

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Entergy Services, Inc.

Docket No. ER05-1065-004

ORDER CONDITIONALLY ACCEPTING
TRANSMISSION SERVICE CRITERIA

(Issued April 4, 2007)

1. In this order, the Commission accepts Entergy Services, Inc.'s (Entergy) compliance filing of transmission service criteria to be used by the Independent Coordinator of Transmission (ICT) in evaluating transmission service requests. This acceptance is conditioned upon Entergy's modifying the Available Flowgate Capability (AFC) Process Manual to be in compliance with an earlier Commission order on the AFC Process Manual. We also require Entergy to revise the transmission service criteria to clarify the role of Entergy as Transmission Provider and the role of Southwest Power Pool (SPP) as the ICT.
2. Our acceptance is also conditioned on Entergy and the ICT continuing to consult with stakeholders. Entergy must file the revised transmission service criteria resulting from the stakeholder consultation process within 120 days of the date of this order or, if unable to do so, report to the Commission on the progress it is making in revising the criteria through the stakeholder process.

I. Background

3. The background of this case is described in detail in previous orders in this proceeding.¹ Briefly, the Commission conditionally approved Entergy's ICT, pricing and Weekly Procurement Process proposals, with certain modifications. Among its

¹ *Entergy Services Inc.*, 115 FERC ¶ 61,095 (2006), *errata notice*, May 4, 2006 (April 24 Order), *order on reh'g*, 116 FERC ¶ 61,275 (2006) (April 24 Rehearing); *Entergy Services, Inc.*, 117 FERC ¶ 61,055 (2006).

responsibilities, the ICT grants or denies requests for interconnection and transmission service on Entergy's transmission system, administers Entergy's Open Access Same Time Information System (OASIS), oversees the Weekly Procurement Process under which third party generators can compete to serve native load, and serves as Reliability Coordinator for the Entergy transmission system. In evaluating requests for long-term transmission service, the ICT performs System Impact Studies and reviews and validates Facilities Studies that Entergy conducts. For short-term transmission service requests, the ICT oversees the AFC process.² In the April 24 Order, the Commission stated that any criteria developed by Entergy to be used by the ICT to grant or deny transmission service, including calculating AFC, must be filed under section 205 of the Federal Power Act (FPA)³ and accepted by the Commission.⁴ The Commission, however, did not specify a specific deadline by which Entergy had to file the transmission service criteria.

4. Entergy committed to file the transmission service criteria before the ICT became operational,⁵ but after the ICT concluded the stakeholder process addressing those criteria. The Commission accepted this commitment as being in compliance with the April 24 Order.⁶

5. On November 16, 2006, Entergy filed the transmission service criteria to be used by the ICT in determining whether to grant or deny a request for transmission service under Entergy's Open Access Transmission Tariff (OATT). Entergy's filing includes the AFC Process Manual, the System Impact Study and Facilities Study Process Manual, and the Transmission Service Request Processing Manual (collectively, Criteria Manuals). The filing also includes a revised tariff sheet to Attachment D, Methodology for Completing a System Impact Study, of Entergy's OATT stating that system impact studies will be performed using the criteria and processes in Entergy's System Impact Study and Facilities Study Process Manual filed with the Commission under section 205 of the FPA.

² AFC is a flow-based approach for calculating available transfer capability. A flowgate is a set of facilities that constrain power transfers and therefore are determining elements for the calculation of available transfer capability. AFC values are calculated automatically, with the ICT reviewing and evaluating the AFC software and requiring any modifications to the software or data inputs that it feels are necessary.

³ 16 U.S.C. § 824d (2000).

⁴ April 24 Order at P 66.

⁵ SPP was installed as the ICT on November 17, 2006.

⁶ *Entergy Services, Inc.*, 117 FERC ¶ 61,055 at P 74.

6. Entergy explains that it provided SPP with copies of the Criteria Manuals. SPP presented the Criteria Manuals at meetings with stakeholders and discussed SPP's plans for more detailed reviews of the criteria through technical working groups that would report back to the ICT. Entergy states that SPP reported that it was unlikely to recommend any further revisions to the Criteria Manuals at present.

7. Entergy states that SPP has authorized Entergy to report that based on SPP's current level of experience with the Entergy system and stakeholder input received thus far, the ICT is satisfied that the transmission service criteria are sufficiently transparent and reasonable to rely on initially in considering requests for transmission service. Entergy states further that SPP and Entergy have agreed that this initial determination does not limit more detailed review and stakeholder discussions in the future.

