

126 FERC ¶ 61,242
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. ER08-513-003

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued March 17, 2009)

1. In this order, we conditionally accept, subject to the outcome of the proceeding in Docket No. ER09-555-000,¹ Entergy Services Inc.'s (Entergy) filing in compliance with the Commission's May 5, 2008 order in *Entergy Services, Inc.*, 123 FERC ¶ 61,125 (2008) (May Order).

I. Background

2. This proceeding arises out of the Commission's approval of the Weekly Procurement Process (WPP) as part of the package of changes that established Southwest Power Pool, Inc. (SPP) as the Independent Coordinator of Transmission (ICT) for the Entergy system.² The Commission approved Entergy's proposal to establish an ICT for its system to improve transparency of transmission information, enhance transmission access, and relieve transmission congestion.

3. In the May Order, the Commission conditionally accepted and suspended proposed amendments to Attachment V in Entergy's Open Access Transmission Tariff (OATT). Attachment V contains the terms and conditions that apply to the WPP approved by the Commission. Entergy's proposed amendments were to: (1) apply "soft

¹ The Commission is issuing an order, concurrently with this order, that addresses Entergy's filing in Docket No. ER09-555-000. *Entergy Services, Inc.*, 126 FERC ¶ 61,227 (2009).

² See *Entergy Services, Inc.*, 115 FERC ¶ 61,095 (April 2006 Order), *order on reh'g*, 116 FERC ¶ 61,275, *order on compliance*, 117 FERC ¶ 61,055 (2006), *order on clarification*, 119 FERC ¶ 61,013 (2007).

constraints”³ in the first dispatch run and carry the revised constraint limits into the subsequent runs; (2) eliminate the requirement for participants to designate conditional network resources; (3) alter the conditions of service such that point-to-point transmission service requests will only be made on an all-or-none basis; (4) alter the redispatch rate methodology under certain circumstances; and (5) allow suppliers to offer Automatic Generation Control (AGC), supplemental reserve service, or spinning reserve service.

4. In the May Order, the Commission raised three concerns that it required Entergy to address on compliance. First, the Commission noted that the treatment of soft constraint violations may be overly rigid if minor, immaterial constraint violations were allowed to cancel the WPP’s weekly output. The Commission found that some flexibility should be granted, so long as this flexibility did not compromise system reliability or significantly increase Transmission Loading Relief (TLR) events. Second, the Commission stated that Entergy’s proposal to disallow partial point-to-point service was potentially unduly discriminatory, and required Entergy to either allow partial point-to-point service or explain fully why it was not feasible. Third, the Commission found that Entergy had not adequately explained the basis for its proposed waiver of the confirmation times for certain transmission services requested in the Available Flowgate Capability process. The Commission ordered Entergy to state the specific standard of the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB) for which it seeks waiver and explain why such a waiver is justified.

II. Entergy’s Compliance Filing

5. On January 16, 2009, Entergy made a compliance filing (Entergy Compliance Filing) in accordance with the Commission’s May Order. With respect to soft constraints, Entergy states that Attachment V now provides that each WPP participant will establish acceptable levels of flexibility requirement violations applicable to it in Run 1. A violation within such levels will not cause the applicable optimization run to be deemed infeasible. Entergy states that it expects to set its own threshold for flexibility violations at 20 MW for any single hour that the model schedules a new purchase. If Weekly Operations determines, after consultation with the ICT, that an operational adjustment is available to resolve the violation, the violation in that hour will not cause the results to be deemed infeasible. Entergy states that if Weekly Operations takes actions inconsistent with the ICT’s recommendation, the ICT may report this to

³ Soft constraints allow the Weekly Procurement Process’s dispatch algorithm to solve even if the existing transmission service is not simultaneously feasible, and Entergy states that they will not affect its ability to provide reliable transmission service.

applicable regulators. Entergy also states that the dollar value of each soft constraint will determine the order of violation – in other words, higher \$/MWh value soft constraints should be violated after a lower \$/MWh violation.

