

143 FERC ¶ 61,125  
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.

Transmission Company Arkansas, LLC  
Transmission Company Louisiana I, LLC  
Transmission Company Louisiana II, LLC  
Transmission Company Mississippi, LLC  
Transmission Company New Orleans, LLC  
Transmission Company Texas, LLC  
Entergy Services, Inc. Docket No. ES13-6-000

ORDER AUTHORIZING ISSUANCES OF SECURITIES

(Issued May 16, 2013)

1. On October 31, 2012, Entergy Services, Inc. (Entergy Services), on behalf of Transmission Company Arkansas, LLC, Transmission Company Louisiana I, LLC, Transmission Company Louisiana II, LLC, Transmission Company Mississippi, LLC, Transmission Company New Orleans, LLC, and Transmission Company Texas, LLC (collectively, Mid South Operating Companies or Applicants), filed an application pursuant to section 204 of the Federal Power Act (FPA)<sup>1</sup> (Application) seeking Commission authorization for each Mid South Operating Company to participate in a bridge facility of up to \$1.6 billion (Bridge Facility). Applicants state that the Bridge Facility will have a duration of 366 days. Applicants also request authorization for the Mid South Operating Companies collectively to arrange and obtain a working capital revolving credit facility (Revolver) in an amount up to \$1 billion. We will grant the authorizations as discussed below.

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<sup>1</sup> 16 U.S.C. § 824c (2006).

## I. Background

2. ITC Holdings Corp. (ITC), a holding company that owns 100 percent of the equity interests in four separate stand-alone transmission companies,<sup>2</sup> Entergy Corporation (Entergy), a holding company that owns 100 percent of the equity interests in six transmission-owning public utility subsidiaries operating in parts of Arkansas, Louisiana, Mississippi and Texas (Entergy Operating Companies),<sup>3</sup> Mid South TransCo LLC (Mid South), a newly-formed direct subsidiary of Entergy, ITC Midsouth LLC (ITC Midsouth), a newly-formed subsidiary of ITC, and Entergy Services, have entered into various agreements related to a proposed multi-step transaction (Entergy-ITC Transaction).<sup>4</sup> Applicants explain that each of the Mid South Operating Companies is a limited liability company that is wholly-owned by one of the Entergy Operating Companies. The Mid South Operating Companies and their corresponding Entergy Operating Company parent are as follows:

Mid South Operating Company	Entergy Operating Company
Transmission Company Louisiana I, LLC	Entergy Gulf States Louisiana, L.L.C.
Transmission Company Arkansas, LLC	Entergy Arkansas, Inc.
Transmission Company Louisiana II, LLC	Entergy Louisiana, LLC

<sup>2</sup> ITC's wholly-owned subsidiaries are International Transmission Company d/b/a *ITC Transmission*, Michigan Electric Transmission Company, ITC Midwest LLC, and ITC Great Plains LLC. These companies are transmission-owning members of Midwest Independent Transmission System Operator, Inc. (MISO).

<sup>3</sup> The six Entergy Operating Companies are Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States Louisiana, L.L.C. (Entergy Gulf States), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), Entergy New Orleans, Inc. (Entergy New Orleans), and Entergy Texas, Inc. (Entergy Texas).

<sup>4</sup> Application at 7-8; *see also* Joint Merger Application at 14-15. As discussed in further detail below, the Entergy-ITC Transaction is part of a joint application filed on September 24, 2012 in Docket Nos. EC12-145-000, ER12-2681-000 and EL12-107-000 (Joint Merger Application), by ITC, Entergy, and MISO under FPA sections 203, 205 and 305(a) (collectively, Joint Merger Proceeding).

Transmission Company Mississippi, LLC	Entergy Mississippi, Inc.
Transmission Company New Orleans, LLC	Entergy New Orleans, Inc.
Transmission Company Texas, LLC	Entergy Texas, Inc.

