

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Salmon River Electric Cooperative, Inc.

Docket Nos. EL04-89-000
TS04-254-000
ER04-630-000
ER04-630-001

ORDER GRANTING REQUEST FOR WAIVERS
AND ACCEPTING AGREEMENTS

(Issued May 7, 2004)

1. On March 9, 2004, Salmon River Electric Cooperative, Inc. (Salmon River) filed a request for waiver of the requirements of Order Nos. 888,¹ 889,² and 2003,³ in Docket

¹ Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs., Regulations Preambles ¶ 31,036 (1996), order on reh'g, Order No. 888-A, FERC Stats. & Regs., Regulations Preambles ¶ 31,048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Study Group, et al. v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

² Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, FERC Stats. & Regs., Regulations Preambles ¶ 31,035 (1996), order on reh'g, Order No. 889-A, FERC Stats. & Regs., Regulations Preambles ¶ 31,049 (1997), order on reh'g, Order No. 889-B, 81 FERC ¶ 61,253 (1997), order on reh'g, Order No. 889-C, 82 FERC ¶ 61,046 (1998).

³ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003), order on reh'g, Order No. 2003-A, 106 FERC ¶ 61,220 (2004), reh'g pending.

No. EL04-89-000, and filed a request for waiver of the requirements of Order No. 2004⁴ in Docket No. TS04-254-000. Additionally, on the same date, Salmon River filed six jurisdictional agreements in Docket No. ER04-630-000, under which it provides various transmission and interconnection services to several customers, and requests waiver of the Commission's prior notice requirement to permit the requested effective dates.⁵

2. This order will grant Salmon River's request for waiver of the requirements of Order Nos. 888, 889, 2003, and 2004. Additionally, the Commission will accept for filing the six agreements filed in Docket No. ER04-630-000 to be effective on the dates requested.

3. Our decision in this order benefits customers by minimizing the regulatory burden on Salmon River while ensuring that Salmon River will file an open access transmission tariff if it receives a request for transmission service.

Background

4. Salmon River is a non-profit rural electric cooperative engaged in the distribution, transmission, and sale of electricity within the state of Idaho. In support of its request for waiver of the requirements of Orders No. 888, 889, 2003 and 2004, Salmon River states that it is a small system with limited transmission assets consisting of 605 miles of primarily overhead distribution line, 65 miles of underground distribution line, and 63 miles of sub-transmission line operating at 69 kV. Salmon River also states that it owns two 69 kV/24.9 kV substations.

5. Salmon River states that its system is not an integrated transmission system, but instead is a distribution system used to provide bundled retail service to its members. Additionally, Salmon River states that it is not a member of a tight power pool, does not own generation facilities, and is not connected with any large generators. It adds that during 2003 Salmon River served approximately 2,525 meters, sold a total of

⁴ Standards of Conduct for Transmission Providers, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), order on reh'g, Order No. 2004-A, 107 FERC ¶ 61,032 (2004).

⁵ Additionally, on April 20, 2004, in Docket No. ER04-630-001, Salmon River filed an amendment to its filing to reflect the previous assignment of two of its jurisdictional agreements.

187,508,641 kWh and received revenues from the sale of electric energy totaling \$9,269,678. As of the end of 2003, Salmon River states that it had 12 full-time employees for its electric utility operations.

6. Salmon River explains that it became subject to the Commission's jurisdiction as a public utility on April 21, 1998, when it paid off its Rural Utilities Service (RUS) debt, but declares that it was unaware of its obligations under the Federal Power Act (FPA).

Requests for Waiver of Orders No. 888, 889, 2003 and 2004

7. Salmon River states that subjecting it to the costs of compliance with Order Nos. 888 and 889 would be contrary to the public interest and would add significantly to its cost of service. Salmon River also claims that there is no indication that it ever has acted in a discriminatory manner with regard to potential transmission delivery service in the past that would warrant the imposition of the requirements of Orders Nos. 888 and 889. Salmon River, however, states that if it receives a request for transmission service, it will file a pro forma open access transmission tariff with the Commission, as required by the Commission.

