

167 FERC ¶ 61,125  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 14, 2019

In Reply Refer To:  
DATC SLTP, LLC  
Docket No. ER19-1338-000

McGuire Woods LLP  
2001 K Street NW  
Suite 400  
Washington, DC 20006

Attention: Noel Symons

Dear Mr. Symons:

1. On March 15, 2019, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> DATC SLTP, LLC (DATC) filed a rate schedule (the DATC SLTP Rate Schedule) for the limited purpose of establishing conditions for the release by DATC of capacity that it will hold on the new San Luis Transmission Project (SLTP), to be constructed by the Western Area Power Administration (Western) as part of the Sierra Nevada Region transmission system. As discussed below, we accept the proposed rate schedule, effective May 15, 2019, as requested.
2. DATC states that the SLTP is the product of a unique public-private partnership between DATC and three public entities: Western, the United States Bureau of Reclamation (Reclamation), and the San Luis & Delta-Mendota Water Authority (Water Authority).<sup>3</sup> The SLTP is a proposed 600 megawatt (MW), 230-kV transmission project approximately 85 miles in length between Western's Tracy substation and the San Luis

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2018).

<sup>3</sup> DATC states that Water Authority is a California joint power authority comprised of 28 member water agencies that has a water service contract with Reclamation for water supply from the Central Valley Project.

and Dos Amigos substations. DATC represents that the SLTP partnership will permit transmission service to customers at more competitive rates than what could be provided without DATC's involvement.

3. DATC states that, under the SLTP partnership, DATC will finance 100 percent of the construction costs of the SLTP while Western will construct, own, operate, maintain, and provide transmission service over 100 percent of the SLTP. In return for its investment, DATC will enter into a 30-year transmission service agreement with Western, through which DATC will obtain transmission rights to the entire capacity of the SLTP. DATC states that it will then reassign the SLTP capacity to Reclamation and other willing customers at negotiated rates, with the replacement capacity holders taking service pursuant to the capacity release provisions of the Western Reciprocity Open Access Transmission Tariff (Western Tariff).<sup>4</sup> DATC represents that, at the end of the 30 years, the line capacity will revert to Western.<sup>5</sup>

4. DATC states that its planned participation is as an investor and assignor of firm point-to-point transmission capacity rights. DATC further states that it is not, and will not become, an owner or operator of transmission facilities. DATC states that, under the arrangement, it will become a Western transmission customer by taking up to 600 MW of bi-directional transmission capacity on the SLTP. DATC attests that the SLTP partnership will permit Western to fulfill its obligation to serve customers such as Reclamation and Water Authority, reduce costs incurred by Reclamation and Water Authority for necessary transmission service, and allow DATC to invest in new transmission while earning a return on that investment without taking on the obligations of becoming a transmission provider.<sup>6</sup>

5. The DATC SLTP Rate Schedule sets forth the terms and conditions under which DATC will reassign the SLTP capacity. DATC represents that the sole purpose of the DATC SLTP Rate Schedule is to provide DATC a means of reassigning the transmission capacity to third parties at negotiated rates. DATC attests that its proposed reassignment of SLTP capacity is consistent with the Commission's policies on transmission capacity reassignment.<sup>7</sup>

6. DATC explains that it will first reassign to Reclamation sufficient capacity to serve Water Authority's load. DATC will then reassign the excess capacity (up to

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<sup>4</sup> DATC Transmittal at 2-3.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

200 MW in the north-south direction and up to 600 MW in the south-north direction) to customers identified through DATC's marketing efforts, including targeted outreaches and a planned competitive solicitation process. DATC states that the DATC SLTP Rate Schedule provides that the capacity reassignments themselves will be performed in accordance with the Western Tariff. DATC represents that, once the capacity is reassigned, Western will provide the corresponding transmission service directly to the new customers. DATC notes that all reassignments will be reported to the Commission via Electric Quarterly Reports (EQR), which will permit the Commission to monitor the prices at which DATC reassigns its transmission capacity. DATC states that the parties are still determining which entity will report the capacity reassignments in EQR filings.<sup>8</sup>

7. DATC states that its capacity reassignments will be made in accordance with section 23 of the Western Tariff. Section 23 provides that a Western transmission customer may sell, assign, or transfer its rights under its service agreement, but only to another eligible customer and only after receiving approval from Western. DATC states that assignees must execute a service agreement with Western prior to the reassignment, and notice of the reassignment must be posted on Western's Open Access Same-Time Information System.<sup>9</sup>

8. DATC contends that, because this is a capacity reassignment, the Commission's pricing rules for capacity reassignments in Order No. 739 should apply.<sup>10</sup> DATC argues that the rates for the reassigned capacity will be just and reasonable because there is a natural economic limit on pricing aggregated transmission. DATC explains that the CAISO transmission access charge acts as a natural cap—there is no reason for Reclamation and other customers to pay DATC more than the amount they anticipate the transmission access charge to be because they could otherwise acquire transmission service from CAISO.<sup>11</sup> DATC argues that customers like Reclamation benefit from working with DATC, rather than directly with the incumbent transmission owner,

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<sup>8</sup> *Id.* at 9.

<sup>9</sup> *Id.* at 11.

<sup>10</sup> See *Promoting a Competitive Market for Capacity Reassignment*, Order No. 739, 132 FERC ¶ 61,238 (2010), *order on reh'g*, Order No. 739-A, 135 FERC ¶ 61,137 (2011).

