109 FERC ¶ 61,281
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell and Joseph T. Kelliher.

Entergy Services, Inc. Docket Nos. ER03-1272-003
EL05-22-000

ORDER ON COMPLIANCE FILING AND INSTITUTING
INVESTIGATION AND HEARING PROCEDURES

(Issued December 17, 2004)

1. In this order, the Commission accepts Entergy Services, Inc.'s (Entergy's) proposed filing made in compliance with the Commission's order of July 12, 2004, subject to the outcome of the investigation and hearing procedures instituted below.[1] This order also addresses certain Open Access Same-Time Information System (OASIS) postings and concerns raised with Entergy's provision of transmission access in general. This order benefits customers by improving the transparency of Entergy's process for handling transmission service requests, and by investigating whether transmission is being provided on Entergy's system in a manner that is just and reasonable and not unduly discriminatory.

## I. Background

2. On August 29, 2003, Entergy filed proposed revisions to Attachment C of its Open Access Transmission Tariff (OATT), FERC Electric Tariff Second Revised Volume No. 3. The proposed revisions related to an Available Flowgate Capability (AFC) methodology for evaluating short-term transmission service requests under Entergy's OATT, as described below.

[1] *Entergy Services, Inc.*, 108 FERC ¶ 61,046 (2004) (July 12 Order).

### A. **The February 11 Order**

3. On February 11, 2004, the Commission issued an order[2] stating that the proposed AFC methodology appeared to be an improvement over the then-current process of evaluating short-term transmission service requests and approving the proposal, to be effective April 1, 2004, subject to further review and further order. However, the Commission expressed concern that the AFC proposal was not sufficiently transparent and could allow Entergy to unduly discriminate when providing transmission service. Therefore, the Commission directed Entergy to set forth more specifically the criteria, methods and procedures it will use in its AFC process.[3] The Commission also required certain other data and models to be posted on Entergy's OASIS so that others could verify AFC results.[4]

4. To further improve transparency, the Commission directed Entergy to describe any operating and reliability assumptions that influence its modeling and to include any transmission margins assumed in AFC power flow cases and other relevant information. Entergy was directed to post a clear and comprehensive manual on how to use its AFC process. The Commission also ordered Entergy to evaluate alternative ways to provide customers with information the customers could use to assess the reasons for service denials, including evaluation of an automated procedure. Finally, the Commission told Entergy to file within six months a status report on its plans to implement a Locational Marginal Pricing (LMP) system, or other congestion management tool, along with its plans to conduct a cost analysis and the projected time line for adopting this tool.

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[2] *Entergy Services, Inc.*, 106 FERC ¶ 61,115 (2004) (February 11 Order).

[3] The Commission listed five items in particular: (1) the specific criteria used to identify the flowgates that Entergy will monitor; (2) the criteria and procedures for adding or delisting flowgates; (3) the method for evaluating the percentage of counterflows to use in the power flow model; (4) the response factor threshold and the criteria for modifications to the threshold; and (5) the bases for transmission line ratings. The February 11 Order directed that Entergy modify its tariff to include a statement that, when Entergy denies a customer's request for transmission service under the AFC process, Entergy will provide to the customer, upon request, workpapers explaining the reasons for the denial.

[4] These additions include engineering data and model assumptions (such as the list of identified flowgates), power flow cases and unit-specific supporting input files that can be downloaded for both the real-time AFC database and the longer-term planning monthly databases in a common text exchange power flow format.

5. On March 12, 2004, Entergy made a compliance filing in response to the February 11 Order. Entergy also submitted an informational filing on March 19, 2004. The informational filing reported on the status of Entergy's implementation of its AFC process and submitted a draft of the instructional AFC Process Manual that Entergy planned to post on its OASIS. Entergy later reported that the AFC methodology was implemented on April 27, 2004, not on April 1, 2004, as had been proposed.

### B. The July 12 Order

#### 1. OATT Revisions

6. In the July 12 Order, the Commission accepted Entergy's March 12, 2004 compliance filing, subject to further review and further order. Although Entergy had revised its tariff to provide additional detail on certain aspects of the AFC process, the Commission found that the revisions were not sufficient. The Commission told Entergy to further revise its tariff to clearly indicate the criteria and their associated numerical values[5] that were used to identify relevant flowgates and to select/delist flowgates. In addition, the Commission's order directed Entergy to clearly define certain terms, including what is meant by "transaction."