3. Applicants explain that, in the initial step of the Entergy-ITC Transaction, each of the Entergy Operating Companies will transfer its transmission assets (except for minor facilities such as step-up transformers) at net book value to its corresponding Mid South Operating Company, as shown above.<sup>5</sup> They further explain that the Entergy Operating Companies will then distribute the equity interests of the Mid South Operating Companies to Entergy and that Entergy, in turn, will contribute the equity interests in the Mid South Operating Companies to Mid South, such that they become direct wholly-owned subsidiaries of Mid South. Entergy will then distribute the equity interests of Mid South to Entergy's stockholders through a spin-off, split-off, or a combination of a spin-off and split-off.<sup>6</sup> To complete the Entergy-ITC Transaction, Mid South will merge with ITC Midsouth.<sup>7</sup> Mid South will be the surviving entity, under ITC ownership, but will be renamed ITC Midsouth, with four operating transmission subsidiaries (referred to collectively as the ITC Midsouth Operating Companies).<sup>8</sup>

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<sup>5</sup> Joint Merger Application at 14.

<sup>6</sup> The Joint Merger Application explains: “[I]n a split-off the stock of [Mid South] is distributed to participating shareholders of [Entergy] in exchange for stock of [Entergy], while in a spin-off the stock of [Mid South TransCo] is distributed pro rata to all the shareholders of [Entergy].” Joint Merger Application, Exhibit ITC-700 at 3 & n.1.

<sup>7</sup> Application at 8-11.

<sup>8</sup> The ITC Midsouth Operating Companies are ITC Arkansas LLC, ITC Louisiana LLC, ITC Mississippi LLC, and ITC Texas LLC. Applicants explain that, following completion of the Entergy-ITC Transaction, three of the Mid South Operating Companies – Transmission Company Louisiana I, LLC, Transmission Company Louisiana II, LLC, and Transmission Company New Orleans, LLC – will be combined to become ITC Louisiana LLC. Transmission Company Arkansas, LLC will become ITC Arkansas LLC, Transmission Company Mississippi, LLC will become ITC Mississippi LLC, Transmission Company Texas, LLC will become ITC Texas LLC. Application at n.6.

4. Also, concurrently with this Application, the ITC Midsouth Operating Companies are seeking authorizations under section 204 to refinance the Bridge Facility and assume and draw down on the Revolver.<sup>9</sup> Applicants state that after the completion of the Entergy-ITC Transaction, ITC expects to refinance the Bridge Facility with longer-term debt issued by the ITC Midsouth Operating Companies.<sup>10</sup>

## II. Application

### A. Bridge Facility

5. Applicants state that each Entergy Operating Company will contribute its transmission business to its corresponding Mid South Operating Company subsidiary in exchange for the proceeds of each Mid South Operating Company's borrowings under the Bridge Facility. They state that the Mid South Operating Companies will collectively arrange up to \$1.6 billion in long-term financing through the Bridge Facility, which is expected to be \$1.2 billion, but which may be up to \$1.6 billion.<sup>11</sup>

6. Applicants request the following Bridge Facility allocations for each Mid South Operating Company:<sup>12</sup>

<b>Mid South Operating Companies</b>	<b>Bridge Facility Allocation</b>
Transmission Company Louisiana I, LLC	Up to \$250 million
Transmission Company Arkansas, LLC	Up to \$400 million
Transmission Company Louisiana II, LLC	Up to \$375 million

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<sup>9</sup> The ITC Midsouth Operating Companies filed a section 204 application seeking authorization to refinance the Bridge Facility and assume and draw down on the Revolver in Docket No. ES13-5-000. In that application, the ITC Midsouth Operating Companies state that the Bridge Facility will be refinanced within 270 days of the close of the Entergy-ITC Transaction. Also concurrently with the filing of the Application in this proceeding, the Entergy Operating Companies filed a section 204 application in Docket No. ES11-40-002 to request authorization for a modification of a previously granted authorization in order to provide credit support in the form of short-term guarantees of borrowings by the Mid South Operating Companies under the Bridge Facility.

<sup>10</sup> Application at 11.

<sup>11</sup> *Id.* at 12-13.

