

125 FERC ¶ 61,365
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.

Electric Energy, Inc.

Docket No. OA08-119-000

ORDER ACCEPTING COMPLIANCE FILING

(Issued December 23, 2008)

1. On July 10, 2008, pursuant to section 206 of the Federal Power Act (FPA),¹ Electric Energy, Inc. submitted a filing to conform its Open Access Transmission Tariff (OATT) to the Commission's *pro forma* OATT, in compliance with Order Nos. 2003,² 2006,³ and 890.⁴ In this order, the Commission accepts Electric Energy Inc.'s compliance filing, effective on the dates requested, as discussed below.

¹ 16 U.S.C. § 824e (2006).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir 2007) (collectively, Order No. 2003).

³ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶31,180, *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006) (collectively, Order No. 2006).

⁴ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007) (Order No. 890), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (January 16, 2008), FERC Stats. and Regs. ¶ 31,261 (2007) (Order No. 890-A), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) (Order No. 890-B).

I. Background

A. Order Nos. 2003 and 2006

2. In Order No. 2003, the Commission required public utilities to revise their OATTs to include standard generator interconnection procedures and standard agreements to provide interconnection service to electric generating facilities having a capacity of more than 20 MW. In Order No. 2006, the Commission required similar revisions concerning electric generating facilities of less than 20 MW capacity. The effective dates for these orders were January 20, 2004, and August 12, 2005, respectively.

B. Order No. 890

3. 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.⁵ Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability (ATC), 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.

4. 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 (ISOs) or regional transmission organizations (RTOs), and 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.⁶

⁵ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 2, P 26-61.

⁶ 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).

5. The Commission also stated that the criteria for waiver of the requirements of Order No. 890 are unchanged from those used to evaluate requests for waiver under Order Nos. 888⁷ and 889.⁸

C. Electric Energy, Inc.

6. Electric Energy, Inc. is an electric generating company that owns and operates a six-unit generating plant at Joppa, Illinois (the Joppa Plant), having total generating capacity of 1,086 MW. Electric Energy, Inc. was formed, in 1950, to provide electricity to a uranium enrichment facility at Paducah, Kentucky (the Paducah Plant), that is owned and operated by the U.S. Enrichment Corporation. Additionally, Electric Energy, Inc. sells power from the Joppa Plant and other sources to: (1) the U.S. Department of Energy (DOE) for resale to the U.S. Enrichment Corporation; (2) the Tennessee Valley Authority (TVA); and (3) Electric Energy Inc.'s owners and their affiliates.⁹

II. Compliance Filing

7. Electric Energy, Inc. states that it owns and operates a limited, discrete set of transmission facilities, consisting of the switchyard at the Joppa Plant and six parallel 8-mile-long, 161 kV transmission lines. According to Electric Energy, Inc., these six transmission lines were designed primarily to deliver power from the Joppa Plant to the DOE bus at the Paducah Plant. It further states that the lines are also used occasionally to deliver supplemental power from Electric Energy, Inc.'s owners and their affiliates to the Paducah Plant, and for transmission transactions between Electric Energy, Inc. and its

⁷ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. New York v. FERC*, 535 U.S. 1 (2002) (collectively, Order No. 888).

⁸ *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035, *clarified*, 77 FERC ¶ 61,335 (1996), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000) (collectively, Order No. 889).

⁹ Electric Energy, Inc. is owned jointly by Union Electric Company, Ameren Energy Resources Company, LLC, and Illinois Power Company, which are wholly-owned subsidiaries of the Ameren Corporation, and by the Kentucky Utilities Company, a subsidiary of E.ON US, LLC.

owners or their affiliates. Electric Energy, Inc. describes its transmission system as a radial feed between the Joppa bus and the DOE bus.

8. Electric Energy, Inc. states that no wholesale or retail electric service loads are within its control area, and that it is incapable of providing network integration transmission service. It adds that generators and power marketers seeking to serve loads within the Midwest Independent Transmission System Operator, Inc., (Midwest ISO) and TVA regions may obtain transmission service without using the Electric Energy, Inc. system.

