

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

AR 660

In the Matter of

Adoption of Rules Relating to Resource
Adequacy

COMMENTS OF
BROOKFIELD RENEWABLE TRADING AND
MARKETING LP

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Dated: January 25, 2024

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I. INTRODUCTION & SUMMARY

Brookfield Renewable Trading and Marketing LP (“BRTM”) hereby submits the following comments in response to the Oregon Public Utility Commission’s (“Commission”) Notice of Proposed Rulemaking regarding resource adequacy (“RA”) in the above-captioned proceeding.

In these comments, BRTM supports the comments filed by the Northwest & Intermountain Power Producers Coalition (“NIPPC”) and Calpine Energy Solutions, LLC (“Calpine”). Specifically, BRTM echoes the significant concern surrounding the workability of the proposed transmission forward showing for the state RA program. The Commission should consider the reasonable alternatives initially proposed by Calpine, as well as removing restrictions on claiming exceptions to the transmission forward showing requirements. Further, as BRTM has raised in prior comments, the Commission should adopt similar confidentiality protections as those implemented in Docket No. AR 651.

BRTM respectfully requests that the Commission:

1. Implement the capacity backstop and request for offers (“RFO”) alternatives proposed by NIPPC and Calpine because they are just, reasonable, and ensure resource adequacy;
2. Eliminate limitations on transmission forward showing exceptions as inconsistent with the WRAP or, at a minimum, mirror the WRAP’s limitations; and

3. Implement the same confidentiality protections in AR 651 for information provided with RA filings following the adoption of final rules in this proceeding.

II. COMMENTS

a. The Proposed Rule's Transmission Forward Showing is Not Workable

The proposed rules require transmission forward showings that are too onerous and inconsistent with region-wide and entity-specific transmission planning and procurement. Specifically, the proposed rule requires participants in the state RA program to acquire 75 percent of the transmission necessary to move the respective year's generation forward showing to load. This same standard is applicable for both one and two years in advance.

As thoroughly detailed in NIPPC's comments, such requirements make the proposed state program unworkable for several reasons. First, the initial 75 percent forward showing requirement was implemented because of Staff's "intent [] to align the binding transmission forward showing with the adequacy levels and exceptions in the WRAP."¹ But participants in the WRAP are required to have firm transmission rights sufficient to deliver 75 percent of the megawatt quantity of the participant's Forward Showing Capacity Requirement *seven months in advance*.² Requiring 75 percent firm transmission rights any sooner than seven months in advance of the binding date is not in alignment with the WRAP. While the discrete percentage selected for the state program transmission forward showing—75 percent—matches the number selected for WRAP transmission forward showing requirements, that is the only "alignment." Why the same requirement is appropriate for one and two years in advance has not been explained or justified in the context of the realities of procuring firm transmission rights in the Pacific Northwest.

¹ Staff's February 17, 2023, paper entitled "UM 2143 Investigation into Resource Adequacy in the State Updated Process proposal for continuation of UM 2143", p. 2, available at <https://edocs.puc.state.or.us/efdocs/HAH/um2143hah93525.pdf>.

² WRAP Tariff, Section 16.3.1.

Second, and examining the realities of procuring firm transmission in the Pacific Northwest, requiring state participants to procure 75 percent of transmission rights one and two years in advance is untenable. According to the transmittal letter for the WRAP tariff, the 75 percent threshold:

reflects a reasonable balance of the firm transmission deliverability metric for initial implementation of the WRAP given the seven-Month deadline for making the Forward Showing. A 100% standard that would require Participants to show full transmission service seven months ahead of the Binding Season could serve as a barrier to initial participation. And that standard is not essential for reliability, *given that most Participants' experience has been that a certain amount of transmission service that is not available seven Months ahead of the Binding Season can be obtained on a shorter-term basis.*³

BRTM refers the Commission to NIPPC's comments for more detail on the difficulty in procuring firm transmission in the region. However, it is important to emphasize that if certain amounts of transmission rights which will be eventually available are not typically available seven months in advance, then even fewer such transmission rights will be available one and two years in advance. In response to this reality, the WRAP attempted to strike a balance between the transmission forward showing requirement and the realities of obtaining (or the inability to obtain) firm transmission in advance. Based on analysis and insight from the Southwest Power Pool, Western Power Pool, and utilities and stakeholders across the region, that balance was set at 75 percent seven months in advance. No analysis was developed or provided in the informal rulemaking phase demonstrating that the WRAP transmission forward showing requirement is appropriate for a state RA program, let alone a significantly more onerous one requiring the same forward showing 12 and 24 months in advance.

