

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Alcoa Power Generating Inc.

Docket No. ER20-1580-000

ORDER GRANTING IN PART AND DENYING IN PART  
REQUESTS FOR WAIVER

(Issued July 16, 2020)

1. On April 16, 2020, Alcoa Power Generating Inc. (Alcoa Power) submitted requests for waiver of: (1) the requirements for its Tapoco and Long Sault Divisions to have Open Access Transmission Tariffs (OATT) that comply with Order Nos. 888,<sup>1</sup> 889,<sup>2</sup> and 890,<sup>3</sup> maintain an Open Access Same-Time Information System (OASIS), and comply with the Standards of Conduct; (2) the requirement for its Tapoco Division to comply with section 141.300 of the Commission's regulations concerning the annual filing of FERC Form No. 715; and (3) the requirements for Alcoa Power to comply with the Commission's regulations in Part 101 regarding the Commission's Uniform System

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<sup>1</sup> *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 77 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).

<sup>2</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996) (cross-referenced at 75 FERC ¶ 61,078), *order on reh'g*, Order No. 889-A, FERC Stats & Regs. ¶ 31,049 (cross-referenced at 78 FERC ¶ 61,221), *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>3</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

of Accounts, sections 41.10 through 41.12 pertaining to FERC Form No. 1, and Part 141, including FERC Form No. 1, but excluding sections 141.14 and 141.15. In this order, we grant in part and deny in part Alcoa Power's requests for waiver, as discussed below.

## **I. Background**

2. 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 in the United States. According to Alcoa Power, these facilities are primarily used to provide electric power to aluminum manufacturing operations owned by Alcoa Corp.<sup>4</sup> 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).<sup>5</sup> As a result of the reorganization, Alcoa Power and its parent company, Alcoa Corp., are no longer affiliated with Arconic.

3. Alcoa Power states that, in recent years, it has downsized considerably with most of its transmission and generation assets sold to others.<sup>6</sup> Presently, Alcoa Power states that it owns and operates four divisions: Tapoco, Long Sault, AGC, and Colockum. Alcoa Power states that its Tapoco Division operates in Alcoa, Tennessee, near Knoxville, and the only surviving manufacturing plant at this location is now owned by a third-party, Arconic Tennessee, LLC (Arconic Tennessee). Alcoa Power states that the Tapoco Division retains ownership of three miles of double-circuit 161 kV transmission lines and parts of two associated substations that connect Arconic Tennessee's manufacturing plant to the Tennessee Valley Authority (TVA) and Smoky Mountain Transmission LLC (Smoky Mountain).<sup>7</sup> Alcoa Power states that the Tapoco Division does not sell any power or ancillary services to any party and only provides transmission service to its single native load customer, Arconic Tennessee. Alcoa Power states that the power that flows on the Tapoco Division's transmission facilities is not owned or controlled by Alcoa Power, and flows only in the direction of the Arconic Tennessee load

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<sup>4</sup> Waiver Request at 3.

<sup>5</sup> *Id.* at 3-4.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> Alcoa Power states that it has interconnection agreements with TVA and Smoky Mountain, respectively, which clarify each party's responsibility to operate and maintain its transmission facilities. Alcoa Power states that there are no rates or charges in these agreements, and each party to these agreements is responsible for paying its own costs to operate and maintain its system. *Id.* at 17 n.55.

where it is consumed. Alcoa Power also states that the Tapoco Division's transmission lines terminate at the Arconic Tennessee Plant.<sup>8</sup> Alcoa Power states that its Tapoco Division has an OATT and an OATT transmission service agreement with Arconic, which purchases electricity from TVA in a retail sale to the Arconic Tennessee plant.<sup>9</sup>

