

132 FERC ¶ 61,137
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Southwest Power Pool, Inc.
E.ON U.S. LLC
Cash Creek Generation LLC

Docket No. EL10-59-000

ORDER ADDRESSING PETITION FOR DECLARATORY ORDER

(Issued August 16, 2010)

1. On April 9, 2010, Southwest Power Pool, Inc. (SPP), E.ON U.S. LLC (E.ON), and Cash Creek Generation LLC (Cash Creek) filed a joint petition for declaratory order under Rule 207 of the Commission's Rules of Practice and Procedure.¹ The parties request that the Commission decide certain disputed legal, policy, and tariff issues related to a generator interconnection request submitted by Cash Creek. After careful consideration, we address these issues as follows.

I. Background

A. Description of the Parties

2. SPP is a Commission-approved Regional Transmission Organization (RTO) with 53 members in nine states, serving more than 4.5 million customers in a 255,000 square-mile area. SPP serves as the Independent Transmission Organization (ITO) for E.ON's two public utility subsidiaries – Louisville Gas & Electric Company (LG&E) and Kentucky Utilities Company (Kentucky Utilities). In this capacity, SPP processes transmission service requests, oversees E.ON's generator interconnection process,² performs feasibility and system impact studies, evaluates electronic tags, and organizes meetings and functions on behalf of E.ON's stakeholders.

¹ 18 C.F.R. § 385.207 (2010).

² SPP, as the ITO for LG&E and Kentucky Utilities, is responsible for administering the Large Generator Interconnection Procedures (LGIP) under Attachment M of E.ON's Commission-approved Open Access Transmission Tariff (OATT).

3. E.ON, through LG&E and Kentucky Utilities, owns an integrated electric transmission system serving approximately 900,000 electricity customers in Kentucky and Virginia.³ E.ON's electric transmission and related services are subject to Commission regulation under the Federal Power Act (FPA) and are offered pursuant to the terms of E.ON's OATT.

4. Cash Creek is a wholly-owned subsidiary of ERORA Group, LLC, an owner and developer of coal gasification and power generation plants. The ERORA Group, LLC is privately held by Green Rock Energy, LLC, GE Financial Services and management.

B. Parties' Stipulated Facts

5. The parties stipulate that Cash Creek submitted an application for generator interconnection service to SPP, and an initial scoping meeting was held with representatives from Cash Creek, E.ON, Big Rivers Electric Corporation (Big Rivers), and others.⁴ Cash Creek executed an interconnection study letter agreement with Big Rivers, independent of SPP and E.ON.⁵ Cash Creek, SPP, and E.ON then signed a feasibility study agreement. SPP posted the completed feasibility study report on E.ON's OASIS site. The report analyzed two options for a looped interconnection configuration and reflected the addition of a transmission line between the Daviess Co. (wholly owned by E.ON) and Reid (wholly owned by Big Rivers) 345 kV substations. The cost of the line was not included in the report.⁶

6. Cash Creek exchanged emails with SPP about performing a system impact study, and then separately exchanged emails with Big Rivers about the study, copying SPP on the latter emails. Cash Creek then executed a system impact study agreement and returned it to SPP with a \$50,000 deposit. Neither E.ON nor SPP signed this agreement. SPP initiated a system impact study for Cash Creek, but various issues delayed the process.⁷ SPP prepared a draft system impact study report based on Cash Creek's

³ E.ON also serves 318,000 natural gas customers in Louisville and surrounding counties.

⁴ The other parties at the initial scoping meeting were Owensboro Municipal Utilities, Vectren, and Tennessee Valley Authority (TVA).

⁵ Big Rivers' interconnection study letter agreement contemplated the completion of both a feasibility study and a detailed interconnection study, which is analogous to a system impact study under E.ON's LGIP.

⁶ The parties state that there currently is no transmission line between the proposed Cash Creek substation and either the Daviess Co. or Reid substations.

