

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Virginia Electric and Power Company

Docket No. ER03-743-000

ORDER ACCEPTING INTERCONNECTION AGREEMENT
FOR FILING, AS MODIFIED

(Issued June 10, 2003)

1. In this order, we accept for filing, as modified, a Revised Generator Interconnection and Operating Agreement (Revised IA) between Virginia Electric and Power Company (Virginia Power), doing business as Dominion Virginia Power, and Competitive Power Ventures Cunningham Creek, LLC (CPV), and make it effective April 15, 2003, as requested. In addition, we will require Dominion Virginia Power to make a compliance filing fixing a minor error. This action benefits customers because it assures that the terms, conditions, and rates for interconnection service will be just and reasonable and thus encourages increased power supply and improves reliability.

Background

2. The Commission has approved an unexecuted IA¹ between Dominion Virginia Power and CPV.² Under the unexecuted IA, CPV will own and operate a 550 MW generating facility in Fluvanna County, Virginia (the Facility) that will interconnect with the transmission system owned by Dominion Virginia Power. The Commission later approved

¹The unexecuted IA was designated as Service Agreement No. 341.

²Conditionally accepted in Virginia Electric and Power Company, 97 FERC ¶ 61,262, 61,142 (2001) (December 11 Order); compliance filing accepted by the Commission in an unpublished letter order dated March 12, 2002, in Docket No. ER02-92-002.

an executed version of the IA (Executed IA) that included revisions to Appendices C, F and G and corrections for typographical errors.³

3. Dominion Virginia Power filed the instant Revised IA on April 14, 2003.⁴ It includes revisions to: (1) Section 1.22, which defines "Network Upgrades"; (2) Section 1.29, which defines "RTO"; (3) CPV's milestone dates; and (4) Dominion Virginia Power's milestone dates. Dominion Virginia Power asserts that it is authorized to state that CPV agrees with this filing and that the revisions to the Network Upgrades and RTO definitions are being made to conform the Revised IA to current Commission policy. Dominion Virginia Power also states that the revisions to the milestone dates are being made at the request of CPV. Dominion Virginia Power requests an April 15, 2003 effective date, one day after its filing.

Notice, Interventions, Protests and Answers

4. Notice of Dominion Virginia Power's filing was published in the Federal Register, 68 Fed. Reg. 19,804 (2003), with comments, protests, or interventions due on or before May 5, 2003. A timely motion to intervene was filed by CPV. Tenaska Virginia II Partners, L.P. (Tenaska) filed a timely motion to intervene and protest.

5. On May 20, 2003, CPV and Dominion Virginia Power filed answers to Tenaska's protest.

Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ the timely, unopposed motions to intervene serve to make the filing entities parties to this proceeding.

³The Commission accepted this filing in an unpublished letter order on November 21, 2002, in Docket Nos. ER02-2585-000 and ER02-2485-001.

⁴In accordance with Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) (Order No. 614), Dominion Virginia Power is filing the Revised IA as a "Third Revised" service agreement under Virginia Electric and Power Company's, FERC Electric Tariff, Second Revised Volume No. 5.

⁵18 C.F.R. § 385.214 (2003).

7. Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2003), generally prohibits answers to protests. Because their answers do not aid our decision in this case, we are not persuaded to accept the answers filed by CPV and Dominion Virginia Power; accordingly, we will reject them.

B. Change in Milestone Dates

1. Dominion Virginia Power's Revised IA

8. Dominion Virginia Power proposes to extend the following milestone dates for CPV, from its previously filed Executed IA: (1) Permitting Completion - from September 2002 to October 2002; (2) Initial Design Completion - from March 2003 to May 2003; (3) Equipment Purchases - from March 2003 to April 2004; (4) Construction Start Date - from March 2003 to April 2004; (5) Energization Date - from June 2004 to June 2005; (6) Construction Completion Date - from December 2004 to December 2005; and (7) Commercial Operation Date - from May 2005 to May 2006. Dominion Virginia Power proposes to extend the following milestone dates, for itself, from its previously filed Executed IA: (1) Construction Start Date from January 2004 to January 2005; (2) Construction Completion Date (Direct Assignment Facilities) - from June 30, 2004 to June 30, 2005; and (3) Construction Completion Date (Network Upgrades) - from November 30, 2004 to November 30, 2005.

