

135 FERC ¶ 61,272
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Alcoa Power Generating Inc.

Docket No. ER11-3373-000

ORDER ACCEPTING TARIFF AMENDMENTS AND RESCINDING WAIVER

(Issued June 30, 2011)

1. On April 18, 2011, Alcoa Power Generating Inc. (Alcoa Power) submitted, pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to its Open Access Transmission Tariff (OATT) in order to provide service over Alcoa Power's Tapoco Division (Tapoco) transmission system (April 18 Filing). In this order, we accept for filing the proposed revisions to Alcoa Power's OATT, effective July 1, 2011, as requested, and we rescind the waiver previously granted to Tapoco for certain OATT requirements under Order Nos. 889² and 890,³ effective June 30, 2011.

¹ 16 U.S.C. § 824d (2006).

² *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, January 1991- June 1996 FERC Stats. & Regs., Regs. Preambles ¶ 31,035, *clarified*, 77 FERC ¶ 61,335 (1996), *order on reh'g*, Order No. 889-A, July 1996-December 2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

I. Background

2. Alcoa Power states that it is a wholly-owned subsidiary of Alcoa Inc., and owns and operates limited and discrete transmission facilities in various locations throughout the United States that are used in conjunction with Alcoa Power's primary focus of providing electric power to aluminum smelters owned by Alcoa Inc. Alcoa Power explains that its transmission facilities connect its industrial plants to either generation owned by Alcoa Power or to other electric utilities and, with one exception, are rarely used for transmission by others. Alcoa Power states that it has no franchised service territory or captive customers, serves no traditional public utility retail load, and makes certain limited sales into the wholesale market.⁴

3. Alcoa Power also states that its jurisdictional transmission and generation assets are organized into five business divisions. According to Alcoa Power, the two business divisions that are relevant to this filing are Yadkin and Tapoco, which each own and operate jurisdictional transmission facilities in the southeast United States, as described below. Alcoa Power states that Yadkin owns and operates approximately 21 miles of 13.8 kV and 100 kV transmission lines that interconnect with the Duke Power Company (Duke Power) and Progress Carolinas Energy – East balancing authority areas.⁵ Alcoa Power also states that its OATT currently provides the rates, and terms and conditions of service over the Yadkin transmission system. Alcoa Power further explains that Tapoco owns and operates approximately 107 miles of transmission lines (including 161 kV lines) that interconnect Tapoco's generation facilities with Duke Power and with Tennessee Valley Authority (TVA).⁶ Alcoa Power states that the pre-OATT agreements between TVA and Tapoco provide for the coordinated operation of power production and transmission facilities owned by TVA and Tapoco, and the exchange of power between TVA and Tapoco.

⁴ April 18 Filing at 2.

⁵ Alcoa Power notes that Yadkin also owns and operates four hydroelectric developments near Badin, North Carolina, with a total summer rating of approximately 212 MW.

⁶ According to Alcoa Power, Tapoco also owns and operates four hydroelectric developments in Tennessee and North Carolina within the TVA balancing authority area, with a total summer rating of 364 MW.

4. Alcoa Power states that in 1996 Tapoco filed an OATT,⁷ and that in 2007 the Commission granted Tapoco a waiver of the Commission's Open Access Same-Time Information System (OASIS) requirements under Order No. 889, and a partial waiver of the requirements under Order No. 890 with respect to its 161 kV transmission lines, subject to conditions.⁸ Specifically, the waiver was conditioned on the requirement that Alcoa Power file a *pro forma* OATT in compliance with Order Nos. 888 and 890, and any additional requirements, within 60 days of Tapoco receiving a request for transmission service from a customer.⁹ Alcoa Power explains that, in granting these waivers, the Commission found that the Tapoco transmission lines were limited and discrete facilities, and the only transmission service that Tapoco provided was based on pre-OATT agreements with TVA.

II. Proposed Tariff Revisions

5. Alcoa Power states that its OATT provides the rates, terms and conditions of service over its Yadkin transmission system, and that the proposed revisions to its OATT seek to cover service over its Tapoco transmission system, so that its revised OATT will cover services on both the Yadkin and Tapoco transmission systems.¹⁰ Alcoa Power represents that, to date, Tapoco has not received a third party request for transmission service and Tapoco does not currently provide transmission service to third parties other than the service utilized by TVA under the pre-OATT agreement.¹¹ However, Alcoa Power believes that Tapoco's OATT and OASIS waivers, which were based in part on Tapoco only providing transmission service to TVA under pre-OATT agreements, can no

⁷ *Atlantic City Elec. Co.*, 77 FERC ¶ 61,144 (1996) (approving the non-rate terms and conditions of Tapoco's *pro forma* OATT); *Allegheny Power System, Inc.*, 80 FERC ¶ 61,143 (1997) (approving the rates in Tapoco's OATT). Alcoa Power was formed effective January 1, 2000. *Alcoa Inc.*, 88 FERC ¶ 62,173 (1999).