⁷ Issues cited in the joint petition include data collection issues, other technical issues, and the linear nature of the interconnection process.

generating facility interconnecting to E.ON's transmission system through a direct interconnection at the Daviess Co. substation. SPP undertook additional analyses from October 2008 (the date of the system impact study report) through February 2009 to address or correct certain modeling assumptions. SPP did not post this draft report, and Cash Creek never received a copy.

7. Approximately 15 months after Cash Creek executed a system impact study agreement, E.ON informed Cash Creek that it did not believe it was appropriate for Cash Creek to request interconnection to a non-existent line between two transmission systems (the parties refer to this scenario as the Requested Configuration). The parties met to discuss the issue, but negotiations failed. The parties then met with Commission Dispute Resolution staff and subsequently agreed to submit a joint pleading (the petition for declaratory order) to bring these issues to the Commission's attention. SPP also agreed to proceed with the study of the Daviess Co. Alternative, Reid Alternative, and Requested Configuration,⁸ with the caveat that the import of such studies would be subject to the Commission's determination in this proceeding.

II. Request for Declaratory Order

8. The parties request that the Commission decide three issues:
- (1) Which of the interconnection configurations described in the joint petition constitutes a valid interconnection request under the Commission's *pro forma* LGIP, as adopted by E.ON in its OATT in the circumstances surrounding this petition?
 - (2) If the Requested Configuration provides the basis for a valid interconnection request, what are the construction obligations of each of the transmission owners?
 - (3) With regard to determining the network upgrades that may be eligible for transmission credits under any of the listed alternatives, is the point of interconnection at the high side of the generator bus bar, as requested by Cash Creek through the interconnection process, or at the point where the interconnection facilities meet the transmission providers' transmission systems?

⁸ The Daviess Co. Alternative is a radial tie between Cash Creek's substation and E.ON's Daviess Co. substation. The Reid Alternative is a radial tie between Cash Creek's substation and Big Rivers' Reid substation. The Requested Configuration is a looped configuration wherein the Cash Creek substation is connected to both the Daviess Co. and Reid substations.

Each party submitted its own statement of position for each of these three issues described in the joint petition. These positions are outlined below.

A. Issue 1- Valid Interconnection Request

1. SPP's Position

9. SPP supports a Commission finding that only the Daviess Co. Alternative qualifies as a valid interconnection request under E.ON's OATT. It contends that the Reid Alternative falls outside the scope of E.ON's LGIP because Attachment M of E.ON's OATT only applies to requests to interconnect to E.ON's transmission system. SPP asserts nothing in E.ON's OATT would authorize or require it to process a request to interconnect to another transmission system. Accordingly, SPP opposes a Commission finding that the Reid Alternative is a valid interconnection request under E.ON's OATT.

10. SPP also opposes a Commission finding that the Requested Configuration qualifies as a valid request for interconnection service under E.ON's OATT. SPP argues that the Requested Configuration is impermissible for study under E.ON's OATT because it involves an interconnection between two discrete, unaffiliated transmission systems. SPP asserts that this looped transmission-to-transmission connection will require it, in part, to perform a study of the connection from the proposed generator site to a transmission system owned by a third party. SPP also asserts that the Requested Configuration assumes interconnection to non-existent transmission facilities and would not meet the conditions of E.ON's LGIP. It contends that the Commission has found that consideration should only be given to proposed generator connections to existing transmission facilities.⁹ Additionally, SPP states it has found no authority under which the Commission has endorsed as properly within the scope of the standard LGIP provisions a configuration comparable to the Requested Configuration. SPP contends that the cases Cash Creek cites as examples of the Commission's endorsement of similar configurations are not germane.¹⁰ SPP argues that none of these cases was decided under

⁹ Petition for Declaratory Order at 21-22 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027 (2004); *Nevada Power Co.*, 111 FERC ¶ 61,161 (2008)).

