

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. ER05-1432-003  
and EL06-2-003

ORDER ON CERTIFIED QUESTION

(Issued May 17, 2006)

1. On April 7, 2006, the Presiding Administrative Law Judge (ALJ) certified a question to the Commission, pursuant to Rule 714 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.714 (2005).<sup>1</sup> The question certified to the Commission was:

Whether this proceeding includes establishing a methodology for compensating third-party generators for outside-the-bandwidth reactive power service for pass-through to transmission customers?

2. For the reasons discussed below, the answer to the question posed by the ALJ is “no.” The issue set for hearing is the justness and reasonableness of Entergy’s proposed pass-through rate.

**I. Background**

3. On September 2, 2005, Entergy submitted to the Commission proposed modifications to Schedule 2 of its Open Access Transmission Tariff (OATT) pursuant to section 205 of the Federal Power Act (FPA).<sup>2</sup> Specifically, as relevant here, Entergy proposed to pass through to transmission customers the costs that third-party generators

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<sup>1</sup> *Entergy Services, Inc.*, 115 FERC ¶ 63,008 (2006) (Certification).

<sup>2</sup> 16 U.S.C. § 824d (2000)

are currently charging Entergy for reactive power pursuant to rate schedules already accepted for filing by the Commission.<sup>3</sup>

4. On October 14, 2005, the Commission issued an order addressing, *inter alia*, Entergy's proposed modifications to Schedule 2 of its OATT. The Commission stated that:

Entergy's proposal to pass through to transmission customers the costs that third-party generators charge Entergy for reactive power service raises issues of material fact that cannot be resolved based on the record before us, including an appropriate mechanism for recovery from transmission customers of reactive power costs for reactive power service outside the dead band provided by third-party generators to Entergy beginning November 1, 2005, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.<sup>4</sup>

The Commission accepted Entergy's proposed pass-through rate for filing, suspended it for a nominal period, made it effective November 1, 2005, subject to refund, and set it for hearing and settlement judge procedures. Additionally, the Commission instituted an investigation under section 206 of the FPA<sup>5</sup> into the justness and reasonableness of Entergy's proposed pass-through rate.<sup>6</sup>

5. On March 23, 2006, the Presiding Judge held a pre-hearing conference at which the parties stated that there was disagreement as to the issues set for hearing. The Presiding Judge accordingly ordered oral argument and required the parties to submit briefs in support of their positions.

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<sup>3</sup> *Id.* at P 25; *accord id.* at P 28.

<sup>4</sup> *Id.* at P 40. Additionally, as Trial Staff also noted, in Ordering Paragraphs (C) and (D) of the Hearing Order, the Commission set for hearing "Entergy's proposed pass-through rate."

<sup>5</sup> 16 U.S.C. § 824e (2000).

<sup>6</sup> Hearing Order, 113 FERC ¶ 61,040 at P 42-43.

6. On April 5, 2006, the parties convened before the Presiding Judge and presented their positions regarding which issues are set for hearing. Specifically, the parties<sup>7</sup> “disagree as to whether the Commission intends this proceeding to include establishing a methodology for compensating third-party generators for outside-the-bandwidth reactive power service for pass-through to transmission customers.”<sup>8</sup>

7. Parties are divided into two camps: Entergy and Trial Staff assert that the Commission did not set for hearing what or how third-party generators should be paid for reactive power.

8. Conversely, the other parties argue that the Commission’s order invites a full investigation of rates and possible recovery mechanisms for recovery by third-party generators of outside-the-bandwidth reactive power.

## **II. Discussion**

9. Entergy and Trial Staff are correct in their interpretation. The Commission’s intent when setting Entergy’s proposed tariff revision for hearing was to examine Entergy’s pass-through of reactive power costs, not to decide what reactive power rates third-party generators could charge Entergy.

10. Therefore, the answer to the certified question is that this proceeding does not include establishing a rate or methodology for compensating third-party generators for outside-the-bandwidth reactive power. If third-party generators wish to be compensated by Entergy for reactive power service, they must make section 205 filings with the Commission and must bear the burden of proof to show the justness and reasonableness of their rates.

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<sup>7</sup> Those parties who took positions on the disputed issue include: Entergy; Trial Staff; Occidental Chemical Corporation; Cottonwood Energy Company, L.P., KGen Power Management Inc., and Union Power Partners, L.P.; Conway Corporation, the West Memphis Utilities Commission, and City of Osceola, Arkansas; Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, and Public Service Commission of Yazoo City; Bayou Cove Peaking Power, L.L.C., Big Cajun I Peaking Power, L.L.C., Louisiana Generating, L.L.C., NRG Power Marketing, Inc., and NRG Sterlington Power, L.L.C.; and Lafayette Utilities System of the City and Parish of Lafayette, Louisiana, and Louisiana Energy and Power Authority.

<sup>8</sup> Certification, 115 FERC ¶ 63,008 at P 7.

The Commission orders:

The disputed issue is hereby resolved as discussed above.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.