

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Entergy Services, Inc.

Docket Nos. EL05-149-001,  
ER05-1432-001,  
and EL06-2-001

ORDER DENYING REHEARING

(Issued March 23, 2006)

1. In its October 14, 2005 Order,<sup>1</sup> the Commission granted Entergy Services, Inc.'s petition for a declaratory order on behalf of the Entergy Operating Companies<sup>2</sup> (collectively, Entergy) regarding Entergy's obligation to compensate third-party generators for Reactive Supply and Voltage Control from Generation Sources Services (reactive power) within their specified power factor range (dead band). The October 14 Order also accepted Entergy's revisions to Schedule 2 under its Open Access Transmission Tariff (OATT or Tariff) to establish a zero rate for Entergy's charge to its transmission customers for Entergy's provision of reactive power within the dead band from its own or affiliated generating units. On November 14, 2005, the Independent Generators<sup>3</sup> and Occidental Chemical Corporation (Occidental) separately filed requests for rehearing of the October 14 Order. In this order, we will deny these requests for rehearing.

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<sup>1</sup> *Entergy Services, Inc.*, 113 FERC ¶ 61,040 (2005) (October 14 Order).

<sup>2</sup> Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

<sup>3</sup> Calpine Corporation, Cottonwood Energy Company LP, KGen Power Management Inc., Suez Energy North America, Inc., and Union Power Partners, LP.

## I. Background

2. On September 2, 2005, Entergy filed a petition for a declaratory order requesting that the Commission confirm that, if Entergy does not compensate its own or affiliated generators for reactive power service provided within the generator's dead band, then Entergy need not, on a prospective basis, compensate an unaffiliated generator for reactive power within its dead band. Also, on September 2, 2005, Entergy submitted revised tariff sheets to Schedule 2 to, as relevant here, set to zero the rate currently charged by Entergy for reactive power from its own and affiliated generators.

3. According to Entergy, the Commission's established policy, both under Order No. 888<sup>4</sup> (and related case law) and under Order No. 2003,<sup>5</sup> is that a transmission provider is not required to compensate unaffiliated generators for maintaining reactive power within the dead band as long as the transmission provider is not compensating its own or its affiliated generators for providing reactive power within the dead band.

4. Entergy stated that the Commission considers such reactive power, maintained within the dead band while the generating facility is in operation, to be no more than part of an interconnected generator's core obligation as a condition of interconnecting with the transmission provider's system without degrading the reliable operation of the transmission grid. Further, Entergy stated that the Commission has specifically rejected requests for compensation in such circumstances.<sup>6</sup>

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<sup>4</sup> See *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,980-81 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>5</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 21 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005).

<sup>6</sup> *Michigan Electric Transmission Co.*, 96 FERC ¶ 61,214 at 61,906 (*METC I*), *order on reh'g*, 97 FERC ¶ 61,187 at 61,852 (2001) (*METC II*).

5. Entergy noted that the only exception to the general rule of not compensating for reactive power within the dead band is the potential for undue discrimination. Entergy pointed to the Commission's statement that it would be unduly discriminatory to allow the transmission provider's own or affiliated generation to recover costs of reactive power within the dead band unless unaffiliated generation was afforded the same compensation opportunity.<sup>7</sup>

6. Entergy recognized, however, that, if a generator is required by the transmission provider to increase or decrease its reactive power output beyond the specified power factor, this is considered an ancillary service and the Commission has held that, in those circumstances, the generator may be compensated.<sup>8</sup>

7. Entergy asserted that it was willing to forego revenues being collected from its own and affiliated generators under Schedule 2 for reactive power within the dead band. Entergy argued that, if it does not compensate its own or affiliated generators for reactive power within the dead band, it need not compensate unaffiliated generators. Thus, according to Entergy, all generators supplying reactive power service to Entergy within the dead band would be treated comparably.

8. In the October 14 Order, the Commission agreed that, if Entergy did not compensate its own or affiliated generators for reactive power within the dead band, then Entergy need not compensate unaffiliated generators for reactive power within the dead band.<sup>9</sup> The Commission also accepted an Entergy tariff filing that revised Schedule 2 of

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<sup>7</sup> See Order No. 2003-A at P 411, 416.

<sup>8</sup> See *METC II*, 97 FERC at 61,852 (“[T]o the extent that reactive power is provided as an ancillary service, and thus outside reactive design limitation, Generators would be entitled to compensation.”); see also *Detroit Edison Co.*, 95 FERC ¶ 61,145 at 62,538 (“A generator is required to supply reactive power in order to operate the facility in a safe and reliable manner and in accordance with good utility practice. If, however, a transmission provider requests a generator to increase or decrease reactive power output, the generator must be compensated by the transmission provider.”).