¹⁰ As described further below, Cash Creek cites to *Kiowa Power Partners, LLC*, 99 FERC ¶ 61,252 (2002) (*Kiowa*) and an interconnection agreement filed by Entergy Services, Inc. (Entergy) on behalf of Entergy Mississippi, Inc., with Southaven Power, LLC (Southaven). See *Entergy Services, Inc.*, Interconnection and Operating Agreement, Docket No. EL00-81-000 (July 13, 2000). This filing was accepted in a delegated letter order. *Entergy Services, Inc.*, Docket No. ER00-3148-000 (Aug. 11, 2000) (unpublished letter order).

Order No. 2003¹¹ or involved the application or interpretation of the Commission's *pro forma* LGIP and Large Generator Interconnection Agreement (LGIA) provisions.

11. SPP acknowledges the confusion created by its initial processing of Cash Creek's request and states that partly because of this confusion, the parties agreed to seek Commission guidance through this joint petition. However, SPP maintains that irrespective of the scope and assumptions reflected in the feasibility study report, if the Requested Configuration does not provide the basis for a valid request for interconnection service, it should not be determined to be eligible for study.

12. SPP mentions that after it completed the feasibility study, a new SPP management team assumed responsibility for all ITO study functions under the E.ON OATT. This new staff initiated a system impact study for the Cash Creek interconnection request only with regard to the Daviess Co. Alternative and did not adopt the study assumptions and facility configurations reflected in the feasibility study. SPP states that the parties disagreed over the proper scope and assumptions and delays ensued. SPP explains that it determined that the Requested Configuration did not qualify for study under E.ON's OATT but instead constituted an improper transmission-to-transmission interconnection configuration involving non-existent transmission facilities.

13. SPP also argues that the transmission provider has an undisputed right to modify certain assumptions based on information identified at the system impact study stage, and that this right should allow the transmission provider to pause and even abandon the study process when confronted with information indicating defects in the original request for interconnection service. SPP agrees that the LGIP provisions should not be rigidly interpreted or technically applied so as to permit a transmission provider to deny a reasonable request. However, SPP asserts that there must be some constraints on the types of requests that are considered eligible for processing under the LGIP.

2. E.ON's Position

14. E.ON asserts that only the Daviess Co. Alternative is a valid request for interconnection service under its OATT. E.ON states that this is the only alternative presented in the joint petition that proposes an interconnection to a facility owned and

¹¹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

operated by E.ON. E.ON argues that the Reid Alternative is not a valid interconnection request under the E.ON OATT because it is a request to interconnect the Cash Creek generating facility to a facility that is not owned and operated by E.ON.

15. E.ON contends that the Requested Configuration is flawed as an interconnection request because it does not connect Cash Creek to an existing E.ON facility (i.e., a facility owned and operated by E.ON at the time of Cash Creek's interconnection request). E.ON asserts that Cash Creek is proposing to interconnect to a non-existent, 40-mile transmission line between the Daviess Co. and Reid substations. E.ON asserts that neither E.ON nor Big Rivers planned, or wants, to establish such a connection between the Daviess Co. and Reid substations. E.ON further argues that even if it could be stated that Cash Creek is requesting an interconnection between two existing facilities (the Daviess Co. and Reid substations), this would only be the case if Cash Creek requested two isolated radial lines to each transmission system. E.ON argues that nothing in its LGIP allows a generator to request two such interconnections to different transmission owners' transmission systems.

16. E.ON also argues that Cash Creek does not need to be electrically interconnected to both the E.ON and Big Rivers transmission systems to sell power into both the Midwest Independent Transmission System Operator, Inc. and the E.ON markets. E.ON states that once Cash Creek is interconnected to either transmission system, it can request transmission service to the other transmission system under the tariff of the provider it is interconnected with.

17. Lastly, E.ON notes that while Cash Creek alleges that Big Rivers and SPP agreed to jointly study the interconnection requests, Big Rivers and SPP never signed a joint study agreement. E.ON asserts that while SPP did perform a feasibility study with the Requested Configuration, the only stated purpose of the study was to determine if the system impacts would be different if Cash Creek interconnected with E.ON's transmission system at the Daviess Co. substation or with the Owensboro Municipal Utilities at its Elmer Smith substation. E.ON contends that the feasibility study specifically indicated that the final interconnection option would be discussed among the parties.