9. Electric Energy, Inc. explains that, following the issuances of Order Nos. 888 and 889, it filed a request for waiver of the obligation to comply with those orders. The Commission denied the request for waiver of the Order No. 888 requirement to file an OATT on the basis that other parties might want to obtain transmission service over Electric Energy, Inc.'s transmission lines in the future. However, the Commission granted Electric Energy Inc. waiver of Order No. 889's requirements to establish an Open Access Same-time Information System (OASIS) and to comply with the Commission's Standards of Conduct.¹⁰ Electric Energy, Inc. states that, on February 24, 1999, the Commission accepted its filed OATT.¹¹

10. Electric Energy, Inc. states that, since 1997, the only entities other than itself using its transmission system have been its owners and their affiliates. Electric Energy, Inc. adds that no non-affiliated entity has asked to use the transmission system either for unbundled transmission service or to establish new generator interconnections. It states that while it has received some inquiries from non-affiliated entities regarding transmission service, none matured into an actual request for transmission service.

11. Electric Energy, Inc. explains that, because it received no request by any non-affiliated entity for transmission service on its facilities since filing its OATT in 1997, it overlooked the need to incorporate into its OATT the subsequent modifications to the *pro forma* OATT. It states that the absence of those modifications has not deterred any entity from seeking transmission or interconnection service on the Electric Energy, Inc. system, nor created artificial barriers to the use of the system. Electric Energy, Inc. states that it recognizes the Commission's preference for transmission providers to maintain standardized terms and conditions for transmission service in order to avoid even the appearance of an opportunity for discriminatory treatment. Accordingly, it is making this filing.

¹⁰ *Citing Northern States Power Co.*, 76 FERC ¶ 61,250, at 61,295-97 (1996).

¹¹ *See Baltimore Gas & Electric Co.*, Docket Nos. OA96-156-001, *et al.* (February 24, 1999) (unpublished letter order).

12. Electric Energy, Inc. states that it has revised its OATT to bring it into compliance with Order Nos. 2003, 2006, and 890. It requests effective dates of January 20, 2004 (Order No. 2003), August 12, 2005 (Order No. 2006), and July 13, 2007 (Order No. 890).

13. Further, Electric Energy, Inc. notes that because of changes in the power supply arrangements between it and DOE, a portion of the power that Electric Energy, Inc. now delivers to DOE is supplied in accordance with provisions for unbundled transmission service provided under Electric Energy Inc.'s OATT. Therefore, Electric Energy, Inc. proposes to incorporate, in its revised OATT, the provisions related to rollover rights accorded to a long-term firm point-to-point transmission service customer, as modified in Order No. 890.

14. In addition, Electric Energy, Inc. asserts that there are certain modifications to the *pro forma* OATT adopted in Order No. 890 that do not apply to it. Among other provisions, Electric Energy, Inc. states that Attachment C (Methodology to Assess Available Transfer Capability), Attachment J (Procedures for Addressing Parallel Flows), and Attachment K (Transmission Planning Process) are inapplicable to it and have not been included in its revised OATT.

15. Additionally, Electric Energy, Inc. requests waiver of various "posting and reporting requirements" adopted under Order No. 890, such as the requirement to post specific performance metrics related to processing transmission service requests. Electric Energy, Inc. argues that these types of posting and reporting requirements do not apply to it because it has not been asked to process any transmission service requests by a non-affiliated entity and does not expect to do so. Furthermore, Electric Energy, Inc. points out that it maintains neither an OASIS nor an internet website where such information might be posted.

III. Notice of Filing

16. Notice of the compliance filing was published in the *Federal Register*, 73 Fed. Reg. 43,215 (2008), with interventions, comments and protests due on or before July 31, 2008. None were filed.

IV. Discussion

17. We will accept Electric Energy, Inc.'s compliance filing, with the changes to be effective January 20, 2004 (Order No. 2003), August 12, 2005 (Order No. 2006), and July 13, 2007 (Order No. 890), as requested. Moreover, we will grant Electric Energy, Inc.'s request for waiver of the posting and reporting requirements required by Order No. 890. As Electric Energy, Inc. notes, it is not required to maintain an OASIS site and it has not received any transmission requests by non-affiliated entities, nor does it expect any in the future.

The Commission orders:

(A) Electric Energy, Inc.'s compliance filing is hereby accepted, to be effective on the dates requested, as discussed in the body of this order.

(B) Electric Energy, Inc.'s request for waiver of the posting and reporting requirements of Order No. 890 is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.