6. Entergy notes that it is proposing to eliminate the availability of all point-to-point service in its Federal Power Act (FPA)⁴ section 205 filing made concurrently in Docket No. ER09-555-000. Thus, it requests waiver of the compliance requirement to address the ability to provide partial point-to-point service.

7. With respect to the proposed waiver of confirmation time limits for weekly transmission service associated with an offer of Automatic Generation Control (AGC) service and/or operating reserve services, Entergy explains that customers will be provided more flexibility than under the NAESB Wholesale Electric Quadrant standards. Entergy is requesting the waiver of the standard in WEQ-001-4.10 to permit confirmation within 72 hours when network service is requested through the Available Flowgate Capability (AFC) process, because it may not be possible to confirm the service within 48 hours of the time the transmission service is accepted or counter-offered. According to Entergy, the WPP optimization process is not anticipated to be completed until 10 a.m. on the Thursday prior to the upcoming WPP operating week, with the results expected to be posted by noon on the same day. Given the timing of these procedures, Entergy states, there can be more than 48 hours between the time that transmission service related to the provision of AGC and/or operating reserves is accepted in the AFC process and the time that the results of the WPP are posted. Except for the limited circumstance for which the waiver is sought, the normal standard of 48 hours for confirmation will continue to apply to firm, weekly transmission service. Entergy notes that prior requests for transmission service will not be affected by the waiver, and that the effect of the proposed waiver should be *de minimis*. Entergy states that it has not amended Attachment V specifically to address this waiver.

8. In its compliance filing, Entergy also provides a punchlist of the timeline for WPP implementation for outstanding steps and requirements necessary to implement the WPP. Entergy states that it is authorized to state that the ICT has reviewed the punchlist and expected completion dates, and agrees with the items listed. Finally, Entergy requests that the Commission accept this filing by March 17, 2009, so that the WPP can be implemented by the week of March 23, 2009. Entergy requests that the Commission establish March 17, 2009 as the effective date for the Attachment V amendments, consistent with the effective date Entergy is requesting in Docket No. ER09-555-000. Entergy argues that this timing is consistent with the Commission's requirements, since the Commission did not state that Entergy must receive final ICT endorsement before making this compliance filing.

⁴ 16 U.S.C. § 824d (2006).

III. Notice and Responsive Pleadings

9. Notice of Entergy's filing was published in the *Federal Register*, 74 Fed. Reg. 6,404 (2009), with interventions and protests due on or before February 6, 2009. Timely comments and protests were filed by Southwest Power Pool, Inc. (SPP); Union Power Partners, L.P. (Union Power); Lafayette Utilities System, the Mississippi Delta Energy Agency, the Clarksdale Public Utilities Commission, and the Public Service Commission of Yazoo City (together, L-M Municipals); and NRG Power Marketing LLC, Bayou Cover Peaking Power LLC, Big Cajun I Peaking Power LLC, Louisiana Generating LLC, and NRG Sterlington Power LLC (together, NRG Companies). Answers were filed by Entergy and SPP.

IV. Comments

10. SPP states that it supports Entergy's compliance filing in this matter. SPP submits that the Commission's acceptance of Entergy's compliance filing, along with the structural changes proposed in Docket No. ER09-555-000, is crucial to meeting the target date for WPP implementation.

11. SPP argues that Entergy's proposed Attachment V revisions relating to constraint violations provide needed flexibility to the WPP process. SPP notes that it has advocated from the start for some flexibility in the WPP so that minor and/or immaterial constraint violations after Run 0 do not unnecessarily limit the operation of the WPP, resulting in reduced benefits to Entergy's ratepayers. SPP also notes that it supports its own proposed role as ICT, where it will conduct an independent analysis of any constraint violations, and then confer with Weekly Operations to reach consensus. If no consensus is reached, the ICT will have the authority to report the disagreement to regulators.

