

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Southern Company Services, Inc.

Docket Nos. ER04-1161-001
ER04-1161-002

ORDER ON REHEARING AND COMPLIANCE

(Issued April 4, 2005)

1. This order rejects a request for rehearing of the Commission's October 22, 2004, Order¹ conditionally accepting the standard large generator interconnection procedures (LGIP) and standard large generator interconnection agreement (LGIA) filed by Southern Company Services, Inc. (Southern) in compliance with Order No. 2003.² This order also accepts Southern's revised interconnection procedures and agreement filed in compliance with the October Order and clarifies Southern's ability to include generator balancing agreements in the *pro forma* LGIA. This order benefits customers by standardizing the terms and conditions for interconnection service within Southern's service territory.

Background

2. On August 24, 2004, Southern made a compliance filing with Order No. 2003. Southern requested several variations from the Commission's *pro forma* interconnection rules, some under the consistent with or superior to standard and some based on reliability standards. The October Order accepted several of Southern's proposed revisions and rejected several other of Southern's proposed revisions.

¹ *Southern Co. Serv., Inc.*, 109 FERC ¶ 61,070 (2004) (October Order).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), *reh'g pending* (collectively, Order No. 2003).

3. On November 22, 2004, Southern filed a revised tariff as directed by the October Order and also filed a request for rehearing and/or clarification (Rehearing Request) of four aspects of the October Order. Specifically, Southern requests that the Commission: (1) clarify whether Southern may require that interconnecting generators sign a separate generator balancing agreement; (2) reconsider its decision not to allow Southern to collect operations and maintenance (O&M) expenses for network upgrades before the cost of those upgrades is rolled into transmission rates; (3) reconsider requiring Southern to disclose the identity of affiliates with whom it conducts scoping meetings; and (4) allow it additional time to conduct restudies. Each argument is discussed below.

A. Request for Clarification on Generator Balancing Agreements

4. Southern asserts that generator balancing agreements are necessary to remedy mismatches between the amount of energy scheduled by a generator and the amount of energy actually produced. According to Southern, Order No. 888³ anticipated that generator balancing agreements would be included in interconnection agreements, but in Order No. 2003-A the Commission declined to include balancing services in its *pro forma* interconnection rules.

5. Southern seeks clarification that it may require all generators to enter into generator balancing agreements separate from the LGIA. According to Southern, "[s]uch operating agreements would contain appropriate generator balancing service arrangements . . . The operating agreements would *not* prescribe specific generator balancing services or rates, but would simply outline the options generators would have in order to remedy imbalances."⁴ Southern proposes referring to the need for the generator to enter into a balancing agreement in Exhibit C of the LGIA.

6. Should the Commission deny Southern's request for clarification, it requests rehearing of the Commission's decision not to allow the inclusion of a balancing requirement in the LGIA for the same reasons.

³ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 *Fed. Reg.* 21540 (May 10, 1996), FERC Stats. & Regs. ¶31,036 (1996), *order on reh'g*, Order No. 888-A, 62 *Fed. Reg.* 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶61,046 (1998), *aff'd in relevant part sub nom.* Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom.* New York v. FERC, 535 U.S. 1 (2002).

⁴ Rehearing Request at p. 5.

B. Operations and Maintenance Expenses for Network Upgrades

7. Southern asserts that the interconnection customer should be directly assigned all O&M costs related to network upgrades before the upgrade construction costs are rolled into Southern's transmission rate base. Otherwise, Southern asserts, native load customers will end up subsidizing these expenses.

8. Southern states that requiring a Transmission Provider to recover O&M expenses in transmission rates instead of from the generator forces native load and other transmission customers to subsidize interconnection facilities that are constructed for the benefit of the interconnection customer.

9. Finally, Southern states that it has raised this same issue "repeatedly in numerous filings with the Commission, including its Requests for Rehearing of Order Nos. 2003 and 2003-A" and that it incorporates by reference its arguments made in those proceedings.⁵

C. Public Notice of Scoping Meetings between Affiliated Parties

10. Southern claims that the requirement in LGIP section 3.4 to not disclose the identity of the interconnection customer on OASIS conflicts with the requirement to give notice of a meeting with an affiliate. According to Southern, the requirement to disclose the identity of the affiliate is discriminatory because it does not apply to other competitors and puts the affiliate at a competitive disadvantage. Southern also claims that the requirement to notice scoping meetings with the affiliate conflicts with LGIP section 3.4, which requires that the identity of the interconnection customer not be disclosed until the interconnection customer has executed an interconnection agreement. It asks that the notice and transcript requirements be eliminated or that the Commission require all scoping meetings to be noticed and transcribed.