8. Additionally, Salmon River states that the effect of the Commission granting waiver of the requirements of Orders Nos. 888 and 889 is to waive the requirements of Orders Nos. 2003 and 2004. However, to the extent that the Commission requires Salmon River to separately seek waivers of Order Nos. 2003 and 2004, Salmon River requests waiver of the requirements of Order Nos. 2003 and 2004 for the same reasons that support its request for waiver of Order Nos. 888 and 889.

Jurisdictional Agreements

9. Salmon River states that, in reviewing its services and upon consultation with counsel, it came to its attention that it provides services under six agreements that are subject to the Commission's jurisdiction under FPA section 205. Accordingly, in order to comply with the applicable requirements under the FPA, and to cure its oversight in a timely manner, Salmon River is now filing these agreements and requesting waiver of the prior notice filing requirement.

10. Salmon River provides back-up service on its transmission line to Bonneville Power Administration Transmission Business Line under Rate Schedule No. 1, dated August 13, 2002; Lost River Electric Cooperative under Rate Schedule No. 2, dated December 11, 2002; and Bonneville Power Administration under Rate Schedule No. 3, dated July 31, 2002. Salmon River provides interconnection and transmission service for two hydroelectric facilities owned by Lois von Morganroth under Rate Schedule No. 4,

dated December 5, 1986, and Rate Schedule No. 5, dated December 9, 1988. In addition, Salmon River provides operation and maintenance services for transmission lines owned by Cyprus Thompson Creek Mining Company under Rate Schedule No. 6, dated March 16, 1981. Salmon River requests effective dates for Rate Schedules 1, 2 and 3 as of the dates it entered into the agreements; and requests that Rate Schedules 4, 5 and 6 be made effective on April 21, 1998, the date Salmon River retired its RUS debt.

Notice of Filings

11. Notices of the March 9, 2004 filings were published in the Federal Register, 69 Fed. Reg. 13,515-16 (2004), with interventions and protests due on or before March 30, 2004. Notice of the April 20, 2004 filing was published in the Federal Register, 69 Fed. Reg. 23,181 (2004), with interventions and protests due on or before May 3, 2004. None was filed.

Discussion

12. In Black Creek Hydro. Inc., et al.,⁶ the Commission explained the standards it would apply in deciding whether to grant waiver from the requirements of Order Nos. 888 and 889. The Commission will grant requests for waiver of Order No. 888 by public utilities that can show that they own, operate, or control only limited and discrete transmission facilities (facilities that do not form an integrated transmission grid). If, however, such public utility receives a request for transmission service, then the utility must file with the Commission a pro forma tariff within 60 days of the request.

13. Based on the statements in Salmon River's request, we find that, consistent with the standards in Black Creek, Salmon River qualifies for a waiver of the requirements of Order Nos. 888, 889 and 2004. The Commission will also grant Salmon River's request for waiver of the requirements of Order No. 2003, which requires that all utilities with an open access transmission tariff (OATT) on file with the Commission must amend their OATTs to include pro forma interconnection procedures and agreements. However, as noted above, if Salmon River becomes required to file an OATT, it must also comply with Order No. 2003.

⁶ 77 FERC ¶ 61,232 (1996) (Black Creek).

14. The Commission will accept the six jurisdictional agreements filed by Salmon River, to be effective on the dates requested. Waiver of the prior notice requirement is granted to allow such effective dates.⁷

The Commission orders:

(A) Salmon River's request for waiver of the requirements of Order Nos. 888, 889, 2003 and 2004 is hereby granted, as discussed in the body of this order.

(B) Salmon River's jurisdictional agreements are hereby conditionally accepted for filing, to be effective on the dates requested.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁷ Salmon River has not paginated the agreements in accordance with Order No. 614 (e.g., Salmon River has failed to paginate each page of the rate schedules). We direct Salmon River to fully comply with Order No. 614 in all future filings.