<sup>12</sup> *Id.* at 13.

Transmission Company Mississippi, LLC	Up to \$275 million
Transmission Company New Orleans, LLC	Up to \$25 million
Transmission Company Texas, LLC	Up to \$275 million

Applicants state that these estimated Bridge Facility allocations are based on a variety of factors, which cannot be precisely quantified at this time. They explain that such factors include, for example, the final book value of assets of each Mid South Operating Company at the closing of the Entergy-ITC Transaction. Therefore, Applicants state that the exact amounts of the Bridge Facility to be allocated among the Mid South Operating Companies will not be known until the closing of the Entergy-ITC Transaction.<sup>13</sup>

7. Applicants explain that the net proceeds of borrowings by the Mid South Operating Companies pursuant to the Bridge Facility will be distributed to the Entergy Operating Companies in exchange for the contributed transmission assets. They further explain that each of the Entergy Operating Companies will utilize the cash received from its Mid South Operating Company subsidiary, together with cash contributed by Entergy, to repay a portion of its historic debt and retire its preferred securities. Applicants state that the repayment of the debt is expected to be as follows: (1) Entergy Arkansas – \$ 470 million; (2) Entergy Gulf States – \$250 million; (3) Entergy Louisiana – \$330 million; (4) Entergy Mississippi – \$240 million; (5) Entergy New Orleans – \$2 million; and (6) Entergy Texas – \$285 million.<sup>14</sup> Applicants further state that the retirement of preferred securities is expected as follows: (1) Entergy Arkansas – \$116 million; (2) Entergy Gulf States – \$10 million; (3) Entergy Louisiana – \$100 million; (4) Entergy Mississippi – \$ 50 million; and (5) Entergy New Orleans – \$19 million.<sup>15</sup>

8. Applicants state that the interest rate for the Bridge Facility will be based on the one-month, two-month, three-month or six-month London Interbank Offered Rate (LIBOR) in effect at the time of borrowing plus up to 250 basis points (not to exceed 6 percent).<sup>16</sup>

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<sup>13</sup> *Id.* at 18.

<sup>14</sup> *Id.* at 13.

<sup>15</sup> *Id.* at 13-14. Entergy Texas does not have any preferred stock outstanding.

<sup>16</sup> *Id.* at 20.

## B. Revolver

9. Applicants also request authorization for the Mid South Operating Companies collectively to arrange and obtain the Revolver in an estimated amount up to \$1 billion, with borrowings under the Revolver allocated as shown in the following table:<sup>17</sup>

Mid South Operating Companies	Revolver Allocation
Transmission Company Louisiana I, LLC	Up to \$140 million
Transmission Company Arkansas, LLC	Up to \$250 million
Transmission Company Louisiana II, LLC	Up to \$170 million
Transmission Company Mississippi, LLC	Up to \$150 million
Transmission Company New Orleans, LLC	Up to \$15 million
Transmission Company Texas, LLC	Up to \$275 million

Applicants state that the Revolver is to be arranged by Mid South for the Mid South Operating Companies at the request of ITC for use by the ITC Midsouth Operating Companies after closing. As previously noted, the ITC Midsouth Operating Companies are seeking, concurrently with this Application, the Commission's authorization under section 204 to assume and draw down on the Revolver after closing of the Entergy-ITC Transaction.<sup>18</sup>

10. Applicants state that the interest rate for the Revolver will be based on the one-month, two-month, three-month or six-month LIBOR in effect at the time of borrowing, plus up to 250 basis points.<sup>19</sup>

11. Applicants state that the debt obligations under the Bridge Facility and the Revolver will be transferred along with the transmission business to the ITC Midsouth Operating Companies in compliance with the *Westar Energy, Inc.*<sup>20</sup> conditions.

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<sup>17</sup> *Id.* at 19.

<sup>18</sup> *See supra* note 9.

<sup>19</sup> Application at 20.

<sup>20</sup> 102 FERC ¶ 61,186 (2003).

