

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Entergy Services, Inc.

Docket No. ER06-342-000

ORDER ACCEPTING CONTRACTS FOR FILING

(Issued February 14, 2006)

1. In this order, the Commission accepts for filing two contracts (the 2006 Bridge Contracts) filed by Entergy Services, Inc. (Entergy) and covering the sale of capacity and associated energy from Entergy Arkansas, Inc. (Entergy Arkansas) to an affiliate.<sup>1</sup> One of these contracts involves sales from Entergy Arkansas to Entergy Gulf States, Inc. (Entergy Gulf States), the other involves sales from Entergy Arkansas to Entergy Mississippi, Inc. (Entergy Mississippi). Entergy seeks approval of these contracts, because under the terms of a Commission-approved settlement any resale of power purchased from the Grand Gulf nuclear unit shall be subject to the approval of the Commission and the regulatory agency of the purchasing company.
2. We are accepting both of these contracts for filing, and authorizing these affiliate sales without hearing or suspension, because the contracts would provide Entergy's customers with power and capacity at a lower cost than would otherwise be possible and because the sales are in accordance with the Commission's past approval of a settlement allowing such sales.<sup>2</sup>

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<sup>1</sup> The contracts are referred to as "bridge" contracts because they bridge the gap between expiration of the old contracts and the resolution of certain Federal and state pending proceedings that may affect the permanent disposition of Entergy Arkansas' wholesale base load capacity resources. Attachment B to Entergy transmittal at III.

<sup>2</sup> See *Entergy Services, Inc.*, 111 FERC ¶ 61,035 (2005) (Entergy Settlement Order).

## **I. Background**

### **A. Entergy's Filing**

3. On December 16, 2005, Entergy filed the 2006 Bridge Contracts for the sale of capacity and associated energy from a portion of the wholesale baseload resources<sup>3</sup> of Entergy Arkansas to Entergy Gulf States and to Entergy Mississippi. Entergy states that the two contracts are one-year contracts, with base terms running from January 1 to December 31, 2006, and that the contracts are being priced at cost pursuant to the currently effective Service Schedule MSS-4 of the Entergy System Agreement.<sup>4</sup> Entergy asks that the contracts be made effective as of January 15, 2006 and asks that the Commission grant waiver of the 60-day notice requirement.

4. Entergy states that the contract between Entergy Arkansas and Entergy Gulf States is for 97 MW of Entergy Arkansas' wholesale baseload resources, while the contract between Entergy Arkansas and Entergy Mississippi is for 59 MW of those resources.

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<sup>3</sup> Entergy states that the wholesale baseload resources "reflect a slice of excess [Entergy Arkansas] solid fuel capacity." Transmittal Letter at 7. In the two contracts at issue here, the wholesale baseload resources include two nuclear generators, Entergy Arkansas' Arkansas Nuclear One Units 1 and 2, and Entergy Arkansas' share in the Grand Gulf nuclear facility, and two coal-fired resources, Independence Steam Electric Station (ISES) Unit 1 and White Bluff Units 1 and 2.

<sup>4</sup> In the Entergy Settlement Order, the Commission conditionally approved the contested settlement that includes the current version of Service Schedule MSS-4. Service Schedule MSS-4 provides "the basis for making a unit power purchase between Companies and/or the sale of power purchased by another Company, unless an alternative basis is agreed to by the parties subject to the approval of the Commission and the regulatory agencies of the purchasing and selling Companies under otherwise applicable law...." Power purchases are to be made from designated generating units. Service Schedule MSS-4 defines "power purchase" as the purchase of a portion of a designated generating unit's capability, which entitles the purchaser to receive each hour the same portion of the total energy generated by that unit. Service Schedule MSS-4 includes a formula for calculating the monthly capacity charge, incorporating investment in and expenses associated with the designated generating unit, and the payment by one Operating Company to another for a sale of the capability and associated energy of a designated generating unit. In the Entergy Settlement Order, the Commission allowed Entergy to make sales to affiliates under Service Schedule MSS-4 as long as Entergy provides the Commission with notice within 30 days of entering into a contract for one year or longer. *See* Entergy Settlement Order at P1, P 20, and Ordering Paragraph (A).

Entergy states that these 2006 Bridge Contracts were being referenced and discussed in connection with the approval of similar Entergy Arkansas wholesale baseload power purchase agreements (PPA) commencing in 2003.<sup>5</sup>

5. Entergy argues that the 2006 Bridge Contracts are low cost transactions and represent cost savings to ratepayers compared to alternatives in the marketplace.<sup>6</sup> Entergy argues that, in addition to fuel cost savings, the solid fuel resources being offered under the contracts offer other benefits to ratepayers, including fuel diversity, fuel security, and price stability.