4. Alcoa Power states that its Long Sault Division operates in Massena, New York, where a third-party, Arconic Massena LLC (Arconic Massena), owns and operates an aluminum casting facility, and Alcoa USA Corp. (Alcoa USA), a wholly-owned subsidiary of Alcoa Corp., owns and operates an aluminum smelter. Alcoa Power states that its Long Sault Division retains ownership of three 115 kV transmission lines, known as the Moses-Alcoa Lines (MAL Lines), which are roughly seven miles in length and are owned 85% by the Long Sault Division, with the remaining 15% owned by the New York Power Authority (NYPA). Alcoa Power states that the MAL Lines connect Arconic Massena's and Alcoa USA's manufacturing plants with NYPA's St. Lawrence hydroelectric project, which provides all of the power to the plants through long-term contracts.<sup>10</sup> Alcoa Power states that its Long Sault Division also provides back-up transmission capacity to the Town Massena Electric Department (MED) over the MAL Lines under two pre-Order No. 888 long-term contracts.<sup>11</sup> Alcoa Power states that its Long Sault Division also owns separate transmission lines nearby, not directly interconnected with the MAL Lines, that connect Hydro-Quebec's Cedars Rapids Transmission Company (CRT) to National Grid USA (Cedars Lines). Alcoa Power states that the Cedars Lines are double-circuit 115 kV transmission lines that are approximately six miles in length, their entire capacity is under a long-term contract to CRT through 2055, and they are not part of the New York Independent System Operator, Inc.'s (NYISO) system, although their operation is coordinated with NYISO.<sup>12</sup> Alcoa Power states that its Long Sault Division has an OATT and separate OATT transmission service agreements with Arconic and Alcoa USA.<sup>13</sup>

5. Alcoa Power states that its AGC Division operates near Warrick County, Indiana, where its affiliate, Alcoa USA, operates a rolling mill and smelter. Alcoa Power states that, to support these industrial operations, its AGC Division owns and operates three

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<sup>8</sup> *Id.* at 5-6.

<sup>9</sup> *Id.* at 6-7.

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 7-8.

<sup>13</sup> *Id.* at 9.

150 MW behind-the-meter coal-fired generation units (Warrick Units 1-3), and jointly owns and operates a 300 MW coal-fired generation unit (Warrick Unit 4) with Southern Indiana Gas and Electric Company (SIGECO). Alcoa Power states that, with respect to Warrick Unit 4, Alcoa Power filed a cost-based annual revenue requirement for reactive supply and voltage control service, which the Commission accepted, subject to refund, and established hearing and settlement judge procedures.<sup>14</sup> Alcoa Power states that its AGC Division also owns and operates certain transmission and distribution level circuits to deliver power generated from Warrick Units 1-4 to Alcoa Warrick's manufacturing operations at the site. Alcoa Power states that it sells excess power and capacity from Warrick Units 1-4 to the wholesale markets operated by Midcontinent Independent System Operator, Inc. (MISO) under Alcoa Power's market-based rate authority.<sup>15</sup> In addition, Alcoa Power states that its AGC Division jointly owns with SIGECO a 2.2-mile, 138 kV line designated as "Tie Line 3" that the Commission determined to be jurisdictional because of the possibility of loop feeds through the switchyard. Alcoa Power states that, in 2013, the Commission granted Alcoa Power's request for waiver to have an OATT, maintain an OASIS, and comply with the Standards of Conduct for its AGC Division, based on the Commission's finding that Tie Line 3 is a limited and discrete transmission facility.<sup>16</sup> Alcoa Power states that there are no jurisdictional customers at this location and no prospects for them.

6. Alcoa Power states that its Colockum Division owns and operates approximately 1,000 feet of transmission facilities near Wenatchee, Washington that interconnects Bonneville Power Administration's Valhalla substation and the Public Utility District No. 1 of Chelan County's ("Chelan") McKenzie substation with Alcoa Power's smelting plant, which is presently curtailed. Alcoa Power states that, in 2010, the Commission granted Alcoa Power's request for waiver to have an OATT, maintain an OASIS, and comply with the Standards of Conduct for its Colockum Division, based on the

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<sup>14</sup> *Id.* at 9-10 (citing *Alcoa Power Generating Inc.*, 169 FERC ¶ 61,167 (2019)). On February 13, 2020, Alcoa Power filed an offer of settlement concerning the reactive supply and voltage control service that, if approved by the Commission, would resolve all issues set for hearing. On May 26, 2020, the Commission approved the settlement. *Alcoa Power Generating Inc.*, 171 FERC ¶ 61,164 (2020).

<sup>15</sup> Alcoa Power states that it has Commission authorization to make wholesale sales of energy, capacity, and ancillary services at market-based rates. Waiver Request at 3 (citing *Alcoa Inc.*, 88 FERC ¶ 61,045 (1999)).

<sup>16</sup> *Id.* at 10 (citing *Alcoa Power Generating Inc.*, 145 FERC ¶ 61,201 (2013)).