12. SPP notes that the May Order required Entergy to include the ICT's endorsement of the WPP in its compliance filing, but that the ICT had not yet completed its full assessment of WPP readiness prior to the date of Entergy's filing. At the end of January, however, the ICT completed its sensitivity testing of the WPP model confirming that the WPP model meets the ICT's technical criteria. SPP also notes that the software changes to the WPP model to reflect the Attachment V revisions and other proposed changes were also completed at the end of January. The other remaining items on the punchlist are on track to be completed on or before their expected dates.

13. L-M Municipals argue that the unexpected levels of delay that have accompanied the WPP development process have led to at least three direct side-effects: (1) reduction in realized savings; (2) additional development costs; (3) and additional ICT obligations. They note that the Commission's approval of the ICT proposal was expressly predicated in part on the benefits expected from the WPP for both retail and wholesale customers, including the displacement of Entergy oil and gas generation and an increase in non-firm transmission transactions. L-M Municipals note that the Commission noted in its initial

approval that the possibility of delay was a major concern, and that the Commission might reopen its approval of the ICT arrangement if the WPP were greatly delayed.⁵ L-M Municipals also note that under the new version, as proposed, the ICT has significant new hands-on responsibility for key activities such as review and evaluation of soft constraint values, and analysis of the effect of soft constraint violations. They argue that it is unclear whether the current level of ICT compensation is sufficient, and any request for further compensation would further reduce the net benefits of the ICT proposal.

14. L-M Municipals also argue that the changes proposed by Entergy in Docket No. ER09-555-000 could weaken the rights of parties that fund upgrades to the system. They note that the proposed changes will do away with some of the protections from congestion and redispatch charges extended to parties who pay for upgrades. These changes eliminate value for upgrades subject to participant funding that the Commission considered significant. Accordingly, they assert, the Commission must consider whether the remaining rights meet the criteria established at the outset of the ICT proceedings for participant funding, or whether Entergy's tariff provisions for participant funding should not be permitted to continue in effect.

15. Finally, L-M Municipals argue that Entergy's focus at this point has become "what can we get into effect and how soon can we do it?"⁶ They argue that the Commission should not let the desire for feasible modeling outcomes trump the protection of system reliability. Accordingly, they argue that Entergy should be required to certify that it will not be putting the network in jeopardy, or it should permit stakeholder access to the models on which it relies to argue that the new WPP design does not damage reliability.

16. Union Power states that Entergy offers no criteria that it will use to judge its determination on soft constraints. For instance, Entergy may not accept the results of the WPP unless the acceptance will not compromise system reliability. Moreover, Union Power notes that Entergy provides no criteria for when an increase in transmission loading relief events becomes significant. Similarly, no criteria are proposed for determining when the tradeoff between exceeding a soft constraint and denying service through the WPP is reasonable. Such criteria are required under Order No. 890, according to Union Power.⁷

⁵ L-M Municipals at 4 (citing April 2006 Order at P 296).

⁶ L-M Municipals at 8.

⁷ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

17. Union Power also argues that Entergy failed in its compliance filing to adequately address point-to-point service, and to comply with the requirements regarding its request for waiver of the confirmation time limit. With respect to the waiver, Union Power argues that Entergy assumes that AGC and operating reserves services will always be selected in the WPP, and thus the waiver request has no impact. However, Union Power notes that Entergy failed to address what the effect on the processing of transmission services outside the WPP would be if the AGC and operating reserves are not selected in the WPP.

18. NRG Companies state that the Commission should re-evaluate whether the WPP structure still makes sense in light of the degradation of service customers are experiencing on the Entergy system and the large number of errors present in the software. They indicate that Louisiana Generating LLC and its cooperative customers have contributed over \$1 million to the ICT in WPP development costs in 2008 for a program that benefits only Entergy. NRG Companies argue that the Commission should reject this filing, along with the accompanying FPA section 205 filing, since Entergy has filed no testimony or other evidence supporting its revised proposal. NRG Companies also request that the Commission reject the proposed March implementation date as premature. They argue that, at a minimum, the Commission should set the proposed tariff for hearing and direct the hearing judge to address any cost savings claims advanced by Entergy. NRG Companies make a joint protest in this docket and Docket No. ER09-555-000, and move for consolidation of the dockets.

