

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Southern Company Services, Inc.

Docket Nos. ER04-563-002  
ER04-563-004  
EL04-87-000  
EL04-87-001  
EL06-81-000  
EL06-81-001

ORDER APPROVING STIPULATION

(Issued March 19, 2007)

1. On October 19, 2006, Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern), filed a “Request for Acceptance of Stipulation” (Stipulation) with the Chief Judge and the Settlement Judge with respect to the section 206 investigation pursuant to the Federal Power Act instituted by the Commission’s order issued on July 20, 2006.<sup>1</sup> The Stipulation indicates that the fact questions identified and set for hearing and settlement in the July 20 Order are no longer in dispute and, therefore, are no longer at issue for purposes of the proceedings in Docket Nos. ER04-563-002, ER04-563-003, EL04-87-000, and EL06-81-000.<sup>2</sup> Accordingly, Southern requested that the Chief Judge accept the Stipulation and “take any procedural and/or regulatory steps consistent with this agreement among the parties and as may be necessary to terminate [these] proceedings.”<sup>3</sup>

2. The above-captioned proceedings involve several of Southern’s transmission service agreements for firm point-to-point transmission service under its open access

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<sup>1</sup> *Southern Company Servs., Inc.*, 116 FERC ¶ 61,050 (2006) (July 20 Order). On August 21, 2006, Southern filed a request for rehearing of the July 20 Order, which was docketed by the Commission in Docket Nos. ER04-563-004, EL04-87-001, and EL06-81-001.

<sup>2</sup> Stipulation at 1.

<sup>3</sup> *Id.* at 6.

transmission tariff. In the July 20 Order, the Commission, among other things, addressed the appropriateness of rollover limitations in these transmission service agreements and initiated a section 206 investigation in Docket No. EL06-81-000, pursuant to the Federal Power Act, to provide Southern a forum to present evidence in support of these limitations. The Commission also consolidated Docket No. EL04-87-000 with the newly instituted section 206 proceeding in Docket No. EL06-81-000, because the proceedings involved common issues of law and fact regarding Southern's rollover limitations. Further, the Commission granted rehearing in Docket No. ER04-563-002 and deferred action on the compliance filing in Docket No. ER04-563-003 pending the outcome of the section 206 investigation.<sup>4</sup> On July 26, 2006, the Chief Judge designated a settlement judge to conduct settlement negotiations in these proceedings.

3. On July 26, 2006, Dalton Utilities filed a motion to intervene in Docket Nos. ER04-563-002, EL04-87-000, and EL06-81-000. On August 11, 2006, MEAG Power filed a motion to intervene in Docket No. EL06-81-000, stating that it is doing so out of an abundance of caution as it is already an intervenor in Docket No. EL04-87-000, which was consolidated with Docket No. EL06-81-000 in the July 20 Order. On August 21, 2006, Topaz Energy Associates, LLC filed a motion to intervene in Docket No. EL06-81-000.

4. Southern indicates that the Stipulation is entered into by and among the parties in these proceedings or is not opposed by them.<sup>5</sup> Commission Trial Staff has not commented on the Stipulation. Southern explains that the transmission service agreements at issue in Docket No. EL04-87-000, despite the rollover limitations included in them, have rolled over and the new agreements do not contain any rollover restrictions or limitations. Southern further explains that the rollover limitations at issue in Docket No. ER04-563-000 have been removed, and in any event, are no longer applicable based on an updated review of the assumptions underlying the original limitations.<sup>6</sup> Therefore, Southern states that the fact questions identified and set for hearing in the July 20 Order are no longer in dispute with respect to the rollover limitations originally included in the agreements, and accordingly, the parties have conferred and agree that the rollover limitations are no longer at issue for purposes of the proceedings set for hearing and settlement and they should be terminated. Southern also noted that, upon approval of the

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<sup>4</sup> The Commission will act on the compliance filing in Docket No. ER04-563-003 in a separate order.

<sup>5</sup> Stipulation at 5-6 and note 3. While Topaz Energy Associates, LLC has not formally entered into or addressed the Stipulation, it has neither protested nor objected to it.

<sup>6</sup> *Id.* at 5.

Stipulation, it would file a motion to withdraw its pending request for rehearing of the July 20 Order. Lastly, Southern notes that the agreements at issue in these proceedings will continue in accordance with their terms.<sup>7</sup>

5. On October 30, 2006, the Chief Judge issued an “Order of Chief Judge Accepting Stipulation and Terminating Settlement Judge Procedures,” in which he found that, because the Stipulation states that the issues set for hearing in the July 20 Order are no longer in dispute, “it is in the public interest to accept the Stipulation and terminate these proceedings.” Accordingly, for good cause shown, and subject to “final Commission review,” the Chief Judge accepted the Stipulation, noted that the hearing and settlement judge procedures established by the July 20 Order would not be necessary, and terminated the settlement judge procedures.<sup>8</sup> On November 8, 2006, Southern filed a motion to withdraw its request for rehearing of the July 20 Order, requesting that “in conjunction with the Commission’s approval of the Chief Judge’s acceptance of the Stipulation,” the Commission grant the motion to withdraw the request for rehearing and terminate the above-captioned proceedings.<sup>9</sup>

6. The subject Stipulation is in the public interest and is hereby approved. Based on our approval of the Stipulation, Southern’s rehearing is also withdrawn as requested. The Commission’s approval of this Stipulation does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

7. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they moved to intervene.

8. This order terminates Docket Nos. ER04-563-002, ER04-563-004, EL04-87-000, EL04-87-001, EL06-81-000, and EL06-81-001.

By the Commission.

( S E A L )

Philis J. Posey,  
Acting Secretary.

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

<sup>8</sup> *Southern Company Servs., Inc.*, 117 FERC ¶ 63,024 at P 4 (2006).

<sup>9</sup> Southern’s Motion to Withdraw at 3.