8. Entergy explains that under the Transmission Service Protocol of its OATT Attachment S, there are four categories of criteria that the ICT will use in granting and denying transmission service: (1) AFC criteria; (2) system impact study criteria; (3) facilities study criteria; and (4) transmission service request processing criteria. The filing also includes Entergy's business practices, which are in the Criteria Manuals, and any revised OATT tariff sheets necessary to cross-reference the Criteria Manuals.⁷ Entergy states that it is not resubmitting other applicable OATT provisions that have not been modified or any reliability criteria because the Commission did not require that these be filed under section 205.

9. Entergy states that the materials in the Criteria Manuals are not typically filed under section 205. Entergy states that it is filing under section 205 the Criteria Manuals as individual rate schedules to comply with the April 24 Order. It argues that filing the Criteria Manuals under section 205 will present significant operational challenges for Entergy and the ICT if frequent changes to the Criteria Manuals become necessary or if changes must be implemented quickly. Entergy states that due to the level of detail in the

⁷ Entergy explains that the AFC Manual includes the business practices and modeling practices that the ICT will use in calculating AFC values, and the System Impact and Facilities Study Manual includes a more detailed description of the methodology used in these studies, including current business practices and modeling methodology and assumptions, data inputs and modeling criteria. The Transmission Service Request Processing Manual contains a limited number of business practices that are necessary to supplement the OATT's general requirements and that do not overlap with or contradict areas covered by North American Electric Standards Board business practices. The Transmission Service Request Processing Manual includes business practices for loss compensation, scheduling, emergency assistance, verifying and confirming Network Resources, delisting and displacement of Network Resources, designating a new Balancing Authority and creditworthiness.

Criteria Manuals, minor changes to practices and procedures could result in the need for a new section 205 filing. It requests that the Commission consider two options for addressing this concern.

10. First, Entergy suggests that the Commission grant waiver of the 60-day prior notice requirement under 18 CFR § 35.3 (2006) during the first year of ICT operations. The waiver would apply when the ICT agrees that a change to a Criteria Manual should be implemented quickly, stakeholders have been notified before putting the change into effect, and the change has been posted on Entergy's OASIS. Entergy would submit the changes to the Commission under section 205 within 30 days of the effective date of the changes.

11. Second, Entergy suggests that once the first year of ICT operations has been completed and the revised OATT has been implemented, Entergy will discuss with the ICT and stakeholders alternatives to designating the Criteria Manuals as rate schedules under section 205 and may propose an alternative to the Commission.

12. Entergy requests that the Commission accept the Criteria Manuals and revised OATT tariff sheets for filing with an effective date of November 17, 2006, the date on which the ICT was installed. Commission acceptance of the Criteria Manuals will allow stakeholders, SPP, and Entergy to continue ongoing discussions about the criteria without limiting the ability of the stakeholders or the ICT to raise or the Commission to resolve in a subsequent proceeding any unresolved issues.

II. Notice of Filing and Responsive Pleadings

13. Notice of Entergy's filing was published in the *Federal Register*, 71 Fed. Reg. 69,109 (2006), with comments, protests, and interventions due on or before December 7, 2006. SPP, acting as the ICT, and TDU Intervenors⁸ filed timely comments.⁹ Cottonwood Energy Company, LP (Cottonwood) filed a timely protest.

14. SPP reports the Criteria Manuals are sufficiently transparent to begin ICT operations on November 17, 2006. SPP states that the transmission service processing model and business practices will lead to granting transmission service in a

⁸ TDU Intervenors are the Mississippi Delta Energy Agency, the Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi, the Public Service Commission of Yazoo City of the City of Yazoo City, Mississippi, the Lafayette Utilities System, the Louisiana Energy and Power Authority, the Municipal Energy Agency of Mississippi, and the Arkansas Electric Cooperative Corporation.

⁹ SPP erroneously filed in Docket No. ER05-1065-003, but the filing has been transferred to its proper place in Docket No. ER05-1065-004.

nondiscriminatory manner. It says that the Criteria Manuals are consistent with Good Utility Practice and sufficiently transparent and understandable to be posted on the OASIS.

15. SPP states that the Criteria Manuals were distributed to stakeholders and that it received no protests from them.¹⁰ It also states that the Criteria Manuals will be one of the focal points for future stakeholder agendas and actions, and that stakeholders' views will be addressed as part of the continued review of the criteria. SPP states that as it gains experience with Entergy's transmission system and receives feedback from stakeholders, it will propose enhancements and modifications where necessary to improve the process of granting and denying transmission service.

16. TDU Intervenors state that they do not object to acceptance of the transmission service criteria for filing if the Commission makes it clear that those criteria remain subject to further review and modification through the ongoing stakeholder process. TDU Intervenors state that Entergy acknowledges that further review and stakeholder discussion of the transmission service criteria are appropriate. They ask the Commission to state that Entergy and the ICT must continue to participate in good faith in the stakeholder process, and that stakeholders can pursue relief with respect to any unresolved issues.