Commission's finding that the Colockum Division's transmission facilities are limited and discrete transmission facilities.<sup>17</sup>

## II. Alcoa Power's Filing

7. Alcoa Power states that its requests for waiver of the requirements of the OATT, OASIS and Standard of Conduct in this filing are related to its January 30, 2020 compliance filing (January 30 Filing) in Docket No. ER19-1965-001,<sup>18</sup> in which Alcoa Power requested, and the Commission granted,<sup>19</sup> Alcoa Power's requests for waiver to comply with the OATT interconnection requirements in Order Nos. 845 and 845-A for its Tapoco and Long Sault Divisions.<sup>20</sup> Alcoa Power states that, in the January 30 Filing, it explained Alcoa Power's anticipated transition from OATT service to stand-alone transmission service agreements (TSA) with its former affiliate, Arconic, and its existing affiliate, Alcoa USA.<sup>21</sup> Alcoa Power states that, it further explained that as soon as the parties could negotiate these TSAs, Alcoa Power would seek to reinstate its previous waivers of the OATT, OASIS and Standard of Conduct requirements for its Tapoco and Long Sault Divisions.<sup>22</sup> Alcoa Power states that because of the economic need to

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<sup>17</sup> *Id.* at 10-11 (citing *Alcoa Power Generating Inc.*, 131 FERC ¶ 61,177 (2010)).

<sup>18</sup> *Id.* at 1 (citing *Alcoa Power Generating Inc.*, Order Nos. 845 and 845-A Compliance Filing and Request to Be Relieved of Order Nos. 845 and 845-A Requirements, Docket No. ER19-1965-001 (filed Jan. 30, 2020)).

<sup>19</sup> *Id.* at 1 (citing *Alcoa Power Generating Inc.*, 170 FERC ¶ 61,205, at P 1 (2020) (March 2020 Order) (granting Alcoa Power's request for waiver of the OATT interconnection requirements of Order Nos. 845 and 845-A for its Tapoco and Long Sault Divisions)).

<sup>20</sup> *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).

<sup>21</sup> Waiver Request at 1.

<sup>22</sup> *Id.* at 1-2, 6, 8 (citing *Alcoa Power Generating, Inc.*, 141 FERC ¶ 61,031, at PP 21-22 (2012) (granting waiver of the OATT, OASIS and Standard of Conduct requirements for the Tapoco Division); *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at PP 15-16 (2007) (granting waiver of the OATT requirements, subject to conditions, for the Long Sault Division); *Alcoa Power Generating Inc.*, 116 FERC ¶ 61,257, at P 8 (2006) (granting waiver of the OASIS requirements, subject to conditions, for the Long Sault Division)).

accomplish its extensive corporate reorganization in 2016 in a timely manner, it filed, as a temporary solution, OATTs for its Tapoco and Long Sault Divisions using the Commission's *pro forma* OATT with fixed, stated cost-of-service transmission rates. Alcoa Power states that the intent was to keep these OATTs in place only until such time as the parties could negotiate permanent TSAs.<sup>23</sup> Alcoa Power states that the new stand-alone TSAs have been negotiated and it now requests waiver of the OATT, OASIS and Standard of Conduct requirements for its Tapoco and Long Sault Divisions.

8. Alcoa Power states that, if the Commission grants its request to reinstate its previous waiver of the OATT, OASIS and Standard of Conduct requirements for its Tapoco and Long Sault Divisions, it believes that it would be in the public interest for the Commission to waive Alcoa Power's accounting requirements and certain other reporting and filing requirements as well. As set forth below, Alcoa Power asserts that it meets the Commission's criteria for the requested reinstatement and waivers because it: (1) is not a traditional utility; (2) does not have captive customers; (3) owns and operates only limited and discrete transmission facilities; (4) conducts only limited jurisdictional activity; and (5) does not present any concerns of affiliate abuse.<sup>24</sup>

### **III. Notice of Filing and Intervention**

9. Notice of Alcoa Power's filing was published in the *Federal Register*, 85 Fed. Reg. 22,420 (Apr. 22, 2020), with protests and interventions due on or before May 7, 2020. Arconic filed a timely motion to intervene.

### **IV. Discussion**

#### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motion to intervene serves to make Arconic a party to this proceeding.