#### 2. OASIS Requirements

7. The Commission noted that Entergy had posted various engineering data and the AFC Process Manual on its OASIS. However, additional data was required. For each monitored facility, the Commission ordered Entergy to specify the limits or criteria[6] that result in the inclusion of a flowgate into the monitored line list. We also told Entergy to include text files containing supporting files for each (.RAW) base case. This was to include, but not be limited to, monitored line limits (.MON), contingency lists (.CON), and transaction lists (.TRN).

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[5] The numerical values included: (1) percent loading and limiting element for summer/nominal ratings for normal operation (*e.g.*, line, transformer, breaker, wavetrap); (2) percent loading criteria during contingency; (3) minimum per unit bus voltage; (4) fault current thresholds; and (5) stability threshold criteria.

[6] Examples of such criteria include (but are not limited to): contingency/Outage Transfer Distribution Factor (OTDF) threshold/transfer direction combinations, Transmission Loading Relief (TLR) activity, planning study overloads, voltage limits, stability limits, and the North American Electric Reliability Council (NERC) Book of Flowgates.

8. The Commission also directed Entergy to respond to commenters' requests that Entergy post additional flowgate-related information on its OASIS on an ongoing basis by evaluating the value and feasibility of providing flowgate-specific data. We required Entergy to provide sufficient specificity to allow others to judge the reasonableness of the selections. In addition, the Commission directed Entergy to revise the AFC Process Manual so that it would show the actual counterflow calculations, including workpapers with any historical data used to derive the counterflow percentages.

#### 3. Other Matters

9. In order for the AFC process to provide a more real-time and accurate assessment of the loading of flowgates, the Commission told Entergy to respond to commenter suggestions that the Study Horizon be updated more frequently and to discuss the benefits or burdens that could result from changing the model. The Commission directed Entergy to explain how its AFC approach compares to those of Midwest Independent Transmission System Operator, Inc. (MISO) and Southwest Power Pool, Inc. (SPP) and the relative advantages or disadvantages of its approach.

10. The Commission also found that Entergy did not fully comply with the requirement in the February 11 Order that it describe all operating and reliability assumptions that influence its modeling. Therefore, the Commission directed Entergy to provide clarifications. In addition, Entergy was directed to clarify the treatment of Qualifying Facilities (QF) and cogeneration facilities in the AFC modeling.

### C. August 13 Compliance Filing

#### 1. OATT Revisions

11. Entergy's second compliance filing, made August 13, 2004 (August 13 Compliance Filing), addresses the July 12 Order and the LMP Report required by the February 11 Order. Entergy states that it will voluntarily institute a stakeholder process to: (1) review the criteria for selecting flowgates to be monitored by the AFC process; and (2) review procedures for adding and deleting flowgates on a periodic basis in the future. Entergy proposes that this stakeholder process take place over a six-month period beginning with a Commission order approving this aspect of the compliance filing. After completion of the stakeholder process, Entergy states that it will submit a section 205 filing to specify the flowgate criteria and procedures based on the input it receives as part of the stakeholder process.

12. Entergy states that as part of the stakeholder process, it will provide the stakeholders with information to review the basis for designating each monitored facility. However, Entergy states that it is unable to post this information in the manner requested

by the Commission because the files are extremely voluminous. It states that there are approximately 3,000 base case models reflected in studies used to determine the initial flowgate list, and over one million associated input/output files for these base case models. Entergy commits to work with its customers through the stakeholder process to provide adequate information for evaluation of flowgates. It states that one option immediately available is a compilation of the study results used by Entergy to develop the flowgate list and that this information could be posted on OASIS soon. In the interim, Entergy states that it will continue to monitor the current list of flowgates and will modify that list only on a short-term basis as necessary to address temporary outages.

13. To determine an initial percentage of counterflows to be used in implementing the AFC process, Entergy states that it first evaluated the historical data regarding the percentage of point-to-point and network service reservations that are actually scheduled. Entergy explains that it then calculated the total percentage scheduled for both firm and non-firm services to establish a baseline for counterflow measurement and provided this information as an appendix to the AFC Process Manual.

14. With regard to firm AFC in the Planning and Study Horizons, Entergy states that in order to reflect the uncertainty as to whether service will actually be scheduled in subsequent time frames, it reflects 50 percent of counterflows associated with firm service and 70 percent of counterflows for non-firm service. In the Operating Horizon, Entergy will reflect 100 percent of counterflows due to firm schedules, and 70 percent of the counterflow caused by the non-firm reservations. Entergy states that it does not distinguish between short-term and long-term firm transmission service for purposes of counterflow percentages and that the percentage of counterflows is the same for both types of firm service. Entergy states that it will continue to review scheduling and other operating experience on approximately an annual basis to determine the viability of established percentages. If the data indicate the percentages should be revised, Entergy proposes to publicly post notice of any such change on its OASIS before the effective date of the change.

