



# OCETI SAKOWIN POWER AUTHORITY

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VIA EMAIL

WAPA Administrator and Staff  
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**Re: The Oceti Sakowin Power Authority Does Not Oppose Expanded WAPA Participation in the Southwest Power Pool RTO, but Unique Methods of Obtaining Interconnection to the National Power Grid by Indian Energy Developers Must be Provided**

## COMMENTS OF THE OCETI SAKOWIN POWER AUTHORITY

The Oceti Sakowin Power Authority (OSPA) thanks WAPA for its public outreach on this topic, and is grateful for this opportunity to submit its comments. OSPA is a federally chartered “Section 17” corporation, 100% owned by seven Sioux Tribes that share territory with the states of South and North Dakota. For the last five years, OSPA and its experienced wind farm developer partner have been developing two utility-scale wind farms: 450 MW on the Cheyenne River Reservation and 120 MW on the Oglala Pine Ridge Reservation. OSPA meets the U.S. Department of Energy’s (DOE) definition of a Tribally Owned Development Organization (TEDO). For purposes of these comments, however, OSPA will use the term Indian Energy Developer, because it is discussing interconnection concerns common to TEDOs and non-Tribally owned developers of renewable energy on Tribal lands.

### **A Cautionary Example: WAPA’s Participation in the SPP Interconnection Tariff Had the Unintended Consequence of Forcing Three Utility-Scale Indian-Developed Wind and Solar Projects – 680 MW of Renewable Energy on Tribal Lands – Off the Interconnection Queue**

OSPA was founded and started developing its wind farms in mid-2015, before WAPA UGP joined the Southwest Power Pool. At that time, the security deposits that would have been required to secure a place in the interconnection queue for both wind farms under the WAPA tariff would have cost less than \$1 million. By the time OSPA was ready to secure a place on the interconnection queue in late 2017, WAPA UGP had joined SPP and interconnection was provided under the SPP’s Open Access Transmission Tariff (OATT). At that time, the security deposit required for the queue positions for both wind farms was fixed at approximately \$2.5 million.

SPP revised its tariff in 2019, changing to an interconnection deposit that varied based on the costs of projected network upgrades. Following completion of SPP’s Phase 2 System Impact Study in 2022, SPP set the security deposit required for OSPA’s two wind farms

combined at \$48 million. OSPA could not raise this amount of money in the time provided by the SPP tariff, and in October of last year, OSPA was forced to withdraw its two wind farm projects from the SPP interconnection queue.

In addition to the two OSPA wind farms, a 110 MW solar farm being developed on the Pine Ridge Reservation by individual Indian landowners was also forced off the queue as a result of SPP's security deposit requirements. That's a total of 680 MW of renewable energy being developed by Indians on Indian land forced off the SPP queue in the last two years.

The OSPA wind farms obtained their queue positions in 2017 and sat on the queue due to SPP study delays until they were forced to drop out in late 2022. There is no mechanism in the SPP tariff for an expedited process to get back on the queue, and when OSPA reapplies for interconnection, the SPP tariffed process is now expected to take another three years or more.

Rather than repeat the details in these comments, OSPA refers WAPA Staff to the comments OSPA submitted in the Federal Energy Regulatory Commission (FERC) proceeding examining interconnection reform.<sup>1</sup>

FERC has pending two proceedings promising reforms to interconnection procedures and costs<sup>2</sup>, and transmission planning and cost allocations<sup>3</sup>, and these proceedings may provide OSPA the ability to obtain interconnection at a reasonable cost and without further delay – but OSPA cannot count on that outcome. At present, there is no alternative to a consultative process to provide interconnection to Indian Energy Developers on a reasonable basis.

### **OSPA Does Not Object to WAPA's Expanded Participation in the SPP RTO, and Recognizes that Expansion Could Provide Significant Benefits to Indian Energy Developers**

The Comments filed in response to WAPA's outreach on this matter show broad support for the proposed expanded participation in SPP, although the Indian commenters range from cautiously optimistic to opposed.<sup>4</sup> OSPA agrees that the proposed expansion should eliminate pancaking and so reduce some transmission costs, and the expanded service area may facilitate sales of Indian-developed energy. OSPA's only concern with the expansion is the effect it likely

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<sup>1</sup> FERC, *Improvements to Generator Interconnection Procedures and Agreements*, Docket No. RM22-14-000: Comments of the Oceti Sakowin Power Authority: The Commission Is Required to Adopt Rules and Practices Tailored to the Unique Needs of Tribes and Tribal Energy Development Organizations (October 13, 2022); Reply Comment of the Oceti Sakowin Power Authority (December 14, 2022).

<sup>2</sup> Docket No. RM22-14-000.

<sup>3</sup> Docket No. RM21-17-000.

<sup>4</sup> See comments of Prairie Band Potawatomi Nation (June 8, 2023) (hopeful that SPP expansion would provide direct connections to WAPA so as to increase the value of their hydropower allocation); Ak-Chin Energy Services (June 9, 2023) (additional assurances of service are required); Salt River Pima-Maricopa Indian Community (June 12, 2023) (opposing expansion at this time).

will have on Indian Energy Developers' ability to interconnect to the National Power Grid, unless an alternative to the SPP interconnection tariff is made available.

