

153 FERC ¶ 61,147
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Southern Power Company

Docket No. ES15-69-000

ORDER DISMISSING REQUEST FOR AUTHORIZATION TO ISSUE SECURITIES

(Issued November 9, 2015)

1. On September 10, 2015, Southern Power Company (Southern Power) filed an application pursuant to section 204 of the Federal Power Act (FPA)¹ (Application). Southern Power requests authorization to issue common stock, preference stock and secured and unsecured long-term debt securities issued directly by Southern Power or indirectly through one or more entities formed by Southern Power for such purpose, and to incur tax-exempt bond obligations in an aggregate amount not to exceed \$2.6 billion and to issue short-term notes, commercial paper, and revenue anticipation notes in an aggregate amount not to exceed \$800 million outstanding at any one time.² In this order we dismiss Southern Power's application as unnecessary, as explained below.

I. Background

2. Southern Power states that it is a wholly owned subsidiary of Southern Company, and constructs, acquires, owns, and manages generation assets and sells electricity in the wholesale market, primarily under long-term power purchase agreements.

¹ 16 U.S.C. § 824c (2012).

² Southern Power asserts the securities requested in the Application are substantially similar to the securities previously authorized by the Commission. See *Southern Power Co.*, 146 FERC ¶ 62,029 (2014).

Southern Power also states that its business activities are not subject to traditional utility regulation by any state but are subject to regulation by the Commission.

3. Southern Power explains that the acquisition of and investment in renewable generation projects is a significant driver of its request for additional authority to issue securities. Southern Power also states that proceeds from the requested issuances of securities will be used in the normal course of business by Southern Power to meet its contractual commitments associated with the generation of electricity for resale, including generating facility construction and acquisition, operation and maintenance activities, acquiring interests in other generation businesses, and refinancing certain securities issued for like purposes.

II. Notice and Responsive Pleadings

4. Notice of Southern Power's filing was published in the *Federal Register*, 80 Fed. Reg. 57,164 (2015), with interventions and protests due on or before October 1, 2015. None was filed.

III. Discussion

5. FPA section 204(a) provides that requests for authorization to issue securities or to assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person shall be granted if the Commission finds that the issuance or assumption: (1) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service; and (2) is reasonably necessary or appropriate for such purposes.³

6. Southern Power is a competitive wholesale seller with a market based-rate tariff on file with the Commission, as well as having corresponding waivers and blanket authorizations, including blanket authorization for issuances of securities or assumptions of obligations or liabilities under FPA section 204 and Part 34 of the Commission's regulations.⁴ Where a seller is not a franchised public utility providing electric service to

³ 16 U.S.C. § 824(c)(a) (2012).

⁴ See Alabama Power Co., Market Based Rate Tariff, General Tariff Provisions, § 8.1 (1.0.0) ("Southern Power Company has been granted the following waiver and blanket authorizations: (i) waiver of Subparts B and C of Part 35 of the Commission's

(continued ...)

its customers under cost-based regulation and has market-based rate authority, the Commission's traditional practice has been to grant blanket authorization,⁵ and, as noted, the Commission did so for Southern Power.

7. Therefore, we dismiss the Application as unnecessary, because Southern Power may issue securities and assume obligations or liabilities under its previously granted blanket authorization under FPA section 204 and Part 34 of the Commission's regulations.

The Commission orders:

The Application is hereby dismissed as unnecessary, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

regulations, except for sections 35.12(a), 35.13(b) and 35.16; (ii) waiver of the accounting and related reporting requirements of Parts 41, 101, and 141 of the Commission's regulations, except for sections 141.14 and 141.15; and (iii) blanket approval as to Section 204 of the [FPA] and Part 34 of the Commission's regulations for issuances of securities and assumptions of liabilities."); *see also Southern Company Services, Inc.*, 91 FERC ¶ 61,259 (2000) (granting authorization to New Operating Company, Southern Power's predecessor).

⁵ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 999, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).