

121 FERC ¶ 61,016
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 4, 2007

In Reply Refer To:
Allegheny Power
Docket No. OA07-41-000

Allegheny Power
Vinson & Elkins LLP
1455 Pennsylvania Avenue, NW Suite 600
Washington, DC 20004

Attention: Stephen Angle, Esq.
Attorney for Allegheny Power

Dear Mr. Angle:

1. On July 13, 2007, Allegheny Power¹ filed a request for waiver of the requirement to revise its Open Access Transmission Tariff (OATT) pursuant to Order No. 890.² As discussed below, we grant Allegheny Power's request.
2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis.³ Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The

¹ Allegheny Power is the trade name for Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company.

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

³ *See id.* P 26-61.

Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Independent system operators (ISO) or regional transmission organizations (RTO), and transmission owners whose transmission facilities are under the control of an ISO or RTO, were directed to submit Federal Power Act section 206 filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890, within 210 days from publication of Order No. 890 in the *Federal Register*, *i.e.*, October 11, 2007.⁴

4. In its request for waiver, Allegheny Power states that its transmission system is under the functional control of PJM Interconnection, L.L.C. (PJM), a Commission approved RTO. Allegheny Power explains that PJM exercises functional control over Allegheny Power's transmission assets, and offers Point-to-Point and Network Integration Transmission Services and generator interconnections on the Allegheny Power transmission system pursuant to the terms of the PJM OATT.⁵

5. Allegheny Power further states that its OATT has limited applicability to certain pre-existing interconnection agreements and new service cannot and will not be offered pursuant to the terms of Allegheny Power's OATT because such authority was transferred to PJM under the PJM Transmission Owners Agreement. Allegheny Power explains that it only maintains its own OATT because of the pre-existing interconnection agreements that PJM has not assumed. Therefore, Allegheny Power asserts that revisions to Allegheny Power's OATT are not necessary to remedy opportunities for undue discrimination.⁶

6. Allegheny Power states that it is required to file an application for waiver no later than 60 days prior to the time that it would be required to comply with section 35.28(c) of the Commission's regulations.⁷ Allegheny Power states that its request for waiver is timely because it is filed prior to August 12, 2007, which is 60 days prior to its required compliance date.

⁴ Order No. 890 at P 161.

⁵ Request for Waiver at 2.

⁶ *Id.* at 2-3.

⁷ 18 C.F.R. § 35.28(c) (2007).

7. Notice of Allegheny Power's filing was published in the *Federal Register*,⁸ with interventions, protests, or comments due on or before August 3, 2007. No interventions or protests were filed.

8. We grant Allegheny Power's request for waiver. The Allegheny Power OATT is maintained only for certain pre-existing interconnection agreements. Therefore, no transmission service is provided pursuant to the Allegheny Power OATT. As noted above, the PJM OATT governs all Point-to-Point and Network Integration Transmission Service and additional generator interconnections that use Allegheny Power's transmission facilities. Therefore, we expect that PJM's future Order No. 890 compliance filing will address and remedy opportunities for undue discrimination and implement the necessary revisions such that transmission service provided using Allegheny Power's transmission system will be in compliance with Order No. 890.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.

⁸ 72 Fed. Reg. 41,727 (2007).