

UNITED STATES OF AMERICA 110 FERC ¶61,178
FEDERAL ENERGY REGULATORY COMMISSION

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

Astoria Gas Turbine Power LLC	Docket Nos. ER99-3000-003
Louisiana Generating LLC	ER00-1259-003
NRG Energy Center Dover LLC	ER00-3160-003
NRG Energy Center Paxton LLC	ER00-2313-003
Acadia Power Partners, LLC	ER02-1406-003

ORDER GRANTING REHEARING

(Issued February 22, 2005)

1. Astoria Gas Turbine Power LLC (Astoria), Louisiana Generating LLC (LA Gen), NRG Energy Center Dover LLC (Dover), and NRG Energy Center Paxton LLC (Paxton) (collectively the NRG Companies), have filed a motion for rehearing and/or reconsideration of an order¹ that directed all companies with then-pending three-year market-based rate applications to file updated market power analyses in accordance with the Commission's generation market power screens.² Specifically, the NRG Companies request to be omitted from the May 13 Order on the grounds that they do not have pending market-based rate applications and thus the May 13 Order should not apply to them. The Commission will grant rehearing because the NRG Companies did not have

¹ *Order Implementing New Generation Market Power Analysis and Mitigation Procedures*, 107 FERC ¶ 61,168 (2004) (May 13 Order).

² NRG Companies filed the motion on June 14, 2004. On February 15, 2005, NRG filed a motion for expedited action and requested an extension of time to file an updated market power analysis. The request for an extension of time is moot because the Commission is granting the NRG Companies' request for rehearing.

pending three-year market-based rate applications and thus should not have been included in the May 13 Order.³ This order benefits customers by correcting an administrative error.

2. On December 8, 2003, NRG Power Marketing Inc. and forty-two affiliates, most of which own generation facilities, submitted an updated market power analysis which addressed the combined market power of all of these entities. The NRG Companies, listed above, were included in the December 8 Filing. On April 14, 2004, the Commission adopted two indicative screens for assessing generation market power.⁴ The Commission then issued the May 13 Order, the purpose of which was to provide a framework for applying the substantive and procedural requirements of the April 14 Order to applicants with: (1) pending three-year market-based rate reviews; (2) pending filings for initial market-based rate authority; or (3) future applications for initial market-based rate authority or future three-year market-based rate reviews. The May 13 Order contained an appendix which lists companies and dates by which those companies must file updated market power analyses. The NRG Companies were listed as members of Group VI, and as such were ordered to file updated market power analyses within 315 days of May 13, 2004.

³ Contemporaneously with the issuance of this order, an errata order is being issued with regard to an unpublished letter order issued on March 26, 2004 in *NRG Power Marketing Inc.*, Docket No. ER97-4281-013, *et al.* In that letter order, the Commission accepted for filing the updated market power analysis submitted by NRG Companies for forty-two affiliates. The letter order erred by not including the following docket numbers, which are listed in the errata: Louisiana Generating LLC, Docket No. ER00-1259-001; NRG Energy Center Dover LLC, Docket No. ER00-3160-001; and NRG Energy Center Paxton LLC, Docket No. ER00-2313-001.

⁴ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 Order), *order on reh'g*, *AEP Power Marketing, Inc.*, 108 FERC ¶ 61,026 (2004).

Docket No. ER99-3000-001, *et al.*

-3-

3. Because the NRG Companies do not have three-year reviews pending before the Commission, and did not have such reviews pending as of the May 13 Order,⁵ the Commission will grant rehearing of the May 13 Order as it applies to the NRG Companies. The NRG Companies should not have been included in the list of Group VI utilities in the May 13 Order.

The Commission orders:

The NRG Companies are not required to file updated market power analyses within 315 days of the May 13 Order, as ordered in the May 13 Order. The NRG Companies' next updated market power analysis is due within three years of March 26, 2004.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁵ As stated above, each of the NRG Companies' updated market power reviews were accepted in an unpublished letter order on March 26, 2004. In addition to filing with all of the NRG affiliates, Astoria Gas Turbine Power LLC also separately filed an updated market power on May 13, 2002. This analysis was accepted by the Commission in an unpublished letter order on April 7, 2004. *See* Docket No. ER99-3000-001.