

March 19, 2020

Re: Comments on the Conditional Firm Transmission Service Business Practice, Version 24

Powerex appreciates the opportunity to review and comment on the proposed revisions to the Conditional Firm Transmission Service (“CFS”) business practice found in proposed Version 24.

Powerex has two concerns. First, Powerex does not believe that Bonneville has justified or provided a sufficient basis for the changes it proposes in Version 24 of the CFS business practice. Second, the proposal raises concern that Bonneville is not adhering to the TC-20 settlement by changing terms and conditions of service through a business practice. Powerex has stated previously that CFS is a complicated and infrequently utilized component of Long-Term Firm (“LTF”) transmission service and that Bonneville, Powerex, and other customers would benefit from a broader collaborative discussion of CFS through a public workshop process. Powerex still believes that such dialogue should occur.

Powerex asks Bonneville to withdraw the proposed Version 24 in accordance with Section 4.3 of Attachment 4 of the TC-20 settlement and engage customers in a workshop process. If Bonneville—with customer input—subsequently determines that additional provisions are necessary to address how CFS is firmed up and how the LTF pending queue is processed, such issues should be added to the TC-22 workshop process and then addressed in the TC-22 terms and conditions proceeding; such modifications should not be included in the CFS business practice.

Proposed Revisions

Bonneville’s proposed Version 24 of the CFS business practice is a complete revision. Importantly, the revisions include the following:

- Version 24 (Section D.3.b) proposes to prohibit Reassessment CFS (“R-CFS”) from being ever firmed up,¹ and Sections D.3.a and F.3.a would remove a TSR from the LTF pending queue if a customer accepted an offer of R-CFS.
- Version 24 would eliminate the pathway by which R-CFS could convert to LTF transmission service. By comparison, Version 23 included a process for R-CFS to convert to B-CFS, which in turn could be converted to LTF service.
- Version 24 creates a new process by which an AREF associated with a customer’s acceptance of B-CFS retains its position in the LTF pending queue. Bonneville proposes to accomplish this by creating a Transmission Service Number (“TSN”) in the LTF pending queue that retains the queue time of the TSR associated with B-CFS. If LTF ATC subsequently becomes available (by any set of circumstances), Bonneville will convert that B-CFS to LTF service without conditions.

¹ Powerex uses “firmed up” to mean whether CFS could be converted to LTF Point-to-Point transmission service, without conditions, should LTF Available Transfer Capacity (“ATC”) become available on the path.

Comments

TC-20 Settlement Compliance

As a threshold matter, Powerex has significant concerns that Version 24, if adopted, would not adhere to the TC-20 settlement. Section 4.4.2 of Attachment 4 of the TC-20 settlement provides that “Bonneville shall not change the terms and conditions of service provided in its Tariff through a business practice or other non-tariff document.” Moreover, the same section of the TC-20 settlement also states that FERC precedent addressing which provisions must be in the tariff or a business practice “constitutes an important factor in Bonneville’s consideration in resolving questions of whether a Proposed Business Practice or other non-tariff document would significantly affect rates, terms or conditions of service.”

FERC has directly addressed the issues Bonneville seeks to resolve in Version 24. This precedent indicates that the tariff, not a business practice, is the appropriate location for provisions addressing whether R-CFS should be firmed up and queue processing. First, in Order No. 890-A, FERC stated “that any capacity created in excess of the service request [paid for by the customer] should be allocated to those planning redispatch and conditional firm customers earlier in the queue, *based on their order in the queue.*”² In Order No. 890-B, FERC granted rehearing, in part, and stated that upon further consideration, “it is premature to make this determination given that the complicated series of events leading to such an allocation may never come to pass.”³ FERC further stated that “[s]hould transmission providers encounter this series of events, they should file, prior to completion of the transmission upgrades, proposed *tariff provisions* to address the allocation of transmission capacity.”⁴

FERC’s statements in Order Nos. 890-A and 890-B evince an initial expectation that transmission providers would firm up R-CFS customers “based on their order in the queue” should LTF ATC become available. FERC subsequently determined this position was premature but nonetheless required transmission providers to make “tariff” revisions—not business practice edits—to address the situation in which LTF ATC becomes available on a given path where an R-CFS customer is taking service.

Second, in a 2009 FERC order that adopted various NAESB standards for implementing CFS, FERC also specified that provisions affecting whether R-CFS should be firmed up must be included in the

² Order No. 890-A at P 584 (emphasis added).

³ Order No. 890-B at P 126.

