

122 FERC ¶ 61,070
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

South Carolina Electric & Gas Company

Docket No. OA07-36-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued January 31, 2008)

1. On July 13, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ South Carolina Electric & Gas Company (SCE&G) submitted its compliance filing as required by Order No. 890.² In this order, we will accept SCE&G's filing, as modified, as in compliance with Order No. 890, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. 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 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. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and

¹ 16 U.S.C. § 824e (2000).

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, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.³

II. Compliance Filing

4. SCE&G states that it is filing its entire OATT, including those provisions required by Order No. 890.⁴ SCE&G requests that its revised OATT be made effective on July 13, 2007, with the exception of Schedules 4 (Energy Imbalance Service) and 9 (Generator Imbalance Service), which it requests become effective on the first day of the billing cycle following the date of its filing.⁵

5. SCE&G explains that consistent with Order No. 890, it has: (1) developed an appropriate penalty for misuse of network service; (2) developed a mechanism for crediting imbalance revenues in excess of incremental costs to non-offending customers; (3) amended its system impact study methodology to address redispatch service and conditional firm service, to incorporate Order No. 890's priority for pre-confirmed requests; (4) described how it will process a request to "cluster" studies incident to requests for transmission service and how it will structure the transmission customers' obligations when they have joined a cluster; and (5) included a new Attachment L specifying its creditworthiness procedures.

III. Notice of Filing and Responsive Pleadings

6. Notice of SCE&G's filing was published in the *Federal Register*, 72 Fed. Reg. 41,726 (2007), with interventions and protests due on or before August 3, 2007. None was filed.

³ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁴ SCE&G, FERC Electric Tariff, Third Revised Vol. No. 5.

⁵ Additionally, SCE&G states that the changes concerning Attachments C and K will be the subject of subsequent compliance filings, as required by Order No. 890.

IV. Discussion

7. As discussed below, we will accept SCE&G's compliance filing, as modified, to be effective July 13, 2007.⁶ We also direct SCE&G to file, within 30 days of the date of this order, a further compliance filing as discussed below.

A. Unreserved Use Penalty

8. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.⁷

9. SCE&G has revised section 28.6 of its OATT to specify that a network customer inappropriately using network service is subject to an unreserved use penalty rate. However, section 13.4 of the *pro forma* OATT already provides that a customer using unreserved service shall be deemed to have executed a service agreement to govern that service. This means that all unreserved uses of the transmission provider's system are to be considered uses of firm point-to-point transmission service, even if the customer is taking network service or non-firm point-to-point service for the reserved portion of its service. Accordingly, the modifications SCE&G proposes to section 28.6 of its OATT are unnecessary.⁸ We direct SCE&G to file, within 30 days of the date of this order, a further compliance filing to replace its proposed section 28.6 with the *pro forma* section 28.6 language.

10. Additionally, we note that SCE&G's OATT does not contain an unreserved use penalty rate and, as a result, SCE&G may not charge transmission customers for unreserved use penalties.

B. Creditworthiness

11. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to

⁶ However, we accept Schedules 4 and 9 to be effective on the first day of the billing cycle following the date of this filing, as requested. The Commission concluded in its *Order Granting Extension of Compliance Action Dates* that extending this effective date is reasonable. 119 FERC ¶ 61,037, at P 22 (2007).

⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

⁸ Order No. 890-A, 121 FERC ¶ 61,297 at P 454.

determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.⁹

12. We have reviewed SCE&G's filing and find that it has addressed the six specific elements identified in Attachment L of the *pro forma* OATT, except that it has not sufficiently detailed its creditworthiness determination for customers not rated by a credit rating agency. For such customers, SCE&G's proposal would determine a customer's financial strength based on financial analysis criteria generally acceptable in the electric industry.¹⁰ However, the details of the aforementioned criteria and how they will be applied are unclear. Therefore, SCE&G must include in its creditworthiness procedures a more specific methodology to determine an unrated customer's creditworthiness. In addition, the proposed creditworthiness provisions provide that a customer's creditworthiness may be reevaluated at any time, upon SCE&G's discretion. We find this unacceptable. SCE&G must provide specific criteria as to when it will reevaluate a customer's creditworthiness. This is needed to protect the customer against constant "ratcheting up" of its financial assurances.¹¹

13. We direct SCE&G to file, within 30 days of the date of this order, a further compliance filing that addresses its creditworthiness standards consistent with Order No. 890 and our discussion above.

C. Rollover Rights

14. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.¹²

15. SCE&G has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, SCE&G's Attachment K, setting forth its transmission planning process, which was filed December 7, 2007 in

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

¹⁰ See Attachment L, Section 1B.

¹¹ *Entergy Services, Inc.*, 106 FERC ¶ 61,039 at P 14 (2004).

¹² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

Docket No. OA08-46-000, has not yet been accepted. This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct SCE&G to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. SCE&G should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date commensurate with the date of that filing.

The Commission orders:

(A) SCE&G's compliance filing is hereby accepted, as modified, effective July 13, 2007, as discussed in the body of this order.

(B) SCE&G is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.