

128 FERC ¶ 61,010
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 2, 2009

In Reply Refer To:
Old Dominion Electric Cooperative
Docket No. TS04-282-001

Glen L. Ortman, Esq.
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Counsel to Old Dominion Electric Cooperative

Dear Mr. Ortman:

1. On December 18, 2008, Old Dominion Electric Cooperative (Old Dominion) filed a request for a continuation of its waiver¹ from the Standards of Conduct requirements in Part 358 of the Commission's regulations,² in light of Old Dominion's acquisition of certain 69kV transmission facilities on the Delmarva Peninsula.

¹ In 2004, the Commission granted Old Dominion a waiver from the Standards of Conduct because it (1) participates in a Commission-approved ISO or RTO; (2) does not operate or control its transmission system; and (3) has no access to transmission function information. *American Transmission Co., LLC*, 109 FERC ¶ 61,082 (2004).

² 18 C.F.R. Part 358 (2008); *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs. ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs. ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom. National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006); *see Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237, *order on reh'g*, Order No. 690-A, FERC Stats. & Regs. ¶ 31,243 (2007); *see also Standards of Conduct for Transmission Providers*, Order No. 717, 73 Fed. Reg. 63,796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008), *reh'g pending*.

2. The waiver request argues that a continued waiver is warranted, despite Old Dominion's acquisition of the transmission line, because the facilities are under the operation and control of PJM.³ It further states that it neither operates the facilities, nor has access to any transmission function information (i.e., information related to the planning, directing, organizing or carrying out of day-to-day transmission operations, including the granting and denying of transmission service requests).⁴

3. Old Dominion's statements in its December 18, 2008 request for waiver appear inconsistent with the following publicly available statements:

- Old Dominion has contracted with third parties to operate and maintain their transmission facilities.⁵
- In describing its proposed acquisition of 100 miles of Delmarva's transmission facilities, Old Dominion stated that it had entered into an operation agreement for the transmission line with A&N Electric Cooperative, one of the member coops. Old Dominion also explained that, A&N purchased the interconnected distribution facilities and assumed Delmarva's service obligations.⁶
- Old Dominion's website states that "ODEC owns and operates nearly 100 miles of 69-kilovolt transmission lines" (emphasis added).⁷
- Old Dominion's website also states that it "coordinate[s] planning activities with our transmission providers."⁸

4. Within thirty days of the date of this letter order, Old Dominion must explain why it claims that it does not operate transmission facilities or have access to transmission information given the apparently contradictory statements referenced in this order.

³ Old Dominion December 18, 2008 request at pp. 3 and 4.

⁴ Old Dominion December 18, 2008 Request at p. 3.

⁵ Old Dominion Electric Cooperative, 2007 Annual Report to the Securities and Exchange Commission at page 20.

⁶ Old Dominion's July 7, 2007 filing in Docket No ER07-1134 at p. 5.

⁷ See <http://www.odec.com/view.aspx?page=generation/transmission> (accessed June 10, 2009).

⁸ See <http://www.odec.com/view.aspx?page=generation/transmission> (accessed June 10, 2009).

- Specifically, given Old Dominion's statement that it entered into an agreement with A&N Electric Cooperative for the operation of these transmission facilities, it must clarify whether it has any "employee[s], contractor[s], consultant[s] or agent[s]". . . who actively and personally engage on a day-to-day basis in transmission functions. 18 C.F.R. § 358.2(i) (2008).
- Old Dominion must also provide additional details in support of its claims that PJM operates and controls the transmission facilities, including whether PJM physically controls or directs another party's operation of transmission facilities. Old Dominion must also explain whether any employees, agents or contractors have access to transmission function information covered by section 358.3(j) of the Commission's regulations.
- Finally, if Old Dominion engages in transmission functions or has access to transmission function information, it must explain how it continues to meet the criteria for a waiver from the Standards of Conduct.

5. The Commission will defer action on Old Dominion's waiver request until Old Dominion provides the information requested herein.

By direction of the Commission.

Kimberly D. Bose,
Secretary.