3. Cash Creek's Position

18. Cash Creek states that it has consistently sought a looped configuration connecting a point of interconnection at its generating facility with two separate transmission systems. Cash Creek argues that the Requested Configuration is fully consistent with the Commission's interconnection policies (as implemented in E.ON's OATT) and with the parties' course of dealing since Spring 2007. Cash Creek also asserts that both the Daviess Co. Alternative and the Reid Alternative would be valid interconnection requests. It notes that the Commission stated in Order No. 2003 that the *pro forma* LGIP

and LGIA were never intended to consider every possible interconnection request or issue that could arise.¹² It argues that the Commission's interconnection policies cannot be read to preclude the study of looped configurations, and that there is Commission precedent supporting its looped configuration.¹³ Cash Creek further argues that nothing in the LGIP or LGIA would preclude transmission providers from agreeing to perform a joint study, and that the Commission has, in Order No. 890,¹⁴ required coordinated, open, and transparent transmission planning on local and regional levels.

19. Additionally, Cash Creek states that it detrimentally relied on SPP's and E.ON's actions during the interconnection process and argues that it justifiably believed SPP was studying a looped configuration during the system impact study phase. It argues that at every step of the process, the parties discussed the desirability of a looped configuration and never discussed or pursued a stand-alone radial interconnection to either system. Cash Creek states it believed that the relevant transmission owners would work together to perform the necessary studies so that it could select the final interconnection configuration. Cash Creek asserts that it did not learn that there was an issue with the system impact study until 15 months after the study was initiated. Cash Creek maintains that no party communicated at the scoping meeting that the proposed interconnection configuration and the point of interconnection were problematic.

20. Cash Creek states it is now at a disadvantage with respect to further development of its project. Cash Creek explains that the project has received all of its required environmental permits, and construction is anticipated to commence later this year. Cash Creek asserts that financing decisions must be made prior to commencement of construction, and its interconnection plan is critical to these decisions and the timing of project construction.

¹² Petition for Declaratory Order at 51 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 4).

¹³ Cash Creek cites to the *Kiowa* and the Southaven proceedings. *Kiowa*, which predated Order No. 2003, involved a settlement where a generator (whose facility was already interconnected to SPP) sought to interconnect the facility to a switching station located within the Electric Reliability Council of Texas (ERCOT). The Southaven proceeding involved a looped configuration that established a connection to two transmission systems at a substation dually-owned by Entergy and TVA.

¹⁴ *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), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

B. Issue 2 – Construction Obligations**1. SPP’s Position**

21. SPP takes no position with respect to the second issue.

2. E.ON’s Position

22. E.ON contends that the Requested Configuration is not valid because it is a request to interconnect to two transmission providers’ systems, which is not permitted under E.ON’s OATT. E.ON states that the Commission-approved LGIP and LGIA do not provide guidance on this proposal to interconnect with two different transmission providers’ systems. E.ON points out that neither the LGIP nor the LGIA provides guidance as to the construction obligations for such a configuration. E.ON explains that the LGIP and LGIA provide definitions of such facilities based upon the assumption that only one interconnection customer and one transmission owner are involved in the process, not that one interconnection customer and two transmission owners are involved.

23. However, if the Commission deems the Requested Configuration valid, E.ON asserts that any network upgrades required for this connection should be built by both E.ON and Big Rivers, and both should bear equal responsibility for construction costs. Additionally, E.ON asserts the costs of network upgrades should be shared equally by E.ON’s and Big Rivers’ customers.

