

145 FERC ¶ 61,217  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ITC Holdings Corp.	Docket Nos. EC12-145-000
Entergy Corporation	ER12-2681-000
Midwest Independent Transmission System Operator, Inc.	EL12-107-000

ORDER TOLLING TIME FOR ACTION ON APPLICATION  
UNDER FEDERAL POWER ACT SECTION 203

(Issued March 22, 2013)

1. On September 24, 2012, ITC Holdings Corp. (ITC) and certain of its subsidiaries,<sup>1</sup> and Entergy Corporation and certain of its subsidiaries<sup>2</sup> (collectively, Applicants) filed an application under sections 203 and 205 of the Federal Power Act (FPA), 16 U.S.C. §§ 824b and 824d (2006), respectively, requesting authorization pursuant to FPA section 203 for their proposed merger of the jurisdictional transmission assets of the Entergy operating companies into a newly-created subsidiary of ITC, and approval pursuant to FPA section 205 of a proposed formula rate for the new ITC operating companies within the Midwest Independent Transmission System Operator, Inc. (MISO) and certain jurisdictional agreements (Application).<sup>3</sup> FPA section 203(a)(5) states that in

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<sup>1</sup> ITC Midsouth, LLC.

<sup>2</sup> Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., and Mid South TransCo LLC.

<sup>3</sup> Joint Application for Authorization of Acquisition and Disposition of Jurisdictional Transmission Facilities, Approval of Transmission Service Formula Rate and Certain Jurisdictional Agreements, and Petition for Declaratory Order on Application of Section 305(a) of the Federal Power Act, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000 (filed Sept. 24, 2012). In the Application Applicants also requested

(continued...)

the absence of Commission action within 180 days, the Application would be deemed granted.<sup>4</sup>

2. The Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of FPA section 203(a)(4).

3. In response to requests from state and retail regulators,<sup>5</sup> the Commission has twice extended the comment date for the Application. In their first request, the Entergy Retail Regulators cited the size of the Application, its interrelatedness with other filings submitted contemporaneously, and parallel state and Council proceedings on the proposed transaction and Entergy's membership in MISO, to demonstrate that they, and likely other stakeholders in the MISO and Entergy regions, would need more time to evaluate the Application and related filings.<sup>6</sup> The Commission granted the request and extended the comment date until December 7, 2012.<sup>7</sup> In the second request, the Entergy Retail Regulators requested an additional 45 days for review of the Application and

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confirmation from the Commission that the proposed transaction does not violate FPA section 305(a), 16 U.S.C. § 825d(a). Further, Applicants explain that "MISO joins in [the Application] as Administrator of the MISO Tariff and as a signatory to the Appendix I Agreement submitted herewith for acceptance, but otherwise takes no position on the substance of [the Application]." Application at 3.

<sup>4</sup> FPA section 203(a)(5) requires the Commission to grant or deny any application for approval of a transaction under FPA section 203 within 180 days after the application is filed, unless the Commission finds, based on good cause, that further consideration is required and issues an order tolling the time for acting for not more than 180 days. 16 U.S.C. § 824b(a)(5) (2006).

<sup>5</sup> The Council of the City of New Orleans (Council), the Mississippi Public Service Commission, the Public Utility Commission of Texas, the Louisiana Public Service Commission, and the Arkansas Public Service Commission (Arkansas Commission) (collectively, Entergy Retail Regulators).

<sup>6</sup> Motion of the Entergy Retail Regulators for Extension of Comment Deadline at 2-3, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000 (filed Oct. 4, 2012).

<sup>7</sup> Notice of Extension of Time, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000, ER12-2682-000, ER12-2683-000, ER12-2693-000 (issued Oct. 10, 2012).

related dockets, stating that Applicants supported the request.<sup>8</sup> In addition, Applicants acknowledged that “[i]n a case of this size and complexity, we would expect that FERC may well require more than 180 days to act.”<sup>9</sup> The Commission granted the request and extended the comment date until January 22, 2013.<sup>10</sup>

4. Based on the two comment period extensions granted at the request of state and retail regulators, in order to afford additional time for consideration of the application, the Commission hereby tolls the time to act on the Application for an additional 180 days.

The Commission orders:

The time for acting on the Application is hereby tolled until September 18, 2013.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>8</sup> Joint Motion of Louisiana Public Service Commission, Council of the City of New Orleans, Public Utilities Commission of Texas, and Mississippi Public Service Commission for Additional 45 Day Extension of Intervention, Protest and Comment Deadline and for Shortened Response Time at 2, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000, ER12-2682-000, ER12-2683-000, ER12-2693-000 (filed Nov. 27, 2012). The Arkansas Commission did not join this motion.

<sup>9</sup> *Id.*, Letter from ITC Holdings Corp. and Entergy Services, Inc. to Louisiana Public Service Commission (Nov. 15, 2012).

<sup>10</sup> Notice of Extension of Time, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000, ER12-2682-000, ER12-2683-000, ER12-2693-000 (issued Nov. 30, 2012).