⁴ *Id.* (emphasis added). In a footnote, FERC explained:

For this circumstance to present itself, all of the following, at a minimum, must occur: (1) conditional firm or planning redispatch service is granted to a customer unwilling to support upgrades; (2) a customer seeking service over the same transmission capacity agrees to support transmission upgrades to secure its service; (3) the upgrade construction is completed; (4) the upgrades create additional capacity that the customer supporting the upgrades did not request; and, (5) the conditional firm or planning redispatch customer will be taking service when construction is completed.

Order No. 890-B at P 126, fn.85. While the foregoing discussion arose in the context of excess capacity created by physical upgrades, an analogous situation arises when new ATC is identified on the path, either through revisions to the ATC methodology or through customers declining to renew existing service agreements.

OATT. Specifically, in this proceeding commenters asked FERC to clarify “how new long-term ATC will be allotted to CCO [Conditional Curtailment Option] customers when it becomes available.”⁵ One of the commenters, AWEA, explained that “there are several situations when such capacity may become available on a long-term basis after a conditional firm contract is signed, such as when another customer chooses not to take advantage of its rollover rights or when a reevaluation of ATC identifies additional capacity that was not previously available for sale.”⁶ AWEA reasoned that the CFS customer pays the same rate as the customer with unconditioned LTF service and urged FERC to clarify the methodology for allocating newly available LTF capacity in the relevant NAESB standard. FERC declined to require modification of the NAESB standard, but FERC stated that a transmission provider should make an “appropriate filing with the Commission,” which further supports the determination that a business practice is not the appropriate location for these provisions.⁷

The two foregoing examples demonstrate that FERC expects a transmission provider to make OATT revisions to address how LTF ATC will be allocated when earlier-in-time customers have accepted R-CFS on that path. Accordingly, and consistent with the TC-20 settlement, this precedent must be considered as an “important factor” in Bonneville’s evaluation, and moreover indicates that FERC has concluded that such provisions to be included in the transmission provider’s tariff, not in a business practice. Accordingly, Powerex urges Bonneville to exclude from the CFS business practice provisions that affect the processing of the LTF pending queue when customers have already accepted CFS.

Adherence to Bonneville’s First-Come, First-Served Principle

Bonneville’s proposal to eliminate the pathway for R-CFS to convert to LTF service without conditions is without sufficient basis and runs counter to Bonneville’s first-come, first-served principle set forth in Section 13.2 of its tariff.

LTF capacity may become available for a number of reasons, such as due to customers declining to renew service, changes in system conditions, or system upgrades. At minimum, when the LTF capacity is created either by customers declining service or by changes in system conditions, Powerex believes that any LTF capacity Bonneville determines to be available should be offered to the customer with the highest ranked queue position taking LTF service with a CFS component on

⁵ See *American Wind Energy Ass’n*, Comments on Standards for Business Practice and Communication Protocols for Public Utilities, Docket No RM05-5-013 at 7 (May 26, 2009).

⁶ *Id.*

⁷ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,229 at P 68 (2009) (emphasis added):

68. As to the concerns raised over how new long-term available transfer capability will be allocated to conditional firm customers when it becomes available, as AWEA recognizes, in Order No. 890, the Commission established that conditional firm customers have priority relative to short term firm capability, and did not provide such priority with respect to long term firm capability. AWEA did not raise this issue in the Order No. 890 proceeding, and if it seeks a change to the priority order established in the rule, it should do so through an *appropriate filing with the Commission*. Since NAESB’s standard complies with the requirement of Order No. 890, we are adopting it here.

the relevant path. This practice would effectively “firm up” a customer’s CFS to the extent of the LTF capacity available. For LTF capacity created by system upgrades, that capacity should be awarded to the customer(s) who paid for the upgrades and who are presumably taking Bridge CFS (“B-CFS”), consistent with FERC precedent. In such circumstances, should excess capacity be created beyond the requirements of those customers funding the upgrades, Bonneville should offer it to customers, including R-CFS customers, according to the first-come, first-served principle.

Bonneville suggested during the February 20, 2020 discussion that a form of “queue jumping” could occur if R-CFS would be firmed up in queue order. As Powerex understood Bonneville’s queue-jumping example, Bonneville appeared concerned with the R-CFS customer’s conversion TSR jumping ahead of an earlier-in-time customer requesting LTF service on that path. To explain, as Powerex understands Version 23, a customer accepting R-CFS would have to submit a second TSR into the queue (essentially a conversion TSR) that would be granted without conditions if LTF capacity becomes available, thus effectively firming up the customer’s original request.⁸ However, this conversion TSR process would firm up the R-CFS service only if another customer does not queue ahead of the conversion TSR.

