

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Hot Spring Power Company, LP

Docket No. ER05-1419-003

ORDER GRANTING CLARIFICATION

(Issued September 7, 2006)

1. Hot Spring Power Company, LP (Hot Spring Power) seeks clarification, or, in the alternative, rehearing of the Commission's April 10, 2006 Order (April 10, 2006 Order) in the instant proceeding.¹ That order granted rehearing of the Commission suspension order issued October 25, 2005² and permitted Hot Spring Power to raise the issue of whether it has independent contractual authorization for compensation for its generation of reactive power within its specified factor range (within the band) in the hearing established in this proceeding. Hot Spring Power requests that the Commission clarify that Hot Spring Power's reactive service charges are effective as of September 1, 2005, subject to the outcome of this proceeding (even if billing is held in abeyance as set forth in Paragraph 8 of the April 10, 2006 Order). To the extent that the Commission intended to make Hot Spring Power's reactive service rate schedule "re-effective" on April 10, 2006, then Hot Spring Power seeks rehearing of the April 10 Order. For the reasons discussed below, the Commission grants Hot Spring Power's request for clarification.

¹ *Hot Spring Power Company LP*, 115 FERC ¶ 61,027 (2006).

² *Hot Spring Power Company LP*, 113 FERC ¶ 61,088 (2005) (October 25, 2005 Order).

Background

2. On August 31, 2005, Hot Spring Power filed a proposed rate schedule (Hot Spring Power LP Rate Schedule FERC No. 2) specifying its cost-based revenue requirement for providing Reactive Support and Voltage Control from Generation Sources Service (reactive power) from its natural gas-fired, combined cycle electric generation facility located in Malvern, Arkansas. Entergy Services, Inc. (Entergy) filed a protest to the filing. In the October 25, 2005 Order, the Commission accepted Hot Spring Power's proposed rate schedule for filing, suspended it for a nominal period, and permitted it to become effective for the period September 1, 2005, through October 31, 2005, subject to refund, and set the issues raised by the filing for hearing and settlement judge procedures. The Commission explained that the basis for the termination of Hot Spring Power's authority to charge for reactive power within the band effective November 1, 2005, was an order issued October 14, 2005, approving Entergy's proposal to terminate its own charges for reactive power effective November 1, 2005.³ In the October 14, 2005 *Entergy* Order, the Commission also granted Entergy's associated petition for declaratory order, ruling that, if Entergy does not compensate its own or affiliated generators for reactive power service provided to transmission customers within the generators' specified power factor range, then Entergy need not on a prospective basis compensate a non-affiliate generator for maintaining reactive power within the band under Order No. 2003.⁴

3. As a consequence, in the October 25, 2005 Order the Commission held that, effective November 1, 2005, Hot Spring Power and other reactive power generators would no longer be permitted to charge Entergy for costs related to within the band reactive power provided to Entergy. The Commission concluded that the hearing established in the October 25, 2005 Order will only determine Hot Spring Power's reactive power revenue requirements for the period September 1, 2005, through

³ *Entergy Services, Inc.*, 113 FERC ¶ 61,040 (2005), *reh'g denied*, 114 FERC ¶ 61,303, *reh'g denied*, 115 FERC ¶ 61,378 (2006) (October 14, 2005 *Entergy* Order).

⁴ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 at P 21 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, 109 FERC 61,287 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (June 30, 2005).

October 31, 2005.⁵ Accordingly, the Commission directed Hot Spring Power to remove the subject rate schedule from its tariff effective November 1, 2005.⁶

4. However, in the October 14, 2005 *Entergy* Order, the Commission held that to the extent certain protesters argue that they have an independent contractual right to compensation for providing reactive power service, they are free to pursue their claims in proceedings focused on their individual claims regardless of whether Entergy compensates its own generators.⁷ Accordingly, in the April 10, 2006 Order, the Commission held that, at the hearing established in this proceeding, Hot Spring Power may raise the issue of whether it has an independent contractual right to obtain compensation for its generation of within the band reactive power. Noting the discrepancy between the October 14, 2005 Order and the October 25, 2005 Order, the Commission rescinded the direction to remove Hot Spring Power's reactive power rate schedule effective November 1, 2005, and allowed Hot Spring Power to recommence the collection of such charges effective as of the date of the April 10, 2006 Order, subject to the refund condition established by the October 25, 2005 Order. The Commission stated that billing for post-October 31, 2005 reactive power, as well as action on Hot Spring Power's compliance filing in Docket No. ER05-1419-002, shall be held in abeyance pending the outcome of the hearing and settlement judge procedures.

⁵ The Commission stated that its action was without prejudice to Hot Spring Power filing under section 205 of the FPA to implement a rate schedule and revenue requirement for outside the band reactive power to be effective on or after November 1, 2005. 113 FERC ¶ 61,088 at P14.

⁶ On November 9, 2005, in Docket No. ER05-1419-002, Hot Spring Power submitted a "Conditional Notice of Cancellation" of the rate schedule under protest. That filing is pending. In addition, on March 16, 2006, Hot Spring Power and Entergy filed an uncontested settlement of the Docket No. ER05-1419-000 hearing proceeding for the September 1 through October 31, 2005 period, but did not settle the then-pending rehearing issues. The settlement was accepted by Commission order issued May 5, 2006. *Hot Spring Power Company LP*, 115 FERC ¶ 61,150 (2006).

⁷ 113 FERC ¶ 61,040 at note 17.

Discussion

5. Hot Spring Power requests that the Commission clarify that Hot Spring Power's reactive service charges are effective as of September 1, 2005, subject to the outcome of this proceeding (even if billing is held in abeyance as set forth in Paragraph 8 of the April 10, 2006 Order). It asserts that by stating that Hot Spring Power "may recommence the collection of such charges effective as of the date of this order [April 10, 2006], subject to refund" it was unclear whether the Commission intended to leave a gap between November 1, 2005, and April 9, 2006, where no rates may be collected. Thus, it seeks clarification that its reactive power rate schedule is effective (and remains in effect) as of September 1, 2005. The Commission grants Hot Spring Power's request for clarification.

6. In Paragraph 8 of the April 10, 2006 Order, the Commission stated: "The direction to remove [Hot Spring Power's] reactive power rate schedule is rescinded and it may recommence the collection of such charges effective as of the date of this order, subject to the refund condition established by the October 25, 2005 Order. Billing for post-October 31, 2005 reactive power, as well as action on Hot Spring Power's compliance filing in Docket No. ER05-1419-002, shall be held in abeyance pending the outcome of the hearing and settlement judge procedures." By rescinding the directive to remove the reactive power rate schedule effective November 1, 2005, it was the Commission's intent to permit the rate schedule to be effective on and after September 1, 2005, subject to refund and to the outcome of the hearing and settlement judge procedures. Accordingly, we clarify the April 10, 2006 Order as requested.

The Commission orders:

Hot Spring Power's request for clarification is granted as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.