

133 FERC ¶ 61,165
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.

E.ON U.S. LLC

Docket No. ER10-2820-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued November 19, 2010)

1. On September 22, 2010, E.ON U.S. LLC (E.ON), on behalf of Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU), filed proposed amendments to its Open Access Transmission Tariff (OATT) to implement interim large and small generator interconnection service (Interim Interconnection Service). These revisions would allow interconnection customers, upon request, to interconnect their generating facilities prior to completion of the interconnection study process. E.ON also proposes changes to clarify the role of the Independent Transmission Organization (ITO) in the interconnection process. In this order, we conditionally accept the proposed revisions, effective September 23, 2010, as discussed below.

I. Background

2. LG&E and KU provide transmission service under E.ON's OATT. E.ON has contracted with Southwest Power Pool, Inc. (SPP) to act as its (ITO). In that role, SPP administers the E.ON OATT and has sole authority to grant or deny requests for interconnection service. Among other things, SPP is responsible for processing requests for interconnection service pursuant to the Large Generator Interconnection Procedures (LGIP) contained in Attachment M of the OATT, the Small Generator Interconnection Procedures (SGIP) contained in Attachment N, and Appendix 3 "Division of Responsibilities for Responsibilities for Generation Interconnections" of Attachment P.

3. In Order No. 2003,¹ the Commission issued *pro forma* interconnection procedures and agreements for the interconnection of large and small generating facilities. Since the issuance of Order No. 2003, many Regional Transmission Organizations (RTO) and Independent System Operators (ISO) have experienced backlogs of interconnection requests. On December 11, 2007, the Commission held a technical conference to address issues relating to interconnection queuing problems.² As a result of this conference, the Commission recognized an immediate need to expedite the processing of interconnection requests. The Commission declined to require any particular solution but instead called upon RTOs and ISOs to work with their stakeholders to develop consensus proposals based on regional needs.³

4. E.ON explains that the generator interconnection queue in the E.ON balancing authority area has experienced delays in recent years. E.ON and SPP have been engaged in discussions with stakeholders about ways to improve the queue process. While stakeholder discussions regarding more comprehensive long-term queue reforms are ongoing, it has become apparent that customers would like some form of interim interconnection service.

II. Filing

5. E.ON proposes to provide interim interconnection service to customers with generating facilities that are projected to be in service prior to completion of the applicable interconnection studies. In order to implement the Interim Interconnection Service, E.ON proposes revisions, as discussed below, to its LGIP, SGIP, and Attachment P. E.ON states that it modeled its Interim Interconnection Service after SPP's procedures for interim interconnection service, which have been accepted by the Commission.⁴ E.ON states that it chose SPP's procedures as a model because SPP has

¹ *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).

² *Interconnection Queuing Practices*, Notice of Technical Conference, Docket No. AD08-2-000, 72 Fed. Reg. 63,577 (Nov. 2, 2007).

³ *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 15 (2008).

⁴ *Southwest Power Pool, Inc.*, 130 FERC ¶ 61,077 (2010).

experience administering this service and it believes that SPP's procedure is conducive to the needs of stakeholders.⁵

6. E.ON explains that Interim Interconnection Service is not intended to be a substitute for standard interconnection service and will not impact the position of customers already in the queue. E.ON states that Interim Interconnection Service will be conditional and will only be available to the extent that the transmission system, as currently configured, can accommodate it. E.ON explains that it may construct interconnection facilities, if necessary, to accommodate Interim Interconnection Service; however, the construction of network upgrades will not be considered. E.ON states that higher-queued customers will be protected since Interim Interconnection Service will not be modeled in interconnection studies for higher-queued customers. E.ON also explains that if there are conflicting demands for interim service, the customer with the higher position in the standard interconnection queue will have priority. According to E.ON, SPP will have the right to limit interim service to the extent that it is required due to the demands of higher-queued customers.⁶

7. Under E.ON's proposal, a customer must have a valid pending interconnection request and an assigned queue position in the LGIP before requesting Interim Interconnection Service. E.ON states that an interconnection customer can only request Interim Interconnection Service if it is within 180 days of its anticipated testing date or the date that the customer's facilities are expected to reach commercial operation. According to E.ON, once SPP receives a valid request for Interim Interconnection Service, the customer will be provided with an Interim Interconnection System Impact Study Agreement, which obligates the customer to pay the costs of the Interim Interconnection System Impact Study. The Interim Interconnection System Impact Study Agreement is based on the *pro forma* System Impact Study Agreement already included in the OATT. E.ON states that SPP will then conduct an Interim Interconnection System Impact Study and, if SPP determines that the requested level of Interim Interconnection Service can be accommodated, the customer will then be provided a *pro forma* Interim Large Generator Interconnection Agreement (Interim LGIA) or *pro forma* Interim Small Generator Interconnection Agreement (Interim SGIA) (collectively, *pro forma* Interim Interconnection Agreements).⁷

8. E.ON proposes several changes to its LGIP in order to implement Interim Interconnection Service. Specifically, E.ON proposes to: (1) revise the definitions section to accommodate terms relating to Interim Interconnection Service; (2) add a new

⁵ Filing at 3.

