

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 22, 2003

In Reply Refer To:
Three Rivers Energy LLC
Docket No. RT03-2-000

Hogan & Hartson LLP
Attn: George F. Hobday, Jr., Esq.
Attorney for Three Rivers Energy LLC
555 Thirteenth St., N.W.
Washington, DC 20004

Dear Mr. Hobday:

1. On September 17, 2003, you filed with the Commission, on behalf of Three Rivers Energy LLC (Three Rivers), an abbreviated alternative filing (alternative filing) pursuant to Section 35.34(g) of the Commission's regulations, 18 C.F.R. § 35.34(g) (2003). The filing provides information as to Three Rivers' experiences and plans to participate in a regional transmission organization (RTO).
2. Subject to the condition discussed below, the Commission accepts this alternative filing. The Commission does not address or make any finding with regard to any substantive issue raised by the petitioners in this proceeding.

Background

3. Three Rivers is not now a public utility, but according to Three Rivers, will become one upon completion of a contemplated transaction by which SOWEGA Power LLC (SOWEGA) will sell or assign to Three Rivers all of its assets, including its generating units, an ownership interest in common bus facilities, and all of its jurisdictional rate schedules and tariffs. On September 17, 2003, SOWEGA filed an application, and on October 27, 2003, an amendment thereto, pursuant to Section 203 of the Federal Power Act (FPA),¹ requesting Commission authorization to transfer these jurisdictional facilities to Three Rivers. On October 31, 2003, the Commission

¹ 16 U.S.C. § 824b (2000).

conditionally approved SOWEGA's Section 203 filing.² The common bus facilities that SOWEGA will sell or assign to Three Rivers are, according to Three Rivers, limited and discrete transmission facilities that interconnect SOWEGA's generating units (and those of its affiliate, Baconton Power LLC) to the transmission facilities of Georgia Transmission Corporation (GTC), which is not a public utility.

Instant Filing

4. In Order No. 2000, the Commission required public utilities to file proposals to participate in a Regional Transmission Organization (RTO).³ Alternatively, as codified in 18 C.F.R. § 35.34(g) (2003), Order No. 2000 required utilities to:

report[] on the status of pertinent RTO formation and development, the obstacles that have prevented the filing of an appropriate RTO proposal, and any of the public utility's plans and timetable for future efforts directed toward RTO formation and participation.⁴

5. Three Rivers states in its alternative filing that it does not intend to join an RTO since the transmission facilities it will acquire will be limited, discrete, and not part of the interstate transmission grid. Specifically, these transmission facilities are less than one thousand feet in length and serve only to connect generation to a substation on the GTC system. Further, Three Rivers asserts that the facilities would not contribute to the purposes of Order No. 2000. Lastly, Three Rivers explains that while it will own, in common with Baconton, common bus facilities that connect its generation to a substation on the GTC system, it will not engage separately in transmission of electricity in interstate commerce.

6. Notice of Three Rivers' filing was published in the Federal Register, 68 Fed. Reg. 57,440 (2003), with protests or interventions due on or before October 8, 2003. None were filed.

² SOWEGA Power LLC, 105 FERC ¶ 62,056 (2003).

³ Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 & 31,089 at 31,226-27 (1999), order on reh'g, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 & 31,092 (2000), affirmed sub nom. Public Utility District No. 1 of Snohomish County, Washington, et al. v. FERC, 272 F.3d 607 (D.C. Cir. 2002).

⁴ Order No. 2000 at 31,226-27.

Discussion

7. In RTO Informational Filings,⁵ the Commission was presented with the same facts and circumstances surrounding these facilities that Three Rivers presents in its filing. Therein, SOWEGA submitted an alternative filing (in Docket No. RT01-16-000) where, based on identical facts, circumstances and reasons, SOWEGA explained it did not intend to join an RTO. The Commission determined that the continuation of Docket No. RT01-16-000 was no longer necessary to achieve the Commission's objective of establishing RTOs, and the Commission terminated the proceeding.

8. Consistent with these earlier findings, the Commission will accept Three Rivers' alternative filing subject to the condition that, if an electrical interconnection with an area under the control of an RTO is established in the future, Three Rivers is directed to reconsider its participation in an RTO and make a filing with the Commission within 30 days.⁶

By direction of the Commission.

Linda Mitry,
Acting Secretary.

⁵ RTO Informational Filings, et al., 104 FERC ¶ 61,296 (2003).

⁶ See RTO Informational Filings, et al., 104 FERC ¶ 61,296 at P 9-10 (2003) (basing its holding, in part, on representations by Maine Public Service Company and Northern Maine Independent System Administrator, Inc. that, if an electrical interconnection with an area under the control of an RTO is subsequently established, these parties would reconsider their participation in an RTO).