15. In response to the Commission's instruction to clarify the use of the term "transaction" as used in its OATT, Entergy explains that the term generally refers to either reservations or schedules, depending on the calculation horizon, and that each use of the term "transaction" will be clarified in the AFC Process Manual.

### 2. <u>Other Matters</u>

16. As required, Entergy also filed additional information with respect to certain assumptions underlying the AFC process, including assumptions for the Transmission Reserve Margin (TRM), the Capacity Benefit Margin, and for QF and cogeneration facilities. TRM is a reliability margin that addresses the potential for unplanned

transmission contingencies to limit transfer capability in real time. When calculating AFC, Entergy considers TRM to be zero. Entergy states that consistent with NERC guidance, one way to address the concerns raised with the TRM is to remove a designated percentage against the facility ratings of individual facilities. Entergy asserts that the rating reduction is typically 2-5 percent and may increase over a long time and that the need for a TRM reduction in facility ratings diminishes as real time approaches because transmission contingencies become more certain. Entergy states that when implementing the AFC process, it chose not to reduce line ratings to account for TRM because the AFC calculations are performed in the short term. Entergy states that, as a result, the reference to TRM as being "zero" is correct. Entergy states that if experience with the AFC process indicates that a TRM in short-term transfer capability determinations is necessary, Entergy will adopt such a margin in a manner consistent with NERC's guidance. Entergy states that it has no current plans to modify its TRM practices, but would post notice of such a change on its OASIS.

17. Entergy states that it continues to apply the methodology for calculating Capacity Benefit Margin in a compliance filing in Docket No. ER98-4410-000. If Entergy's Capacity Benefit Margin calculation is modified in a final and nonappealable order in that docket,[7] it will implement any revisions in the new AFC process consistent with any ruling in that docket.

18. In response to the Commission's request for further information regarding the treatment of QFs in the AFC modeling, Entergy states that it models QFs as contributing zero megawatts of net output to the Entergy system. It states that this captures QFs' service to their host loads without having to actually know the level of the load. Entergy also states that there are no firm transmission rights associated with QFs' energy; reflecting such energy in the AFC model base case could result in the QFs' energy being provided a priority right to the transmission system in a manner inconsistent with the "first-come, first-served" policy in the OATT. Because of the large amount of QF generation on Entergy's transmission system, this approach means that the dispatch assumptions used in calculating AFC values will not reflect approximately 1,000-2,200 MW of potential real time flows from QFs as substitute resources displacing Entergy network resources. Entergy states that an alternative approach would be to include an assumption about QFs' energy in the dispatch input used to calculate AFC values, with that assumption being based on (for example) a historical level of QFs' energy. Entergy asserts that it has not adopted the alternative approach for the reasons cited above.

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[7] *Entergy Services, Inc.*, 87 FERC ¶ 61,156 (1999), *reh'g pending*.

19. Entergy notes that its initial AFC filing proposed that AFC values in the Study Horizon be updated on a monthly basis. However, in the July 12 Order, the Commission requested that Entergy address whether the Study Horizon can be updated more frequently, on a weekly basis. Entergy states that with over five years experience in calculating AFC values, SPP continues to update the AFC values in the Study Horizon timeframe on a monthly basis, while MISO updates the AFC values in the Study Horizon timeframe more frequently. However, Entergy notes that although these entities use similar software developed by the same company that developed Entergy's AFC software, they do not calculate AFC values on a generator-specific basis. Entergy's initial proposal adopted the SPP approach of monthly updates and did not include more frequent updates of the Study Horizon because it was not clear whether the software could accommodate the more frequent updates, in addition to the generator-specific level of analysis Entergy performs.

20. Entergy states that it is updating the Study Horizon by working with the software vendor on a process to accommodate more frequent updates; this change was expected to be implemented by September 1, 2004. The Commission is unaware as to whether the software change has been implemented.

### 3. OASIS Requirements

21. The July 12 Order directed Entergy to respond to commenters' requests for additional flowgate-related information. Entergy states that it provides such information for select key transmission lines in real time. Entergy states that posting line loadings, counterflows and limits information for all flowgates in real time is impractical because of the volume of information required. However, Entergy states that it will discuss with market participants a method of providing additional transparency for the more significant flowgates.

22. The February 11 Order required that Entergy provide workpapers regarding service denials. In its March 12, 2004 Compliance Filing, Entergy requested, and was granted, an additional six months (after the filing date of the February 11 Order) for considering alternatives for providing such information. In the instant compliance filing, Entergy states that it has reviewed the information available from other transmission providers that calculate AFCs and the software options for providing an automated process for transmission service denial information. Entergy states that this review has not uncovered any such software options, and Entergy does not believe that an automated system for this information is possible soon.

