

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. ER04-699-000

ORDER ACCEPTING WITHDRAWAL OF FILING  
AND TERMINATING DOCKET

(Issued June 30, 2005)

1. On April 1, 2004, in the above-captioned docket, Entergy Services, Inc. submitted, on behalf of the Entergy Operating Companies<sup>1</sup> (collectively, Entergy) revisions to its Open Access Transmission Tariff (OATT) proposing (1) to contract with an independent entity, the Independent Coordinator of Transmission (ICT), to provide oversight over the operations of the Entergy transmission system; (2) a new process for assigning cost responsibility for transmission upgrades; and (3) to implement a new Weekly Procurement Process (WPP). On June 3, 2005, Entergy filed a motion to withdraw the proposed modifications to its OATT proposed in Docket No. ER04-699-000 and to terminate that docket. In this order, the Commission accepts Entergy's withdrawal of the modifications proposed in Docket No. ER04-699-000 and terminates that docket. This order benefits customers by providing for a single docket in which to examine Entergy's ICT proposal.

**Background**

2. The Commission convened a series of technical conferences to discuss issues raised by Entergy's proposal in Docket No. ER04-699-000 (ICT Proposal). As a result of the extensive discussions with Entergy's customers and retail regulators in the technical conferences, Entergy filed a petition for declaratory order, in Docket No. EL05-52-000, proposing to enhance the functions of the ICT from those originally proposed and requesting guidance on issues associated with its proposal to establish an ICT in Docket No. ER04-699-000.

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<sup>1</sup> The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

3. On March 22, 2005, the Commission issued an order in Docket No. EL05-52-000 stating that it is prepared to grant Entergy's proposed transmission pricing proposal on a two-year experimental basis, subject to certain enhancements and monitoring and reporting conditions, if Entergy makes an acceptable section 205 filing. The Commission stated that before any approval of Entergy's transmission pricing proposal could be given, Entergy would need to make a section 205 filing in a new docket detailing the enhanced functions that the ICT will perform.<sup>2</sup> On May 27, 2005, Entergy submitted its section 205 filing in Docket No. ER05-1065-000 pursuant to the Commission's March 22 Order (New ICT Proposal).

4. On June 3, 2005, Entergy filed a motion to withdraw the proposed modifications to its OATT proposed in Docket No. ER04-699-000 and to terminate that docket, stating that as a result of its submission of a new section 205 filing to implement the ICT proposal in Docket No. ER05-1065-000, Docket No ER04-699-000 is now moot.

#### **Notice and Responsive Pleading**

5. Notice of Entergy's initial filing in Docket No. ER04-699-000 was published in the *Federal Register*, 69 Fed. Reg. 20,000 (2004), with comments, protests, and interventions due on or before May 17, 2004. Numerous interventions, comments and protests were filed.

6. Notice of Entergy's request to withdraw Docket No. ER04-699-000 was published in the *Federal Register*, 70 Fed. Reg. 35,244 (2005), with comments, protests, and interventions due on or before June 24, 2005. Calpine Corporation (Calpine) filed a timely motion to intervene and protest the withdrawal and termination of Docket No. ER04-699-000.

7. Calpine states that Docket No. ER04-699-000 is the only record of Entergy's WPP. It contends that the filing of the proposal in Docket No. ER05-1065-000 does not do away with the need for the WPP record developed in Docket No. ER04-699-000, which consists of Commission-sponsored and transcribed technical conferences and written comments and concerns of market participants. In addition, Calpine states that Entergy has argued that its filing in Docket No. ER05-1065-000 makes few substantive changes to its earlier WPP proposal, and Entergy itself has cited to and relied upon comments and other submissions *in the WPP record* to argue before the Louisiana Public Service Commission there that there is no need to duplicate the same "efforts and expenses."<sup>3</sup>

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<sup>2</sup> *Entergy Services, Inc.*, 110 FERC ¶ 61,295 (March 22 Order), *order on clarification*, 111 FERC ¶ 61,222 (2005), *reh'g pending*.

<sup>3</sup> Calpine at 2, citing pleading filed by Entergy Louisiana, Inc. and Entergy Gulf States, Inc. in the ICT proceeding pending before the Louisiana Public Service Commission in Docket No. U-28155 at p. 10.

8. Calpine also argues that Rule 216 of the Commission's Rules and Regulations does not provide for the self-implementing withdrawal of record evidence. Rather, the Rule allows a party to "seek to withdraw a pleading," but the Commission is not obligated to do so, and the Rule contemplates that the Commission may deny the request, or otherwise condition it "prevent prejudice to other participants."<sup>4</sup> Therefore, Calpine requests that the Commission should leave in place the full record developed in Docket No. ER04-699, and deny Entergy's request for termination and withdrawal, to prevent prejudice to the many market participants who sought to flesh out the workings of Entergy's WPP in the Docket No. ER04-699 forum.

### **Discussion**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. The Commission will grant Entergy's motion for withdrawal and termination of Docket No. ER04-699-000. We will, however, enter the transcripts of the technical conferences in Docket No. ER04-699-000 into the record of Docket No. ER05-1065-000.

11. First of all, although the WPP as proposed in Docket No. ER05-1065-000 may not make many substantive changes to its earlier WPP proposal, the proposals are not identical. Therefore, the Commission intends to develop a full record on the WPP as proposed in Docket No. ER05-1065-000, rather than rely on evidence submitted in Docket No. ER04-699-000, which is not the same proposal. In addition, as Calpine points out, initial comments have not yet been filed on the New ICT Proposal and a technical conference has not yet been held. The parties to ER05-1065 will have ample opportunity to weigh in on the new WPP proposal through the technical conference and in initial comments to Docket No. ER05-1065-000.

12. The Commission will, however, condition its acceptance of the withdrawal and termination on the inclusion of the transcripts of the technical conferences held in Docket No. ER04-699-000 in the record of Docket No. ER05-1065-000.<sup>5</sup> Parties to that proceeding will have the opportunity to reference the portions of the transcript in ER04-699-000 that still apply to the current version of the WPP in their initial comments to Docket No. ER05-1065-000. We believe this condition will prevent prejudice to the parties to Docket No. ER04-699-000 by allowing the parties to reference those proceedings in Docket No. ER05-1065-000.

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<sup>4</sup> 18 C.F.R. § 385.216(c) (2004).

<sup>5</sup> Transcribed technical conferences were held on July 29 and 30, 2004, in New Orleans, Louisiana and on October 8, 2004 in Jackson, Mississippi.

The Commission orders:

(A) Entergy's motion to withdraw Docket No. ER04-699-000 is hereby granted, as discussed in the body of this order.

(B) The transcripts of the technical conferences held in Docket No. ER04-699-000 shall be entered into the record of Docket No. ER05-1065-000, as discussed in the body of this order.

(C) Docket No. ER04-699-000 is hereby terminated.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.