

148 FERC ¶ 61,242  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

September 29, 2014

In Reply Refer To:  
Exelon Generation Company, LLC  
ExGen Texas Power, LLC  
Docket No. RP14-1251-000

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Ladies and Gentlemen:

1. On September 5, 2014, Exelon Generation Company, LLC (ExGen) and ExGen Texas Power, LLC (Texas Power) (collectively, Petitioners) filed a joint petition for temporary waiver of the Commission's capacity release regulations and policies, in order to facilitate a capacity release transaction relating to an internal corporate reorganization. Petitioners request that such waivers remain in effect for a 90-day period. Petitioners also request that the Commission act on this joint petition no later than September 30, 2014. For the reasons discussed below, the Commission grants Petitioners' requested temporary waivers.
2. The Petitioners state that, as part of internal corporate restructuring, ExGen will transfer certain plants to a new affiliate, Texas Power. The Petitioners seek waiver so that they may also transfer the transportation and supply agreements associated with those plants. After the transfer, ExGen will remain in existence, but the new Texas Power affiliate will directly control the plants and associated pipeline agreements. In addition to some non-jurisdictional assets, Petitioners state that they plan to transfer two long-term firm transportation contracts with Gulf South Pipeline Company, LP (Gulf South).
3. In order to implement the reorganization, Petitioners request a temporary waiver of the following: the Commission's capacity release posting and bidding requirements (set out at 18 C.F.R § 284.8); the prohibition on tying the release of pipeline capacity to any extraneous condition; the shipper-must-have-title requirement; the prohibition on buy/sell arrangements; the tariff provisions that implement these regulations and policies; and any other waivers of the Commission's rules and policies necessary for Petitioners to implement the reorganization in a manner consistent with the Natural Gas Act and the

Commission's related regulations and policies. The Petitioners state that granting the requested waivers will facilitate an orderly and efficient transfer of assets, which in turn will allow Texas Power to qualify for outside financing.<sup>1</sup>

4. Public notice of the petition was issued on September 8, 2014. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>2</sup> Pursuant to Rule 214,<sup>3</sup> all timely motions to intervene and any unopposed motions 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 this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

5. We have reviewed Petitioners' request for temporary waivers and find that the request is adequately supported and consistent with previous waivers that the Commission has granted to permit the release of capacity under similar circumstances,<sup>4</sup> particularly when the transfers are a result of various types of corporate restructurings, including corporate mergers and spinoffs of entire business units.

6. Petitioners have also provided the information required for approval of such waivers: (1) identification of the regulations and policies for which waiver is sought; (2) identification of the pipeline service agreements and capacity to be transferred; and (3) description of the overall transaction and its claimed benefits, with sufficient detail to

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<sup>1</sup> Petition at 2, 4.

<sup>2</sup> 18 C.F.R. § 154.210 (2014).

<sup>3</sup> 18 C.F.R. § 385.214 (2014).

<sup>4</sup> *E.g.*, *Big Sandy Pipeline, LLC*, 141 FERC ¶ 61,151 (2012); *Antero Resources Corp.*, 139 FERC ¶ 61,258 (2012); *Salmon Resources, LTD*, 138 FERC ¶ 61,059 (2012); *Big Sandy Pipeline, LLC*, 136 FERC ¶ 61,130 (2011), *BHP Billiton Petroleum (Fayetteville LLC)*, 135 FERC ¶ 61,088 (2011); *Wisconsin Electric Power Co.*, 131 FERC ¶ 61,104 (2010); *EnergyMark, LLC*, 130 FERC ¶ 61,059 (2010); *Total Gas & Power North America, Inc.*, 131 FERC ¶ 61,023 (2010); *Sequent Energy Mgmt., L.P., et al.*, 129 FERC ¶ 61,188 (2009); *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082 (2009); *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008).

permit the Commission and other interested parties to determine whether granting the requested waivers is in the public interest.<sup>5</sup>

7. Accordingly, for good cause shown, the Commission grants a temporary, limited waiver of its capacity release regulations, including the posting and bidding provisions and the prohibitions on tying arrangements, the shipper-must-have-title requirement, and the prohibition on buy/sell arrangements. In addition, the Commission grants, to the extent necessary, a temporary and limited waiver of the necessary provisions of the Gulf South tariff so as to facilitate the capacity release transaction. The Commission will allow the waivers to take effect immediately, and remain in effect for 90 days, or until the date the capacity release transaction is completed, whichever is sooner.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>5</sup> *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).