

170 FERC ¶ 61,205
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Alcoa Power Generating Inc.

Docket Nos. ER19-1965-000
ER19-1965-001

ORDER GRANTING WAIVER
OF ORDER NOS. 845 AND 845-A

(Issued March 19, 2020)

1. On May 22, 2019, in Docket No. ER19-1965-000, Alcoa Power Generating Inc. (Alcoa Power) submitted a filing requesting that the Commission find that, at this time, Alcoa Power should not be required to submit proposed revisions to its two Open Access Transmission Tariffs (OATTs) to comply with Order Nos. 845 and 845-A.¹ In support of its request, Alcoa Power explained that it plans, in the near future, to seek waiver of the OATT requirements and to cancel its two OATTs, which would obviate the need for its compliance with Order Nos. 845 and 845-A. Because of the uncertainty of when Alcoa Power will ultimately cancel its two OATTs, Alcoa Power filed a request for waiver of the requirements of Order Nos. 845 and 845-A on January 30, 2020, in Docket No. ER19-1965-001.² In this order, we grant Alcoa Power's request for waiver of the requirements of Order Nos. 845 and 845-A, as discussed below.

I. Background

2. On April 19, 2018, the Commission issued Order No. 845, which revised the Commission's *pro forma* Large Generator Interconnection Agreement and the *pro forma* Large Generator Interconnection Procedures to improve certainty for interconnection customers, promote more informed interconnection decisions, and enhance the interconnection process. The Commission stated that it expects that these reforms will

¹ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137, *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

² Alcoa Power states that, at a later date, it intends to file a request for waiver of the OATT requirements and to cancel its two OATTs. Waiver Request at 2, 13.

provide interconnection customers better information and more options for obtaining interconnection service, and as a result, there will be fewer overall interconnection requests and fewer interconnection requests failing to reach commercial operation. The Commission also stated that it expects that, as a result of these reforms, transmission providers will be able to focus resources on those interconnection requests most likely to reach commercial operation.³ In Order No. 845-A, the Commission generally upheld the reforms it required in Order No. 845 but granted certain requests for rehearing and clarification.

II. Request for Waiver

3. Alcoa Power states that it is a wholly-owned subsidiary of Alcoa Corporation (Alcoa Corp.), and it owns and operates limited and discrete transmission facilities and limited generation facilities in various locations throughout the United States that are used in conjunction with Alcoa Power's primary focus of providing electric power to aluminum smelters owned by Alcoa Corp. Alcoa Power states that it has no franchised service territory or captive customers and serves no traditional public utility retail load. Alcoa Power explains that, on November 1, 2016, Alcoa Corp. became an independent, publicly-traded company when Alcoa Corp., together with its subsidiary Alcoa Power, was spun out of its former parent company, Alcoa, Inc., and Alcoa Inc. was renamed Arconic Inc. (Arconic).⁴ Alcoa Power states that as a result of the reorganization, Alcoa Power and its parent company, Alcoa Corp., are no longer affiliated with Arconic.⁵

4. Alcoa Power states that it currently has two OATTs, one for its Long Sault Division and another for its Tapoco Division.⁶ Alcoa Power explains that prior to the corporate reorganization of Alcoa Power's former parent company, Alcoa, Inc., Alcoa Power had waivers of the Commission's OATT requirements for its Long Sault and Tapoco Divisions.⁷ Alcoa Power states, however, that it voluntarily relinquished these

³ Order No. 845, 163 FERC ¶ 61,043 at P 2; Order No. 845-A, 166 FERC ¶ 61,137 at P 1.

⁴ Waiver Request at 4.

⁵ *Id.* at 1-2.

⁶ *Alcoa Power Generating Inc.*, Docket No. ER16-2222-000 (Oct. 28, 2016) (delegated order accepting the OATT for the Long Sault Division); *Alcoa Power Generating Inc.*, Docket No. ER16-2223-000 (Oct. 28, 2016) (delegated order accepting the OATT for the Tapoco Division).