⁶ *Id.* at 4-6.

⁷ *Id.* at 4-5.

section outlining the procedures for Interim Interconnection Service; and (3) add new appendices, Appendix 7 and Appendix 8, containing a *pro forma* Interim Interconnection System Impact Study Agreement and *pro forma* Interim LGIA, respectively.⁸

9. E.ON also proposes several revisions to its SGIP, including: (1) revisions to the definitions section to accommodate terms relating to Interim Interconnection Service; (2) the addition of a new section four, which provides the terms and conditions of Interim Interconnection Service; (3) the addition of a new Appendix 7A, which contains the *pro forma* Interim System Impact Study Agreement; and (4) the addition of a new Appendix 10, containing a *pro forma* Interim SGIA.⁹

10. E.ON explains that its proposed new appendices in the LGIP and SGIP are based on its existing *pro forma* System Impact Study Agreements and Interconnection Agreements, although they depart from the *pro forma* System Impact Study Agreements and Interconnection Agreements when necessary to take into account the nature of Interim Interconnection Service.

11. In addition to the proposed Interim Interconnection Service, E.ON states that it is proposing changes to E.ON's OATT that were requested by the ITO to clarify the role of the ITO in the interconnection process. E.ON explains that the ITO has notified E.ON that certain changes are necessary to certain interconnection-related tariff language to clarify the ITO's role and E.ON agrees that those changes are both appropriate and necessary. E.ON states that it plans to make a separate filing under section 205 of the Federal Power Act¹⁰ in the near future to amend other aspects of its OATT to clarify the ITO's duties, consistent with the changes proposed in the instant filing. E.ON explains that it is proposing several changes related to the delineation of the ITO's duties as part of its proposed Interim Interconnection Service here, however, in order to avoid unnecessarily perpetuating certain inaccuracies in the Tariff. E.ON contends that the changes do not materially impact the respective roles and responsibilities of SPP and E.ON for processing interconnection requests or managing the queue.¹¹

12. Finally, E.ON requests a waiver of the Commission's 60-day prior notice requirement in section 35.11 of the Commission's regulations¹² and requests that the Commission grant an effective date of September 23, 2010, one day after filing. E.ON states that good cause exists to grant the waiver because it will permit customers with an

⁸ *Id.* at 6-7.

⁹ *Id.* at 8.

¹⁰ 16 U.S.C. § 824d (2006).

¹¹ Filing at 9-10.

¹² 18 C.F.R. § 35.11 (2010).

interest in Interim Interconnection Service to pursue that service and bring their resources online as quickly as possible. E.ON states that its customers have been a part of the ongoing stakeholder process and there is no concern about prior notice of availability of this new service.

III. Notices of Filings and Responsive Pleadings

13. Notice of the filing was published in the *Federal Register*, 75 Fed. Reg. 61,726 (2010), with interventions and protests due on or before October 13, 2010. On October 5, 2010, American Municipal Power, Inc. filed a motion to intervene. On October 13, 2010, Owensboro Municipal Utilities and Kentucky Municipal Power Agency and SPP filed motions to intervene and comments in support of E.ON's proposal.

IV. Discussion

A. Procedural Matters

14. 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. Substantive Matters

15. We will conditionally accept E.ON's proposed revisions to implement Interim Interconnection Service and to clarify the respective roles of E.ON and the ITO. As the Commission noted in *Southwest Power Pool*, interim interconnection service "can provide benefits by allowing an interconnection customer that is ready to interconnect to receive needed interconnection service . . . while leaving queue positions undisturbed and making use of available capacity, which results in a more efficient use of the transmission system."¹³ E.ON's proposal is modeled on SPP's interim interconnection service, and we find that it can provide similar benefits. With respect to the clarification of duties, it appears that E.ON is correcting certain inaccuracies and inconsistencies within its OATT. Therefore, we find that E.ON's proposal is just and reasonable. We will also grant waiver of the 60-day prior notice requirement¹⁴ for good cause shown so that the proposed revisions to implement Interim Interconnection Service become effective one day after the date of the filing.

¹³ *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,191, at P 21 (2009) (*Southwest Power Pool*).

¹⁴ *See Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

16. We note, however, that Attachment A to Appendix 7 of the LGIP contains a minor typographical error that must be corrected. Specifically, the header to Attachment A actually refers to Appendix 3, which is the Interconnection System Impact Study Agreement, rather than Appendix 7, which is the Interim Interconnection System Impact Study Agreement. Therefore, we will direct E.ON to submit a compliance filing, within 30 days of the date of this order, to correct this error.

The Commission orders:

(A) E.ON's proposed revisions are hereby conditionally accepted, effective September 23, 2010, as discussed in the body of this order.

(B) E.ON is hereby directed to submit a compliance filing, within 30 days of the issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.