

153 FERC ¶ 61,070
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

October 16, 2015

In Reply Refer To:
Union Power Partners, L.P.
Entergy New Orleans, Inc.
Docket No. RP15-1263-000

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Dear Mr. Levy and Ms. Vetula:

1. On September 10, 2015, Union Power Partners, L.P. (Union Power) and Entergy New Orleans, Inc. (ENO) (collectively, Petitioners) filed a joint petition (Petition) for temporary waiver of the Commission's capacity release regulations and policies, in order to facilitate a release of natural gas pipeline capacity that is integral to the sale (Transaction) of a natural gas electric generating facility (Facility). Petitioners request that the Commission act no later than October 16, 2015, and that the waivers extend from the date that the Commission issues its order until 90 days following the close of the Transaction. As discussed below, the Commission grants the requested temporary waivers.

2. Petitioners state that the Facility was the object of a previous waiver request in Docket No. RP15-655-000. On December 8, 2014, Union Power entered into an agreement to which it agreed to sell the Facility to Entergy Arkansas, Inc. (EAI), Entergy Gulf States Louisiana, L.L.C (EGSL), and Entergy Texas, Inc. (ETI). According to the Petition, because the Facility requires its own dedicated natural gas source, Union Power plans to award each purchaser a share of its total firm transportation capacity on

the pipeline serving the Facility, Trans-Union Interstate Pipeline, L.P. (Trans-Union). On March 17, 2015, Union Power and EAI, EGSL, and ETI filed a joint petition for limited waiver of the Commission's capacity release regulations and policies in order to facilitate a release of natural gas pipeline capacity that is integral to the sale of the Facility. The Commission granted the request in an order issued April 20, 2015.¹

3. Petitioners further state that after the April 2015 Order, the terms in the proposed Transaction were revised to substitute ENO for ETI as a purchaser of one out of the four power blocks of the Facility. As neither the previous waiver request nor the April 2015 Order explicitly contemplated a change in identity of the purchasers among Entergy affiliates, the Petitioners submitted the instant Joint Petition to effectuate the substitution of ENO for ETI.

4. 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; and the Trans-Union tariff provisions that implement these regulations and policies. The Petitioners state that it will use the requested waivers only for the limited purpose of facilitating an efficient and timely transfer of assets. In addition, Petitioners request that, if any future change in purchasers among Entergy affiliates arise, the instant waivers should continue to apply, subject to Petitioners notifying the Commission of the change.

5. Public notice of the petition was issued on September 14, 2015. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ 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.

6. 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,

¹ *Union Power Partners, L.P., Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., and Entergy Texas, Inc.*, 151 FERC ¶ 61,061 (2015) (April 2015 Order).

² 18 C.F.R. § 154.210 (2015).

³ 18 C.F.R. § 385.214 (2015).

such as the sale of a major natural gas electric generating facility.⁴ First, as noted, the April 2015 Order approved a substantially similar waiver to facilitate the Transaction. As we stated there, the transportation contract included in the Transaction appears essential for ensuring that the gas-fired Facility continues to have uninterrupted access to natural gas fuel supplies. The only change from the Petitioners' previous related waiver request is the identity of one of the purchasers, and, thus the reasoning of the April 2015 Order applies equally here.

7. Accordingly, for good cause shown, we grant the Petitioners' request for a temporary waiver of the specified capacity release regulations, policies, and tariff provisions to allow the permanent release of a firm transportation service agreement from Union Power to the Entergy affiliates. Specifically, the Commission grants a limited, temporary waiver of section 284.8 of its regulations. The Commission also grants a limited waiver of the prohibition on tying, the shipper-must-have-title requirement, the prohibition on buy/sell arrangements, and to the extent necessary, Trans-Union tariff provisions related to the Commission's capacity release rules, so that Petitioners can complete their Transaction in an orderly and efficient manner within their time constraints. In the event that the parties to the Transaction change, Petitioners must make a public, informational filing in this docket as soon as possible.

8. Petitioners request that the Commission act on this joint petition no later than October 16, 2015, and that the waivers extend from the date that the Commission issues its order until 90 days following the close of the Transaction. We will allow the waivers to remain in effect until the earlier of 90 days following the date of assignment of the service agreements, or the date that the related capacity release transactions are completed. The Petitioners must file an informational notice in this docket once the actual date of assignment has been established.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴ *E.g.*, 2015 Order, 151 FERC ¶ 61,061, *PPL Generation, LLC, PPL EnergyPlus, LLC, and Harbor Gen Holdings, LLC*, 133 FERC ¶ 61,122 (2010), *Arkansas Elec. Coop. Corp. and Hot Spring Power Co., LLC*, 140 FERC ¶ 61,026 (2012).