

133 FERC ¶ 61,024  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

October 8, 2010

In Reply Refer To:  
E.ON U.S. LLC  
Docket Nos. ER10-295-000;  
ER10-298-000; ER10-298-001;  
EL10-38-000  
(consolidated)

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Dear Ms. Chambers:

1. On August 3, 2010, E.ON U.S. LLC (E.ON) on behalf of its public utility subsidiaries Louisville Gas and Electric Co. (LG&E) and Kentucky Utilities Company (KU), as well as Owensboro Municipal Utilities (Owensboro), the Kentucky Municipal Power Agency (together, the Kentucky Municipals), and American Municipal Power, Inc. (collectively, the Parties) filed a Joint Offer of Settlement (Settlement) and Explanatory Statement, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,<sup>1</sup> resolving all issues set for hearing and settlement judge procedures in Docket Nos. ER10-295-000, ER10-298-000, ER10-298-001, and EL10-38-000.<sup>2</sup> On August 17, 2010, Commission Trial Staff filed comments in support of the Settlement. No other comments were received. On August 18, 2010, the Settlement Judge certified the uncontested Settlement to the Commission.<sup>3</sup>

2. The Settlement resolves a dispute regarding the appropriate transmission loss factor that E.ON should use under the LG&E/KU joint Open Access Transmission Tariff (Tariff) and whether load served from the behind-the-meter resources of the Kentucky Municipals should be included in the calculation of transmission losses. Under the Settlement, the Parties acknowledge that E.ON will conduct an updated transmission loss

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<sup>1</sup> 18 C.F.R. § 385.602 (2010).

<sup>2</sup> *E.ON U.S. LLC*, 131 FERC ¶ 61,025 (2010) (Initial Order).

<sup>3</sup> *E.ON U.S. LLC*, 132 FERC ¶ 63,007 (2010).

study and submit a filing to the Commission including the results of its updated study and revisions to the Tariff to apply the updated loss factor prospectively. The Settlement provides that if the updated loss factor is less than three percent, E.ON will apply the updated loss factor to the network load of the Kentucky Municipals that was not served by behind-the-meter generation and to all point-to-point transmission service used by the Kentucky Municipals, effective January 29, 2010, the refund date established by the Commission in the Initial Order. The Settlement further provides that E.ON will apply a loss factor of 0.5 percent to the portion of the Kentucky Municipals' actual hourly network load served by behind-the-meter generation effective January 29, 2010. In addition, the Settlement includes revisions to Schedule 11 of the Tariff providing that E.ON will address any other concerns regarding transmission loss calculations for network load served with behind-the-meter generation on a case-by-case basis.

3. Article III of the Settlement states that the standard of review for any modifications proposed by a party to the Settlement shall be the *Mobile-Sierra* "public interest" standard.<sup>4</sup> It states further that the standard of review for any challenge or changes proposed by a non-party or the Commission acting on its own shall be the most stringent standard permissible under applicable law.

4. E.ON has made its baseline electronic tariff filing pursuant to Order No. 714; however, it did not file the Settlement in the eTariff format required by Order No. 714.<sup>5</sup> Therefore, it is required to make a compliance filing within 30 days, in eTariff format to ensure that its electronic tariff provisions reflect the Commission actions in this order. Such a compliance filing also is necessary for any Settlement filing containing *pro forma* tariff sheets, but is not necessary if the Settlement was filed in eTariff format with actual tariff records (as opposed to *pro forma* records).

5. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

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<sup>4</sup> *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956).

<sup>5</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).

6. This letter terminates Docket Nos. ER10-295-000, ER10-298-000, ER10-298-001, and EL10-38-000.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.