³ WRAP FERC filing, Charles Hendrix Aff., ¶ 42 (emphasis added).

Third, the practical effect of the proposed state program requirements is unjust and unreasonable. Specifically, implementing the proposed onerous and unworkable transmission forward showings would force ESSs to join the WRAP in an effort to avoid state program penalties because of the inability to obtain required (but eventually available) firm transmission. While *encouraging* WRAP participation is appropriate, transforming a voluntary program into a *mandatory* one is not. FERC approved the WRAP program specifically noting that the program was voluntary.⁴ There are likely benefits to WRAP participation, but the program is untested and, in many respects, still under development.⁵ That state participants would be effectively forced into the WRAP program presumes that the WRAP is beyond reproach and suitable for *all* market participants. But significant concerns exist with the WRAP design as a viable program for smaller market players, such as ESS's that do not have the benefit of a relatively stable and long-term customer base for which it is easier to plan and procure transmission on a longer-term basis. For example, the operations program of the WRAP that allows for capacity sharing requires each load responsible entity to have separate bilateral contract arrangements, including credit arrangements,

⁴ *Northwest Power Pool*, Order Accepting Proposed Tariff, 182 FERC ¶ 61,063, ¶ 1 (“The proposed WRAP Tariff sets forth the framework for a new *voluntary* resource adequacy planning and compliance program in the Western Interconnection.”) (emphasis added), ¶ 5 (“WPP states that its proposal does not establish a regional transmission organization (RTO) or independent system operator (ISO), or otherwise implement a centralized capacity market, but instead is a *voluntary* resource adequacy planning and compliance framework where Participants who are the Load Responsible Entities (LRE) *choose* to join the program and, once committed, are obligated to comply with its requirements or face penalties for non-compliance.”) (emphasis added), ¶ 84 (“We also note that the *voluntary* nature of the WRAP, and the Transition Period (where penalties do not apply) provides practical flexibility for Participants to evaluate the operational implications for each Participant’s individual circumstance.”) (emphasis added); *see also id.* (Christie, Comm’r, concurring) (“I concur in approving this FPA section 205 proposal because it represents the creation of a new and, most importantly, *voluntary* structure to promote resource adequacy within the Western states covered by this proposal.”) (emphasis in original).

⁵ As noted in Brookfield’s previously filed comments and as noted by Brookfield at the Commission’s open meeting, while WRAP is voluntary to join, once in, a participant is subject to a two-year exit provision. Thus, during this two-year period, a WRAP participant could be subject to repeated seasonal capacity—both generation and transmission—deficiency penalties. While Brookfield is supportive of a workable regional RA program, the WRAP’s 75% transmission forward showing requirements, combined with the applicable withdrawal and penalty provisions, necessitate careful consideration of the rewards and risks of WRAP membership.

in place with each and every other load responsible entity that is participating in the WRAP.⁶ Given the breadth and scope of the participants in the WRAP, that process would be burdensome, complex, and potentially discriminatory for smaller load serving entities. In short, the WRAP has value; however, the program should be tested and thoroughly vetted prior to mirrored (and more onerous) adoption in Oregon.