23. Entergy states that the power flow models posted on its OASIS and the AFC data for flowgates at issue are the best means available for evaluating service denials. Entergy also states that it has asked the company that designed the AFC software to develop

software that will let Entergy convert Energy Management System-based models into a format that can be used by transmission customers. Entergy states that this software is completed and that Entergy now posts Energy Management System-based models for the peak hour of each day, in addition to the monthly models based on off-line (non-Emergency Management Systems) data.

#### 4. LMP Report Required By February 11, 2004 Order

24. With regard to LMP, Entergy states that it has no immediate options available, as there are no markets in place to join that would satisfy its customers' request to have LMP established for the Entergy system. Moreover, Entergy asserts that certain of its retail regulators have expressed concern about the effect of LMP-based markets on Entergy's native load customers. Entergy states that it will continue to monitor the development of the SPP RTO and will evaluate any LMP-based markets that result from that process. Entergy also states that it is proposing improvements in congestion management and redispatch opportunities through the Independent Coordinator of Transmission (ICT) filing that it made in Docket No. ER04-699-000.

## II. Notice of Filings and Responsive Pleadings

25. Notice of Entergy's August 13 Compliance Filing was published in the *Federal Register*, 69 Fed. Reg. 52,503 (2004), with comments, protests, and motions to intervene due on or before September 3, 2004. Occidental Chemical Corporation (Occidental) filed a motion to intervene and comments. InterGen Services, Inc. (InterGen) filed a motion for leave to file comments out of time and comments. These customers, as well as several other users of Entergy's transmission system, raised concerns with Entergy's implementation of the AFC process and its compliance with Commission orders at the technical conferences held in New Orleans, Louisiana in July 2004 and in Jackson, Mississippi in October 2004, as well as in comments filed after those conferences.

### A. AFC Methodology

26. Occidental states that Entergy's compliance filing is deficient because it fails to provide transmission customers with sufficient information to allow them to examine the integrity of the AFC process. Occidental also states that Entergy has violated its OATT by not providing workpapers and the applicable (*i.e.*, hourly) power flow models, as required under the OATT. It requests that the Commission initiate an investigation into Entergy's discriminatory administration of its transmission system and suspend Entergy's authority to sell power at market-based rates in its control area. Occidental claims that:

> Each day Entergy delays is another day it is able to foreclose a competitor from the market by restricting transmission access. Entergy has committed and

> continues to commit more than a technical violation of its OATT. Entergy is engaged in exactly the discriminatory behavior that the Commission warned of in Order No. 888.

Occidental Oct. 14 Comments at 6 (citation omitted).

27. Furthermore, Occidental argues that the lack of transparency in Entergy's methodology has led to unprecedented denials of access to the transmission grid. As a result, Occidental claims, its cogeneration facility (the "Taft Facility") has been unable to make bilateral market-based sales in the wholesale market; instead it must make lower-priced QF avoided cost sales, and only to Entergy, under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[8] Occidental asserts that its experience "suggests that Entergy's AFC is decidedly *non*-transparent [and] has been so since it took effect nearly six months ago . . . ."[9] Occidental claims that this lack of transparency is evidenced by, among other things, Entergy's failure to provide workpapers explaining the reason for denial of transmission service requests.

28. InterGen states that it has had difficulty scheduling power from one of its generating plants because of low and fluctuating AFCs that have restricted access to Entergy's transmission system. InterGen recognizes that there have been problems with the roll-out of AFCs on the Entergy system and that Entergy is trying to correct those problems. Nevertheless, InterGen states that it has several specific concerns with Entergy's August 13 Compliance Filing.

29. First, InterGen states that it cannot conduct its own investigation into why it is denied service or why the AFC values are so low because it does not have the necessary data. It asks the Commission to order Entergy to post on its OASIS "the most recent set" of AFC hourly power flow models (in lieu of "all" hourly power flow models, which Entergy describes as too voluminous to be feasible). A related concern is that Entergy allegedly failed to comply with the July 12 Order by not posting flowgate-related information on its OASIS — information that InterGen argues is critical for evaluating why a particular transmission service request was denied.

30. Second, InterGen states that there are significant issues with Entergy's AFC modeling. For example, Entergy's base case models for the InterGen facility are at times showing overloads even before the facility puts power into the system. InterGen states that Entergy models its own units at higher than actually expected output to account for a

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[8] 16 U.S.C. § 824a-3 (2000).