Applicants request that the authorizations requested in this order be valid for a two-year period beginning on the date of the Commission order.

### **III. Notices of Filing, Interventions, and Protests**

12. Notice of the Application was published in the *Federal Register*, 77 Fed. Reg. 67,358 (2012), with interventions and protests due on or before November 21, 2012. Arkansas Electric Cooperative Corporation (Arkansas Electric Cooperative) filed a motion to intervene and protest. Applicants filed an answer. The Arkansas Public Service Commission (Arkansas Commission) filed an untimely motion to intervene.

### **IV. Discussion**

#### **A. Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>21</sup> the timely, unopposed motion to intervene of Arkansas Electric Cooperative serves to make it a party to this proceeding.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure<sup>22</sup> prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept Applicants' answer to Arkansas Electric Cooperative's protest because it has provided information that assisted us in our decision-making process.<sup>23</sup>

15. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,<sup>24</sup> the Commission will grant the Arkansas Commission's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

#### **B. Analysis Under Section 204**

16. FPA section 204(a) provides that requests for authorization to issue securities or to assume obligations or liabilities shall be granted if the Commission finds that the issuance: (1) is for some lawful object, within the corporate purposes of the applicant

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<sup>21</sup> 18 C.F.R. § 385.214 (2012).

<sup>22</sup> 18 C.F.R. § 385.213(a)(2) (2012).

<sup>23</sup> See, e.g., *Public Service Company of Colorado*, 138 FERC ¶ 61,025, at P 12 (2012), *Midwest ISO, Inc. v. PJM Interconnection, L.L.C.*, 131 FERC ¶ 61,284, at P 51 (2010).

<sup>24</sup> 18 C.F.R. § 385.214(d) (2012).

and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility, which will not impair its ability to perform that service; and (2) is reasonably necessary or appropriate for such purposes.<sup>25</sup>

17. We find, based on the facts set forth in the Application, that Applicants have demonstrated that Commission approval of the proposed issuance of the debt securities and assumptions of obligations or liabilities related to the Bridge Facility and the Revolver: (1) will be for lawful objects within the business purposes of each Mid South Operating Company and compatible with the public interest, necessary or appropriate for or consistent with the proper performance by each Mid South Operating Company of service as a public utility, and will not impair their ability to perform that service; and (2) is reasonably necessary or appropriate for such purposes.

18. As explained by Applicants, the borrowings under the Bridge Facility will be distributed to the Entergy Operating Companies in exchange for the transmission assets to be contributed by the Entergy Operating Companies in connection with the Entergy-ITC Transaction. The Entergy Operating Companies will utilize such proceeds to retire historic debt and preferred securities. Borrowings under the Revolver will be used by the ITC Midsouth Operating Companies after closing of the Entergy-ITC Transaction for working capital purposes.<sup>26</sup>

19. Accordingly, we authorize the following:

- a. The Mid South Operating Companies are each authorized to participate in the Bridge Facility for 366 days up to the following limits:
  - (1) Transmission Company Louisiana I, LLC – up to \$250 million;
  - (2) Transmission Company Arkansas, LLC – up to \$400 million;
  - (3) Transmission Company Louisiana II, LLC – up to \$375 million;
  - (4) Transmission Company Mississippi, LLC – up to \$275 million;
  - (5) Transmission Company New Orleans, LLC – up to \$25 million;
  - (6) Transmission Company Texas, LLC – up to \$275 million.
- b. The interest rate for the Bridge Facility will be based on the one-month, two-month, three-month or six-month London Interbank Offered Rate (LIBOR) in effect at the time of borrowing plus up to 250 basis points (not to exceed 6 percent).

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<sup>25</sup> 16 U.S.C. § 824c(a) (2006).

<sup>26</sup> We are not making any findings here on the Joint Merger Application. The Joint Merger Application will be addressed in a separate order in the Joint Merger Proceeding.

