

142 FERC ¶ 61,147
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 25, 2013

In Reply Refer To:
Green Mountain Power Corporation
Docket No. ER12-2304-002

Bruder, Gentile & Marcoux, L.L.P.
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Dear Ms. Allen:

1. On October 31, 2012, pursuant to the Commission's September 24, 2012 order in this proceeding,¹ Green Mountain Power Corporation (Green Mountain) notified the Commission of the October 1, 2012 effective date for Green Mountain's revised Schedule 21-GMP, revised Schedule 20A-GMP (collectively, Schedules), and Notices of Cancellation of Central Vermont Public Service Corporation's (Central Vermont) Schedule 21-CV and Schedule 20A-CV,² which implement a merger between Green Mountain and Central Vermont. As explained below, we accept Green Mountain's compliance filing.

2. In the September 24, 2012 Order, the Commission accepted the Schedules and Notices of Cancellation, suspended them for a nominal period to become effective September 24, 2012, or on the closing date of the Green Mountain-Central Vermont merger, whichever occurred later, as requested, subject to refund, and established hearing and settlement judge procedures. The September 24, 2012 Order further instructed Green Mountain and/or Central Vermont to inform the Commission of the effective date for the Schedules and Notices of Cancellation within 30 days of the closing date of the Green

¹ *ISO-New England, Inc., et al.*, 140 FERC ¶ 61,239 (2012) (September 24, 2012 Order).

² Green Mountain October 31, 2012 Transmittal.

Mountain-Central Vermont merger. Green Mountain's compliance filing states that the closing took place on October 1, 2012. Accordingly, Green Mountain requests that the revised Schedules 21-GMP and 20A-GMP become effective October 1, 2012. Green Mountain also states that, as a result of the merger's closing, Central Vermont ceased to exist; therefore, Green Mountain requests that the cancellation of Central Vermont's Schedules 21-CV and 20A-CV also become effective October 1, 2012.

3. Notice of Green Mountain's filing was published in the *Federal Register*, 77 Fed. Reg. 67,356 (2012), with interventions and protests due on or before November 21, 2012. Washington Electric Cooperative, Inc. (WEC) and Vermont Electric Cooperative, Inc. (VEC) (together, Joint Protesters) timely filed a joint protest.

4. The Joint Protesters state that Green Mountain's proposed revenue requirements formula in Schedule 21-GMP impermissibly seeks to include payments for certain transmission facilities that Green Mountain makes to Vermont Electric Power Co. (VELCO) under, *inter alia*, the 1991 Vermont Transmission Agreement (1991 VTA) and the Commission-approved Settlement Agreement in Docket Nos. EL07-11-000, *et al.* The Joint Protesters state that, by including these transmission charges in Schedule 21-GMP, Green Mountain is seeking to reallocate those charges to other VELCO customers through a unilateral modification of the 1991 VTA, in violation of the *Mobile-Sierra* "public interest" presumption.³ The Joint Protesters argue that the Commission has no power to accept for filing rates that contravene existing contracts⁴ and, therefore, the Commission cannot allow Green Mountain's proposed tariff revisions to become effective October 1, 2012 or any other date.⁵

5. On December 6, 2012, Green Mountain filed an answer to the Joint Protesters' protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,⁶ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Green Mountain's answer and will therefore reject it.

6. We find that Green Mountain complied with the Commission's September 24, 2012 Order by timely notifying the Commission of the October 1, 2012 closing date of the Green Mountain-Central Vermont merger and, accordingly, the effective date for

³ *Id.* at 6-7 (citing *Vermont Electric Power Co.*, 118 FERC ¶ 61,244, at PP 49, 51 (2007)).

⁴ *Id.* at 3 (citing *Kansas Gas & Electric Co.*, 2 FERC ¶ 61,095, at 61,227 (1978)).

⁵ *Id.* at 3, 6.

⁶ 18 C.F.R. § 385.213(a)(2) (2012).

Schedule 21-GMP, Schedule 20A-GMP, and the Notices of Cancellation. Therefore, we will accept Green Mountain's compliance filing.

7. The Joint Protestors raise arguments wholly unrelated to the only relevant issue here, i.e., whether Green Mountain properly complied with the September 24, 2012 Order, a matter they do not dispute. Because their arguments are beyond the scope of this proceeding, we will reject them.⁷

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁷ The Joint Protestors raise the same issues in their joint request for rehearing of the September 24, 2012 Order, submitted in Docket No. ER12-2304-001, and their arguments will be addressed in that proceeding. *See ISO New England, Inc., et al.*, 142 FERC ¶ 61,146 (2013).