[9] Occidental Oct. 14 Comments at 5.

certain amount of QF energy on the system. This approach leads to other problems. In addition, Entergy's modeling of external control area interchanges in the power flow models is not using actual information to model the interchanges InterGen requests. InterGen asks the Commission to require Entergy to obtain the proper interchange and OASIS reservation data from neighboring control areas so that this data can be accurately modeled in Entergy's AFC power flow models.

31. Third, InterGen raises concerns with how Entergy treats the issue of counterflows. Specifically, it states that Entergy's formula overstates the Adjusted Base Flow[10] and results in posting less AFC at a flowgate than is actually available. It is unclear how Entergy chose what percentage of counterflows it would accept when calculating AFCs. InterGen asks the Commission to order Entergy to define all terms in the counterflow formula so that a third party reviewing the formula is able to make its own calculations.

32. Fourth, InterGen asks the Commission to order Entergy to provide clarification and support on the issue of unscheduled Capacity Benefit Margin capacity. InterGen wants Entergy to clarify that if it is releasing Capacity Benefit Margin capacity prior to when customers are scheduling their transactions, Entergy should clarify that it will update AFCs to reflect the extra capacity on the system. On the other hand, if Entergy is releasing Capacity Benefit Margin capacity after customers schedule their transactions, Entergy should explain why it is waiting so long to release the Capacity Benefit Margin capacity, which effectively lowers AFC available for other customers.

33. Finally, InterGen asks the Commission to order Entergy to update AFC values approximately once every six hours for Days 2-8. It asks that the Commission require that the stakeholder group meet quarterly and that the discussion not be limited to flowgate models.

34. Cottonwood Energy Company LP (Cottonwood) states that it has also been having serious problems with AFCs since the program was implemented, complaining, for example, that Entergy does not post its AFCs on its OASIS, but instead includes AFCs in huge data files from which it is difficult for customers to find and extract relevant information. Like Occidental, Cottonwood complains that the power flow models that Entergy posts on OASIS are, by themselves, insufficient to perform a thorough evaluation of why a transmission service request was denied. Cottonwood claims that

[10] Adjusted Base Flow is defined as the Positive Flow minus the Counter Flow.

this lack of transparency results in a lack of key data, making it impossible for generators like Cottonwood to validate Entergy's calculations and methodologies and preventing Cottonwood from obtaining transmission service under the AFC program.[11]

35. Cottonwood also complains that certain assumptions Entergy uses in the AFC model limit the amount of transmission available under the AFC program. For example, in evaluating whether to grant firm service, Entergy should remove non-firm service uses from the AFC model. Also, if firm service is unavailable for even one hour of the day, then Entergy counts it as unavailable for the entire day (meaning that all firm transmission requests for that day will be denied). Cottonwood is concerned "that Entergy has a tendency to be overly conservative and that the Commission needs to take a harder look at Entergy's assumptions and rules (such as counterflow percentages or the choice of a Response Factor)."[12]

36. Cottonwood claims that Entergy's lack of transparency in how it decides whether to grant access to its transmission system, coupled with overly conservative and improper assumptions that it has used to implement the AFC program, "are significantly harming [independent power producers] financially."[13] Specifically, Cottonwood states that misinformation about transmission availability posted under the AFC program cost it between $850,000 to $1,200,000 in gross margin in just the month of August 2004.[14] Cottonwood urges the Commission "to launch its own investigation of Entergy's AFC calculations before Entergy's faulty methodology for allocating transmission cripples those [independent power producers] seeking to operate within the Entergy footprint."[15]

37. NRG Energy, Inc. (NRG) claims that as a result of the AFC process, NRG sees virtually no day-ahead firm transmission service. NRG states that it is concerned that, as

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[11] Cottonwood Oct. 14 Comments at 12.

[12] *Id*. at 13. Cottonwood states the Commission should order Entergy to use a Response Factor used by other control areas using AFCs (*i.e.*, a 5 percent Response Factor), instead of using a 3 percent Response Factor. Cottonwood asserts that if use of a higher Response Factor creates any operational difficulties, Entergy can file with the Commission to revert to a Response Factor between 3 and 5 percent.

[13] Cottonwood Oct. 14 Comments at 12.

[14] Cottonwood and Shell Trading Gas and Power Company Aug. 31 Comments at 3.

[15] Cottonwood Oct. 14 Comments 13.

Entergy uses transmission through Entergy's Weekly Procurement Process, this will reduce the service available to others.