3. Cash Creek’s Position

24. Cash Creek states that in the absence of the system impact study, it is premature to discuss the transmission owners’ obligations to construct if the Requested Configuration is a valid interconnection request. However, Cash Creek argues that both the E.ON *pro forma* LGIP and LGIA provide all the guidance necessary for the parties to determine construction obligations, once the system impact study and facilities study are completed and the interconnection configuration is finalized.¹⁵ Cash Creek asks the Commission to issue an order simply affirming the applicability of the terms and conditions included in both the E.ON and the *pro forma* LGIP and LGIA.

¹⁵ Specifically, Cash Creek cites to section 12 of E.ON’s LGIP and Article 5 of E.ON’s LGIA, which provide for, among other things, the negotiation of the construction schedule and the rights and responsibilities of parties when constructing facilities.

C. Issue 3 – Point of Interconnection

1. SPP's Position

25. SPP takes no position on the third issue.

2. E.ON's Position

26. E.ON asserts that the point of interconnection under its OATT is the point where the interconnection facilities meet E.ON's existing transmission system – in this case, the Daviess Co. substation. E.ON explains that because the Daviess Co. substation is already a part of E.ON's integrated network, any radial lines or other facilities built to connect the Cash Creek generating facility to the Daviess Co. substation constitute interconnection facilities, and those upgrades located at or beyond the Daviess Co. substation are network upgrades.

27. E.ON also takes issue with Cash Creek's argument that the point of interconnection should be located at the generating facility bus bar. First, E.ON states that Cash Creek bases its argument on an assertion that the system impact study agreement places the point of interconnection there. E.ON also contends that parties cannot alter the location of a point of interconnection by contract so as to classify interconnection facilities as network upgrades or vice versa.¹⁶ Second, E.ON asserts that this result would be inconsistent with Commission precedent holding that the point of interconnection is not normally located at the generator bus bar because interconnection facilities are generally required to interconnect the generating facility to the grid. Third, E.ON argues that using Cash Creek's suggested point of interconnection would be inconsistent with the Commission's cost causation principles in Order No. 2003 which incentivize generators to make rational siting decisions by requiring them to pay for the interconnection facilities needed to connect their generating facilities to an existing transmission system without reimbursement. Here, E.ON argues, Cash Creek is choosing a remote point of interconnection, which would shift the majority of the costs away from Cash Creek and onto Big Rivers' or E.ON's customers.

28. E.ON also asserts that Cash Creek wrongly claims the parties are bound by statements in the feasibility study regarding the point of interconnection. E.ON argues that Cash Creek did not settle on a point of interconnection in the feasibility study. E.ON states that the Commission has made clear that an interconnection customer may select multiple points of interconnection to be evaluated in a feasibility study, but the customer must select only one point of interconnection to be evaluated in the system impact study.

¹⁶ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 21.

E.ON claims that it objected to the system impact study on the grounds that Cash Creek chose the bus bar as the point of interconnection.

29. Lastly, E.ON states that the Reid Alternative can only be effectuated through Cash Creek's election of Big Rivers' interconnection procedures, not E.ON's. Cash Creek would be responsible for costs of interconnection facilities needed to interconnect to Big Rivers' system. With respect to the Daviess Co. Alternative, E.ON states that this configuration is only possible through E.ON's interconnection procedures under E.ON's OATT. Therefore, Cash Creek would be responsible for the costs to interconnect to E.ON's system at the Daviess Co. substation. E.ON also notes that issues one and three are interrelated and requests that if the Commission decides issue one it also decide issue three.

3. Cash Creek's Position

30. Cash Creek states that it identified the point of interconnection as the generator bus bar in the feasibility study agreement. Cash Creek notes that in Order No. 2003, the Commission found that the transmission provider has the opportunity to voice its concerns at the scoping meeting and assess the likely costs of interconnecting at various points. The interconnection customer decides its point of interconnection based on input from the transmission provider. Cash Creek again asserts that no party voiced any objection to Cash Creek's preferred point of interconnection and that E.ON and SPP specifically agreed to the identification of the point of interconnection as the generator bus bar in the feasibility study agreement. Cash Creek contends that based on the scoping meeting, the feasibility study agreement, and the feasibility study report, the Commission should find that the point of interconnection for the project is the generator bus bar. However, it states that to the extent that the Commission cannot conclude that the point of interconnection is the generator bus bar, the Commission should view the issue as hypothetical and premature and one that cannot be answered before the system impact and facilities studies are completed.