- c. Applicants are authorized collectively to arrange and obtain the Revolver in a total amount outstanding of up to \$1 billion. Each Mid South Operating Company is authorized, however, to participate in the Revolver only up to the following limits: (1) Transmission Company Louisiana I, LLC – up to \$140 million; (2) Transmission Company Arkansas, LLC – up to \$250 million; (3) Transmission Company Louisiana II, LLC – up to \$170 million; (4) Transmission Company Mississippi, LLC – up to \$150 million; (5) Transmission Company New Orleans, LLC – up to \$15 million; and (6) Transmission Company Texas, LLC – up to \$275 million.
- d. The interest rate for the Revolver will be based on the one-month, two-month, three-month or six-month LIBOR in effect at the time of borrowing, plus up to 250 basis points.

20. Typically, the Commission utilizes an interest coverage calculation in order to determine under section 204 that the undertaking “will not impair [a public utility’s] ability to perform” service as a public utility. And, typically, the Commission bases its finding that a proposed issuance of securities will not impair an applicant’s ability to perform service as a public utility in part upon the applicant’s demonstration that it will have an interest coverage ratio that is 2.0 or higher.<sup>27</sup> Applicants state that they have filed, as Exhibits C, D and E to the Application, *pro forma* financial statements that are based on the “carve out” financial statements, as of June 30, 2012, for the Entergy Operating Companies’ transmission business, that is, the business that will be transferred to the Mid South Operating Companies. Applicants explain that the Entergy Operating Companies’ transmission business “carve out” financial statements are based on financial statements that are included in filings with the Securities and Exchange Commission. Applicants used these “carve out” financial statements to create unaudited FERC Form No. 1-format financial statements for each operating company as the basis for Exhibits C, D, and E attached to the Application.<sup>28</sup> Based on such *pro forma* financial statements, the computation of interest coverage for each Mid South Operating Company shows an interest coverage ratio of 2.0 or higher.

21. In *Westar*, the Commission announced four restrictions on all future public utility issuances of secured and unsecured debt.<sup>29</sup> First, public utilities seeking authorization to issue debt backed by a utility asset must use the proceeds of the debt for utility purposes. Second, if any utility assets that secure debt issuances are divested or “spun off,” the debt

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<sup>27</sup> *Startrans IO, L.L.C.*, 122 FERC ¶ 61,253, at P 18 (2008) (Startrans).

<sup>28</sup> Application at 24-25. Applicants also requested any applicable waivers of the Commission’s regulations. *Id.* n.39.

<sup>29</sup> *Westar Energy, Inc.*, 102 FERC ¶ 61,186, at PP 20-21 (2003).

must follow the asset and also be divested or spun off. Third, if any of the proceeds from unsecured debt are used for non-utility purposes, the debt must follow the non-utility assets. Specifically, if the non-utility assets are divested or spun off, then a proportionate share of the debt must follow the divested or spun off non-utility asset. Finally, if utility assets financed by unsecured debt are divested or spun off to another entity, then a proportionate share of the debt must also be divested or spun off.

22. As previously explained, the debt obligations of the Mid South Operating Companies under the Bridge Facility and the Revolver will be assumed by and become obligations of the ITC Midsouth Operating Companies as a result of the Entergy-ITC Transaction.<sup>30</sup> Accordingly, Applicants will satisfy the *Westar* conditions.

### **C. Arkansas Electric Cooperative's Protest**

#### **1. Protest**

23. Arkansas Electric Cooperative argues that the Commission should set the Application in this proceeding as well as two other related applications filed under section 204 in Docket Nos. ES13-5-000 and ES11-40-002 for hearing, or condition approval of the applications filed under section 204 on disposition of the Joint Merger Application.<sup>31</sup> Arkansas Electric Cooperative argues that the applications do not provide the Commission with sufficient basis to find that the debt issuances in connection with the Entergy-ITC Transaction are compatible with the public interest.<sup>32</sup> For example, Arkansas Electric Cooperative points out that Entergy and ITC acknowledge that the net effect of the Entergy-ITC Transaction would be an immediate increase in transmission rates over those that would prevail without the Entergy-ITC Transaction, but have understated the likely rate increase.<sup>33</sup> Arkansas Electric Cooperative maintains that any benefits described by Entergy and ITC in the form of better planning and operations are pure speculation and it is unclear whether such benefits would outweigh the costs.<sup>34</sup>

24. Arkansas Electric Cooperative also raises issues with respect to the return on equity and equity/debt ratio proposed in the Joint Merger Application, and makes arguments regarding an increase in transmission rates that it states will result from the Entergy-ITC Transaction. With respect to the ITC Midsouth Operating Companies

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<sup>30</sup> Application at 15.