V. Answers

19. In response to Union Power's concerns regarding the lack of criteria for determining when soft constraint violations will cause cancellation of the WPP, Entergy argues that the lack of specific standards is consistent with the Commission's May Order. Entergy argues that any specific standards could be too prescriptive (or too lenient) when addressing the difficult factual situations that may arise. Including more detailed standards is not necessary for customer confidence, Entergy argues, since the process already includes the ability of the ICT to report to regulators any action taken by Weekly Operations that differs from the ICT's independent judgment. Indeed, Entergy notes, the ICT has given its approval to the soft constraint procedures.

20. Entergy also argues that NRG Companies' arguments that Entergy's changes will worsen system conditions and would require a seven-day projection by the ICT are contrary to the Commission's findings in the May Order. Entergy notes that the Commission found that some flexibility reflecting the tradeoff between exceeding a constraint and completely denying service through the WPP is reasonable, and this tradeoff should not compromise system reliability.⁸ Entergy also notes that L-M

⁸ Entergy Answer at 6 (citing May Order, 123 FERC ¶ 61,125 at P 30).

Municipals' claim that the new ICT responsibilities will lead to additional compensation requirements is purely speculative, and should be rejected. Entergy points to the ICT's statement that it believes its role in evaluating constraint violations is consistent with the ICT's responsibilities under Attachment V.

21. With respect to Union Power's argument that Entergy failed to explain the effect of the proposed waiver on the processing of transmission service requests outside the WPP when AGC or operating reserves are not selected, Entergy states that this is incorrect. Entergy points to page 9 of its Transmittal Letter, where it says that it explained that: (1) prior requests for transmission service will not be affected by the waiver request; (2) when the AGC or operating reserves services are accepted in the WPP, subsequent transmission service requests will not be affected by the waiver request; and (3) the effect of the waiver on the situation described by Union Power should be *de minimis*. The *de minimis* effect is due to the fact that only requests made within the additional 24-hour-period would be affected, and the waiver request only applies to a limited amount of service.

22. SPP argues in its answer that the contentions from commenters that delays in and modifications to the WPP should lead to reevaluation of the ICT arrangement should be rejected. The ICT and Entergy have provided regular updates on the status of the WPP and explanations of various software and process problems that led to delays. The design changes proposed in the two filings are necessary to get the WPP working, according to SPP, and the WPP should not be scrapped at this point due to the delays. SPP argues that a working WPP will still promote competition and result in more economic dispatch within the Entergy footprint. Additionally, the ICT provides more benefits outside of the WPP, including tariff administration, system planning, and reliability coordination.

23. SPP also argues that the Commission should deny NRG Companies' request to delay WPP implementation, consolidate the two dockets, and set this matter for hearing. Starting the WPP in mid-March is not the beginning of the summer season, SPP argues, and will give customers valuable operating experience prior to the summer season. SPP notes that testing has been performed on the WPP system, and that worries over system problems during the summer months are unfounded. Finally, SPP states that no consolidation of dockets is required, since no hearing is necessary in this matter.

VI. Endorsement

24. On February 27, 2009, the ICT filed its endorsement of the WPP. In accordance with the May Order, the ICT states that it is providing its letter to fulfill its obligation to certify that all WPP models and processes have been fully developed and tested. In addition, the ICT states that it provides the "Go Live" criteria upon which the ICT based

its endorsement and a summary on how each of these criteria was satisfied.⁹ The ICT also reports that all of the “punchlist” items identified in the instant filing have been completed. Accordingly, the ICT states that all the outstanding steps and requirements necessary to implement the WPP have been satisfied, and therefore, the ICT endorses WPP start-up.

25. The ICT states that it is on the basis of the achievement of satisfactory system and software test results, the resolution of related “Go Live” criteria, and the completion of previously identified “punchlist” items, that the ICT submits its final endorsement for the start-up of the WPP. The ICT notes that, as with any computer-based process, however, no level of advance testing or trials can ensure that, in real time, the WPP will operate flawlessly. Indeed, the ICT states that it expects that actual experience with the WPP model will, over time, yield important process refinements that will improve the WPP results, expand Entergy’s procurement options, and produce more efficient and economical dispatch within Entergy’s service area. In sum, based on the ICT’s testing and analysis, the ICT concludes that the final WPP software model and processes are in place and ready to be implemented.

