

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.

Entergy Services, Inc.

Docket No. ER05-1065-003

ORDER GRANTING IN PART AND DENYING IN PART  
ENTERGY'S REQUEST FOR CLARIFICATION

(Issued April 4, 2007)

1. Entergy Services, Inc. (Entergy) seeks clarification of an order on rehearing<sup>1</sup> accepting Entergy's explanation of the procedures that the Independent Coordinator of Transmission (ICT) will use to reclassify upgrades.<sup>2</sup> The order also accepted Entergy's argument that transmission rights are sufficiently valuable to compensate those who paid for Supplemental Upgrades.<sup>3</sup> Entergy argues that we should clarify that we do not require any changes to the dispatch levels of generators used in the Base Case model, and that a customer's transmission rights related to an upgrade will be reduced *pro rata* to reflect transmission credits that the customer has received. Because the ICT has sole authority to determine which Base Plan model to use, and because transmission rights should be reduced *pro rata* under the tariff, we deny in part and grant in part Entergy's request.

**I. Background**

2. The background of this case is described in detail in the September 22 Order. Briefly, the Commission conditionally approved Entergy's proposal to establish an ICT.<sup>4</sup>

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<sup>1</sup> *Entergy Services, Inc.*, 116 FERC ¶ 61,275 (2006) (September 22 Order).

<sup>2</sup> *Id.* P 196.

<sup>3</sup> *Id.* P 190.

<sup>4</sup> *Entergy Services, Inc.*, 115 FERC ¶ 61,095 (2006), *errata notice*, May 4, 2006 (April 24 Order).

The April 24 Order also addressed Entergy's Weekly Procurement Process and a draft agreement between Entergy and the ICT. In our September 22 Order, we generally denied rehearing of the April 24 Order. Entergy now seeks clarification of our September 22 Order.

3. Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, Louisiana Generating LLC, NRG Sterlington Power LLC, and NRG Power Marketing, Inc. (collectively, NRG) jointly filed an answer on November 7, 2006. Cottonwood Energy Company, LP (Cottonwood) also filed an answer on November 7, 2006. East Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives) jointly filed an answer on November 9, 2006.

4. On November 17, 2006, Southwest Power Pool, Inc., acting as the ICT, submitted an answer in support of Entergy's request, and on November 22, 2006, Entergy submitted an answer in response to the answers filed by NRG, Cottonwood and East Texas Cooperatives.

## II. Discussion

### A. Procedural Matters

5. Unlike answers to requests for rehearing, answers to requests for clarification are not prohibited under the Commission's Rules of Practice and Procedure.<sup>5</sup> Accordingly, answers to Entergy's request for clarification, as well as Entergy's answer to the answers, are granted.

### B. Clarification of Dispatch Assumptions for Reclassification

6. Under Entergy's tariff, the ICT conducts an independent review to determine whether certain upgrades should be reclassified as Base Plan or Supplemental.<sup>6</sup> An upgrade's classification determines how the ICT will allocate that facility's previously

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<sup>5</sup> *Mississippi River Transmission Corp.*, 97 FERC ¶ 61,002, at 61,004 (2001).

<sup>6</sup> Entergy, FERC Electric Tariff, Attachment T, Second Revised Vol. No. 3, Substitute Sheet No. 695, § 5.1.

incurred costs. On rehearing, we found that Entergy had provided sufficient detail on the procedures that the ICT would use to reclassify upgrades. We explained that:

The ICT must perform any reevaluation using the same methods used to evaluate new interconnection requests. For example, *the ICT must use the same dispatch assumptions it would be required to use if the facility were new.*<sup>7</sup>

Entergy seeks clarification of the italicized statement.