<sup>9</sup> October 14 Order, 113 FERC ¶ 61,040 at P 22-24.

its Tariff to set to zero the rate paid to its own and affiliated generators for reactive power within the dead band.<sup>10</sup>

9. In their request for rehearing, Independent Generators claim that the Commission's decision denying compensation to reactive power service provided by Independent Generators is contrary to law. Specifically, they argue that the October 14 Order shifted the burden of proof onto the Independent Generators in violation of the Federal Power Act and precedent. Independent Generators reason that because Entergy is seeking a declaration that, under Order No. 2003, it is not required to pay for reactive power service, the burden is on Entergy to prove that it is not compensating its own or affiliated generating units for reactive power service, whether directly through its OATT Schedule 2 or indirectly through its retail rates. Independent Generators claim that neither they nor the Commission have any independent way to verify whether Entergy is recovering reactive power service costs through means other than Schedule 2. They argue that unless Entergy can prove that it is not and will not compensate its own or affiliated units for reactive power, or can demonstrate that there is no reasonable risk that it is unduly discriminating against the Independent Generators, the Commission is obligated to deny Entergy's petition.

10. In addition, Independent Generators dispute the Commission's decision in the October 14 Order as being contrary to the Independent Generators' individual contract rights to seek compensation for their reactive power services. They state that because Entergy's interconnection agreements all contain nearly identical language permitting the recovery of reactive power revenue requirements, the Commission should not grant Entergy's petition without considering in this proceeding whether Entergy is contractually bound to provide compensation for reactive power.

11. Occidental argues that, while Order No. 2003 determined that where a transmission provider does compensate its own or affiliated generators for reactive power service within the dead band, unaffiliated generators also must be paid for providing reactive power service within that dead band, this case presents a different situation. Here, argues Occidental, the transmission provider, Entergy, was asking to stop compensating its own and affiliated generators for reactive power service within the dead band, and also, therefore, those unaffiliated generators providing reactive power service. Occidental argues that, in this way, Entergy would stifle competition from non-affiliates.

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<sup>10</sup> *Id.* at P 25, 27, 38-39. Separately, this order also established hearing procedures and a section 206 investigation to address the justness and reasonableness of Entergy's proposed pass-through of the third party reactive power charges. *Id.* at P 40-45.

According to Occidental, the purpose of Entergy's proposal to eliminate reactive power compensation is "to reduce competition by raising costs of non-affiliated generators that seek to compete with Entergy's generation facilities."<sup>11</sup>

12. Entergy filed a motion seeking leave to answer the rehearing requests and an answer.

## **II. Discussion**

### **A. Procedural Matters**

13. Pursuant to Rule 713(d) of the Commission's Rules of Practice and Procedure<sup>12</sup> answers to requests for rehearing are not permitted. Therefore, the Commission will reject Entergy's answer.

### **B. Commission Determination**

14. Compensation for reactive power service *within* the dead band is based on comparability.<sup>13</sup> In Order No. 2003, the Commission emphasized that an interconnecting generator "should *not* be compensated for reactive power when operating its Generating Facility *within* the established power factor range, since it is *only* meeting its obligation."<sup>14</sup> Generators interconnected to a transmission provider's system need only be compensated where the transmission provider directs the generator to operate *outside* the dead band.<sup>15</sup> In Order No. 2003-A, however, the Commission addressed comparability and thus added that "if the transmission provider pays its own or its

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<sup>11</sup> We note that Occidental did not raise these concerns either in a comment to Order No. 2003 or in the rehearings following either Order No. 2003 or Order No. 2003-A..

<sup>12</sup> 18 C.F.R. § 385.713(d) (2005).

<sup>13</sup> Order No. 2003-A at P 416 (comparability of compensation); *see also* Order No. 2003, LGIA art. 9.6.1; Order No. 2003-A, LGIA art. 9.6.1.

<sup>14</sup> *See* Order No. 2003 at P 546 (emphasis added). The Commission recognized certain limited exceptions that are not applicable here.

<sup>15</sup> *METC I*, 96 FERC ¶ 61,214 at 61,906, *order on reh'g*, 97 FERC ¶ 61,187 at 61,852 (2001) ("[T]o the extent that reactive power is provided...outside reactive design limitations, Generators would be entitled to compensation.").

affiliated generators for reactive power *within* the established range, it *must* also pay the Interconnection Customer.”<sup>16</sup>

15. This order, as well as the original October 14 Order, apply the general prohibition against paying generators for reactive power within the dead band enunciated in Order No. 2003 and the comparability principle enunciated in Order 2003-A. Insofar as what is at issue is reactive power within the dead band, consistent with Order Nos. 2003 and 2003-A, generators would not normally be compensated, and then only if the transmission provider pays its own or affiliated generators.<sup>17</sup> Here Entergy has opted to no longer pay its own or affiliated generators. Accordingly, Entergy need no longer pay unaffiliated generators. As a result, we will deny rehearing.