VII. Discussion

A. Procedural Matters

26. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept Entergy and SPP’s answers because they provide information that assisted us in our decision-making process.

B. Use of Soft Constraints

27. We find that Entergy’s proposal with respect to the use of soft constraints in the WPP optimization process complies with the May Order and is just and reasonable. As the Commission stated in the May Order, “cancelling the [WPP] if any constraint cannot be satisfied in Runs 1 and 2 due to ‘minor, immaterial constraint violations’ is overly

⁹ “Go Live” criteria ensure the functionality of the WPP software. For example, the criteria includes system integration tests of: (1) Open Access Same-time Information System (OASIS) data transfer; (2) OASIS automation software changes; (3) automated reservation service software; (4) Participating Network Customer User Interface software; (5) Market Manager Database; and (6) SCUC model sensitivity.

rigid and could lead to limited operation of the [WPP].”¹⁰ Entergy’s proposal to establish acceptable limits of constraint violations, within which optimization runs will not be deemed to be infeasible, and to associate appropriate dollar values with the relaxation of constraints, represents a reasonable and pragmatic approach to implementing the WPP.

28. In the May Order, the Commission concluded that some amount of flexibility reflecting the tradeoff between exceeding a constraint and completely denying service through the WPP is reasonable. The Commission explained that this tradeoff should not compromise system reliability or significantly increase TLR events. Union Power states that while Entergy’s proposal identifies what will be considered for purposes of balancing the Commission’s concerns, Entergy offers no criteria against which the exercise of Entergy’s judgment are to be made. While we sympathize with Union Power’s concerns, we also recognize that the WPP optimization process, due to its complexity, cannot be reduced to a simple set of objective decision rules. Effective implementation requires some flexibility to allow manual intervention in the decision making process when, due to the violation of a minor constraint, the WPP would otherwise be unable to achieve a beneficial, cost saving solution.

29. Union Power also states that Entergy’s proposal does not satisfy Order No. 890’s requirements for transparency. We disagree. Though intervenors claim there is a lack of transparency, Entergy has permitted each WPP participant to establish its own acceptable level for flexibility requirement violations. The ICT and Entergy’s Weekly Operations must work within those user-provided parameters. As the ICT notes, if flexibility violations in an hour fall within the established levels, then the violation will not cause the WPP results to be deemed infeasible.¹¹ However, when the results of the WPP exceed the flexibility threshold level, the ICT and Weekly Operations will individually and independently analyze the violation to determine if it can be resolved with an “operational adjustment.” In addition, Attachment V (and the Weekly Procurement Process Manual) will include information regarding the acceptable limits of constraint violation and the dollar values associated with the relaxation of the various constraints. This will help interested parties to gain an understanding of the benefits that may be lost if the violation were not permitted to occur, as well as the relative importance placed on meeting each constraint. Finally, we note that the ICT has a key role to play in this process. It will provide oversight of the process, and if Entergy takes actions that are inconsistent with the ICT’s independent analyses and conclusions, the ICT must so notify the Commission.

¹⁰ May Order, 123 FERC ¶ 61,125 at P 30.

¹¹ SPP Comments at 7.

C. Compliance with Partial Point-to-Point Transmission Service Offers in the WPP

30. In the compliance filing, Entergy notes that in a separate, concurrent filing (Docket No. ER09-555-000) it is eliminating the point-to-point transmission service feature, and all corresponding provisions, from the WPP. Entergy further explains that such removal was necessary to reduce the complexity of the WPP optimization sequence, and ultimately, this change improved the results of the model. According to Entergy, this change was not only supported, but was proposed entirely by the ICT.

