

126 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Entergy Services, Inc.

Docket No. OA07-32-004

ORDER DENYING CLARIFICATION OR REHEARING

(Issued March 4, 2009)

1. Entergy Services, Inc. (Entergy) filed a request for clarification or rehearing of the Commission's order on Entergy's Order No. 890¹ compliance filing.² In this order, the Commission denies Entergy's request.

I. Background

2. Entergy's Independent Coordinator of Transmission relies on criteria manuals to determine whether to grant or deny requests for transmission service under Entergy's Open Access Transmission Tariff (OATT).³ The Commission conditionally accepted Entergy's criteria manuals subject to the outcome of a stakeholder process led by the Independent Coordinator of Transmission.⁴ The Commission noted that Entergy would

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

² *Entergy Services, Inc.*, 124 FERC ¶ 61,148 (2008) (August 6 Order).

³ The criteria manuals include the Available Flowgate Capability Manual (Attachment C), the System Impact and Facilities Study Manual (Attachment D), and the Transmission Service Request Manual (Attachment E).

⁴ *Entergy Services, Inc.*, 119 FERC ¶ 61,009, P 22-25 (2007) (Order on Transmission Service Criteria).

be required to comply with the final order on OATT reform (Order No. 890), particularly with regard to any OATT term or conditions modified by Order No. 890 and not modified by the Independent Coordinator of Transmission proposal.⁵

3. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

4. After Entergy submitted its Order No. 890 compliance filing, it asked the Commission to defer acting on issues associated with the criteria manuals and certain provisions of Attachment T (Recovery of New Facilities Costs), pending completion of the ongoing stakeholder process and Entergy's filing of proposed revisions to those provisions. Specifically, Entergy stated that "during the [Independent Coordinator of Transmission] stakeholder process, [Entergy] agreed to support deferred Commission action on Attachment T because of its relationship with Attachments C, D, and E."⁶ The Commission deferred action on the criteria manuals and Attachment T, as requested.

II. Request for Clarification or Rehearing

5. Entergy states that the Commission should clarify that parties will not be permitted to comment on all aspects of Attachment T when Entergy files revised criteria manuals. The Commission should clarify that only those provisions of Attachment T that are related to compliance with Order No. 890 may be addressed at that time. Entergy argues that only those aspects of Attachment T that are related to Order No. 890 are within the scope of this proceeding, and there is no basis for expanding that scope. If the Commission does not grant clarification, it should grant rehearing, because requests for changes to Attachment T that are beyond Order No. 890 compliance would require a separate filing under section 205 of the Federal Power Act.⁷ Entergy argues that the Order on Transmission Service Criteria does not require Entergy to submit additional changes to Attachment T, and the stakeholder process related to the criteria manuals will not address Attachment T beyond compliance with Order No. 890. On September 19,

⁵ *Id.* P 23.

⁶ Entergy's August 20, 2007 Answer, Docket No. OA07-32-000, at n. 17.

⁷ 16 U.S.C. § 824d (2006).

2008, the Lafayette Utilities System, the Louisiana Energy and Power Authority, Municipal Energy Agency of Mississippi, and the Mississippi Delta Energy Agency (collectively, L-M Municipals) filed an answer to Entergy's request for rehearing.

III. Discussion

A. Procedural Matters

6. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2008), prohibits answers to requests for rehearing. Accordingly, we will reject L-M Municipals' answer to the request for rehearing.

B. Commission Determination

7. We deny Entergy's request for clarification or rehearing. Before our order deferring action on Attachment T,⁸ Entergy stated that, "[a]lthough the July 13 Compliance Filing requested deferred action by the Commission only on Attachments C, D, and E during the Independent Coordinator of Transmission stakeholder process, Entergy agreed to support deferred Commission action on Attachment T because of its relationship with Attachments C, D, and E."⁹ It did not state that its request for deferral of Commission action was only *with regard to the Order No. 890 compliance issues* associated with Attachment T, as its request for clarification or rehearing now suggests. Moreover, in the August 6 Order, the Commission deferred acting on issues associated with the criteria manuals and Attachment T, "pending the completion of the stakeholder process and subsequent filing of revisions to the Criteria Manuals and Attachment T that result from that process."¹⁰ The Commission further noted that "parties will have an opportunity to comment on those issues once those amendments are filed."¹¹ In other words, the Commission deferred action on Attachment T because parties represented that Attachment T would depend on the stakeholder process and the ultimate content of the revised criteria manuals. It does not follow, then, that the Commission should now prohibit interested parties from commenting on whether the revised Attachment T, once filed in the appropriate proceedings, comports with the results of the stakeholder process and the revised criteria manuals, once they, too, are filed.

⁸ See August 6 Order, 124 FERC ¶ 61,148 at P 12.

⁹ Entergy August 20, 2007 Answer, n. 17, Docket No. OA07-32-000 (internal citations omitted).

¹⁰ August 6 Order, 124 FERC ¶ 61,148 at P 12.

¹¹ *Id.*

8. Moreover, prohibiting comments on Attachment T would not be appropriate, since portions of the criteria manuals are directly related to Attachment T. Though Attachment T relates primarily to Entergy's transmission facility pricing provisions, it contains numerous references to provisions in the criteria manuals. For instance, as detailed in Attachment T, the process for identifying supplemental upgrades, or reliability-based upgrades that are rolled into base transmission rates, refers to certain point-to-point and network integration transmission service-related provisions that are in the Transmission Service Request Manual (Attachment E). Further, Attachment T also mentions Entergy's Available Flowgate Capacity process, and its role in evaluating service and corresponding upgrades. Accordingly, the issues that parties may properly raise in addressing the criteria manuals may also involve Attachment T.

9. While we agree that Entergy's filing of the revised criteria manuals shall not be an open season for parties to relitigate issues previously decided by the Commission to establish the ICT and the criteria for base plan and supplemental upgrades, we will not impose a blanket limitation on possible comments on attachments that have not even been filed. Once Entergy files its revised criteria manuals and Attachment T, and if interested parties do, in fact, file comments on Attachment T, we will address such comments, including whether they are beyond the scope of Entergy's compliance filing. To do so now would be premature.

The Commission orders:

The request for clarification or rehearing of the August 6 Order is hereby denied.

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.