### **WAPA Must Provide Alternative Methods of Interconnection to the National Power Grid, Apart from the SPP Open Access Transmission Tariff**

#### Interconnection of Indian Energy with the WAPA network requires meaningful consultation

President Bill Clinton established a robust process of consultation and coordination with Indian Tribal governments in his Executive Order 13175.<sup>5</sup> In one of his first acts as President, Joe Biden issued an Executive Memorandum that expands Executive Order 13175 by charging "all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications." In doing so, President Biden stated: "It is a priority of my Administration to make respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy."<sup>6</sup>

In response to the President's Memorandum, Secretary Granholm stated: "The President also noted that respect for Tribal sovereignty and self-governance, fulfilling Federal trust responsibilities to Tribal Nations, and regular and meaningful and robust consultation with Tribal officials are the utmost priority for this administration. I am optimistic about what we can accomplish together."<sup>7</sup>

DOE issued its response to the President's memorandum on May 18, 2021. The response included an initial Consultation Plan, and a detailed description of the consultative process that led to it. That process included participation by representatives from 41 Tribes and DOE senior officials, including the Interim Administrator of WAPA and the Administrators of two other Power Marketing Administrations.<sup>8</sup> The statements by the President and the

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<sup>5</sup> Consultation and Coordination with Indian Tribal Governments, Executive Order 13175, 65 Fed. Reg. 218 (November 6, 2000).

<sup>6</sup> Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships (January 26, 2021). <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>

<sup>7</sup> Letter from Secretary Granholm to Tribal Leaders, dated March 26, 2021. <https://www.energy.gov/sites/default/files/2021-04/Granholm%20Tribal%20Consultation%20Letter%20040920.pdf>

<sup>8</sup> The U.S. Department of Energy Response to President Biden's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships (May 18, 2021). <https://www.energy.gov/sites/default/files/2021-08/POTUS%20Tribal%20Consultation%20Memo%20-%20DOE%20Response%20and%20Action%20Plan%20-FINAL.pdf> See also, DOE Tribal Consultation Plan of Actions – Progress Report, March 2022. <https://www.energy.gov/sites/default/files/2022->

Secretary confirm that the need for Indian Energy Developers to gain access to the National Power Grid through WAPA and the WAPA/Basin Integrated Network is a matter that invokes the federal trust responsibility and requires meaningful consultation.<sup>9</sup>

The federal consultation obligation and trust responsibility to provide Indian Energy Developers reasonable access to the National Power Grid cannot be superseded by the SPP OAT Tariff

Having the OAT Tariff as the sole means of achieving interconnection to the National Power Grid is the opposite of meaningful consultation – inflexible, one-size-fits-all, and conceptualized and drafted without meaningful consultation with Tribes. OSPA knows this because, after it lost its queue position, OSPA representatives spoke with the Staff of both WAPA and SPP to see if some kind of alternative path to interconnection could be made available. The Staff of both organizations simply referred OSPA to the SPP OAT Tariff, and said they lacked authority to do anything but implement it.

Consultation with WAPA regarding interconnection is necessary for Indian Energy Developers because they are not like the multi-million-dollar companies that developed wind farms previously. The large developers look for sites wherever excess transmission capacity exists, but Tribes don't have that luxury – they must develop the energy resources that are on their reservations. And Tribal lands are grossly underserved by power lines (as well as roads, broadband, and water services) – the result of generations of underinvestment in Tribal lands and the surrounding territory. Indian Energy Developers face a huge hurdle in trying to overcome the chronic shortage of available transmission capacity on their reservations. Overcoming this hurdle requires Tribe-specific consultation and planning, something an interconnection tariff cannot deliver.

Moreover, Tribes have other unique needs and attributes that cannot be addressed by a tariffed service:

- Many Tribes, including the OSPA member Tribes, are cash poor, and must make financial arrangements well in advance. Under the SPP tariff, once applicants obtain their final study results, they must submit payment within two weeks.
- Many Tribes, like the OSPA member Tribes, are also preferred customers of WAPA. Several of the OSPA Tribes receive hydroelectric power allocations from WAPA, which could be directly affected when Indian Energy Developers construct transmission

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[11/DOE%20Tribal%20Consultation%20Plan%20of%20Actions%20%E2%80%93%20Progress%20Report%2C%20March%202022.pdf](#)

<sup>9</sup> The comments of Ak-Chin Energy Services (June 9, 2023) also make the point that direct consultation by WAPA to affected Tribes is required by the federal trust responsibility.

facilities directly connecting to the WAPA network.<sup>10</sup>

- The two OSPA wind farms that lost their queue positions did so because SPP's studies assigned to them hundreds of millions of dollars in heavying-up WAPA transmission facilities. There are real questions whether Tribes should be required to build federal infrastructure, and how the Biden Administration's Justice40 initiative would affect such a transaction.

All these factors require meaningful consultation between WAPA and the Indian Energy Developer as part of the interconnection process.

**Conclusion:**

OSPA is grateful for the opportunity to be heard on this issue of critical importance to OSPA and all Indian Energy Developers who will access the National Power Grid through WAPA. OSPA looks forward to continuing this discussion with WAPA as we make further progress in developing renewable energy resources on the reservations of our member Tribes.

Respectfully submitted,



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<sup>10</sup> Most Tribes obtaining hydropower allocations from WAPA are not directly connected, but instead obtain credits through third parties. Direct connection to WAPA may allow the Tribes to realize greater value from the allocations. The comments of the Prairie Band Potawatomi Nation (June 8, 2023) also discuss WAPA hydropower allocations, and state their hope that expansion into the SPP RTO will lead to more efficient, and more valuable direct connections to WAPA.