⁸ *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,037 (2007) (Order Granting Waiver).

⁹ The waiver was also conditioned on the requirement that Alcoa Power participate in the regional planning activities undertaken by transmission providers in Tapoco's region pursuant to Order No. 890. *Id.* P 16.

¹⁰ April 18 Filing at 4. Alcoa Power notes that at the time Order No. 888 was issued, Yadkin and Tapoco were two distinct companies and maintained separate OATTs. For administrative efficiency, Alcoa Power decided to now add Tapoco to the tariff rather than maintain a separate OATT for Tapoco. April 18 Filing at 4 n.6.

¹¹ April 18 Filing at 3.

longer be relied upon due to the expiration of the pre-OATT agreements between Alcoa Power and TVA on June 30, 2011.¹² Alcoa Power states that it is therefore amending its OATT to cover service on the Tapoco transmission system, as well as the Yadkin transmission system, and it pledges to have a Tapoco-specific OASIS site in place prior to providing service under the revised tariff. Alcoa Power also states that new Tapoco and TVA arrangements for the coordination of power production and transmission facilities owned by Tapoco and TVA are in the process of negotiation.

6. Because the Tapoco-specific rates and provisions being added to the OATT were previously approved by the Commission,¹³ Alcoa Power states that it is not requesting the approval of any new rates, and instead seeks to incorporate rates previously approved by the Commission in its revised OATT. In addition to revisions to its OATT to cover service over its Tapoco transmission system, Alcoa Power states that it is incorporating minor “housekeeping” changes to its OATT. Specifically, Alcoa Power proposes changes to the tariff under section 12 (deletion of a duplicative sentence) and sections 17.1, 18.1 and 29.2 (clarifying that certain applications for transmission service to be submitted under the tariff may be submitted by telefax but not telephone).

III. Notice of Filing and Responsive Pleadings

7. Notice of Alcoa Power’s filing was published in the *Federal Register*, 76 Fed. Reg. 22,690 (2011), with interventions and comments due on or before May 9, 2011. Timely motions to intervene were filed by Duke Energy Carolinas, LLC and Cargill Power Markets, LLC. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

IV. Discussion

8. We accept for filing Alcoa Power’s proposed revisions to its OATT, which currently covers transmission service over its Yadkin transmission system, to include the rates, terms and conditions of service over its Tapoco transmission system. Alcoa Power seeks to incorporate these previously approved rates in its revised tariff; and it does not seek approval for any new rates. Therefore, we accept the proposed tariff amendments for filing, to be effective July 1, 2011. We also accept the “housekeeping” changes to sections 12, 17.1, 18.1 and 29.2 of the tariff.

¹² *Id.*

¹³ April 18 Filing at 4 (citing *Atlantic City Elec. Co.*, 77 FERC ¶ 61,144 (1996); *Allegheny Power System, Inc.*, 80 FERC ¶ 61,143 (1997)).

9. Although Alcoa Power does not explicitly state that Tapoco is relinquishing its previously granted waivers of Order Nos. 889 and 890, based on Alcoa Power's statement that the waivers granted for Tapoco's OATT and OASIS can no longer be relied upon due to the expiration of the pre-OATT agreements between Alcoa Power and TVA on June 30, 2011, and its statement that it will have a Tapoco-specific OASIS site in place prior to providing service under the OATT, we will rescind the waivers of Order Nos. 889 and 890, effective June 30, 2011.

The Commission orders:

(A) Alcoa Power's proposed tariff revisions for the rates, terms and conditions of service over the transmission systems of its Yadkin and Tapoco Divisions are hereby accepted, effective July 1, 2011, as discussed in the body of this order.

(B) Alcoa's proposed "housekeeping" revisions to sections 12, 17.1, 18.1 and 29.2 of the tariff are hereby accepted, effective July 1, 2011, as discussed in the body of this order.

(C) Waiver of the requirements of Order Nos. 889 and 890 as previously granted by the Commission is hereby rescinded, effective June 30, 2011, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.