

143 FERC ¶ 61,038
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Alcoa Power Generating Inc.
(Long Sault Division)

Docket No. ER13-108-000

ORDER GRANTING WAIVER OF ORDER NO. 1000

(Issued April 18, 2013)

1. On October 11, 2012 the Long Sault Division (Long Sault) of Alcoa Power Generating Inc. (APGI) requested waiver of the requirements of Order No. 1000.¹ This order grants Long Sault a waiver of the requirements of Order No. 1000, as described below.

Background

2. In Order No. 1000, the Commission amended the transmission planning and cost allocation requirements of Order No. 890² to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. Order No. 1000's transmission planning reforms require that each public utility transmission provider: (1) participate in a

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

regional transmission planning process that produces a regional transmission plan; (2) amend its Open Access Transmission Tariff (OATT) to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities; and (4) improve coordination between neighboring transmission planning regions for new interregional transmission facilities.

3. Order No. 1000 also requires that each public utility transmission provider must participate in a regional transmission planning process that has: (1) a regional cost allocation method for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation; and (2) an interregional cost allocation method for the cost of certain new transmission facilities that are located in two or more neighboring transmission planning regions and are jointly evaluated by the regions in the interregional transmission coordination procedures required by Order No. 1000.

Request for Waiver

4. APCI states that it is a wholly-owned subsidiary of Alcoa Inc. (Alcoa), which owns and operates limited and discrete transmission facilities and limited generation facilities in various locations throughout the United States that are used in conjunction with APCI's primary focus of providing electric power to aluminum smelters owned in whole or in part by Alcoa. APCI states that it has no franchised service territory or captive customers, and serves no traditional public utility retail load.

5. APCI states that its Long Sault Division owns certain limited and discrete transmission facilities in New York used to connect Alcoa's smelting and fabricating facility near Massena, New York with the New York Power Authority (NYPA) and Cedars Rapids Transmission Company, Limited (CRT). APCI states that the transmission lines owned and operated by the Long Sault Division and connected to NYPA are referred to as the Moses-to-Alcoa (MAL) Lines and the lines connecting to CRT are referred to as the CRT Lines.

6. APCI explains that the MAL Lines consist of three 115kV transmission lines connecting Alcoa's manufacturing facility in Massena with NYPA's Moses substation at the St. Lawrence-Franklin D. Roosevelt Power Project, hydroelectric generation in the Province of Quebec, Canada. APCI states that each of the MAL Lines is approximately seven miles in length, and there is a tap on two of the three MAL Lines that connect to the Town of Massena Electric Department, Massena Electric Utility Board. APCI states that Long Sault provides transmission service for the Town of Massena under a long-term contract that predates Order Nos. 888 and 889.

7. APGI states that the CRT Lines, which consist of two 115 kV lines that are seven miles in length, connect the Hydro-Quebec System within New York at the National Grid Dennison Substation in Massena. APGI states that CRT was formerly a Canadian subsidiary of Alcoa but was sold to Hydro Quebec in 1985, and the entire capacity of the CRT Lines is made available to CRT pursuant to a pre-OATT Transmission Services Agreement. APGI states that under this agreement, CRT has the right to market all of the transmission capacity on the CRT Lines, and APGI has no control over that capacity.

8. APGI notes that, on July 13, 2007, the Commission granted its request for waiver of the requirement to have an OATT on file for its Long Sault Division.³ APGI believes that, because Long Sault is not required to have an OATT on file, Order No. 1000's requirements related to OATT revisions should not apply. APGI requests the Commission find that APGI's participation in the New York Independent System Operator, Inc. (NYISO) transmission planning region as a stakeholder satisfies any Order No. 1000 compliance obligations that its Long Sault Division may have.⁴

Procedural Matters

9. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 64,502 (2012), with interventions, comments and protests due on or before November 26, 2012. No protests or adverse comments were filed.

Discussion

10. In Order No. 1000, the Commission stated that the criteria for waiver of the requirements of the Final Rule is unchanged from that used to evaluate requests for waiver under Order Nos. 888, 889, and 890.⁵ The Commission subsequently clarified that it would "entertain requests for waiver of Order No. 1000 on a case-by-case basis."⁶

³ APGI's Transmittal at 3 (citing *Alcoa Power Generating Inc. (Long Sault Division)*, 120 FERC ¶ 61,035 (2007) (Alcoa Power Generating)).

⁴ *Id.* at 4.

⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 832.

⁶ Order No. 1000-A, 139 FERC ¶ 61,132 at P 753.

11. In *Black Creek Hydro, Inc.*,⁷ the Commission stated that it would grant requests for waiver of Order No. 888 by public utilities that could show that they own, operate, or control only limited and discrete transmission facilities (facilities that do not form an integrated transmission grid), until such time as the public utility receives a request for transmission service. Should the public utility receive such a request, the Commission has determined that the public utility must file an OATT with the Commission within 60 days of the date of the request, and must comply with any additional requirements that are effective on the date of the request. The Commission also explained that waiver of Order No. 889 would be appropriate: (1) if the applicant owns, operates, or controls only limited and discrete transmission facilities; or (2) if the applicant is a small public utility that owns, operates, or controls an integrated transmission grid, unless other circumstances are present which indicate that a waiver would not be justified.⁸ As APGI notes, the Commission previously granted its Long Sault Division waiver of Order No. 890's requirement to have an OATT on file, reasoning that the Long Sault transmission lines were limited and discrete facilities, and that the only transmission service that Long Sault provided was based on pre-OATT agreements.⁹ The Commission did, however, require APGI to participate in the regional planning activities undertaken by transmission providers in Long Sault's region pursuant to Order No. 890.¹⁰

12. Based on the statements in APGI's filing, we find that the Long Sault transmission lines continue to comprise limited and discrete facilities. The only transmission service that Long Sault provides is based on pre-OATT agreements. Additionally, APGI states that the entire capacity of the CRT Lines is made available to CRT and there is no residual capacity to be offered. In light of these circumstances, we grant APGI a waiver of the Order No. 1000 requirements related to OATT revisions. However, while we are granting waiver here of the requirements of Order No. 1000, this does not mean that APGI is immune from the potential of being allocated costs of regional transmission facilities that are selected in the regional transmission plan for purposes of cost

⁷ 77 FERC ¶ 61,232 (1996).

⁸ *Id.* Although the Commission originally precluded waiver of the requirements for OASIS and the Standards of Conduct for a small public utility that is a member of a tight power pool, in *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at PP 2-3 (2011), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct.

⁹ Alcoa Power Generating, 120 FERC ¶ 61,035 at P 15.

¹⁰ *Id.* P 16.

allocation. As noted in Order No. 1000-A, the public utility transmission providers in each transmission planning region, in consultation with their stakeholders, may consider proposals to allocate costs directly to entities (for example, generators or network customers) as beneficiaries that could be subject to regional or interregional cost allocation.¹¹ Further, we accept APGI's commitment to continue to participate, as a stakeholder, in the regional transmission planning activities undertaken by public utility transmission providers in Long Sault's region pursuant to Order No. 1000, as it has committed to do in its submittal.¹²

The Commission orders:

APGI's request for waiver of the Order No. 1000 requirements is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹¹ Order No. 1000-A, 139 FERC ¶ 61,132 at P 680.

¹² APGI Filing at 1, 3 (“...APGI intends to participate in regional planning activities required by Order No. 890.” and APGI “plans to participate in regional planning activities under Order No. 1000 as a stakeholder in the NYISO region.”).