⁷ Waiver Request at 8 and 10; *Alcoa Power Generating Inc. Long Sault Division*, 120 FERC ¶ 61,035 (2007) (granting waiver of the OATT requirements for the Long Sault Division, subject to conditions); *Alcoa Power Generating Inc. Tapoco Division*,

OATT waivers in the fall of 2016 and filed the current, two OATTs in order to facilitate and shorten the time to accomplish the corporate reorganization of Alcoa, Inc.⁸

5. Alcoa Power submits that good cause exists to grant it waiver of the new OATT interconnection service requirements adopted in Order Nos. 845 and 845-A because: (1) its Long Sault and Tapoco Divisions own limited and discrete transmission facilities, which do not comprise an integrated transmission system; (2) Alcoa Power has never received a request for interconnection service since the Commission's open access requirements under Order No. 888⁹ were instituted in 1996; and (3) the Commission has repeatedly held over the years that its transmission facilities at issue are limited and discrete transmission facilities and granted various waivers of Alcoa Power's OATT requirements for the Long Sault and Tapoco Divisions.¹⁰

120 FERC ¶ 61,037 (2007) (granting waiver of the OATT requirements for the Tapoco Division, subject to conditions).

⁸ Waiver Request at 2.

⁹ *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. ¶ 31,036 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *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).

¹⁰ Waiver Request at 2, 5-7, 10, 12 (citing *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035 (finding that Alcoa Power's Long Sault Division has limited and discrete transmission facilities and granting waiver of its OATT requirements, subject to conditions); *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,037 (finding that Alcoa Power's Tapoco Division has limited and discrete transmission facilities and granting waiver of its OATT requirements, subject to conditions); *Alcoa Power Generating Inc.*, 141 FERC ¶ 61,031 (2012) (finding that the post-transaction transmission facilities of Alcoa Power's Tapoco Division are limited and discrete transmission facilities and granting waiver of its OATT requirements); *Alcoa Power Generating Inc.*, 143 FERC ¶ 61,038 (2013) (finding that the transmission facilities of Alcoa Power's Long Sault Division continue to comprise limited and discrete transmission facilities and granting waiver of the Order No. 1000 requirements related to OATT revisions)).

6. Alcoa Power states that its Long Sault Division owns limited and discrete transmission facilities in New York that connect a smelting facility owned by an affiliate, Alcoa USA, as well as Arconic's fabricating facility, both located near Massena, New York, with the New York Power Authority, National Grid US, and Cedars Rapids Transmission Company (Cedars Lines). Alcoa Power states that the Cedars Lines are double-circuit 115 kV lines and are approximately six miles in length. Alcoa Power states that the Cedars Lines capacity is leased to Cedars Rapids Transmission Company under a long-term contract through 2055. Alcoa Power also states that its Long Sault Division owns an 85% share of three 115 kV lines that are roughly seven miles in length, known as the Moses-Alcoa Lines, with NYPA owning the remaining 15% share. Alcoa Power explains that the Moses-Alcoa Lines connect NYPA's St. Lawrence hydroelectric project to the Alcoa USA and Arconic manufacturing facilities in Massena, New York. Alcoa Power also states that the Long Sault Division provides transmission service to the Town of Massena Electric Department over the Moses-Alcoa Lines under a long-term contract that predates Order No. 888. Alcoa Power states that the only parties taking OATT transmission service over the Long Sault Division's transmission facilities are Arconic and Alcoa Power's affiliate Alcoa USA.¹¹

7. Alcoa Power states that its Tapoco Division owns limited and discrete transmission facilities that connect Arconic's fabricating plant near Knoxville, Tennessee (Arconic Tennessee) to the grid. Alcoa Power states that the Tapoco Division's transmission facilities interconnect with Smoky Mountain Transmission LLC's and Tennessee Valley Authority's transmission systems at a three-way interconnection at the Alcoa South Plant Substation, and consist of three miles of double-circuit 161 kV transmission lines between the Arconic Tennessee plant site and a now-closed Tennessee smelter plant site.¹² Alcoa Power states that the only parties taking OATT transmission service over the Tapoco Division's transmission facilities are Arconic and Alcoa Power's affiliate Alcoa Power Marketing LLC.¹³

¹¹ *Id.* at 9-10.