III. Notice and Responsive Pleadings

31. Notice of the parties' filing was published in the *Federal Register*, 75 Fed. Reg. 22,773 (2010), with interventions and protests due on or before May 10, 2010. E.ON filed a timely motion to intervene. Big Rivers filed a timely motion to intervene and comment.

32. Big Rivers explains that the interconnection study letter agreement between itself and Cash Creek provided for the performance of a feasibility study and then, if requested by Cash Creek, a detailed interconnection study. Big Rivers states that its agreement with Cash Creek contemplated that both the feasibility study and the detailed interconnection study would be performed by Big Rivers jointly with SPP. Big Rivers

asserts that it was not a party to the feasibility study agreement between SPP, E.ON, and Cash Creek and was not a party to the system impact study agreement subsequently executed by Cash Creek. Additionally, Big Rivers states it was not directly involved in preparing the draft system impact study that is included with the joint petition.¹⁷

33. Big Rivers states that it communicated to Cash Creek its understanding that it would be participating in the preparation of a system impact study jointly with SPP. Big Rivers asserts it understood that Cash Creek was interested in the interconnection with Big Rivers only as part of the overall looped interconnection configuration and thus did not perform a stand-alone system impact study for the interconnection to the Reid substation. Big Rivers affirms that Cash Creek did not request that Big Rivers perform a stand-alone study.

34. In regard to the first issue in the joint petition, Big Rivers asserts that the valid interconnection request under E.ON's OATT would be the Daviess Co. Alternative. Big Rivers states that it does not take a position on whether the Requested Configuration is a valid request under E.ON's OATT. If the Commission found it valid, Big Rivers would not object to a system impact study performed by SPP. However, Big Rivers asserts it must be permitted to be involved in this study process.

35. In regard to the second issue in the joint petition, Big Rivers argues it is premature to consider questions of cost responsibility. Nevertheless, Big Rivers contends it should not have to bear a disproportionate amount of the cost. Big Rivers notes it is not yet known what facilities would need to be constructed to effectuate the Requested Configuration and address any adverse impacts on various transmission systems. Additionally, Big Rivers contends that there has been no determination as to what facilities would be deemed network upgrades, which would ultimately be allocated to network service customers of E.ON and Big Rivers. Big Rivers asserts that, to the extent that the Commission determines that it should address this issue, Big Rivers opposes E.ON's position that responsibility for construction and for the costs of any network upgrades should be shared equally between E.ON and Big Rivers. Big Rivers asserts that depending on the location of the point of interconnection, E.ON's request could require Big Rivers to bear the costs of a significant portion of the line, which would not be equitable.

36. In regard to the third issue in the joint petition, Big Rivers contends that the issue of where the point of interconnection should be is premature and should await the outcome of the study process. Big Rivers states that, because SPP did not directly

¹⁷ Big Rivers also states that it was not involved in discussions with the Commission's Dispute Resolution Service and was not asked to participate in the preparation of the joint petition.

involve it in Cash Creek's system impact study and because the parties did not contact it with respect to the study process conducted in conjunction with the joint petition, it does not know what the appropriate point of interconnection should be. However, Big Rivers asserts that if the Commission deems the Requested Configuration a valid interconnection request, the Commission should seek to ensure that Cash Creek is not permitted to shift costs to E.ON's and Big Rivers' customers.