2. Tenaska's Objections

9. Tenaska is currently developing an electric generation facility in Buckingham County, Virginia. The facility will interconnect with Dominion Virginia Power's electric transmission system. Tenaska explains that because CPV is ahead of Tenaska in Dominion Virginia Power's interconnection queue and is studied ahead of Tenaska, Dominion Virginia Power has prepared a system impact study for Tenaska's interconnection request as though CPV has been constructed.⁶ Tenaska argues that, notwithstanding Dominion Virginia Power's study procedures, CPV has repeatedly and voluntarily delayed starting construction of its generation facility and that there is little evidence that CPV is pressing forward with its project. Further, there is no evidence as to why the milestones should be delayed.

10. Tenaska asserts that the delays and failures in CPV's project development harm lower-queued, competitive generators, such as itself, because the higher-queued request "ties up" valuable and limited interconnection capacity and, as a result, lower-queued

⁶Dominion Virginia Power evaluates interconnection requests on a first-come, first-served basis, and includes all pending higher-queued interconnection requests in a Generation Interconnection Evaluation Study.

interconnection requests will be required to construct costly new Network Upgrade facilities to increase the transmission system's interconnection capacity.⁷ Tenaska states that CPV's "squatting" on the interconnection queue increases costs to new generators, thus raising barriers to market entry. Further, CPV's "squatting" slows development of new generation projects, and the lack of new generation leads to tighter electricity supplies, and tighter electricity supplies leads to higher electricity prices.

11. To remedy this problem, Tenaska states that the Commission should direct Dominion Virginia Power to permit Tenaska's interconnection requests to "leap frog" CPV's interconnection request in Dominion Virginia Power's interconnection queue so that Dominion Virginia Power studies the Tenaska project as if the CPV project were not going forward. Furthermore, Tenaska states that if the Commission is inclined to accept the Revised IA for filing based on CPV's voluntary request for delay, the Commission should condition such acceptance on CPV's commitment to accept responsibility for any incremental Network Upgrade facilities that result from lower-queued projects executing IAs (or requesting the filing of unexecuted IAs) before CPV's proposed Construction Start Date. Tenaska argues that if such conditions are unacceptable to CPV, CPV should be required to abide by the milestones in its existing IA.

3. Commission Response

12. It appears that CPV's interconnection will be completed well in advance of Tenaska's project, despite the extended milestones. Tenaska's in-service dates are June 2006 for projects GI-99 and GI-139, and June 2007 for GI-140, which is later than CPV's proposed Construction Completion Date of December 2005. Thus, we deny Tenaska's request to step in front of CPV in the interconnection queue. Further, we deny Tenaska's request that CPV provide a written commitment to accept responsibility for any incremental Network Upgrade facilities that result from lower-queued projects executing IAs before CPV's proposed Construction Start Date because CPV's delay should not harm Tenaska.

C. Change in Definitions

⁷Tenaska Protest at 7.

13. In its Revised IA, Dominion Virginia Power revises the definition of "Network Upgrades" in Section 1.22 and the definition of "RTO" in Section 1.29. We accept the changes to these definitions because they are consistent with Commission policy.

D. Typographical Error

14. In the definition section of the Revised IA, Section 1.6 defines "Direct Assignment Facilities" as "the facilities identified in Appendix C," however Appendix C refers to "Network Upgrades." The correct reference should be to Appendix B, "Interconnection Facilities." We will require Dominion Virginia Power to revise Section 1.6 to refer to Appendix B.

The Commission orders:

(A) Dominion Virginia Power's filing is hereby accepted for filing, as modified, consistent with the discussion in the body of this order, effective April 15, 2003.

(B) Dominion Virginia Power is hereby directed to file a compliance filing, within 30 days of this order reflecting the modification discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.