Therefore, BRTM cautions simple adoption of WRAP standards (especially more burdensome standards). As demonstrated by WRAP's own filing at FERC, the adoption of the proposed transmission forward showing are too onerous to be workable.

b. The Commission Should Implement Alternatives to the State Program

i. Capacity Forward Showing Alternatives

BRTM supports the capacity backstop and request for offers (“RFO”) alternatives detailed in NIPPC's and Calpine's pre-filed comments.⁷ These proposed alternative compliance opportunities provide optionality to load responsible entities while ensuring reliable capacity. Further, both investor-owned utilities and their customers would be held harmless. Under the capacity backstop charge option, the rate to be paid by entities electing capacity backstop would pay a Commission-approved, cost-based rate. A similar program has been proposed by Arizona Public Service Company (“APS”) and is currently under consideration by the Arizona Corporation Commission. Under that program, the direct access participant can choose to supply their own RA through their ESS-equivalent or receive RA from APS and pay a capacity backstop charge.⁸

⁶ WRAP Tariff § 21.1.1 (Operations Program Settlements).

⁷ Northwest & Intermountain Power Producers Coalition's Opening Comments on Proposed Rules, AR 660, pp. 12-15, available at <https://edocs.puc.state.or.us/efdocs/HAC/ar660hac326152023.pdf>; Calpine Energy Solutions, LLC's Opening Comments on Proposed Rules, AR 660, pp. 4-6, available at <https://edocs.puc.state.or.us/efdocs/HAC/ar660hac326157023.pdf>.

⁸ Arizona Public Service Company 2022 Rate Case Application, pp. 8-9, available at <https://docket.images.azcc.gov/E000022029.pdf?i=1705344693216>.

Under the RFO option, participating entities would bid for excess capacity on reasonable terms. These options, which are more thoroughly explained in NIPPC's and Calpine's comments, are just and reasonable alternatives to capacity forward showing requirements in the state program. BRTM respectfully recommends that the Commission include these options in its final rule.

ii. Transmission Forward Showing Alternatives

At the request of PGE, the proposed rules include a limitation on the use of transmission forward showing exceptions. Specifically, the proposed rules state that “A State Participant cannot use waiver condition [enduring constraints] or [available transfer capacity expected] for the same path for consecutive compliance periods.”⁹ PGE recommended this change “to further align with the WRAP.”¹⁰ However, this recommendation now reflected in the draft rules does not align with the WRAP.

The WRAP tariff does limit continued use of transmission forward showing exceptions but only in a very limited circumstance. Particularly, WRAP participants cannot claim either the “enduring constraints” or “available transfer capacity expected” exceptions “for the same path (or across the same constraint) for the same season of the subsequent year” if (1) firm transmission is available prior to the transmission forward showing deadline and (2) the firm transmission path is only posted for more than one year.¹¹ In this specific scenario, “the [WRAP] Participant [cannot] again decline[] to obtain such transmission service rights that are available for a duration of more than one year.”¹² The entire purpose of this limitation is to prevent WRAP participants from

⁹ Proposed Rule, Para. (9)(e).

¹⁰ PGE Comments on Staff Updated Draft Resource Adequacy Rules, UM 2143, p. 7, available at <https://edocs.puc.state.or.us/efdocs/HAC/um2143hac17320.pdf>.

¹¹ WRAP Tariff § 16.3.2.1 (enduring constraints), § 16.3.2.2 (available transmission capacity expected), available at https://www.westernpowerpool.org/private-media/documents/WRAP_Tariff_12-12-22_W0327945x8DF47_2.pdf.

¹² *Id.*; see also WRAP FERC filing, Charles Hendrix Aff., ¶ 48 (“[I]f the required firm transmission service rights are only available (at the OATT rate or less from either the TSP or secondary market sources) for more than one year, the Participant can still seek an exception, but if the exception is granted, the Participant will not be eligible for an exception on the same path for the following year.”)

claiming exceptions to transmission forward showing requirements when there actually is transmission capacity available, albeit only on a more long-term basis. If there are enduring constraints or if firm available transmission capacity is expected and multi-year transmission capacity is not available—a likely scenario in the Pacific Northwest—then WRAP participants can claim the same exception in any year. Thus, while the WRAP limitation on transmission forward showing exceptions is constrained to a specific and narrow set of facts, the proposed rule applies the limitation to any instance where either exception is claimed. Put differently, the WRAP tariff recognizes that transmission may be constrained such that, in certain situations, a WRAP participant may need to claim an exception two years in a row; the proposed rules do not.