IV. Discussion

A. Procedural Matters

37. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Issue 1 – Valid Interconnection Request

38. Under the Commission's *pro forma* LGIP, interconnection service is defined, in part, as "the service provided by the Transmission Provider associated with interconnecting the Interconnection Customer's Generating Facility to the Transmission Provider's Transmission System."¹⁸ Similarly, E.ON's Commission-approved LGIP, which is based on the *pro forma* LGIP, defines interconnection service as "the service provided by the ITO or the Transmission Owner associated with interconnecting the Interconnection Customer's Generating Facility to the Transmission Owner's Transmission System."¹⁹ Thus, a valid interconnection configuration under the E.ON OATT is one that involves the interconnection of a generating facility to E.ON's transmission system. Accordingly, we find that only the Daviess Co. Alternative meets this definition under E.ON's OATT because it is the only configuration of the three presented that proposes an interconnection solely to facilities owned and operated by E.ON at the time of Cash Creek's interconnection request.

39. We further find that the Reid Alternative is not a valid interconnection configuration under E.ON's OATT because this alternative proposes to interconnect the Cash Creek generating facility to the Big Rivers transmission system.

40. We also find that the Requested Configuration is not a valid interconnection configuration under E.ON's OATT because it proposes to simultaneously interconnect the Cash Creek generating facility to two different transmission systems, one of which is

¹⁸ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (*pro forma* LGIP, Definition of Interconnection Service).

¹⁹ E.ON U.S. LLC, FERC Electric Tariff, Fourth Revised Vol. No. 1, at Attachment M, Definition of Interconnection Service.

not owned and operated by E.ON. The *pro forma* LGIP does not contemplate large generator interconnection requests as a means for connecting two discrete, non-affiliated transmission systems. While Cash Creek argues that nothing in the LGIP or LGIA precludes transmission providers from agreeing to perform a joint study, as E.ON points out, neither E.ON nor Big Rivers planned on their own, or desire to establish, such a connection between the Daviess Co. and Reid substations.

41. We are not persuaded by the cases Cash Creek cites as evidence that the Commission has accepted looped configurations in the past because these cases involve different factual circumstances than those presented here. In the *Kiowa* proceeding, Kiowa Power Partners, LLC proposed to interconnect to SPP or ERCOT, but not to both at the same time.²⁰ Thus, the interconnection configuration was not a looped configuration because the generating facility was not connected simultaneously to both transmission systems. In the *Southaven* proceeding, the parties petitioned the Commission to allow for the configuration, and they voluntarily agreed to the arrangement.²¹ Further, the *Southaven* proceeding was decided by delegated authority and is non-precedential.

C. Issue 2 – Construction Obligations

42. Because we find that the Requested Configuration is not valid under E.ON's OATT, we need not address the second issue regarding the construction obligations of each transmission owner.

D. Issue 3 – Point of Interconnection

43. We find that the appropriate point of interconnection is the point where an interconnection facility meets the transmission provider's transmission system. The Commission has previously found that the point of interconnection is typically an electrical substation or tap point into an existing transmission line.²² Accordingly, given the facts associated with the Daviess Co. Alternative, the Daviess Co. substation is the only valid point of interconnection under the E.ON OATT.

44. While the Commission in Order No. 2003 granted the interconnection customer flexibility in determining its point of interconnection, it also stressed that the point of

²⁰ Kiowa Power Partners, LLC, April 26, 2002 Filing, Docket No. TX02-2-000 at 5 (“Under no circumstances will ERCOT and the SPP be synchronously interconnected.”).

²¹ *Entergy Services, Inc.*, Docket No. ER00-3148-000 (Aug. 11, 2000) (unpublished letter order).

²² See, e.g., *Nevada Power Company*, 111 FERC ¶ 61,161, at P 13 (2005).

interconnection must be valid under the LGIP in order for it to be considered and studied.²³ Accordingly, a point of interconnection that is not valid under the LGIP is not available as an option to the interconnection customer.

The Commission orders:

The issues raised in the petition for declaratory order are hereby addressed, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²³ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 97 (The Commission said it “will not take away any options *available to the Interconnection Customer under the LGIP* to select the Interconnection Points to be studied in the Interconnection Feasibility Study.”) (emphasis added).