D. Deadlines for Conducting Restudies under the LGIP

11. Southern requests rehearing of the Commission's determination not to extend the time Southern is allowed in order to conduct re-studies under the *pro forma* LGIP. Southern asserts that, while restudies may be able to use existing study work in some cases, that is not always the case. Southern provides a hypothetical example with three generators where it would be "unlikely" that Southern could complete the restudies within the time contemplated by the LGIP's restudy timeline.

⁵ Rehearing Request at p. 7 and n. 10.

12. Southern also points out that studies cannot always be conducted concurrently and that complicated interconnection requests can increase the number and complexity of studies that need to be conducted. Given the need for accurate studies, Southern requests that the Commission grant it additional time to conduct restudies.

E. Southern's Compliance Filing

13. Along with its request for rehearing, Southern also filed a revised *pro forma* LGIA and LGIP, as directed in the October Order.

Notice and Responsive Pleadings

14. Notice of Southern's compliance filing was published in the *Federal Register*, 69 Fed. Reg. 70,438 (2004), with comments, protests, and interventions due on or before December 13, 2004. None was filed.

Discussion

15. Since Order No. 2003-B was issued after Southern filed its Rehearing Request, several of the issues raised by Southern in its Rehearing Request have already been addressed by the Commission. We briefly discuss each request individually below. Additionally, Southern's November 24, 2004 compliance filing is accepted, effective August 24, 2004.

A. Generator Balancing Agreements

16. Order No. 2003-B reaffirmed our decision not to allow balancing service agreements in the *pro forma* LGIA. However it clarified that a Transmission Provider may either adopt a stand-alone generator balancing service agreement⁶ or may request the inclusion of a generator balancing service provision in an individual interconnection agreement. However, we also stated that "[s]uch provisions should be tailored to the Parties' specific standards and circumstances, and are subject to Commission approval."⁷

⁶ We also note that Southern is correct when it points out that footnote 11 of the October Order incorrectly stated that a Transmission Provider could file a stand-alone balancing service agreement as an amendment to its open access transmission tariff (OATT). Instead the order should have stated (as we made clear in Order No. 2003-B at P 74-75) that a Transmission Provider may submit a stand-alone balancing service agreement that is separate from its OATT.

⁷ Order No. 2003-B at P 74-75 (internal citations omitted).

B. O&M Costs for Network Upgrades

17. Southern's disagreement with the Commission's policy of not allowing public utilities to directly assign O&M charges to interconnected generators⁸ is addressed in the generic Order No. 2003 process.⁹ This issue is not specific to Southern's transmission system and we note that we have already received several requests for rehearing on our interconnection pricing policy in response to Order No. 2003-B, including one from Southern. For these reasons, we deny Southern's request for rehearing on this issue, but without prejudice to pending requests for rehearing of Order No. 2003-B.

C. Public Notice of Scoping Meetings between Affiliated Parties

18. Regarding the requirement that public meetings between affiliated parties be noticed, Southern's arguments on rehearing were already considered in Order No. 2003-B.¹⁰ Therefore, we deny Southern's request for rehearing on this issue, but without prejudice to pending requests for rehearing of Order No. 2003-B.

D. Restudy Deadlines

19. Regarding restudy deadlines, Southern presents no new arguments and we deny Southern's request for rehearing. Every similarly situated transmission provider in the country is subject to the same restudy timelines that Southern takes issue with. Since this is a generic issue, we deny Southern's request for rehearing on this issue, but without prejudice to pending requests for rehearing of Order No. 2003-B.

20. However, we reaffirm our October Order on substantive grounds as well. Increasing the amount of time Southern is allowed for restudies would delay the interconnection process for all interconnection customers and would put merchant generators interconnecting within Southern's control area at a disadvantage vis-à-vis generators interconnecting in other control areas. For this reason, as well as those discussed in the October Order, Southern's proposed change is not consistent with or

⁸ See, e.g., *Duke Energy Corp.*, 95 FERC ¶ 61,279 at 61,980 (2001).

⁹ See, e.g., Order No. 2003-A at P 424.

¹⁰ *Id.* at P 137. ("An affiliated interconnection customer and one that is not an Affiliate of the Transmission Provider are not similarly situated. That is, of course, one of the reasons the Commission created the Code of Conduct and Standards of Conduct for affiliated interconnection customers.")

superior to the *pro forma* LGIP's study provisions and Southern's request for rehearing of this issue is denied.¹¹

The Commission orders:

(A) Southern's request for rehearing of the October Order is hereby denied as discussed in the body of the order.

(B) Southern's revised *pro forma* LGIA and LGIP filed in compliance with the Commission's October Order are accepted, to be effective August 24, 2004.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

¹¹ The Commission notes, however, that should Southern be unable to complete the necessary studies itself within the given amount of time, section 13.2 allows it to hire contractors to complete the necessary studies. This flexibility, already included in the *pro forma* LGIP, ensures that the reliability and accuracy of interconnection studies are not compromised.