

107 FERC ¶ 61,146
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Alabama Power Company

Docket No. ER04-664-000

ORDER REJECTING FILING

(Issued May 10, 2004)

1. In this order, we reject Alabama Power Company's amendment to a partial requirements agreement with Alabama Municipal Electric Authority (AMEA) to incorporate an interconnection agreement. This order benefits customers because it ensures that interconnection terms and conditions are just and reasonable.

Background

2. On March 10, 2004, Alabama Power Company (Alabama Power) filed Amendment No. 3 to the Amended and Restated Agreement for Partial Requirements Service and Complementary Services (PR Agreement) between Alabama Power and AMEA. The Amendment incorporates into the PR Agreement an interconnection agreement executed on February 19, 2004. The generator to be interconnected has a 95 megawatt capacity.

3. Notice of Alabama Power's filing was published in the Federal Register, 69 Fed. Reg. 16,539 (2004), with comments, interventions and protests due on or before April 9, 2004. AMEA filed a motion to intervene and comments in support of the filing.

Discussion

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motion to intervene makes AMEA a party to the proceeding.

5. Alabama Power proposes to add an interconnection agreement to a partial requirements agreement that predates Order No. 888.¹ Alabama Power explains that transmission service components of agreements existing prior to Order No. 888 are not subject to the requirements of Order No. 888.²

6. Since the instant interconnection agreement was executed on February 19, 2004, after the January 20, 2004 effective date of Order No. 2003,³ the interconnection agreement must comply with the requirements of Order No. 2003, and it is not eligible for grandfathering.⁴ We reject Alabama Power's attempt to file this interconnection agreement as an amendment to a partial requirements agreement, because this is a new service that was not provided for under that PR Agreement.⁵

7. The Commission has also determined that Alabama Power's interconnection agreement does not comply with the pro forma Large Generator Interconnection Agreement issued in the Commission's Order No. 2003. Accordingly, we reject this

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, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 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 Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

² Alabama Power Transmittal Letter at 1 n.1.

³ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003) (Order No. 2003), order on reh'g, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 26, 2004), FERC Stats. & Regs., Regulations Preambles ¶ 31,160 (2004) (Order No. 2003-A), reh'g pending.

⁴ See Order No. 2003 at P 911.

⁵ Because the PR Agreement lists only the relevant interconnection issues to be negotiated, we find that it does not constitute an agreement on the actual terms and conditions for interconnection service.

filing and direct Alabama Power to execute an interconnection agreement with AMEA consistent with its Order No. 2003 compliance filing.⁶

The Commission orders:

(A) Alabama Power's Amendment No. 3 is hereby rejected as discussed in the body of the order.

(B) Alabama Power is directed to execute an interconnection agreement consistent with the Commission's pro forma interconnection agreement and notify the Commission that it has done so within 30 days of the date of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

⁶ If the interconnection agreement conforms with Alabama Power's Commission-approved standard form of interconnection agreement, it need not be filed with the Commission. See Order No. 2003 at P 915.