

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Jon Wellinghoff.

Southern Companies Energy Marketing, Inc. and
Southern Companies Services, Inc.

Docket Nos. ER97-4166-018
ER96-780-007
EL04-124-001
EL05-104-000

ORDER SEEKING COMMENT

(Issued January 3, 2007)

1. In this order, we direct the parties to identify any issues that remain appropriate for investigation in this proceeding in light of the Commission's recent order accepting in part and rejecting in part an offer of settlement in Docket No. EL05-102-000, which involves the justness and reasonableness of the Intercompany Interchange Contract (IIC).¹ Parties may also propose appropriate procedures for addressing any remaining issues.

I. Background

2. In December 2004, the Commission instituted a section 206 proceeding dealing with the issue of generation market power, concluding that Southern Companies² had satisfied the other three parts of the market-based rate analysis -- transmission market

¹ *Southern Company Services, Inc.*, 117 FERC ¶ 61,021 (2006) (the IIC Settlement Order).

² Southern companies include Southern Company Services, Inc. (Southern Services), Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company, and Southern Power Company (Southern Power). All of these companies are owned by Southern Company, Inc, a registered public utility holding company. The holding company and affiliates are referred to collectively as "Southern Companies."

power, other barriers to entry, and affiliate abuse/reciprocal dealing.³ In May 2005, the Commission granted rehearing and instituted a separate section 206 proceeding regarding those three parts.⁴ The order on rehearing directed that the new 206 proceeding be held in abeyance pending the outcome of a section 206 investigation the Commission initiated concurrently in EL05-102-000 regarding the role of Southern Power in the Southern Companies' generation pool, including the justness and reasonableness of the IIC.⁵ Southern Companies have requested rehearing of the May Order.

3. After the parties filed a Settlement in EL05-102-000, the Commission issued an Order on Settlement on October 5, 2006 requiring significant changes to the Settlement and giving Southern Companies fifteen days in which to accept the proposed changes.⁶ On October 20, 2006, Southern Companies accepted the conditions set forth in the IIC Settlement Order, including a number of changes to the IIC.

4. In the IIC Settlement Order, the Commission noted the relationship between the IIC Settlement proceeding and the instant proceeding, and determined that any issues resolved in the IIC Settlement Order should not be relitigated in this proceeding. The Commission also stated, however, that, to the extent that there are affiliate issues unrelated to matters decided in the IIC Settlement Order that are relevant to the investigation commenced in the instant proceeding, those claims may be addressed in this proceeding. In accordance with the IIC Settlement Order, the Commission seeks

³ *Southern Company Energy Marketing, Inc. and Southern Company Services, Inc.*, 109 FERC ¶ 61,275 (2004) (the December Order).

⁴ *Southern Company Energy Marketing, Inc. and Southern Company Services, Inc.*, 111 FERC ¶ 61,144 (2005) (the May Order).

⁵ *Southern Company Services, Inc.*, 111 FERC ¶ 61,146 (the IIC Hearing Order), *clarified*, 112 FERC ¶ 61,015 (2005). The Chairman dissented in part in the May Order, disagreeing with the decision to initiate the separate section 206 proceeding regarding the other three prongs, noting that the parties' complaints focus almost exclusively on the IIC and should be addressed in the IIC case.

⁶ *Southern Company Services, Inc.*, 117 FERC ¶ 61,021 (Oct. 5, 2006) (IIC Settlement Order).

comment within 45 days of the date of this order identifying what affiliate issues, if any, remain appropriate for investigation in this proceeding given the determinations made in the IIC Settlement Order, and the proper procedures for addressing any such issues.

By the Commission. Commissioner Moeller not participating.

(S E A L)

Magalie R. Salas,
Secretary.