### 1. Entergy's Request

7. Entergy argues that, to avoid any confusion about the dispatch levels to be assumed in the analysis of previously incurred costs, the Commission should clarify that the dispatch assumptions used to reclassify upgrades should be the same as the dispatch assumptions that are used in the *cost allocation phase* of evaluating a new interconnection request, not the *interconnection study phase*. Entergy states that a new interconnection is studied in two phases. The first phase (interconnection phase) determines the scope of the facilities required for the interconnection, while the second phase (allocation phase) determines the cost allocation of those facilities (*i.e.*, who will pay for them). Entergy states that this approach is appropriate because the reclassification of upgrades by the ICT is designed to review the cost allocation of existing facilities, not whether the facilities are needed for the generator to run at maximum output.

### 2. Answers

8. The ICT agrees that the dispatch assumptions used to reclassify upgrades should be the same as the dispatch assumptions that would be used in the cost allocation phase of evaluating a new interconnection request, not the interconnection study phase. It states that it is not reviewing what facilities needed to be built, but rather, is determining whether the facilities that were built should have been Base Plan or Supplemental Upgrades.<sup>8</sup>

9. NRG argues that the ICT determines which models to use and which assumptions should be made in those models. Accordingly, NRG states that the Commission should

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<sup>7</sup> September 22 Order, 116 FERC ¶ 61,275 at P 196 (emphasis added).

<sup>8</sup> Answer at 2-3.

simply reaffirm that the ICT has sole authority to determine the Base Plan model and assumptions used to identify both the necessary upgrades and the cost allocation.

10. Cottonwood argues that the Commission should reject Entergy's pleading as beyond the scope of the order on rehearing because Entergy proposes a new two-phase evaluation process for interconnection requests that was neither considered, nor approved by the Commission. In addition, Cottonwood states that the determination of whether an existing upgrade will be a Base Plan Upgrade or a Supplemental Upgrade should be based on the same dispatch assumptions that were used to determine which upgrades had to be built in the first place.

11. East Texas Cooperatives argue that assessing existing generation at current dispatch levels conflicts with the Commission's direction in the September 22 Order that "the ICT must use the same dispatch assumptions it would be required to use if the facility were new." They also argue that modeling generators at their current output rather than at zero output would obscure reliability benefits provided by the transmission facilities being studied. It could mask the benefits provided by the upgrade and make it more likely that the upgrade would be categorized as a Supplemental Upgrade.

### **3. Commission Determination**

12. Entergy's tariff states that the ICT shall determine the classification of a particular facility.<sup>9</sup> Moreover, we have consistently held that the ICT must independently develop the Base Plan and that Entergy may not modify the guidelines and protocols used in developing the Base Plan without Commission approval.<sup>10</sup> Accordingly, the ICT has sole authority to determine the Base Plan model and assumptions for identifying both the necessary upgrades and the cost allocation. We agree with NRG that the ICT should be responsible for determining the dispatch assumptions to be used to reclassify existing upgrades. We note that the ICT supports Entergy's request for clarification on this issue. Therefore, we find that no further clarification is necessary.

#### **C. Transmission Credits and Transmission Rights**

13. As stated above, an upgrade's classification determines how the ICT will allocate that facility's previously incurred costs. Under Entergy's tariff, the cost of Base Plan

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<sup>9</sup> Entergy, FERC Electric Tariff, Attachment T, Second Revised Vol. No. 3, Substitute Sheet No. 695, § 5.2.

<sup>10</sup> April 24 Order, 115 FERC ¶ 61,095 at P 146; September 22 Order at P 60-62.

Upgrades will be recoverable through the base transmission rates, not directly assigned.<sup>11</sup> However, the cost of Supplemental Upgrades is paid by the customer. In the September 22 Order, we reiterated that Entergy must provide customers funding Supplemental Upgrades with valuable transmission rights, adding that when facilities are reclassified as Supplemental Upgrades, the customer:

. . . will receive more of a benefit than a customer paying for new Supplemental Upgrades because it has been receiving credits and will receive the transmission rights even though part of the cost of the facility has been rolled into Entergy's transmission rates.<sup>12</sup>

14. Entergy seeks clarification that to the extent a customer has received transmission credits associated with the costs of a facility for which the customer paid, the customer's transmission rights will be reduced on a *pro rata* basis. Entergy seeks further clarification that the Commission did not intend to imply that a customer that has received partial credits for the cost of an upgrade would receive the same set of transmission rights as if it had received no credits. Entergy argues that this would be contrary to the Attachment T of its tariff, would result in Entergy's other transmission customers paying twice for the same facility, and would be unjust and unreasonable.

