

151 FERC ¶ 61,027
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Grand River Dam Authority

Docket No. AD15-6-000

COMMISSION COMMENTS ON GRAND RIVER DAM AUTHORITY'S REQUEST
FOR EPA ADMINISTRATIVE ORDER

(April 16, 2015)

1. On February 19, 2015, Grand River Dam Authority (GRDA) submitted a request to the Environmental Protection Agency (EPA) seeking an administrative order, pursuant to Section 113(a) of the Clean Air Act (CAA), to allow GRDA additional time to comply with EPA's Mercury and Air Toxics Standards (MATS) final rule.¹ GRDA also submitted a copy of the request to the Commission.²

2. The MATS final rule limits mercury, acid gases and other toxic emissions from power plants. Pursuant to Section 112(i)(3)(A) of the CAA, affected sources are required to comply within three years of the MATS effective date. Pursuant to CAA Section 112(i)(3)(B), some affected sources are eligible for a one-year extension of the compliance deadline (i.e., for a total of four years). In a policy memorandum dated December 16, 2011, EPA's Office of Enforcement and Compliance Assurance described its intended approach regarding the use of administrative orders under CAA Section 113(a) with respect to sources that must operate in noncompliance with MATS for up to one year to address a specific and documented reliability concern (i.e., for a total of five years).³

¹ EPA issued the MATS final rule pursuant to its authority under Section 112 of the CAA. *See* 42 U.S.C. § 7412(i)(3)(A) (2012).

² GRDA submitted its petition to the Commission, and the Commission is providing comments to EPA, pursuant to the Commission's May 17, 2012 policy statement. *See The Commission's Role Regarding the Environmental Protection Agency's Mercury and Air Toxics Standards*, 139 FERC ¶ 61,131 (2012) (Policy Statement).

³ The Environmental Protection Agency's Enforcement Response Policy for Use of Clean Air Act Section 113(a) Administrative Orders in Relation to Electric Reliability and the Mercury and Air Toxics Standard (Dec. 16, 2011), *available at*

(continued ...)

3. EPA states that the analysis provided in an administrative order request should demonstrate “that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability, and that failure to operate the unit would: (a) result in the violation of at least one of the reliability criteria required to be filed with the Commission, and, in the case of the Electric Reliability Council of Texas, with the Texas Public Utility Commission; or (b) cause reserves to fall below the required system reserve margin.”⁴ The EPA Policy Memorandum indicates that the EPA intends to seek advice, as necessary and on a case-by-case basis from the Commission, among others, as the EPA decides whether it will grant an administrative order to an owner/operator. The EPA Policy Memorandum makes clear that the EPA decision as to whether to grant an administrative order to an owner/operator is solely the decision of the EPA and that the concurrence or approval of any entity is not a condition for approval or denial of an administrative order request.⁵

4. On May 17, 2012, the Commission issued a Policy Statement explaining how it will provide advice to the EPA for it to rule on requests for administrative order to operate in noncompliance with EPA’s MATS rule. The Commission’s Policy Statement provided that the Commission will advise the EPA by submitting written Commission comments to the EPA based on the Commission’s review of the information provided in an informational filing containing the request for the administrative order provided to the Commission in an AD docket.⁶ The Commission’s comments would provide advice to the EPA on whether, based on the Commission’s review of the informational filing, there might be a violation of a Commission-approved Reliability Standard, and may also identify issues within its jurisdiction other than a potential violation of a Commission-approved Reliability Standard.

5. GRDA requested an EPA administrative order to allow GRDA to continue operation of its Grand River Energy Center (GREC) Unit No. 1 electric generator unit for a one-year period, from April 16, 2016 to April 16, 2017.⁷ Unit No. 1 is a 490 MW coal-fired steam turbine unit located near Chouteau, Oklahoma. GRDA states that the

<http://www.epa.gov/mats/pdfs/EnforcementResponsePolicyforCAA113.pdf> (EPA Policy Memorandum).

⁴ EPA Policy Memorandum at 7.

⁵ *Id.*

⁶ Policy Statement, 139 FERC ¶ 61,131 at P 21.

⁷ GRDA Submission at 1.

administrative order will allow GRDA to complete the construction of a new combined cycle generation unit, Unit No. 3, which will not be operational until just prior to April 16, 2017.⁸

6. GRDA, a load serving member of the Southwest Power Pool (SPP), states that it will be unable to meet its required reserve margin if Unit No. 1 is retired before new Unit No. 3 becomes operational.⁹ Specifically, GRDA maintains that the retirement of Unit No. 1 before Unit No. 3 becomes operational would result in GRDA not meeting the 12 percent capacity reserve requirement in SPP Criteria 2.1.9.¹⁰ In a memorandum attached to GRDA's submission, SPP concurred with GRDA's reserve margin assessment.¹¹ GRDA also states that Unit No. 1 has been used for local voltage support, noting that "there were six instances in 2014 where the GRDA System Operator requested either additional capacitive or reactive voltage support from Unit No. 1 to address voltage problems on the transmission system."¹² In a letter attached to GRDA's submission, SPP concurred that SPP "has observed, over the last year, the need to commit GRDA Unit 1 for relief from high voltages ... [and that] SPP concurs with GRDA's assessment regarding GRDA Unit 1's criticality for reliability absent other system changes."¹³ GRDA further claims that it has "experienced problems under certain conditions obtaining firm or non-firm transmission service to deliver power purchases from outside of the GRDA balancing area" when one or both of its existing units are offline.¹⁴ GRDA explains that, without an administrative order, it "is concerned that transmission

⁸ *Id.*

⁹ *Id.* at 6. GRDA also indicates that the untimely loss of Unit No. 1 would prevent GRDA from meeting its basic load obligations by 245 MW. *Id.*

¹⁰ *Id.*; see also Southwest Power Pool, Criteria 2.1.9 (Minimum Required Capacity Margin) (revised July 29, 2014), available at <http://www.spp.org/publications/SPP%20Criteria%20&%20Appendices%20July%2029,%202014.pdf>.

¹¹ See GRDA Submission, Attachment C (SPP January 27, 2014 Memorandum) at 2 ("[a] review of GRDA's supply adequacy without GRDA unit 15-1 indicates that the firm resources available to GRDA fall below their 12% minimum capacity margin requirement in 2016").

¹² GRDA Submission at 7.

¹³ GRDA Submission, Attachment E (SPP February 6, 2015 Letter) at 1.

¹⁴ GRDA Submission at 7.

constraints will make importing sufficient replacement capacity and energy very difficult.”¹⁵

7. The reliability of the Bulk-Power System depends in part on whether utilities meet an appropriate planning reserve margin.¹⁶ The SPP Criteria requires GRDA to maintain a 12 percent capacity reserve requirement. Based on our review of GRDA’s submission, we find that the loss of GRDA’s Unit No. 1 would result in GRDA falling below the 12 percent capacity reserve requirement stipulated in SPP Criteria 2.1.9 unless GRDA is able to procure replacement capacity for the unit and associated firm transmission service. Absent a significant change in future circumstances, our view is that GRDA’s Unit No. 1 is needed as requested by GRDA to maintain electric reliability per the EPA Policy Memorandum as described above.

By direction of the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁵ *Id.*

¹⁶ *See Kansas City Board of Public Utilities*, 149 FERC ¶ 61,138, at P 7 (2014) (Commission comment on Kansas City Board of Public Utilities’ inability to meet SPP’s planning reserve margin).