#### **B. Substantive Matters**

11. As discussed below, we grant in part and deny in part Alcoa Power's requests for waiver. We grant Alcoa Power's requests for waiver of the requirements for its Tapoco and Long Sault Divisions to have OATTs that comply with Order Nos. 888, 889, and 890, maintain an OASIS, and comply with the Standards of Conduct. We also grant Alcoa Power's request for waiver of the FERC Form No. 715 requirement for its Tapoco

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<sup>23</sup> *Id.* at 4.

<sup>24</sup> *Id.* at 2.

Division. However, we deny Alcoa Power's requests for additional waivers related to its accounting requirements and certain other reporting and filing requirements.

1. **OATT, OASIS and Standards of Conduct Waivers for the Tapoco and Long Sault Divisions**

a. **Requests for Waiver**

12. Alcoa Power requests reinstatement of the Commission's previous waivers for its Tapoco and Long Sault Divisions to have OATTs that comply with Order Nos. 888, 889, and 890, maintain an OASIS, and comply with the Standards of Conduct. Alcoa Power asserts that the Commission's findings and reasoning in its March 2020 Order,<sup>25</sup> which granted Alcoa Power's request for waiver to comply with Order Nos. 845 and 845-A for its Tapoco and Long Sault Divisions, support granting this waiver request.

13. Alcoa Power states that, as described in the March 2020 Order, its transmission facilities connect Alcoa Corp.'s and Arconic's industrial plants at the Tapoco and Long Sault Division locations to either generation owned by Alcoa Power or to other electric utilities.<sup>26</sup> Alcoa Power states that, with very limited exceptions, these transmission facilities are not used to provide transmission services to others.<sup>27</sup> Alcoa Power states that it is "only incidentally in the electric transmission business," explaining that most of its transmission facilities just barely meet the Commission's 100 kV threshold to be part of the Bulk Electric System because its industrial loads, particularly smelter loads, are more economically served at those voltages.<sup>28</sup> Moreover, Alcoa Power states that it does not have franchised service territory or captive customers, serves no traditional public utility retail load, makes only certain limited sales into the wholesale market, and does

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<sup>25</sup> *See supra*.

<sup>26</sup> Waiver Request at 11.

<sup>27</sup> Alcoa Power states that the limited exceptions in which it provides transmission services to others include that: (1) the Long Sault Division provides back-up transmission capacity to MED under two pre-Order No. 888 long-term contracts using a tie that MED has with the Long Sault Division for reliability purposes; and (2) the entire transmission capacity of the Long Sault Division's Cedar Lines is under a long-term contract to CRT through 2055. *Id.* at 7-8, 11 n.35.

<sup>28</sup> *Id.* at 12 n.36 (citing *N. Am. Elec. Reliability Corp.*, 146 FERC ¶ 61,199 (2014) (determining that transmission facilities operated at 100 kV and above are part of the Bulk Electric System)).

not have market power in any market in which it operates.<sup>29</sup> Alcoa Power therefore asserts that it is not a traditional public utility.

14. Alcoa Power states that, in the March 20 Order, the Commission found that Alcoa Power satisfied the waiver criteria in *Black Creek Hydro, Inc.*<sup>30</sup> based on the Commission's finding that its Tapoco and Long Sault Divisions own, operate, or control only limited and discrete transmission facilities that do not form an integrated transmission grid. Alcoa Power states that it has submitted the identical facts in this waiver request.<sup>31</sup> Alcoa Power argues that, because the same *Black Creek* waiver criteria apply to this waiver request, the Commission should also grant its waiver request here based on a finding that its Tapoco and Long Sault Divisions own, operate, or control only limited and discrete transmission facilities that do not form an integrated transmission grid. Alcoa Power states that, based on the Commission's precedent, it recognizes and accepts that the Commission's waiver will be conditioned upon Alcoa Power's agreement to file an OATT with the Commission within 60 days of receiving a request for interconnection service on Alcoa Power's transmission facilities.<sup>32</sup>

15. Alcoa Power states that it has entered into new TSAs with its three OATT customers at the Tapoco and Long Sault Division locations, including Arconic Tennessee, Arconic Massena, and Alcoa USA. Alcoa Power explains that the TSAs will provide these customers with the same services that they take under the OATTs when the Commission grants Alcoa Power's request for waiver of the OATTs.<sup>33</sup> Alcoa Power states that the TSAs are conditioned upon the Commission granting the OATT waivers. Alcoa Power states that, during the negotiation of the TSAs, it provided its customers access to its books and records and all parties agreed that Alcoa Power's currently effective rates for its Tapoco and Long Sault Divisions remain just and reasonable.<sup>34</sup>

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<sup>29</sup> *Id.* at 12.