38. Mississippi Delta Energy Agency (Mississippi Delta) states that it tried to use Entergy's AFC scenario analyzer and that on several occasions the scenario analyzer on a proposed transaction showed that the transaction was transmission constrained.[16] However, Mississippi Delta states that it would then run additional analysis from other sources, all around the Entergy boundaries, and those sources would indicate that sufficient transmission should be available for the transaction. Mississippi Delta states that generation that was inside its bus and that belonged to it, and was not a network resource, could not be delivered because of alleged transmission constraints. Mississippi Delta believes there is a problem with the AFC scenario analyzer; for example, in the current process the scenario analyzer does not show all transmission capacity available when bidders seek transmission service through the current weekly Request For Proposal. Mississippi Delta urges the Commission to conduct an "investigation of the availability of transmission service on the Entergy system [and examine] Entergy's scenario analyzer and the extent to which it has resulted in de facto denials of desired transmission service."[17]

### B. Lafayette Redispatch Issue

39. Lafayette Utilities System (Lafayette), Louisiana Energy and Power Authority, and Municipal Energy Agency of Mississippi (collectively L-M Municipals) allege that there are serious problems with congestion on the Entergy transmission system that are not only limiting access to that system, but are also imposing significant costs on others. Specifically, L-M Municipals claim that Lafayette has frequently been asked over the past several years to curtail deliveries from its relatively low-cost, coal-fired Rodemacher plant and to instead dispatch its much more expensive, older gas-fired units, in order to relieve persistent congestion on Entergy's neighboring transmission system. In short, L-M Municipals claim that Lafayette is frequently "being asked by [Southwest Power Pool] to redispatch for problems on the Entergy system and not getting compensated for it".[18] L-M Municipals claim that "there are some severe constraints in and around the Lafayette

[16] The AFC scenario analyzer is a tool Entergy makes available on its OASIS so that users of the system can test whether transmission will be available at a certain time and place.

[17] Oct. 14 Comments of Mississippi Delta at 5.

[18] New Orleans July 29 Technical Conf. at Tr. 123.

area, but they're not Lafayette's . . . these are constraints on the Entergy system."[19] In addition to "costing Lafayette's ratepayers a lot of money"[20] for a chronic problem that is not of their making, according to L-M Municipals, this situation presents serious reliability risks in northern Louisiana.[21]

## III. Discussion

### A. Procedural Matters

40. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant InterGen's late-filed comments given its interest in this proceeding, the early stage of this proceeding and the absence of any undue prejudice or delay.

### B. Compliance

#### 1. OATT Revisions

41. The Commission will accept Entergy's OATT revisions contained in its August 13 compliance filing and its commitment to work with stakeholders to review the criteria for selecting flowgates and the procedures for adding or deleting flowgates[22] so that users

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[19] *Id*. at Tr. 125.

[20] *Id.* at Tr. 122. L-M Municipals assert that uncompensated redispatch costs to Lafayette were approximately $1.5 million. Lafayette claims that it estimates that redispatch costs during March 16 - August 15, 2004 were approximately $900,000.

[21] For example, referring to the Lafayette problem, one Louisiana Public Service Commission (LPSC) commissioner noted that "we do have a serious problem in the Lafayette area . . . and they might have to start cutting off firm power," *id.* at Tr. 117, and "we could have a blackout tomorrow, and that shouldn't happen." *Id.* at Tr. 121. The commissioner also noted that there have been a number of Transmission Loading Relief (TLR) Level Fives in the Lafayette area over the past year. *Id.* at Tr. 116-17. The commissioner also notes that the Lafayette problem is complex, the solution may involve numerous parties, and that this LPSC commissioner did "give Entergy credit" for cooperating with others in trying to solve this problem. *Id.* at Tr. 118.

[22] The Commission noted that Entergy commits to make a section 205 filing once the stakeholder process is complete. Entergy's criteria for selection of flowgates will be subject to the outcome of that filing.

can determine the cause of service denial. The Commission will require Entergy to file reports with the Commission on a monthly basis explaining the status of the stakeholder meetings.

### 2. OASIS Requirements

42. With respect to availability of information, Entergy asserts that it cannot post all of its hourly base case models on the OASIS due to the number and the volume of the input/output files associated with the base case models. Entergy proposes to post a compilation of the study results on the OASIS within a "reasonable timeframe." InterGen believes that Entergy should post the most recent set of hourly models instead of all hourly models. Occidental argues that it is insufficient for Entergy to define power flow models as "workpapers" for the purpose of explaining denials of service.