<sup>31</sup> Arkansas Electric Cooperative Protest at 2.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.*

requested equity/debt ratio, Arkansas Electric Cooperative asserts that ITC's average consolidated capital structure during the last four years (2008-2011) was 30 percent equity and 70 percent debt at the holding company level and 60 percent equity and 40 percent debt at the operating subsidiary level.<sup>35</sup> It contends that this data shows that ITC has issued large sums of holding company debt and pushed this debt down to the operating companies as equity investment, enabling it to earn an equity return on its holding company debt.<sup>36</sup> Arkansas Electric Cooperative further asserts that no information was provided about ITC's consolidated capital structure after the Entergy-ITC Transaction, but that there is no reason to conclude that the capital structure at the holding company level will approach the requested capital structure of the operating subsidiaries.<sup>37</sup> Therefore, Arkansas Electric Cooperative maintains that ITC's holding company level debt would earn equity returns in the rates to be charged to users of the former Entergy transmission system.<sup>38</sup>

25. Arkansas Electric Cooperative argues that the proposed 60 percent equity ratio for the ITC Midsouth Operating Companies is much higher than would be the case if the Entergy-ITC Transaction did not occur. According to Arkansas Electric Cooperative, the effect of the change in the capital structure under ITC ownership would increase the 2014 gross revenue requirement of the ITC Midsouth Operating Companies, while at the same time permitting the ITC Midsouth Operating Companies to have lower borrowing costs than the Entergy Operating Companies.<sup>39</sup> It contends that the higher equity ratio and the lower borrowing costs results in the ITC Midsouth Operating Companies being able to charge higher transmission rates than would the Entergy Operating Companies as transmission owners in MISO.<sup>40</sup>

## 2. Answer

26. Applicants respond that Arkansas Electric Cooperative has not justified setting the Application for hearing. Additionally, Applicants respond to Arkansas Electric Cooperatives' request that the Commission condition its authorization on the disposition of the Joint Merger Application, by pointing out that the debt issuances pursuant to the authorizations under section 204 will not be exercised unless the Commission grants the

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<sup>35</sup> *Id.* at 8-9.

<sup>36</sup> *Id.* at 9.

<sup>37</sup> *Id.* at 9-10.

<sup>38</sup> *Id.* at 10.

<sup>39</sup> *Id.* at 11.

<sup>40</sup> *Id.* at 12.

authorizations sought in the Joint Merger Application. Therefore, they assert that there is no need to formally link the two proceedings. They also contend that Arkansas Electric Cooperative has raised no issue relevant to this proceeding that requires a hearing and that the Commission's rules do not require applicants seeking authorization under section 204 of the FPA to address costs and benefits of proposed transactions related to the financings or to litigate issues already being addressed in parallel proceedings under sections 203 and 205.<sup>41</sup>

27. Applicants contend that this proceeding is not the place to devise rate policies and that Arkansas Electric Cooperative's concerns with equity allowances and capital structures are more properly addressed in the Joint Merger Proceeding. They thus argue that the Commission should defer its consideration of rate effects to the Joint Merger Proceeding. Applicants point out that, in a previous proceeding under section 204, the Commission denied requests for consolidation with ongoing proceedings under sections 203 and 205, and explained that the section 204 order would not prejudice any issue in the related section 203 or 205 proceedings.<sup>42</sup> Applicants contend that the issue in this section 204 proceeding is not whether the Entergy-ITC Transaction is compatible with the public interest, which will be determined in the Joint Merger Proceeding, but whether the financings for which authorizations are sought in this proceeding meet the standard under the statute.

