

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. ER98-4410-000
ER98-4410-001
ER98-4410-002

ORDER ACCEPTING UNCONTESTED OFFER OF SETTLEMENT

(Issued July 26, 2005)

1. On May 11, 2005, Entergy Services, Inc. (Entergy) filed a Settlement Agreement in the above-referenced proceedings. The Settlement Agreement provides for a full and final resolution of all issues related to Entergy's open access transmission tariff (OATT) amendment regarding Capacity Benefit Margin (CBM) filed in these proceedings. The Parties have agreed that, on a going forward basis, no CBM will be used on the Entergy transmission system.

2. On August 31, 1998, Entergy filed a proposed amendment to its OATT concerning access to transmission import capacity set aside for native load use and not made available to customers under its open access tariff. This reserved capacity is referred to as CBM. Entergy's proposed OATT amendment set aside 2900 MW of transmission capability at the interfaces to import power from interconnected systems to serve native load in case of an emergency on the Entergy system. It required both native load and network customers to designate network resources in order to use the set-aside capacity to deliver a specific resource over a specific transmission path, permitted firm point-to-point customers to "buy through" the set-aside capacity under certain circumstances by paying the associated opportunity, and required that, if the import capacity was not being used, that it be made available on a non-firm basis through the OATT.

3. In a letter order issued on May 7, 1999, the Commission rejected Entergy's proposal on the ground that Entergy had not shown that its proposed reserve capacity was necessary for meeting native load and customers' load growth, or for the purpose of meeting a reasonable reserve requirement level.¹

4. Entergy made a required compliance filing on June 1, 1999 and also filed for rehearing and clarification of the May, 1999 Letter Order. The Commission, however, took no further action until December 9, 2004, when it sent a letter to Entergy suggesting that the issues raised by Entergy's rehearing and clarification request might be moot and stating it would terminate these dockets absent an objection by Entergy. On January 24, 2005, Entergy objected stating that the matters raised in its re-hearing request were not moot.

5. On March 25, 2005, the Commission issued an order which accepted the August 31, 1998 OATT amendment for filing, suspended it, set the matter for rehearing and clarification, and dismissed as moot Entergy's compliance filing to the Commission's May 1999 Letter Order.² The Commission also held the hearing in abeyance, and appointed a settlement judge. An uncontested offer of settlement resolving all issues set for hearing in this proceeding was filed on May 11, 2005. Commission staff filed comments in support of the Settlement Agreement. No other comments or reply comments were filed. On June 13, 2005, the Settlement Agreement was certified to the Commission as uncontested.

6. The Settlement Agreement consists of four paragraphs. The first paragraph recites that zero CBM will be reserved on a going forward basis. Paragraph two establishes that in the event that future circumstances require the reservation of CBM, Entergy will make a filing with the Commission prior to making any CBM reservation. The parties do not waive any rights with respect to any future CBM reservation. Paragraph three provides that within ten days of the Commission order approving the settlement, Entergy shall release any capacity presently reserved as CBM. Paragraph four states that upon the issuance of the Commission's order unconditionally approving the Settlement Agreement, the tariff sheets that Entergy filed in this docket shall be deemed withdrawn.

¹ See *Entergy Services, Inc.*, 87 FERC ¶ 61,156 (1998).

² *Entergy Services, Inc.*, 110 FERC ¶ 61,351 (2005).

7. The subject Settlement Agreement is in the public interest and is hereby accepted. The Commission's acceptance of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824 e (2000).

8. This order terminates Docket Nos. ER04-4410-001 and ER04-4410-002.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.