43. The Commission directs Entergy to post the most recent set of hourly models on OASIS, as suggested by InterGen. Although Entergy states that this would be a voluminous file to post on OASIS, it did not say that it could not be done. The Commission is concerned that Entergy's proposed solution is not sufficiently specific for us to find that it will provide adequate information to understand limiting facilities' response factors. Entergy has not specified what is a "reasonable timeframe." Nor is it clear what information would be available in the proposed "compilation." The Commission also suggests that the issue of what information is needed by the customers, including information to explain denials of service, be discussed during the proposed stakeholder process. The requirement to post the most recent hourly flow models is without prejudice to Entergy proposing a different solution in the section 205 filing it intends to make following the stakeholder meetings. In addition, Entergy must address in the stakeholder process it has proposed the feasibility of posting the zonal .MON, .CON and .TRN files with the .RAW cases as changes occur. Having access to these data files would make the AFC process more transparent to customers. Finally, Entergy must also explore in the stakeholder process InterGen's request that Entergy obtain interchange and OASIS reservation data for neighboring control areas.

### 3. AFC Methodology

44. After considering the July technical conference in New Orleans and the October technical conference in Jackson, the comments filed in response to those conferences, and the comments filed in response to Entergy's August 13 compliance filing, the Commission believe that Entergy's AFC methodology and transmission access policies may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory

or preferential, or otherwise unlawful. Therefore, pursuant to section 206 of the Federal Power Act[23] (FPA), the Commission will initiate an investigation of these matters.

45. Although the immediate relief we grant above will address some of the concerns raised by Entergy's transmission customers, it does not address all of them. Because of the number and seriousness of the concerns raised, and the number of customers raising these concerns, we will grant the requests of Occidental, Cottonwood and Mississippi Delta for the Commission to launch an investigation into Entergy's implementation of the AFC program, whether Entergy has complied with the Commission's prior orders on AFC matters, and whether Entergy's provision of access to its transmission system is just, reasonable and not unduly discriminatory. Specifically, because many of these allegations involve contested issues of fact, we will initiate an investigation under section 206 of the Federal Power Act and convene a trial-type evidentiary hearing into each of the AFC and transmission access concerns raised in the New Orleans or Jackson technical conferences, or in the comments filed by Occidental, InterGen, Cottonwood, NRG, Mississippi Delta and L-M Municipals. The investigation and hearing will examine whether there have been violations of the OATT or Commission orders and whether Entergy's provision of access to its transmission system has been unduly discriminatory or preferential.

46. The issues raised by these commenters, many of which are summarized above, include but are not limited to: (1) claims that transmission customers have suffered a significant loss of access to transmission since the AFC program began; (2) claims that there is a lack of transparency in the AFC process that precludes customers from being able to discern why their transmission request was denied (including not providing workpapers or applicable power flow models); (3) claims that Entergy's AFC model is based on overly conservative or otherwise faulty assumptions (*e.g.*, how Entergy is treating counterflows, the appropriate Response Factor, whether non-firm service uses should be included in the AFC calculations); (4) claims that Entergy's AFC scenario analyzer provides significant misinformation regarding the actual availability of transmission capacity; (5) whether Entergy has made alterations to the AFC software from the versions used by SPP and MISO that have contributed to the alleged problems; and (6) whether Entergy's calculation of AFC values on a generator-specific basis (which is different from how SPP and MISO compute AFC values) has contributed to the alleged problems.

[23] 16 U.S.C. § 824e (2000).

47. Moreover, in an Audit Report, the Divisions of Operational Investigations and Enforcement of the Office of Market Oversight and Investigations (OMOI) evaluated the computer modeling methodology used by Entergy to create the Generator Operating Limits (GOLs) that Entergy implemented under the Commission's Order on Amended Generator Operating Limits Filing of March 13, 2003 (March Order).[24] OMOI concluded that there were significant errors in Entergy's performance of the GOL and Local Area Limits methodology during an April through September 2003 study period. The Audit Report states that these errors included Entergy's creation of base cases for GOLs using long-term transmission reservations that fell outside the date range of the study period, software programming bugs, and Entergy's failure to apply uniformly the criteria for determining the generators that were subject to the Local Area Limits. In addition, according to the Audit Report, Entergy failed to accurately document which transmission service requests were evaluated by which GOL studies, and the reasons for denying service.[25]

48. The Audit Report found that the errors in the GOL and Local Area Limits methodology affected GOL values for both affiliates and non-affiliates and resulted in GOL values that were both higher and lower than they should have been. The Audit Report noted that as a result of the errors, hundreds of transmission requests — affecting both Entergy affiliates and non-affiliated generators — were, or may have been, erroneously granted or denied.