¹² *Id.* at 6-7.

¹³ *Id.* at 8 & n.17. Alcoa Power notes that the only transmissions customers under the OATTs for the Long Sault and Tapoco Divisions are existing Alcoa Power affiliates and former Alcoa Power affiliates (now part of Arconic). Alcoa Power states that Alcoa Power and Arconic have been negotiating bilateral transmission service agreements to replace the service Alcoa Power provides to Arconic pursuant to the OATTs. Alcoa Power states that once that is accomplished, Alcoa Power intends to file a request for waiver of the OATT requirements and to cancel its two OATTs. *Id.* at 2.

8. With respect to possible requests for OATT interconnection service, Alcoa Power states that there is no reason to believe that it will receive interconnection service requests from a third party generator or transmission developer for these limited transmission facilities.¹⁴ Alcoa Power states that, consistent with Commission precedent regarding OATT waivers, it acknowledges and agrees that if it receives an interconnection request from a third party generator or generation developer, then such a request would operate to rescind any Commission order granting Alcoa Power waivers of its interconnection service requirements under Order Nos. 845 and 845-A.¹⁵

III. Notice of Filing

9. Notice of Alcoa Power's May 22, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 25,251 (2019), with interventions and comments due on or before June 12, 2019. None was filed.

10. Notice of Alcoa Power's January 30, 2020 waiver request was published in the *Federal Register*, 85 Fed. Reg. 6939 (2020), with interventions and comments due on or before February 20, 2020. None was filed.

IV. Discussion

11. In *Black Creek*, the Commission stated that it would grant requests for waiver of the Order No. 888 OATT requirements by public utilities that could show that they own, operate, or control only limited and discrete transmission facilities (facilities that do not form an integrated transmission grid), until such time as the public utility receives a request for transmission service.¹⁶ Should the public utility receive such a request, the Commission has determined that the public utility must file an OATT with the Commission within 60 days of date of the request, and must comply with any additional requirements that are effective on the date of the request.¹⁷

12. In Order Nos. 845 and 845-A, the Commission did not specify the criteria it would use to evaluate requests for waiver of the new OATT interconnection service requirements of Order Nos. 845 and 845-A. Consistent with previous precedent,¹⁸ we

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 12-13 (citing *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996) (*Black Creek*)).

¹⁶ *Black Creek*, 77 FERC ¶ 61,232 at 61,940-41.

¹⁷ *Id.* at 61,941.

¹⁸ For example, in Order No. 1000, the Commission stated that the criteria for waiver of the new OATT requirements adopted in Order No. 1000 was unchanged from

find it reasonable to apply the criteria in *Black Creek* to Alcoa Power's request for waiver of the new OATT interconnection service requirements of Order Nos. 845 and 845-A, and we do so here.

13. Based on the statements in Alcoa Power's waiver request, we find that the transmission facilities owned by Alcoa Power's Long Sault and Tapoco Divisions continue to comprise limited and discrete transmission facilities that do not form an integrated transmission grid. In addition, Alcoa Power states that its Long Sault and Tapoco Divisions have never received an interconnection service request since the Commission's open access requirements under Order No. 888 were instituted in 1996, and it has no reason to believe that they will receive interconnection service requests from a third party generator or transmission developer for these limited transmission facilities.¹⁹ For these reasons, we grant Alcoa Power's request for waiver of the new OATT interconnection service requirements of Order Nos. 845 and 845-A for its Long Sault and Tapoco Divisions. However, consistent with *Black Creek*, should Alcoa Power receive a request for interconnection service on the transmission facilities owned by its Long Sault or Tapoco Divisions, Alcoa Power must file with the Commission revisions to the OATT for its Long Sault or Tapoco Divisions, as applicable, to comply with Order Nos. 845 and 845-A within 60 days of the date of the request, and must comply with any additional requirements that are effective on the date of the request.

that used to evaluate requests for waiver of Order No. 888. *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051, at P 832 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

¹⁹ Waiver Request at 1, 12.

The Commission orders:

Alcoa Power's request for waiver of the requirements of Order Nos. 845 and 845-A is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.