<sup>30</sup> *Id.* (citing *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996) (*Black Creek*) (granting 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)).

<sup>31</sup> *Id.* at 12.

<sup>32</sup> *Id.* at 12-13 (citing March 2020 Order, 170 FERC ¶ 61,205 at P 13).

<sup>33</sup> *Id.* at 13.

<sup>34</sup> *Id.* at 13-14.



16. Alcoa Power states that if the Commission grants the requested waivers of OATT requirements, it will file the executed TSAs with the Commission, pursuant to section 205 of the Federal Power Act (FPA),<sup>35</sup> as Alcoa Power rate schedules.<sup>36</sup> Alcoa Power states that when the new Alcoa Power rate schedules are made effective, they will replace the OATTs and OATT transmission service agreements currently on file with the Commission for these customers. Alcoa Power states that, as part of the section 205 filing, it will also file notices of cancellation of the OATTs and OATT transmission service agreements.<sup>37</sup>

**b. Commission Determination**

17. Order Nos. 888 and 890 require public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to file an OATT prior to providing transmission service.<sup>38</sup> Order No. 889 requires public utilities to establish an OASIS.<sup>39</sup> Order Nos. 889 and 717<sup>40</sup> require public utilities to comply with certain Standards of Conduct. In prior orders, the Commission has enunciated the standards for waiver of, or exemption from, some or all of the requirements of Order Nos. 888, 889 and 890.<sup>41</sup> The Commission has stated that the criteria for waiver of the

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<sup>35</sup> 16 U.S.C. § 825d (2018).

<sup>36</sup> Waiver Request at 14.

<sup>37</sup> *Id.*

<sup>38</sup> Order No. 888, 61 FERC Stats. & Regs. ¶ 31,036 at 31,365; Order No. 890, 118 FERC ¶ 61,119 at PP 39-42 (implementing reforms to the *pro forma* OATT adopted in Order No. 888).

<sup>39</sup> Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,586.

<sup>40</sup> *Standards of Conduct for Transmission Providers*, Order No. 717, 125 FERC ¶ 61,064 (2008), *order on reh'g and clarification*, Order No. 717-A, 129 FERC ¶ 61,043, *order on reh'g*, Order No. 717-B, 129 FERC ¶ 61,123 (2009), *order on reh'g*, Order No. 717-C, 131 FERC ¶ 61,045 (2010), *order on reh'g*, Order No. 717-D, 135 FERC ¶ 61,017 (2011).

<sup>41</sup> *See, e.g., Black Creek*, 77 FERC at 61,940-41; *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005).

requirements of Order No. 890 have not changed from those used to evaluate requests for waiver under Order Nos. 888 and 889.<sup>42</sup> Order No. 717 did not change those criteria.<sup>43</sup>

18. In *Black Creek*, the Commission stated that it would grant requests for waiver of the 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.<sup>44</sup> 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.<sup>45</sup>

19. The Commission has determined that waiver of the requirements to establish an OASIS and comply with the Standards of Conduct would be appropriate for a public utility if the applicant: (1) owns, operates, or controls only limited and discrete transmission facilities (rather than an integrated transmission grid); or (2) is a small public utility that owns, operates, or controls an integrated transmission grid, unless other circumstances are present that indicate that a waiver would not be justified.<sup>46</sup> The Commission has further held that a waiver of Order No. 889 will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation (for OASIS waivers) or an entity complains that the public utility has unfairly

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<sup>42</sup> See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035 at P 3; *Alcoa Power Generating Inc.*, 108 FERC ¶ 61,243, at P 27 (2004).

<sup>43</sup> Order No. 717, 125 FERC ¶ 61,064 at PP 31-33.

<sup>44</sup> *Black Creek*, 77 FERC at 61,940-41.

<sup>45</sup> *Id.* at 61,941.