16. At the outset, we disagree with Independent Generators’ argument that the October 14 Order shifted Entergy’s burden in its petition for declaratory order onto them. Entergy’s burden of proof was to demonstrate, contrary to Independent Generators’ assertions, only that if it did not compensate its own or affiliated generators for reactive power service provided to transmission customers within the generator’s dead band, then Entergy need not on a prospective basis compensate a non-affiliated generator for maintaining reactive power within its dead band. Entergy fulfilled its burden by pointing out that reactive power compensation within the dead band is based solely on comparability per Order Nos. 2003 and 2003-A as discussed above. In any event, Independent Generators’ contention that Entergy is compensating its own and affiliated generators for reactive power within the dead band through means other than Schedule 2, particularly through either other ancillary services rates or through retail rates, is unsubstantiated on this record and is therefore purely speculative. We note, in fact, that due to the very nature of these rates as conceded by Independent Generators,<sup>18</sup> there is no evidence that the rates include compensation for Entergy’s own and affiliated generators

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<sup>16</sup> Order No. 2003-A at P 416 (emphasis added); *accord* Order No. 2003-B at P 113, 119; October 14, 2005 Order, 113 FERC ¶ 61,040 at P 22-24, 38-39.

<sup>17</sup> We note that although both Independent Generators and Occidental cite to *Principles for Efficient and Reliable Reactive Power Supply and Consumption*, Staff Report, Docket No. AD05-1-000 (February 4, 2005) for support for their contention that they should be compensated for their reactive power, the staff report is just that, a staff report, for informational purposes only. It is not a Commission order or rule.

<sup>18</sup> Independent Generators originally stated that they “do not advocate that Entergy is recovering Schedule 2 costs in its other ancillary service rates.” Independent Generators Protest at 12.

for reactive power within the dead band. There is nothing in the Entergy System Agreement<sup>19</sup> regarding reactive power, and Entergy clarified in its original petition that it would merely cease collecting the two tenths of one mill currently attributed to reactive power for each kWh transmitted on the Entergy system. As a result, no generators owned by or affiliated with Entergy could be likely construed as being paid for providing reactive power within the dead band. Additionally, the retail rates complained of are outside of the Commission's jurisdiction. Likewise, Occidental's claim that Entergy is aiming to stifle competition from unaffiliated generators by not paying for reactive power service within the dead band is also unsubstantiated on this record and is therefore purely speculative.

17. As suggested in the October 14 Order, and reiterated in another order issued earlier this year,<sup>20</sup> Order Nos. 2003 and 2003-A do not mandate that once a transmission provider compensates its own or affiliated generators it may *never* discontinue such compensation and must, as a result, *always* compensate unaffiliated generators. Rather, the policy adopted in Order Nos. 2003 and 2003-A would allow eliminating compensation for reactive power within the established range for all generators, regardless of whether the generator is owned by or otherwise affiliated with a transmission owner or is independent. Bearing in mind that provision of reactive power within the dead band is, in the first instance, an obligation of the interconnecting generator, Entergy does not have an obligation to continue to compensate an independent generator for reactive power within the dead band when its own or affiliated generators are no longer being compensated as well.

18. Regarding Independent Generators' issue of whether individual contracts require compensation, we reiterate our statement in the October 14 Order that, to the extent that they argue that they have independent contractual rights to compensation, they are free to pursue their claims in proceedings focused on their individual contracts.<sup>21</sup> In *Midwest ISO*, with regard to the Midwest ISO transmission owners' request that they be allowed

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<sup>19</sup> The Entergy System Agreement is a Commission-approved rate schedule that allocates costs among the Entergy Operating Companies.

<sup>20</sup> See *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,192 at P 20 (2006) (*Midwest ISO*) (requiring reactive power compensation to unaffiliated generators under Schedule 2 only when transmission owners' own generators received reactive power compensation under Schedule 2.).

<sup>21</sup> October 14 Order, 113 FERC ¶ 61,040 at P 23 n.17.

to argue that in a specific instance a particular generator may be precluded from rate recovery for reactive power due to that party's interconnection agreement or some other agreement, we agreed.<sup>22</sup> Similarly, here the October 14 Order does not preclude arguments in favor of allowing rate recovery for reactive power within the dead band should an interconnection agreement or some other agreement allow it.<sup>23</sup>

The Commission orders:

Independent Generators' and Occidental's requests for rehearing are hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>22</sup> *Midwest ISO*, 114 FERC ¶ 61,192 at P 20.

<sup>23</sup> *See* Order No. 2003-B at P 121.