, and such other materials and information as may have been submitted to or developed by the Administrator. The Final ROD will be made available to all parties.

Part IV – Summary of Proposed Modifications to Bonneville's Tariff

In this proceeding, Bonneville proposes to modify the Tariff terms and conditions described below, to be effective on October 1, 2021.

1. Transmission Studies over the Southern Intertie (Sections 13.5, 15.2, 15.4, 17.5, 19.1)

The Tariff describes the processes Bonneville uses to offer agreements to study transmission requests when there is insufficient available transfer capability to offer service. Historically, Bonneville has not offered study agreements for service requests impacting the Southern Intertie. Bonneville is modifying study terms to describe when Bonneville will offer a study agreement for service impacting the Southern Intertie.

2. Form of Service Agreement (Attachments A and F)

The Tariff includes the form of service agreement for point-to-point and network integration transmission services. Bonneville is modifying these forms to reflect ministerial changes, update notice requirements, and add the service commencement date for purposes of

participating in the EIM.

3. Transmission Planning Process (Attachment K)

The Tariff describes the processes Bonneville uses to develop long-range plans for the transmission system, including the process for Bonneville's participation in coordinated regional transmission planning. Bonneville is modifying the transmission planning processes to reflect Bonneville's participation in NorthernGrid, the regional planning organization.

4. Large and Small Generator Interconnections (Attachments L and N)

The Tariff includes standard procedures and form of agreements to interconnect large and small generating facilities to the FCRTS. Bonneville is modifying the procedures and form agreements to reflect minor changes, align with the Commission's Order No. 845 and 845-A requirements, add procedures for repowering and replacing existing generation facilities, and add language related to Bonneville's potential EIM participation.

5. Basic Credit Standards (Section 11 and Attachment M)

Bonneville requires transmission customers to complete credit review procedures in accordance with Bonneville's basic credit standards. Bonneville's basic credit standards are available on Bonneville's website. Bonneville is modifying the Tariff to incorporate the basic credit standards. Bonneville is not proposing substantive changes to the basic credit standards.

6. Real Power Loss Return (Schedule 11)

Bonneville requires transmission customers to replace real power losses associated with transmission service. Real power losses are determined using real power loss factors established by Bonneville in Schedule 11. Bonneville is modifying the real power loss return factor for transmission service over the Network segment. The rates applicable to real power losses may be established in the BP-22 proceeding and are outside the scope of the TC-22 tariff proceeding.

7. EIM Tariff Terms and Condition Proposals (Sections 1, 7.1, 10.2, 12.4, 13.6, 14.7, 15.7, 16.1, 28.1, 28.5, 28.7, 29.2, 30.1, 30.4, Schedules 4 and 9, and Attachment Q)

Since 2018, Bonneville has been exploring whether to join the Western EIM, which is an

extension of the CAISO real-time market. The EIM is operated by the CAISO, which uses market software to economically dispatch participating generation resources to balance supply, transfers between balancing authority areas (interchange), and load across the market's footprint, while also simultaneously ensuring generation and transmission limitations are respected. For balancing authorities in the EIM (EIM Entities), the EIM replaces Energy Imbalance and Generator Imbalance under the EIM Entities' respective open access transmission tariffs. In September of 2019, following an extensive public process, Bonneville issued the Energy Imbalance Market Policy Administrator's Record of Decision, in which the Administrator made a number of policy decisions related to Bonneville's potential participation in the EIM and signed an EIM Implementation Agreement – a first step to joining the EIM. In that ROD, Bonneville explained its intent to continue through the EIM evaluation process, with the expectation that a final decision on EIM participation would be made in 2021. If Bonneville decides to join the EIM, actual participation is projected to begin in 2022. To position BPA to join the EIM in 2022, Bonneville must establish the Tariff terms and conditions and rates for participating in the EIM. Thus, a major portion of the TC-22 tariff proceeding will be dedicated to developing the Tariff terms and conditions language necessary to facilitate Bonneville's participation in the EIM in 2022. The rates for participating in the EIM are being established in the BP-22 proceeding (rates are outside the scope of the TC-22 tariff proceeding).

Part V – Proposed Tariff

Bonneville's proposed Tariff is part of this notice and is available to view and download on Bonneville's Website at www.bpa.gov/goto/TC22.

Signing Authority

This document of the Department of Energy was signed on November 19, 2020, by John L. Hairston, Acting Administrator and Chief Executive Officer of the Bonneville Power Administration, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on November 19, 2020.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

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