<sup>11</sup> DATC Transmittal at 14-15.

because economies of scale can provide each customer savings that they could not realize individually, while still leaving DATC room to earn a return.<sup>12</sup>

9. DATC also represents that the DATC SLTP Rate Schedule has built-in safeguards. First, it is limited to a single specific transmission line on Western's system. DATC states that this will enable the Commission to confirm that there is no one else in the transmission queue seeking to build this transmission line (i.e., this is not an effort to hoard transmission). Second, it includes a prohibition on affiliate sales. Third, the underlying transmission reservation will be for no more than 30 years, ensuring that DATC's role is limited to financing and earning a return on its investment over a reasonable period.<sup>13</sup>

10. Additionally, DATC commits to host a competitive solicitation process for the capacity remaining after the reassignment to Reclamation. DATC states that, while it is not and will not be a merchant transmission provider, DATC's competitive solicitation will track the Commission's required process for merchant transmission developers seeking to pre-subscribe capacity at negotiated rates.<sup>14</sup> DATC states that, if the Commission desires, DATC will submit a filing informing the Commission of the process used and the results at the close of the solicitation process.

11. DATC notes that compensation from Reclamation will be negotiated separately and may or may not be the same as compensation by subsequent customers. DATC states that, in the merchant transmission context, the Commission permits pricing based on factors that differentiate between customers, including different rates for first movers.<sup>15</sup>

12. DATC notes that, while the Commission does not require entities reassigning capacity to have a stand-alone rate schedule on file and does not require FPA section 205

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<sup>12</sup> *Id.* at 14. DATC represents that Reclamation and Water Authority previously explored a potential transmission upgrade on a stand-alone basis (i.e., without DATC's involvement), but found the cost of the upgrade to be above the California Independent System Operator Corporation (CAISO) transmission access charge and therefore not cost effective. *Id.* at 7.

<sup>13</sup> *Id.* at 15.

<sup>14</sup> *Id.* at 15-16 (citing *Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects*, 142 FERC ¶ 61,038 (2013) (Policy Statement)).

<sup>15</sup> *Id.* at 16 (citing Policy Statement, 142 FERC ¶ 61,038 at P 28).

filings for conforming service agreements for generally applicable services, DATC needs regulatory certainty to go forward with financing the project. DATC attests that all parties view Commission action on this filing as a critical path-gating item. Accordingly, DATC requests that the Commission determine its rate to be just and reasonable without addressing jurisdiction.

13. DATC states that it will keep its accounting records in accordance with generally accepted accounting principles, but, in light of the fact that it will not be providing transmission service, DATC requests waivers similar to those the Commission generally grants to power marketers seeking market-based rate authorization: waiver of Subparts B and C of Part 35 of the Commission's regulations; Part 41 and Part 141 of the Commission's regulations concerning accounting and reporting requirements; and Part 101 of the Commission's regulations.<sup>16</sup> DATC requests an effective date of May 15, 2019.

14. Notice of DATC's filing was published in the *Federal Register*, 84 Fed. Reg. 10,814 (2019), with interventions and protests due on or before April 5, 2019. Balancing Authority of Northern California, Modesto Irrigation District, and Western filed motions to intervene. Reclamation filed comments stating that it seeks to clarify the respective roles of Reclamation and Water Authority in relation to the SLTP. Reclamation states that 26 of Water Authority's members, not Water Authority itself, have a contract with the United States for the delivery of Central Valley Project water. Reclamation also clarifies that the energy transmitted over the SLTP will be used to meet Reclamation's load, not Water Authority's, as mistakenly described in DATC's filing.<sup>17</sup>

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

16. The Commission finds that DATC's proposed rate schedule is just and reasonable and not unduly discriminatory or preferential. DATC's proposal presents a unique public-private partnership that will create new transmission capacity provided at lower rates for Reclamation's load than could be provided without the proposed line. Transmission service will be provided pursuant to the terms of the Western Tariff. Furthermore, the rate schedule includes a prohibition on affiliate sales, and DATC commits to host a competitive solicitation process for the capacity remaining after the reassignment to Reclamation. Accordingly, the Commission accepts the proposed DATC SLTP Rate Schedule effective May 15, 2019, as requested. Also, the Commission

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<sup>16</sup> *Id.* at 10, 17-18 (citing *Macquarie Energy Trading LLC*, Docket No. ER18-2264-001 (Nov. 26, 2018) (delegated order)).

<sup>17</sup> Reclamation Comments at 1-2.

accepts DATC's offer to make a filing informing the Commission of the competitive solicitation process and results, and directs DATC to submit such filing within 30 days after the conclusion of the competitive solicitation process. The Commission also directs DATC, in its future filing, to notify the Commission which entity will report the capacity reassignments in EQRs. Finally, the Commission grants DATC's request for waivers of the Commission's regulations, specifically of: (1) Subparts B and C of Part 35, requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16; (2) Part 41 and Part 141, concerning accounting and reporting requirements; and (3) Part 101, concerning the Uniform System of Accounts. The Commission acknowledges that, notwithstanding this waiver of the accounting and reporting requirements, DATC has committed to keep its accounting records in accordance with generally accepted accounting principles.

By direction of the Commission. Commissioner McNamee is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Document Content(s)

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