31. We will conditionally accept Entergy's compliance filing, subject to the outcome of the order being issued concurrently in Docket No. ER09-555-000. In that order, the Commission is conditionally accepting Entergy's proposal to eliminate availability of point-to-point service from the WPP subject to a compliance filing to address the removal of point-to-point transmission service and off-peak service from the WPP.¹²

32. As noted above, commenters such as L-M Municipals and NRG Companies raised broader issues in this docket and in Docket No. ER09-555-000 concerning the net benefit to customers of the ICT package and whether the WPP should be continued. The Commission addresses these issues in our concurrent order in Docket No. ER09-555-000.

D. Waiver of Confirmation Time Limit

33. In its January 31, 2008 filing, Entergy proposed that a supplier may, if it chooses, offer AGC service, operating reserve – spinning reserve service, and/or operating reserve – supplemental reserve service. The WPP optimization process, however, only models actual energy flows from generating units when determining the load flow solution used to grant transmission service. Likewise, the WPP optimization process does not model a transmission “set-aside” to ensure that AGC and reserves will in fact be deliverable in real-time if they are deployed. Therefore, to submit an offer into the WPP that can be used for the supply of AGC service and/or operating reserves services, a supplier must notify the applicable WPP participant of the range of services it intends to offer. However, to ensure deliverability of the energy associated with an offer of AGC or operating reserve services submitted in the WPP, a request for weekly network transmission service related to the offer may be submitted through the AFC process, which is external to the WPP. The necessity for the waiver is because of the WPP operating schedule. Entergy expects that the optimization runs and associated analyses required for the WPP will be completed by 10 a.m. on the Thursday before the upcoming operating week, with the results posted by noon that same day. Given the timing of these procedures, there can be more than 48 hours between the time that transmission service

¹² *Entergy Services, Inc.*, 126 FERC ¶ 61,227 at P 88.

related to the provision of AGC and/or operating reserves is accepted in the AFC process and the time that the results of the WPP are posted. Accordingly, Entergy asks the Commission to waive the requirement that a request for weekly transmission service be confirmed by the customer within 48 hours when it is associated with an offer of AGC or operating reserves services in the WPP. Instead, it wants to allow the customer to be able to confirm the transmission service within 72 hours of when the service is accepted or counter-offered. The Commission conditionally approved the proposal, subject to the requirement that Entergy make a compliance filing to address the specific NAESB waiver it requested and how the change in confirmation times will affect the processing of transmission service requests that are submitted outside of the WPP.

34. According to Union Power, Entergy has failed to explain how the proposed waiver will affect the processing of transmission service requests when AGC or operating reserves services are not selected in the WPP. The Commission disagrees. Entergy has not only set forth the standard for which Entergy seeks the waiver, but Entergy has also explained the impact this waiver will have on transmission services outside of the WPP.¹³ Noting the truncated timeline and complexity in coordinating the various services being optimized, we agree that WPP participants need additional flexibility for confirmation of weekly network service when it is associated with an offer of AGC and/or operating reserves services. In addition, to explain its impact, Entergy provided a narrative in its compliance filing for how the 72-hour window will affect non-WPP transmission services. In its answer, Entergy clarifies that: (1) prior requests for transmission service will not be affected by this waiver request; (2) subsequent requests will not be affected when the AGC or operating reserve services are accepted in the WPP; and (3) subsequent requests that are not accepted in the WPP should have a *de minimis* effect.¹⁴ We agree. The requested waiver only applies to transmission service associated with offers of AGC and/or operating reserve services in the WPP. Accordingly, we find that Entergy has properly complied with the requirements of the May Order.

E. Motion to Consolidate

35. We deny NRG's request to consolidate this case with the compliance filing in Docket No. ER08-513-003. Generally, we consolidate cases where there are common issues of law and fact for purposes of settlement, hearing and decision. As we are conditionally accepting Entergy's proposals, there are no issues to consolidate for purposes of settlement, hearing and decision.

¹³ Entergy Compliance Filing at 9.

¹⁴ Entergy Answer at 9.

The Commission orders:

Entergy's compliance filing is hereby conditionally accepted, subject to the outcome of the Docket No. ER09-555-000 proceeding, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.