### 3. Commission Determination

28. We deny Arkansas Electric Cooperative's requests to set this proceeding for hearing with the Joint Merger Proceeding and for a consolidated hearing. The decision whether to conduct a hearing is within the Commission's discretion and an evidentiary hearing is required only when a genuine issue of material fact exists.<sup>43</sup> Arkansas Electric Cooperative has not raised any issues of material fact with respect to the Application in this proceeding, but instead, raises arguments related to issues under sections 203 or 205 in the Joint Merger Proceeding. The Commission has previously denied a request to consolidate a proceeding under section 204 with related proceedings under sections 203 and 205 for purposes of a trial-type evidentiary hearing, when there is no section 204 issue that requires a hearing in this case.<sup>44</sup> We also note that Arkansas Electric

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<sup>41</sup> Applicants' Answer at 7.

<sup>42</sup> *Id.* at 5 (quoting *Startrans*, 122 FERC ¶ 61,253).

<sup>43</sup> *Virginia Electric and Power Company*, 84 FERC ¶ 61,254 (1998).

<sup>44</sup> Applicants' Answer at 8 (quoting *Startrans*, 122 FERC ¶ 61,253 at P 25).

Cooperative, along with other entities, has subsequently filed a protest in the Joint Merger Proceeding raising the same arguments it has raised in this proceeding.<sup>45</sup>

29. Additionally, we find that the issues raised by Arkansas Electric Cooperative with respect to the return on equity, along with the 60/40 equity/debt ratio, and the transmission rate increase are beyond the scope of this section 204 proceeding. Because these issues are more appropriately addressed in the Joint Merger Proceeding, and the issuance of securities and assumption of obligations or liabilities for which authorization is requested in this proceeding will not occur unless the Entergy-ITC Transaction is approved and consummated, it is unnecessary to address Arkansas Electric Cooperative's arguments here.

30. This authorization is also conditioned upon the ultimate approval of Entergy, ITC, and MISO's application under sections 203 and 205, which are currently under review. The Entergy-ITC Transaction is the public utility purpose underlying this section 204 authorization and the rates under review in the section 205 proceeding are the principal source of revenue through which the debt authorized in this order will be serviced. This order does not prejudge any issue in the section 203 or 205 proceedings.<sup>46</sup>

The Commission orders:

(A) Mid South Operating Companies are hereby authorized to participate in the Bridge Facility of up to \$1.6 billion for 366 days at the interest rates in the body of this order. This authorization is granted for a period ending on the earlier of two years from the date of this order, or the date on which the Bridge Facility is refinanced by the ITC Midsouth Operating Companies, which Applicants represent will be within 270 days of the close of the Entergy-ITC Transaction.

(B) Mid South Operating Companies are hereby authorized collectively to arrange and obtain the Revolver in an amount up to \$1 billion, at the interest rates discussed in the body of this order.

(C) This authorizations granted are subject to the restrictions specified in the body of this order and the restrictions on secured and unsecured debt as outlined in *Westar*.

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<sup>45</sup> See Arkansas Electric Cooperative, *et al.*, Protest and Motion to Consolidate, Docket No. EC12-145-000 (filed January 22, 2013).

<sup>46</sup> See *Startrans*, 122 FERC ¶ 61,253 at P 29.

(D) Mid South Operating Companies are each granted waiver from compliance with the Commission's competitive bidding and negotiated placement requirements at 18 C.F.R. § 34.2(a) (2012).

(E) Mid South Operating Companies must each file a Report of Securities Issued, under 18 C.F.R. §§ 34.9, 131.43 and 131.50 (2012), no later than 30 days after the placement of long-term debt under the Bridge Facility and Revolver as authorized in this order.

(F) The authorizations granted in Ordering Paragraphs (A) and (B) above are without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost or any other matter whatsoever now pending or which may come before this Commission.

(G) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any security to which this order relates.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.