

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellingshoff.

Duke Power Company LLC
d/b/a Duke Energy Carolinas, LLC

Docket No. ER06-1353-002

ORDER DISMISSING MOTION FOR CLARIFICATION

(Issued December 8, 2006)

1. On November 9, 2006, Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC (Duke) filed a motion requesting that we clarify our October 10, 2006 Order.¹ In that order, the Commission accepted the transmission service agreement (TSA) between Duke and North Carolina Municipal Power Agency No. 1 (NC Municipal), but ordered Duke to remove section 10, a non-conforming provision. Section 10 permitted Duke to restrict NC Municipal's rollover rights if Duke subsequently determined that any of six "higher-queued" transmission service requests would require NC Municipal's capacity; at the time of the order, Duke had not yet studied the six requests because it was still determining the interconnection points for a "higher-queued" request. The Commission ordered Duke to remove section 10 because it was inconsistent with the Commission's policy on when rollover rights may be appropriately limited.

2. In the instant motion, Duke states that the six "higher-queued" requests have been withdrawn, "mooting the issue" as applied to the TSA.² Nevertheless, Duke explains that it expects similar fact patterns to re-emerge, and asks for a clarification of Commission policy on rollover rights and queuing that, it states, would be beneficial to Duke, transmission providers, and transmission customers generally.

¹ *Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC*, 117 FERC ¶ 61,035 (2006).

² Duke's November 9, 2006 filing at 2.

3. We will dismiss Duke's motion without prejudice to its filing a petition for a declaratory order.³ As Duke itself recognizes, the rollover matter at issue in this proceeding is now moot. In essence, Duke is instead seeking a generic policy determination. The more appropriate vehicle to seek such a determination is a petition for declaratory order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

³ If Duke chooses to file a petition for declaratory order, it must do so in accordance with 18 C.F.R. § 385.207 (2006), and pay the fee established in 18 C.F.R. § 381.302 (2006).