

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 2, 2006

In Reply Refer To:
Entergy Services, Inc.
Docket No. ER06-540-000

Entergy Services, Inc.
101 Constitution Avenue, N.W.
Suite 200 East
Washington, DC 20001

Attention: Andrea J. Weinstein
Senior Counsel

Reference: Non-Conforming Service Agreement

Dear Ms. Weinstein:

1. On January 25, 2006, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc. (Entergy Arkansas), filed an executed Service Agreement¹ for cost-based, short-term power sales by Entergy Arkansas to North Arkansas Electric Cooperative, Inc. (North Arkansas Cooperative), to be effective January 1, 2006, through March 31, 2006, with the ability to extend this service for an additional three-month period (April 1, 2006 through June 30, 2006), if necessary. Entergy Services requests waiver of the Commission's 60-day prior notice requirement to allow the Service Agreement to become effective January 1, 2006. As discussed below, the Commission accepts the Service Agreement, subject to refund and the condition set forth below, effective January 1, 2006, as requested.

¹ Entergy Services, Inc. FERC Electric Tariff No. 5, Original Service Agreement No. 2.

2. Entergy Services explains that Entergy Arkansas previously served North Arkansas Cooperative under a long-term, market-based rate agreement that expired December 31, 2005. It states that North Arkansas Cooperative's only customer at the delivery point is a shirt factory that is in the process of converting to an Entergy Arkansas retail customer. The arrangements for this conversion are underway. The Service Agreement will enable Entergy Arkansas to provide North Arkansas Cooperative with energy and capacity² while giving the parties additional time to resolve the arrangements and regulatory requirements necessary for the conversion of the shirt factory to retail status.

3. Entergy Services states that the Service Agreement is submitted for filing as a nonconforming service agreement to comply with section 35.1(g) of the Commission's regulations, 18 C.F.R. §35.1(g) (2005). Entergy Service states that the instant Service Agreement with North Arkansas Cooperative is identical in all respects to the *pro forma* short-term, cost-based rate service agreement in its Cost Based Rates (CBR) tariff filing pending in Docket No. ER91-569-031, *et al.*, with the exception of a limited modification to reflect the pricing for transmission, distribution, and ancillary services pursuant to Entergy Service's Open Access Transmission Tariff. While Entergy Service states that it believes that the Service Agreement does not "deviate in any material respect" from the *pro forma* service agreement submitted in Docket No. ER91-569-031, *et al.*, and therefore the Commission could reasonably find that it does not need to be filed, it states that it is acting out of an abundance of caution because the Commission has not yet acted on Entergy's filing in that docket.

4. Entergy Services requests that the Commission grant waiver of the 60-day notice requirement and grant the requested January 1, 2006 effective date. It states that waiver is appropriate because both parties request the effective date and it is consistent with the Commission's policy of granting waiver of notice when service agreements under umbrella tariffs are filed within 30 days after the date upon which service commences, citing *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,984 (1993).

² Entergy Services states that service will be provided by Entergy Arkansas pursuant to its cost-based rate tariff that is currently pending in Docket No. ER91-569-031. See *Entergy Services, Inc.*, 109 FERC ¶ 61,282 (2004), *reh'g* 111 FERC ¶ 61,145 (2005).

5. Public notice of the instant filing was issued on January 31, 2006, with interventions and protests due on February 15, 2006. No motions to intervene or adverse comments were filed.

6. The Commission finds that the Service Agreement reflects a material deviation from the *pro forma* service agreement currently pending in Docket No. ER91-569-031, *et al.* However, the fact that Entergy Services is arranging for transmission, distribution, and ancillary services for North Arkansas Cooperative appears to be reasonable and not unduly discriminatory. We will, therefore, accept the Service Agreement. However, the Commission accepts the Service Agreement subject to refund and to the outcome of the currently pending cost-based tariff filing in Docket No. ER91-569-031, *et al.* Finally, we find good cause to grant the requested waiver of the Commission's notice requirement. We will grant waiver of section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3 (2005), to allow an effective date of the Service Agreement of January 1, 2006.³

By direction of the Commission.

Magalie R. Salas,
Secretary.

³ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *order on reh'g*, 61 FERC ¶ 61,089 (1992).