Powerex believes it is the current business practice (Version 23) that allows a form of “queue jumping” and undermines the queue position of the original R-CFS reservation because it allows for a later-queued LTF request to obtain service before a confirmed R-CFS reservation. Version 23 denies the R-CFS customer the LTF capacity that would otherwise be available to it absent the System Conditions or Specific Hours limitations and instead allows a later-in-time customer to access this capacity, contrary to the first-come, first-served principle in Bonneville’s tariff. Powerex expressed its disagreement with this practice when Bonneville proposed Version 23.⁹

Powerex believes Bonneville’s current practice, described above, is not how firming up of R-CFS should function. Instead, firming up R-CFS should allow LTF capacity—should it become available—to be allocated to the R-CFS customer’s original reservation in queue order. A customer should not need to submit a conversion TSR to firm up its original request. If implemented in this manner, no queue jumping occurs and Bonneville will respect the first-come, first-served principle set forth in Bonneville’s tariff.

In addition, during the February 20th discussion, Bonneville also appeared to indicate that certain limitations with the CCO Module hindered Bonneville’s ability to consider firming up R-CFS in queue order should LTF capacity become available. As a threshold matter, the functionality of the OATI’s CCO Module, or any limitation in software, should not be construed as a deferential interpretation of FERC precedent and should not be the determining factor in how Bonneville implements CFS. The characteristics of CFS are set by FERC and may reasonably implemented by the transmission provider in their OATT, consistent with that FERC precedent. In addition, no LTF capacity is awarded automatically, and Transmission Providers must study it and provide it manually. Just as Bonneville needs a manual process for B-CFS, it appears that the TSN methodology could apply equally to R-CFS.

⁸ For example, if a customer accepts R-CFS on a given path from Jan. 1, 2020 to Dec. 31, 2021, that customer would not have the conditions removed unless the customer submits another TSR and LTF capacity (without conditions) is available. Thus, as Powerex understands Version 23, the R-CFS customer would only be firmed up after submitting an entirely new TSR.

⁹ See *Powerex Corp.*, Comments on Conditional Firm Transmission Service Business Practice, Version 23 (June 6, 2019).

As Powerex previously stated, the CFS component to LTF service did not create a separate or distinct service from LTF service.¹⁰ LTF customers with a CFS component are part of the LTF queue, are processed in the same queue priority as any other LTF request, and pay the same rate for the service as other LTF customers. In other words, LTF service with a CFS component is not a lesser form or class of service, but CFS is simply LTF service that may receive a lower priority of service during discrete and identified hours or system conditions.¹¹ Further, CFS is generally intended to be an interim measure until transmission systems are upgraded or otherwise able to provide the requested LTF service either on a short-term or long-term basis.

The rights associated with the firming up CFS need to be included in Bonneville's tariff. As part of proposing tariff changes to accommodate this, Bonneville should include this topic in the TC-22 workshops. Greater clarity, consistent with FERC precedent, would provide customers with clearer expectations and understanding in how CFS is provided by Bonneville. The first-come, first-served principle is embedded in Bonneville's tariff and provides a sound basis to craft tariff provisions to ensure that later-in-time customers cannot step ahead of CFS customers taking conditioned service. While FERC has not unambiguously set forth a *pro forma* policy to address this issue, FERC did articulate its expectation in Order No. 890 and subsequent orders that "subsequent firm transmission service requests should not be placed ahead of the conditional firm service" and that Order No. 890 was intended to "allow[] customers to keep their place in the queue ahead of other customers seeking conditional firm, planning redispatch options, or other firm services." FERC also explained that a transmission provider's biennial reassessment may find that the conditions are no longer warranted (or are still warranted but to a lesser extent) and in such circumstances the customer's reassessment CFS should be firming up. In sum, Powerex believes that firming up CFS customers based on their order in the queue is the reasonable result, in alignment with FERC precedent, and should be adopted by Bonneville through tariff revisions.

Additional Comments

- In Section A. 2, Version 24 refers to FERC Order Nos. 890 and 890-A. This section should be modified to include reference to the relevant paragraphs of Order No. 890-B.
- In Section A.3, Version 24 states that Bonneville uses the CCO Module to manage CFS. This section should be amended to state that Bonneville may modify implementation of the CCO Module. For instance, Bonneville proposes to create TSNs to allow B-CFS AREFs to retain queue position.
- Section A.4 should include a reference to Section 13.2 of Bonneville's tariff.
- Version 24 references a "Conditional Firm Service Agreement" and a "CFS Exhibit". Bonneville should clarify if these terms refer to the same document or use consistent terminology.
- In Section D.1.e, Bonneville should include rollover rights as one of the same rights available to CFS customers that is available to customer receiving LTF service without conditions.

¹⁰ Order No. 890 at P 1043.

¹¹ *Id.* at PP 925, 1048.



Powerex respectfully asks Bonneville to withdraw proposed Version 24 and include issues and provisions related to firming up CFS in the TC-22 workshops.

Sincerely,

Raj Hundal
Market Policy and Practices Manager