<sup>46</sup> *Id.* Although the Commission originally precluded waiver of the requirements for OASIS and the Standards of Conduct for a small public utility that is a member of a tight power pool, in *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at PP 2-3 (2011) (*Black Hills*), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct. Moreover, *Black Hills* did not affect waivers based on a public utility disposing of no more than 4 million MWh annually.

used its access to information about transmission to benefit the utility or its affiliate (for Standard of Conduct waivers).<sup>47</sup>

20. Based on the statements in Alcoa Power's waiver request, we find that Alcoa Power's Long Sault and Tapoco Divisions own, operate, or control only limited and discrete transmission facilities that do not form an integrated transmission grid. Therefore, we grant Alcoa Power's requests for waiver of the requirements for its Tapoco and Long Sault Divisions to have OATTs that comply with Order Nos. 888, 889, and 890, maintain an OASIS, and comply with the Standards of Conduct. However, consistent with *Black Creek*, should Alcoa Power receive a request for transmission service on the transmission facilities owned by its Long Sault or Tapoco Divisions, Alcoa Power must file with the Commission *pro forma* OATTs for its Long Sault or Tapoco Divisions, as applicable, 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. In addition, consistent with the Commission's precedent, Alcoa Power's waivers of Order Nos. 889 and 717, respectively, for its Tapoco and Long Sault Divisions will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation (for OASIS waivers) or an entity complains that the public utility has unfairly used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).

## 2. FERC Form No. 715 Waiver for the Tapoco Division

### a. Request for Waiver

21. Alcoa Power requests waiver of the requirement, in section 141.300 of the Commission regulations,<sup>48</sup> to annually file FERC Form No. 715 for its Tapoco Division.<sup>49</sup> Alcoa Power explains that, in Order No. 588, the Commission stated that one of the ways a utility may seek waiver of the FERC Form No. 715 requirement is by stating that it does not use power flow analyses in performing transmission planning.<sup>50</sup>

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<sup>47</sup> *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 23 (2005) (citing *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Commission*, 83 FERC ¶ 61,334, at 62,343 (1998)).

<sup>48</sup> 18 C.F.R. § 141.300 (2019).

<sup>49</sup> Waiver Request at 14. Alcoa Power states that its request for waiver of the FERC Form No. 715 requirement is limited to the Tapoco Division, because NYISO files FERC Form No. 715 on behalf of the Long Sault Division. *Id.* at 2 n.3.

<sup>50</sup> *Id.* at 14 (citing *New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities under the*

Alcoa Power states that it qualifies for waiver of the FERC Form No. 715 requirement because it does not use power flow analyses in performing transmission planning for its Tapoco Division. Alcoa Power explains that it does not use power flow analyses because the Tapoco Division's limited and discrete facilities serve only a single native load transmission customer and the Tapoco Division does not offer any power or ancillary services to any party. Alcoa Power further states that it has never engaged in a transmission planning process for its Tapoco Division because of the limited nature of the Tapoco Division's transmission services.<sup>51</sup>

**b. Commission Determination**

22. We grant Alcoa Power's request for waiver of the FERC Form No. 715 requirement for its Tapoco Division. Order No. 588 provides that utilities may seek waiver of the FERC Form No. 715 requirement if they state that they do not use power flow analyses in performing transmission planning.<sup>52</sup> Based on the statement in Alcoa Power's request for waiver, Alcoa Power does not use power flow analyses in performing transmission planning for its Tapoco Division. Therefore, we find that Alcoa Power's Tapoco Division meets the condition for waiver provided by Order No. 558 and we grant the request for waiver.

**3. Additional Waivers for Alcoa Power**

**a. Requests for Waiver**

23. Alcoa Power requests that the Commission grant Alcoa Power waiver of its requirements to comply with: (1) Part 101 of the Commission's regulations,<sup>53</sup> regarding the Commission's Uniform System of Accounts; (2) sections 41.10 through 41.12 of the Commission's regulations<sup>54</sup> pertaining to FERC Form No. 1; and (3) Part 141 of the

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*Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC-714, Order No. 558, FERC Stats. & Regs. ¶ 30,980, at 30,909 (cross-referenced at 64 FERC ¶ 61,369, order on reh'g, Order No. 558-A, 65 FERC ¶ 61,324 (1993)).*

<sup>51</sup> *Id.* at 14-15.

<sup>52</sup> Order No. 558, FERC Stats. & Regs. ¶ 30,980 at 30,909.

<sup>53</sup> 18 C.F.R. pt. 101 (2019).

<sup>54</sup> 18 C.F.R. §§ 41.10-41.12.

