

109 FERC ¶ 61,192  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

Southern Company Services, Inc.

Docket Nos. ER05-13-000  
ER03-872-004

ORDER ACCEPTING NOTICE OF CANCELLATION AND DISMISSING AS MOOT  
REQUEST FOR REHEARING

(Issued November 22, 2004)

1. This order accepts the Notice of Cancellation filed by Southern Company Services, Inc. (Southern), on behalf of Georgia Power Company (Georgia Power), for an Interconnection Agreement (IA) between Georgia Power and Southern Power Company (Southern Power), and also dismisses as moot Southern's request for rehearing. This order benefits customers by assuring that the Commission does not address issues that are moot.

**Background**

2. On October 10, 2003, in Docket Nos. ER03-872-000 and ER03-872-001, the Commission accepted for filing the IA, conditioned upon Georgia Power's refiling the IA in compliance with Commission policy.<sup>1</sup> On September 7, 2004, in Docket Nos. ER03-872-002 and ER03-872-003, the Commission denied and granted Southern's request for rehearing of the October Order, and accepted Southern's compliance filing with one modification.<sup>2</sup> Southern filed a timely request for rehearing of the September Order in which Southern asks that the Commission change its interconnection pricing policy.

3. On October 1, 2004, Southern filed a Notice of Cancellation for the IA between Georgia Power and Southern Power. In support of its filing, Southern states that on August 29, 2003, pursuant to section 5.6.4 of the IA, Southern Power notified Georgia

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<sup>1</sup>*Southern Company Services, Inc.*, 105 FERC ¶ 61,055 (2003) (October Order).

<sup>2</sup>*Southern Company Services, Inc.*, 108 FERC ¶ 61,220 (2004) (September Order).

Power that it was suspending all work associated with the construction and installation of the interconnection facilities set forth in the IA. Southern also states that, under section 5.6.4 of the IA, if Southern Power did not provide further notice to Georgia Power within three hundred and sixty-five days to resume such work, the IA would be deemed terminated. Southern asserts that since Southern Power did not provide such notice, on September 1, 2004 (more than 366 days after Southern Power's original notice to suspend), the IA was deemed terminated.<sup>3</sup> Southern also requests waiver of the Commission's sixty-day notice requirement so that the Notice of Cancellation will become effective September 1, 2004.

### **Notice of Filing and Responses**

4. Notice of the filing was published in the *Federal Register*, 69 Fed. Reg. 62,263 (2004), with comments, protests, and motions to intervene due on or before October 22, 2004. None was filed.

### **Discussion**

5. We will grant Southern's unopposed Notice of Cancellation for the IA. We will also grant Southern's request for waiver of the Commission's sixty-day notice requirement, and accept the Notice of Cancellation to become effective September 1, 2004, as requested.

6. In addition, we will dismiss as moot Southern's underlying request for rehearing in Docket No. ER03-872-004. By requesting that the Commission accept its Notice of Cancellation for the IA, Southern effectively withdrew its policy challenge in this proceeding. The Commission does not adjudicate policy questions outside of concrete cases, with limited exceptions.<sup>4</sup> If a party alleges harm from a Commission policy, that party has standing to challenge that policy before the Commission.<sup>5</sup> However, if the party alleges harm without sufficient particularity or later withdraws from any potential harm, then that party lacks standing in the first place or the party's challenge has become

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<sup>3</sup> Southern attached a copy of the letter it sent to Southern Power, dated August 31, 2004, which confirmed their mutual understanding that the IA had terminated.

<sup>4</sup> See, e.g., 18 C.F.R. §385.207(a)(4), (5); see also, *id.* §381.302(a) (2004).

<sup>5</sup> See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992) (standing is established by showing causation, redressability, and injury in fact).

moot.<sup>6</sup> We find that Southern's alleged potential injury from the Commission's interconnection pricing policy as applied to this IA was terminated by Southern's cancellation of the IA; therefore, Southern's challenge is moot.<sup>7</sup>

The Commission orders:

(A) Southern's Notice of Cancellation for the IA is hereby granted effective September 1, 2004, as requested.

(B) Southern's request for waiver of our notice requirement is hereby granted.

(C) Southern's request for rehearing filed in Docket No. ER03-872-004 is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.

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<sup>6</sup> See *City News and Novelty, Inc. v. City of Waukesha*, 531 U.S. 278, 282-83 (2001) (withdrawing its renewal application, City News has made the case moot, "for City News no longer has a 'legally cognizable interest in the outcome'").

<sup>7</sup> See also *Southern Company Services, Inc.*, 106 FERC ¶ 61,292 (2004), *reh'g denied*, 108 FERC ¶ 61,139 (2004), *appeal docketed*, No. 04-1336 (D.C. Cir. Oct. 1, 2004).