

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Illinois Power Company

Docket No. ER03-249-002

ORDER DENYING REHEARING

(Issued September 10, 2003)

1. In this order, we deny a request by Illinois Power Company (Illinois Power) for rehearing of our order issued in this proceeding on April 10, 2003.<sup>1</sup> Illinois Power objects to the finding in the April 2003 Order that Illinois Power must provide credits to a generator (applicable against future transmission service charges) for the costs the generator incurs for network upgrades (those at or beyond the point of interconnection with Illinois Power). Illinois Power concedes that this finding is consistent with Commission precedent, but disputes the Commission's conclusions in our prior orders and also seeks rehearing in case the Commission is reversed on this issue in cases currently pending appeal. For the reasons stated below, we will affirm the findings in our April 2003 Order.

**Background**

2. As explained in the April 2003 Order, this matter began when Illinois Power submitted for filing an interconnection and operating agreement (IA) it had entered into with Franklin County Power of Illinois, LLC (Franklin County Power). The April 23 Order accepted the IA for filing, subject to three conditions.

3. On May 12, 2003, Illinois Power filed a request for rehearing objecting to one of the conditions in the April 2003 Order, *i.e.*, the finding that Illinois Power must provide Franklin County Power with credits for the amounts Franklin County Power spends to upgrade Illinois Power's network facilities to accommodate Franklin County Power's interconnection to Illinois Power's transmission system.

**Discussion**

4. As mentioned above, Illinois Power acknowledges that "the decision reached in the [April 2003] Order with regard to the interconnection facilities is consistent with prior

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<sup>1</sup>Illinois Power Company, 103 FERC ¶ 61,032 (2003) (April 2003 Order).

orders issued by the Commission.” However, Illinois Power notes that at least three of those orders are now pending appeal on the same fundamental issue raised by its rehearing request.<sup>2</sup> Thus, Illinois Power argues, it is seeking rehearing on the issue to protect its interests in case the Commission’s other orders on the issue are reversed on appeal.

5. Illinois Power also argues that the April 2003 Order relies on two prior Commission orders that do not support the conclusions reached in the April 2003 Order.<sup>3</sup> Specifically, Illinois Power argues that those cases only held that the generator is to receive credits for upgrades to remedy short circuit and stability conditions, and did not hold that credits must be given for upgrades built for other purposes, such as accommodating the generator’s interconnection to the transmission provider’s system.

### Commission Finding

6. In Entergy Gulf States, the Commission determined that the generator must receive credits for upgrades on the transmission provider’s side of the interconnection, regardless of whether those upgrades are designed to remedy short circuit and stability conditions, or not. Illinois Power’s argument that the Commission decided Entergy Gulf States erroneously is an improper collateral attack on that order.<sup>4</sup> We reject Illinois Power’s attempt to reargue the merits of our Entergy Gulf States order and will deny its request for rehearing.

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<sup>2</sup> Illinois Power cites the matters currently pending appeal in Entergy Services, Inc. v. FERC, Case No. 02-1199 (D.C. Cir.); Southern Company Services, Inc. v. FERC, Case No. 02-1336 (D.C. Cir.); and Nevada Power Company v. FERC, Case No. 02-1375 (D.C. Cir.).

<sup>3</sup> Consumers Energy Company, 95 FERC ¶ 61,233, reh’g denied, 96 FERC ¶ 61,132 (2001) (Consumers Energy) and Entergy Gulf States, Inc., 98 FERC ¶ 61,014, reh’g denied, 99 FERC ¶ 61,023 (2002) (Entergy Gulf States).

<sup>4</sup> The Commission routinely rejects collateral attacks on previously decided cases. See, e.g., Tuscarora Gas Transmission Company, 103 FERC ¶ 61,204 at P4 (2003); State of California ex rel. Lockyer v. British Columbia Power Exchange Corp., et al., 100 FERC ¶ 61,295 at 62,331 (2002); Old Dominion Electric Cooperative v. Public Service Electric and Gas Company, 84 FERC ¶ 61,155 at 61,844 n.16 (1998).

The Commission orders:

Illinois Power's request for rehearing is hereby denied.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.