### 1. Answers

15. In response, Cottonwood argues that the means of adjusting the allocation of Supplemental Upgrade rights to customers who have received transmission credits under the old regime is an issue for the ICT, and that any implementation issues should be left to the individual reclassification proceedings.

16. East Texas Cooperatives argue that reducing *pro rata* a customer's transmission rights on a Supplemental Upgrade that the customer paid for is supported neither by Attachment T of Entergy's Tariff nor by the September 22 Order. They assert that if a customer pays for a transmission facility in order to obtain service on the Entergy system that otherwise would be unavailable, the customer should not have to face a decrease in the physical rights it created while Entergy is free to use that capacity for other purposes. Whether the customer has been credited back some or all of its initial investment should be irrelevant with respect to the customer's continuing to have physical rights, including

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<sup>11</sup> Entergy, FERC Electric Tariff, Attachment T, Second Revised Vol. No. 3, Original Sheet No. 689, § 2.2.

<sup>12</sup> September 22 Order, 116 FERC ¶ 61,275 at P 190.

protection from congestion charges. Moreover, East Texas Cooperatives argue that the transmission customer should keep its rollover rights and should be held harmless from congestion costs associated with the upgrade.

17. East Texas Cooperatives disagree with Entergy's claim that a customer could otherwise receive double credit. Even if the customer gets its full payment credited back, East Texas Cooperatives argue that the customer will continue to pay the rolled-in rate for transmission service – a rate that includes the cost of the transmission facility for which the customer paid. They assert that Entergy can continue to collect incremental point-to-point revenues on a fully credited transmission facility to the extent Entergy provides new point-to-point service over that facility.

18. In response, Entergy answers that there will be no decrease in existing physical transmission rights as a result of transmission credits received. Existing firm services will continue to be provided, and will be subject to congestion costs only in accordance with Entergy's Open Access Transmission Tariff (OATT) (*i.e.*, for reliability redispatch). Entergy argues that the issue raised by its request concerns only the additional financial rights to be provided to a customer that has paid for a facility.

## 2. Commission Determination

19. Entergy is correct that there will be no decrease of physical transmission rights as a result of transmission credits received. We affirm our previous statement that where a customer has received transmission credits for facilities that are then reclassified as Supplemental Upgrades, the customer will continue to have physical transmission rights, but will not be entitled to further compensation for those facilities for which it has received transmission credits. We clarify that, to the extent that a customer has received transmission credits, such customer's transmission rights in the form of financial compensation for use of the facility by others will be reduced on a *pro rata* basis. In other words, when a customer pays for an upgrade and receives credits for the costs of the upgrade, it no longer has paid for the credited portion of the facility on an incremental basis and should not receive additional compensation for that portion.<sup>13</sup> Accordingly, it

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<sup>13</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

is appropriate that Entergy can continue to collect incremental point-to-point revenues on a fully credited transmission facility if Entergy provides new point-to-point service over that facility.

20. As a final matter, we reject East Texas Cooperatives' request for special protection from congestion charges to the extent that the customer has been reimbursed for its investment. We also find rollover rights to be beyond the scope of Entergy's request for clarification. Section 4.1 of Attachment T says that a customer using capacity created by a Supplemental Upgrade that it funded shall not be charged congestion for its use of that capacity. However, as stated above, a customer is not treated as having funded capacity for which it has received credits.

The Commission orders:

(A) Entergy's request for clarification that the Commission did not require any changes to the dispatch levels of generators in the Base Case model is denied.

(B) Entergy's request for clarification that a customer's transmission rights on a facility will be reduced *pro rata* to reflect transmission credits the customer has received is granted.

By the Commission.

( S E A L )

Philis J. Posey,  
Acting Secretary.