49. In light of these errors, the Audit Report concluded that Entergy had failed to comply with the March Order's requirement to provide sufficient information for the Commission and parties in the GOL proceeding to determine whether the GOL methodology resulted in restricting or withholding available transmission capacity from independent power producers and other generators that use transmission service.

50. As the Audit Report notes, Entergy no longer uses GOLs to evaluate transmission service requests; it now uses AFC to evaluate short-term transmission service requests.[26] The Audit Report also states that due to the numerous problems identified regarding GOL

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[24] *Entergy Services, Inc*., 102 FERC ¶ 61,281 (2003).

[25] Entergy provided some of the required information in the form of an "audit log" with its monthly filings during the study period. The filings were compiled into a single file, referred to as the "Audit Log."

[26] *Entergy Services, Inc.*, 106 FERC ¶ 61,115 (2004).

transmission modeling practices, OMOI is concerned that similar quality control issues may exist with respect to the AFC methodology that Entergy uses to assess transmission capacity.

51. Because some of the errors and problems associated with the GOL program could recur in the AFC program, we will also include this matter as an issue to be examined as part of the section 206 investigation and hearing we are instituting.

52. The Commission emphasizes that it takes no position at this time on whether Entergy has engaged in any wrongdoing in its implementation of the AFC program or in how it is providing transmission access. The Commission recognizes that the AFC program is a relatively new program on Entergy's system, and the Commission appreciates that Entergy is attempting to explore ways to improve transmission access on its system. Nevertheless, the Commission believes that an investigation is warranted to gather more evidence in light of the numerous concerns raised by commenters and the problems encountered in the predecessor GOL program.

53. In cases where, as here, the Commission institutes a section 206 proceeding on its own motion, section 206(b) requires that the Commission establish a refund effective date that is no earlier than 60 days after publication of notice of the initiation of the Commission's proceeding in the *Federal Register*, and no later than five months subsequent to the expiration of the 60 day period. In order to give maximum protection to customers, and consistent with our precedent,[27] the Commission will establish a refund effective date at the earliest date allowed. This date will be 60 days from the date on which notice of the initiation of the proceeding in Docket No. EL05-22-000 is published in the *Federal Register*.

54. Section 206 also requires that, if no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon the initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission shall state the reasons why it failed to do so and shall state its best estimate of when it reasonably expects to make such a decision. Therefore, we will direct the presiding judge to provide a report to the Commission no later than 15 days in advance of the refund effective date in the event the presiding judge has not by that date issued an initial decision or certified to the Commission a settlement which, if accepted, would dispose of the proceeding. The judge's report, if required, shall advise the Commission of the status of the investigation

[27] *See, e.g.*, *Canal Electric Company*, 46 FERC ¶ 61,153, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

and provide an estimate of the expected date of issuance of an initial decision or certification of a settlement. This, in turn, will allow the Commission, on or before the refund effective date, to estimate the date when it expects to render its decision.

### 4. Lafayette Redispatch Issue

55. At the Jackson, Mississippi conference, L-M Municipals complained that SPP-requested redispatch caused by Entergy transmission constraints makes Lafayette run more expensive generation than would otherwise be the case. L-M Municipals note that Entergy, Cleco Corporation, SPP and Lafayette are in discussions to reach an accord. L-M Municipals state that the Commission's involvement may become necessary if those negotiations fail. The Commission reminds L-M Municipals and Lafayette that they may file a section 206 complaint if negotiations fail to resolve the issue.

### 5. Other Matters

56. Occidental's request that the Commission suspend Entergy's authority to sell power at market-based rates is beyond the scope of this proceeding, and is therefore dismissed without prejudice to Occidental raising the proposed remedy in a different proceeding.

The Commission orders:

(A) Entergy's proposed tariff sheets are accepted for filing effective April 1, 2004, subject to the outcome of the hearing initiated in this order.

(B) Entergy is required to file with the Commission monthly reports on the status and progress of its proposed stakeholder meetings.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), the Commission hereby institutes a proceeding in Docket No. EL05-22-000 concerning the justness and reasonableness of the AFC methodology's effect on transmission availability, as discussed in the body of this order.

(D) A presiding judge, to be designated by the Chief Administrative Law Judge, shall, within fifteen (15) days of the presiding judge's designation, convene a pre-hearing conference in these proceedings in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. Such

conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the FPA in Docket No. EL05-22-000.

(F) The refund effective date established pursuant to section 206(b) of the FPA will be 60 days following publication in the *Federal Register* of the notice discussed in Ordering Paragraph (E) above.

By the Commission. Commissioner Kelly not participating.

( S E A L )

Magalie R. Salas,
Secretary.