6. Entergy also argues that the cost-based rates contained in the 2006 Bridge Contracts are just and reasonable because the contracts have been filed pursuant to Service Schedule MSS-4, a Commission-approved cost-based formula rate. Entergy states that the Commission's orders in *Edgar* and *Mountainview*<sup>7</sup> do not apply in this case because the instant case involves sales from resources already owned by individual Entergy operating companies while *Edgar* and *Mountainview* involved public utilities that entered into transactions with affiliates to acquire new or additional generation.

7. Entergy also states that this case does not raise the same kind of cross-subsidy issues the Commission was concerned about in *Edgar* and *Mountainview*. Entergy argues that in those cases the Commission was concerned that affiliate transactions might result in increased rates to ratepayers due to potential cross-subsidization by ratepayers of

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<sup>5</sup> Those agreements are currently pending in the Entergy PPA proceeding, in Docket Nos. ER03-682-000, *et al.* and were set for hearing in *Entergy Services, Inc.*, 103 FERC ¶ 61,256 (2003). On June 30, 2005, the presiding judge issued an Initial Decision in this proceeding in *Entergy Services, Inc.*, 111 FERC ¶ 63,077 (2005).

<sup>6</sup> Entergy states that typical nuclear fuel costs on the Entergy system average approximately \$5/MWh and coal fuel costs range from approximately \$13 to \$16/MWh. Entergy states that in contrast, at current prices, the fuel cost of a gas-fired resource operating at a 7000 heat rate would be \$77/MWh. Entergy states that the actual total cost of the resources in the 2006 Bridge Contracts, based on billing data for August 2005, is \$36.11/MWh, including a capacity charge of \$19.57 per kW-month and a fuel cost of \$7.07 per MWh. Transmittal Letter at 9.

<sup>7</sup> *Southern California Edison Co. on behalf of Mountainview Power Company, LLC*, 106 FERC ¶ 61,183, *order on reh'g*, 109 FERC ¶ 61,086 (2004) (*Mountainview*) (standards for evaluating possible affiliate abuse apply to all affiliate long-term power purchase agreements, whether at cost or market-based rates); *Boston Edison Co. Re: Edgar Electric Energy Co.*, 55 FERC ¶ 61,382 (1991) (*Edgar*) (setting forth standards for evaluating the justness and reasonableness of wholesale transactions involving an affiliate to ensure that affiliate abuse has not occurred).

the business of an unregulated affiliate. Entergy argues that transactions under Service Schedule MSS-4 do not raise this concern -- because the transactions involve resources already owned by Entergy Operating Companies, not resources owned by unregulated affiliates of the Entergy Operating Companies. In addition, Entergy states that Entergy Mississippi and Entergy Gulf States will enter into the two contracts at issue here only if those transactions will result in cost savings to retail customers.<sup>8</sup>

8. Entergy notes that under its Commission approved settlement, while it is required to give notice of MSS-4 sales, such notice is typically only given on an informational basis with no approval needed. In this case, however, it is seeking Commission approval for the sale because the sale involves energy from the Grand Gulf nuclear unit. Section 40.09 of Service Schedule MSS-4 provides that a resale under Service Schedule MSS-4 of energy from the Grand Gulf nuclear unit must be subject to the approval of the Commission.

#### **B. Notice of Filing and Responsive Pleadings**

9. Notice of Entergy's filing was published in the *Federal Register*, 71 Fed. Reg. 109 (2006) with comments, interventions, and protests due on or before January 6, 2006. On December 22, 2005, the Mississippi Public Service Commission filed a notice of intervention, stating that it supported the approval of the contract with Entergy Mississippi. On January 5, 2006, the Arkansas Public Service Commission filed a notice of intervention. On January 6, 2006, the Arkansas Electric Cooperative Corporation filed a motion to intervene.

10. On January 6, 2006, the Louisiana Public Service Commission (Louisiana Commission) filed a notice of intervention and comments. The Louisiana Commission states that it approved the bridge contract between Entergy Arkansas and Entergy Gulf States at its December 2005 meeting. However, the Louisiana Commission seeks clarification on the pricing of the Grand Gulf nuclear unit retained share component of the contract between Entergy Arkansas and Entergy Gulf States. The Louisiana Commission states that in the Entergy PPA proceeding there was an agreement under

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<sup>8</sup> Entergy argues also that the contracts meet the *Edgar* and *Mountainview* standards because they are reasonably priced compared to the market alternative of natural gas generation. Entergy also states that the wholesale baseload resources had previously been benchmarked against resources bid into a 2003 Request for Proposals (at issue in the PPA proceeding) and that no non-affiliate resources were available at a lower cost.

which the Grand Gulf portion was priced at \$46/MWh,<sup>9</sup> but that Entergy does not provide sufficient information in the instant filing to determine if the pricing of the Grand Gulf share in the contracts at issue here is at the same \$46 level. The Louisiana Commission requests that Entergy provide the pricing information for the Grand Gulf component of the transactions.