17. TDU Intervenors also argue that stakeholders must receive reasonable notice and an opportunity to comment before submission to the Commission of revisions to the transmission service criteria under the expedited implementation procedures proposed by Entergy. They agree with Entergy that revisions to the transmission service criteria may be necessary during the first year of the ICT's operation and that waiver of the 60-day notice requirement may be appropriate for immediate implementation of revisions agreed upon by Entergy, the ICT, and stakeholders.¹¹ TDU Intervenors also argue that the Commission should make it clear that the transmission service criteria must be revised as necessary to conform to the final order in Commission's OATT reform rulemaking.¹²

¹⁰ SPP reports that the only comment received was from a stakeholder who stated that the Transmission Service Request Processing Manual would be an acceptable starting point for further stakeholder discussion. SPP November 17, 2006 Comment at 3.

¹¹ TDU Intervenors suggest that the opportunity for stakeholder comment could occur during at least one meeting of the appropriate technical working group formed by the ICT Stakeholder Policy Committee. TDU Intervenors December 7, 2006 Comment at 3.

¹² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

18. Cottonwood requests that the Commission suspend the filing for a nominal period and defer action until Entergy amends the Criteria Manuals to reflect changes resulting from the stakeholder process and final review by the ICT. Cottonwood does not oppose using the criteria as a starting point, but does oppose a Commission finding that the initial criteria are just and reasonable. A Commission determination on the justness and reasonableness of the criteria would be premature until the stakeholder process is completed and the ICT has completed its technical review. Cottonwood argues that its proposal would provide time for the ICT and Entergy to present to the Commission transmission service criteria that have been fully evaluated through the stakeholder process.

19. Cottonwood also states that its proposed approach would avoid the inefficiency that would result if the Commission and stakeholders were required to litigate both the starting point criteria and the final criteria, which may materially differ. Suspension of the filing would enable protestors to challenge the final criteria. Protestors would not be precluded, due to any Commission acceptance of the initial criteria, from challenging those aspects of the final criteria that are not changed during the further review and stakeholder proceedings.

20. Cottonwood argues that the Commission should direct Entergy and the ICT to complete the review of the criteria and amend the filing before April 1, 2007. By establishing a specific deadline, the Commission would ensure that the process it had expected to be completed before installation of the ICT is not delayed and that the final criteria will be implemented as quickly as practicable.

III. Discussion

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

22. We will conditionally accept, as being in compliance with our directive in the April 24 Order, Entergy's Criteria Manuals and tariff sheet for filing effective November 17, 2006. As discussed below, we will require Entergy, in a compliance filing to be submitted 30 days from the date of this order, to clarify Entergy's role as Transmission Provider and the role of the ICT in performing certain functions related to granting or denying requests for transmission service. We will also require Entergy, in that same compliance filing, to revise the AFC Manual to comply with an earlier Commission order.¹³ Within 120 days of the date of this order, Entergy must file

¹³ *Entergy Services, Inc.*, 114 FERC ¶ 61,002 (2006), *order on compliance, Entergy Services, Inc.*, Docket No. ER06-162-001 (Apr. 27, 2006) (unpublished letter order) (accepting Entergy's November 2005 AFC tariff sheets) (Letter Order).

revisions reflecting stakeholder concerns or report to the Commission on the progress being made in revising the Criteria Manuals through the stakeholder process.

23. TDU Intervenors request that the Commission require the transmission service criteria to comply with Order No. 890. We note that we have already stated that Entergy must comply with the final order on OATT reform, particularly with regard to any OATT term or condition that is modified by Order No. 890 and not modified by the ICT proposal.¹⁴ For any provision modified by both the April 24 Order and Order No. 890, the Commission will use its judgment as to whether the ICT term or condition is consistent with or superior to the Commission's revised *pro forma* OATT.¹⁵

A. Revision of Criteria Manuals to Reflect Stakeholder Input

24. The Commission has stressed the importance of stakeholder input at various points in these proceedings and has prodded Entergy to include a formal stakeholder consultation process as part of the ICT's operations.¹⁶ Entergy and the ICT must continue to participate in good faith in the stakeholder process as they revise the criteria for granting or denying transmission service requests. Thus, we will condition our acceptance of the Criteria Manuals on Entergy and the ICT continuing the stakeholder consultation process. Within 120 days of the date of this order, Entergy must submit a new compliance filing of revised Criteria Manuals reflecting the results of the stakeholder process. In this filing, Entergy must discuss specifically how the Criteria Manuals have been revised in light of stakeholder concerns. If Entergy is unable to meet this deadline for its next compliance filing, it must submit instead a report on the progress it is making in revising the transmission service criteria through the stakeholder process.

