

145 FERC ¶ 61,164
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

November 25, 2013

In Reply Refer To:
Rochester Gas and Electric Corporation
Allegany Generating Station LLC
Docket No. RP14-70-000

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Ladies and Gentlemen:

1. On October 24, 2013, Rochester Gas and Electric Corporation (RG&E) and Allegany Generating Station LLC (Allegany) (collectively, Petitioners) filed a request for a temporary and limited waiver of certain of the Commission's capacity release regulations and policies, in order to facilitate the prearranged permanent release of a firm natural gas transportation agreement between RG&E and Dominion Transmission, Inc. (Dominion) to Allegany. Petitioners state that this release of capacity is an essential part of a transaction by which RG&E plans to divest itself of the Allegany Generating Station (Allegany Plant), a 62 MW natural gas-fueled generator located in Hume, New York. Petitioners request that the Commission act by November 25, 2013, and that the requested waivers remain in effect from that date until 30 days thereafter. For the reasons discussed below, and for good cause shown, we grant the requested temporary, limited waivers.

2. Petitioners state that RG&E plans to sell its Allegany Plant to Allegany, which is a direct, wholly-owned subsidiary of Alliance Energy, New York LLC. Petitioners state that RG&E holds a firm, negotiated-rate transportation agreement for firm transportation service on Dominion to transport natural gas to the Allegany Plant. Petitioners further state that the subject contract is used solely to serve the Allegany Plant and that assignment

of the contract will ensure that the Allegheny Plant retains the same gas transportation arrangements pre- and post-sale as contemplated by the parties in the asset transfer. Petitioners state that Dominion has authorized RG&E and Allegheny to state that Dominion does not oppose the waivers requested in this petition.

3. Petitioners request temporary and limited waiver of the Commission's posting and bidding rules for the capacity release. Specifically, Petitioners request waiver of the Commission's (1) capacity release posting and bidding requirements;¹ (2) prohibition on the release of capacity above the maximum recourse rate;² (3) prohibition against tying, to the extent applicable; (4) shipper-must-have-title policy; and (5) any other waivers or authorizations deemed necessary to permit RG&E to complete the permanent release and reassignment of capacity to Allegheny. Petitioners also seek the waiver of section 23 (Capacity Release) of the General Terms and Conditions of Dominion's FERC NGA Gas Tariff, which implements these Commission rules.

4. Public notice of the filing was issued on October 28, 2013. Interventions and protests were due on or before October 31, 2013. Pursuant to Rule 214,³ all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

5. The Commission has reviewed Petitioners' request and finds it is adequately supported and consistent with previous waivers that the Commission has granted under similar circumstances. Our actions here are consistent with those decisions where the Commission granted similar limited, temporary waivers in order to facilitate the transfer of interstate pipeline transportation capacity as part of various types of corporate restructurings, such as the proposed transfer of an entire business unit from one corporation to another.⁴

¹ 18 C.F.R. § 284.8(d)-(e) (2013).

² 18 C.F.R. § 284.8(b)(2) (2013).

³ 18 C.F.R. § 385.214 (2013).

⁴ *E.g.*, *Duke Energy Ohio, Inc., et al.*, 134 FERC ¶ 61,230 (2011); *Conectiv Energy Supply, Inc.*, 132 FERC ¶ 61,247 (2010); *Macquarie Cook Energy, LLC and Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009); and *Barclays Bank PLC and UBS AG*, 125 FERC ¶ 61,383 (2008).

6. For good cause shown, the Commission grants Petitioners' request for temporary waivers, limited to those necessary to carry out the specific transaction presented, the permanent transfer of RG&E's transportation agreement to Allegany, in anticipation of RG&E's planned sale of the Allegany Plant. Specifically, the Commission waives the prohibition on tying, the posting and bidding requirements for capacity release transactions, the shipper-must-have-title policy, the prohibition on buy-sell arrangements, and the restrictions on capacity releases below or above the maximum rate, expressly so that Petitioners can complete their transaction in an orderly and efficient manner within their time constraints. To the extent applicable, the Commission grants waiver of any tariff provisions on Dominion that enforce these Commission policies. The temporary, limited waivers requested by Petitioners are granted effective November 25, 2013, and shall continue for 30 days thereafter, as requested.

By direction of the Commission.

Kimberly D. Bose,
Secretary.