11. On January 6, 2006, MDEA Cities<sup>10</sup> filed a motion to intervene and protest. MDEA Cities state that they receive network transmission service from Entergy and that their designated network resources include an entitlement to capacity and energy from Entergy Arkansas' ISES Unit 2. MDEA Cities state that any change in the dispatch pattern for ISES Unit 1 as a result of the 2006 Bridge Contracts in the instant filing could affect the availability of transmission for MDEA Cities' entitlement in Unit 2 and thus MDEA Cities' ability to meet their needs. MDEA Cities state that Entergy provides no information concerning the potential effect of the contracts on the dispatch patterns for the resources that Entergy Arkansas proposes to sell to Entergy Mississippi and Entergy Gulf States. MDEA Cities state that they oppose approval of the 2006 Bridge Contracts in the absence of any information concerning the effects of the transactions on the availability of transmission for network resources relied upon by other customers. MDEA Cities request that the Commission investigate the effects of the 2006 Bridge Contracts on the availability of transmission service for other network resources and condition approval of the contracts on mitigation measures to preserve the transmission rights of other network customers.

12. On January 12, 2006, Entergy filed an answer to MDEA Cities' protest. Entergy states that the concerns raised by MDEA Cities do not warrant investigation by the Commission. Entergy states that the resources at issue in the 2006 Bridge Contracts are low cost baseload resources that will be dispatched pursuant to the principles of central economic dispatch regardless of which Entergy Operating Company owns them. Entergy states that dispatch of the generators at issue in the instant filing will not change because of the contracts with Entergy Gulf States and Entergy Mississippi. Entergy also argues that the mere potential for change in dispatch does not give MDEA Cities standing to

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<sup>9</sup> According to the Initial Decision issued by the presiding judge in the PPA proceeding, Entergy stated that the \$46 amount was reflective of the price that the Louisiana Commission permits Entergy Louisiana to recover via retail rates for its retained share of Grand Gulf. *See Entergy Services, Inc.*, 111 FERC ¶ 63,077 at P 142.

<sup>10</sup> MDEA Cities are comprised of: the Mississippi Delta Energy Agency; the Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi; and the Public Service Commission of Yazoo City of the City of Yazoo City, Mississippi.

challenge the 2006 Bridge Contracts. Entergy also states that its Open Access Transmission Tariff does not give network transmission customers the right to a specific dispatch of another load serving entity's generator.

13. On January 27, 2006, Entergy filed a response and clarification to the comments filed by the Louisiana Commission. Entergy's response states that the \$46/MWh price, quoted by the Louisiana Commission, was offered in the course of an alternative pricing offer made solely for the purposes of the Entergy Arkansas wholesale baseload contracts at issue in the PPA proceeding. Entergy states that the 2006 Bridge Contracts at issue in this proceeding are different contracts than those at issue in the PPA proceeding and are to be priced pursuant to Service Schedule MSS-4 without exception.

## II. Discussion

### A. Procedural Issues

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. Entergy's answer to MDEA Cities' protest has provided us with information useful to our decision making and we will accept it. Entergy's clarification and response to the Louisiana Commission has also been helpful in our decision making and we will also accept it.

### B. Entergy's Proposed Bridge Contracts

15. Our analysis of Entergy's filing indicates that the 2006 Bridge Contracts appear to be just and reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept these contracts for filing, without hearing or suspension. We will also grant Entergy's request for waiver of the Commission's prior notice requirement to permit the requested effective date of January 15, 2006.<sup>11</sup>

16. We reach this decision because the 2006 Bridge Contracts will provide Entergy's customers with power and capacity at a lower cost than would otherwise be possible and

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<sup>11</sup> See *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

because the sales are in accordance with the Commission's past approval of a settlement allowing these sales at these rates. Interveners have not raised any concerns that would convince us otherwise.

17. As network customers of the Entergy system, MDEA Cities are entitled to adequate service. However, at this time, MDEA Cities' concern, that the operation of the 2006 Bridge Contracts may impede their access to network resources, has not yet come to pass and may in fact not materialize in the future. Thus, we find the concerns raised in MDEA Cities' protest premature and speculative and we are not persuaded to deny Entergy's request for approval of the 2006 Bridge Contracts on the basis of this protest. If the operation of the 2006 Bridge Contracts does, in fact, impede MDEA Cities' access to network resources as MDEA Cities fear might happen, then they can raise that issue in a filing with the Commission at that time.

18. We find that Entergy has responded adequately to the Louisiana Commission's request for clarification. As noted above, Entergy states that the 2006 Bridge Contracts at issue in this proceeding are to be priced pursuant to Service Schedule MSS-4 without exception.

The Commission orders:

(A) Entergy's 2006 Bridge Contracts are hereby accepted for filing, effective January 15, 2006, as discussed in the body of this order.

(B) Entergy's request for waiver of the 60-day prior notice requirement is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.