The Commission should remove the blanket restriction on claiming transmission forward showing exceptions to align with the WRAP. As WRAP recognized, transmission constraints exist, and transmission availability is often not available significantly in advance. Without meaningful access to transmission exceptions, state RA program compliance will be impossible. Accordingly, BRTM respectfully recommends that the Commission revise the proposed rules as follows:

(9) A State Participant must demonstrate that it has firm or conditional firm transmission rights to deliver 75 percent of the Compliance Resources from generation source to load sink. A State Participant may request a waiver of a portion of the transmission requirement if it can demonstrate that at least one of the following conditions applies:

...

~~(e) A State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods.~~

To the extent the Commission keeps restrictions on claiming exceptions, however, the Commission should be no more restrictive than WRAP. Under this alternative option, BRTM recommends the following revision to the Commission's rules:

(9) A State Participant must demonstrate that it has firm or conditional firm transmission rights to deliver 75 percent of the Compliance Resources from generation source to load sink. A State Participant may request a waiver of a portion of the transmission requirement if it can demonstrate that at least one of the following conditions applies:

...

(e) A State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods if the Qualified Regional Program would preclude use of such waiver.

Therefore, BRTM recommends that the Commission remove restrictions placed on transmission forward showings or, in the alternative, allow for exceptions consistent with the WRAP.

c. The Commission Should Implement the Same Confidentiality Protections as in AR 651

As stated in prior comments and workshops, BRTM shares the concerns of other load responsible entities (“LRE”) regarding the disclosure of confidential information when complying with the Commission’s RA filing requirements. This is particularly true in Oregon where LREs compete for direct access load. Similar concerns were raised in Docket No. AR 651 in the context of emissions planning reports. There, the stakeholders conferred and created a confidentiality framework that maintained confidentiality while ensuring that the Commission and the Citizen’s Utility Board (“CUB”) received the protected information. The final adopted language reads:

(8) Availability of Information:

(a) Information regarding an analysis of the \$/MWh (levelized if under different pricing structure) that the customer will be charged for service related to compliance for each of the next 3 years, as required by section 3(f) of this rule will be available for review only by Qualified Statutory Parties, meaning any Commission Staff and any representatives of the Citizen’s Utility Board, who executed a modified protective order;

(b) The following information shall be available for review only by Non-Market Participants that have executed a modified protective order:

(A) Action plan that specifies annual goals and resources, including specified and unspecified market purchases, that the ESS plans to use to meet the load and emissions forecast consistent with the DEQ emissions reporting methodology, as required in Section 3(e) of this rule;

- (B) Information regarding the load forecast for each of the following three consecutive years, aggregate for all Oregon Direct Access customers, as required by Section 3(c) of this rule; and
- (C) The summary of the specific electricity-generating resources and MWh generation from those resources, as required by Section 3(b) of this rule.
- (c) For purposes of this rule, Non-Market Participants includes Commission Staff, the Citizen's Utility Board, and non-profit organizations engaged in environmental advocacy that do not otherwise participate in electricity markets.

This same general structure for protecting confidential information should be implemented here. Information that should be provided to only the Commission Staff and CUB include a regional participant's forward showing submission. Information included in regional program submissions is extensive and contains proprietary information. Disclosure of this information would be harmful to LREs and likely create competitive disadvantages to LREs in Oregon. There is no legitimate reason for such information to be disclosed beyond Commission Staff and CUB. Information that should be provided only to non-market participants include monthly P50 load forecasts and monthly transmission requirements. In Oregon where LREs compete for DA load, extended forecasts of load and transmission should not be shared with competitors who compete for the same load and transmission.

Therefore, the proposed rules should be revised to implement the same confidentiality protections as provided with emissions planning reports.

III. CONCLUSION

BRTM appreciates the opportunity to provide these comments and looks forward to engaging with the Commission and other parties as this proceeding continues.

DATED this 25th day of January, 2024.

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