25. Interested parties have had the opportunity in this proceeding to raise objections to the initial drafts of the Criteria Manuals. Stakeholders will have continued opportunities to make their concerns known to the ICT as the criteria are revised, and can make their concerns known to the Commission when the revised criteria are submitted for Commission approval.

¹⁴ April 24 Rehearing, 116 FERC ¶ 61,275 at P 15.

¹⁵ We note, for example, that Order No. 890 requires filing of Attachment C, the methodology for calculating available transfer capability by non-Regional Transmission Organization transmission providers, within 180 days after publication of the final rule in the *Federal Register*, or September 11, 2007. Order No. 890 at P 140.

¹⁶ SPP states that the Criteria Manuals will be one of the focal points for future stakeholder agendas and actions, and that stakeholders' views will be addressed as part of the continued review of the criteria.

B. Revision of Criteria Manuals to Clarify Roles of Entergy and ICT

26. The Commission is aware that the Criteria Manuals, particularly the AFC Manual, were largely drafted while the ICT was being developed by Entergy and considered by the Commission. As a result, the Criteria Manuals in many instances do not describe the role of the ICT as specified in Attachment S. We will thus require Entergy, in a compliance filing to be submitted 30 days from the date of this order, to clearly explain and distinguish the role of the ICT in performing the functions described in the Criteria Manuals, particularly in the AFC Manual, from the role of Entergy as Transmission Provider.

C. Waiver of 60-Day Notice Requirement

27. We will deny Entergy's request for advance blanket waiver of the 60-day notice requirement. While any changes to the Criteria Manuals may need to be put in place quickly, particularly during the first year of ICT operation, stakeholders must be notified of proposed changes and be given the opportunity to have input. This is vital to the ICT operation. Input from stakeholders is also important to the Commission as we consider any changes that Entergy and the ICT may propose. While we are denying Entergy's generic request, we note that the Commission on an individual basis grants waiver of the 60-day notice requirement for non-rate terms and conditions.¹⁷ Where time is of the essence, we will consider any specific future request for such a waiver.

D. Revision of AFC Manual to Comply with Previous Commission Order

28. In a previous order, the Commission conditionally accepted for filing revisions to Entergy's AFC tariff sheets.¹⁸ The Commission found that the provisions describing the multi-step process to remove flowgates from the Master List were too vague. Those provisions stated that Entergy would derive a subset of flowgates with loading levels "that do not exceed a certain percentage of their rating." The Commission directed Entergy to submit a compliance filing specifying the "certain percentage."¹⁹ Entergy submitted the compliance filing, specifying a 60 percent loading level, which we accepted.²⁰

¹⁷ Central Hudson Gas & Electric Corp., 60 FERC ¶ 61,106, order on reh'g, 61 FERC ¶ 61,089 (1992), and Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139, clarified, 65 FERC ¶ 61,081 (1993).

¹⁸ *Entergy Services, Inc.*, 114 FERC ¶ 61,002 at P 14.

¹⁹ *Id.* P 15.

²⁰ Letter Order at 1.

29. In the AFC Process Manual submitted here, the loading level for removing a flowgate from the Master List that the Commission had required Entergy to specify has been omitted. The Commission directs Entergy, in a compliance filing to be submitted 30 days from the date of this order, to specify the loading level for removing a flowgate from the Master List or to explain why the figure previously accepted by the Commission is not required.²¹

The Commission orders:

(A) Entergy's Criteria Manuals are conditionally accepted for filing, effective November 17, 2006.

(B) Entergy's request to waive the 60-day notice requirement is denied.

(C) Entergy is directed, in a compliance filing to be submitted 30 days from the date of this order, to specify the loading level for removing a flowgate from the Master List, as discussed in the body of this order.

(D) Entergy is directed, in a compliance filing to be submitted 30 days from the date of this order, to revise the Manuals to clarify the roles of Entergy and the ICT in granting or denying requests for transmission service, as set forth in Attachment S.

(E) Entergy is directed to submit the revised Criteria Manuals resulting from the stakeholder consultation process within 120 days of the date of this order. If unable to submit the revised Criteria Manuals within this time, Entergy is directed to submit a report to the Commission describing the progress being made in revising the Criteria Manuals through the stakeholder process.

By the Commission.

(S E A L)

Philis J. Posey,
Acting Secretary.

²¹ Entergy should refile the Criteria Manuals as OATT attachments rather than as rate schedules.