

143 FERC ¶ 61,210  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

June 5, 2013

In Reply Refer To:  
Southeastern Power  
Administration  
Docket No. ER13-1305-000

Herbert Nadler  
Southeastern Power Administration  
1166 Athens Tech Road  
Elberton, GA 30635

Dear Mr. Nadler:

1. On April 18, 2013, Southeastern Power Administration (SEPA) requested that the Commission grant waiver of the one-year notice rollover requirement for Long-Term Point-to-Point Transmission Service under Sections 2.2 and 2.3 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff) to allow for the continuation of its Point-to-Point Transmission Service. The Commission grants the requested waiver as discussed below.

2. SEPA is currently a Long-Term Firm Point-to-Point Transmission customer of PJM. SEPA explains that, on June 16, 2008, in compliance with Commission Order No. 890,<sup>1</sup> PJM amended the Tariff to incorporate a new five-year minimum service agreement term in order for customers to be eligible for rollover rights under Sections 2.2 and 2.3 of the Tariff, and included a one-year notice requirement, prior to the expiration of the five-year term, for the transmission customer to notify PJM of its intent to exercise rollover rights for continued transmission service.<sup>2</sup> SEPA further explains that, as a

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<sup>1</sup> *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).

<sup>2</sup> Waiver Request at 1.

result of an administrative oversight on the part of SEPA, the one-year notice requirement was overlooked and SEPA assumed that the previous 60-day notice requirement in the Tariff remained in effect. SEPA states that, on February 28, 2013, SEPA initiated the process to exercise its rollover right for the continuation of service, effective November 1, 2013, but was notified by PJM that as a result of the Tariff change discussed above SEPA was out of time with its rollover request. SEPA thus seeks waiver to allow for the continuation of service.

3. By way of background for its request for waiver, SEPA explains that it is a Federal power marketing administration within the United States Department of Energy and markets power generated by 22 hydroelectric projects to preference customers in 11 southeastern states. SEPA operates four power marketing systems, one of which is the two-project Kerr-Philpott System (Kerr Project). SEPA markets power produced by the Kerr Project to 75 municipalities and cooperatives located in eastern North Carolina and Virginia, serving approximately 1.5 million customers. SEPA explains that these hydropower projects provide the maximum amount of peaking power available to the customers, allowing them to satisfy their peak hourly load requirements, and providing a lower cost generating resource to satisfy their customers' demands. SEPA further explains that the revenue collected from the sale of power is used to repay to the United States Treasury, with interest, all hydropower-related costs associated with the construction and operation of these multipurpose projects. SEPA points out that a portion of the power generated by the Kerr Project is delivered to Carolina Power & Light (CPL) utilizing PJM Firm Point-to-Point Transmission service, and that this transmission service is used to deliver 89 MW of capacity and associated energy to 39 municipalities and cooperatives.<sup>3</sup>

4. SEPA argues that good cause exists for waiver, as SEPA's failure to comply with the one-year notice requirement was an administrative oversight and unintentional. SEPA asserts that it has always complied with applicable deadlines and notice requirements in the past, and intends to comply with these requirements in the future. SEPA states that the continuation of Firm Point-to-Point Transmission service is critical in order to assure that its customers can rely on firm deliveries to satisfy load obligations and keep costs low for consumers. SEPA explains that its customers are dependent on their government allocation of capacity and energy to meet their peak loads. SEPA also points out that the inability to continue delivering power using Point-to-Point Transmission service may negatively impact the marketability of system power and may jeopardize future repayments to the United States Treasury.<sup>4</sup>

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<sup>3</sup> Waiver Request at 2.

<sup>4</sup> *Id.*

5. Notice of SEPA's filing was published in the *Federal Register*, 78 Fed. Reg. 25,071 (2013), with protests or interventions due on or before May 9, 2013. North Carolina Electric Membership Corporation, North Carolina Eastern Municipal Power Agency, and Southeastern Federal Power Customers, Inc. filed motions to intervene. All three also filed comments supporting SEPA's waiver request and continuation of Firm Point-to-Point Transmission service. PJM filed a motion to intervene.

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>5</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. PJM did not oppose the waiver request, and no protests or adverse comments were filed.

7. The Commission has granted limited waivers of tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requisite waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.<sup>6</sup> SEPA provided notice of its intent to rollover the agreement on February 28, 2013, eight months before the agreement was scheduled to terminate, assuming that the previous 60-day renewal notice requirement remained in effect. SEPA's failure to comply with the current one-year notice requirement appears to have been an inadvertent error. We note that SEPA states that it has always complied with applicable deadlines and notice requirements in the past, and intends to comply with these requirements in the future. We further find that SEPA's request for a one-time waiver is also of limited scope. Moreover, a concrete problem will be remedied by granting the requested waiver because it will ensure that SEPA's preference customers will have continued access to firm delivery of their SEPA power supplies on which they have long relied to serve consumers with low-cost power. SEPA also points out that without the requested waiver, the marketability of system power may be negatively impacted, which may jeopardize future repayments to the United States Treasury. Finally, no party contested SEPA's waiver request.

8. SEPA's request for limited waiver of the one-year notice rollover requirement for Long-Term Point-to-Point Transmission Service under Sections 2.2 and 2.3 of

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<sup>5</sup> 18 C.F.R. § 385.214 (2012).

<sup>6</sup> See, e.g., *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at P 8 (2011); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010).

PJM's Tariff allowing for continuation of Firm Point-to-Point Transmission Service is therefore hereby granted, effective November 1, 2013.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.