Commission's regulations,<sup>55</sup> including FERC Form No. 1, but excluding sections 141.14 and 141.15.<sup>56</sup>

24. In support of its request, Alcoa states that the Commission has granted such waivers to entities that own only limited and discrete transmission facilities and provide a cost-based service.<sup>57</sup> Alcoa Power states that the Commission also has granted such waivers to public utilities that have only limited jurisdictional activities.<sup>58</sup> Alcoa Power also states that the Commission has granted such waivers to public utilities that conduct jurisdictional sales under cost-based rates where such jurisdictional sales are not the principal business of the regulated public utility,<sup>59</sup> which, Alcoa states, is essentially its situation as well.

25. Alcoa Power states that, if the Commission grants its request for waiver of the OATT requirements for its Tapoco and Long Sault Divisions, then Alcoa Power will not need books and records that comply with the Commission's Uniform System of Accounts to monitor and regulate rates under those OATTs.<sup>60</sup> Alcoa Power states that the cost-based transmission rates included in the new TSAs with Arconic and Alcoa USA are the same transmission rates contained in the Tapoco and Long Sault Divisions' OATTs. Alcoa Power states that Arconic Tennessee and Arconic Massena recently reviewed these

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<sup>55</sup> 18 C.F.R. pt. 141.

<sup>56</sup> 18 C.F.R. §§ 141.14-141.15. Alcoa Power states that in cases in which the Commission grants waiver of Part 141 of the Commission's regulations, it typically does not grant waiver of sections 141.14 and 141.15 of the Commission's regulations, which address certain reporting requirements applicable to hydropower licensees. Waiver Request at 2 n.5 (citing, e.g., *Empire State Connector Corp.*, 155 FERC ¶ 61,305, at P 33 (2016)). Alcoa Power therefore states that it does not seek waiver of sections 141.14 and 141.15.

<sup>57</sup> *Id.* at 20 (citing, e.g., *Maine GenLead, LLC*, 146 FERC ¶ 61,223 (2014) (*Maine GenLead*)).

<sup>58</sup> *Id.* at 21 (citing *Cal. Pacific Elec. Co.*, 134 FERC ¶ 61,024 (2011)).

<sup>59</sup> *Id.* at 21 (citing, e.g., *Alloy Power, L.L.C.*, 117 FERC ¶ 61,167 (2006) (*Alloy Power*)).

<sup>60</sup> *Id.* at 16.

transmission rates prior to executing the TSAs and have agreed that the current OATT rates remain just and reasonable.<sup>61</sup>

26. Alcoa Power also asserts that books and records that comply with the Commission's Uniform System of Accounts would not be needed to monitor and regulate its other transmission rates.<sup>62</sup> Alcoa Power explains that it has only three other transmission agreements that contain cost-based rates:<sup>63</sup> (1) Alcoa Power's rate schedule with CRT, in which the entire capacity of the Long Sault Division's Cedars Lines is under a long-term contract to CRT through 2055; and (2) two pre-Order No. 888 long-term contracts under which the Long Sault Division provides back-up transmission capacity to MED over the MAL Lines. Alcoa Power explains that its ownership of the Cedars Lines consists solely of six miles of conductors and associated towers to connect CRT's system in Canada to National Grid USA's transmission system.<sup>64</sup> Alcoa Power states that because CRT controls all of the capacity of the Cedars Lines, CRT markets and resells the capacity, and derives any profit from such capacity sales.<sup>65</sup> Alcoa Power states that the two pre-Order No. 888 long-term contracts provide MED with back-up transmission capacity over the MAL Lines to serve MED's load customers.<sup>66</sup> Alcoa Power states that both of the agreements have not been revised since the parties executed the agreements in 1988 and continue to operate under the rates contained in the agreements. Alcoa Power also states that it will continue to lease the transmission capacity to MED at the rates contained in the agreements until the agreements are cancelled by either party in accordance with the termination provisions in the agreements.<sup>67</sup>

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<sup>61</sup> *Id.* at 22.

<sup>62</sup> *Id.* at 16.

<sup>63</sup> Alcoa Power also notes that it has a fixed, cost-based rate schedule on file with the Commission to provide reactive supply and voltage control service to MISO from its Warrick Unit 4 generation facility. *See supra.*

<sup>64</sup> Waiver Request at 22.

<sup>65</sup> *Id.* at 23.

<sup>66</sup> Alcoa Power states that, in the first agreement dated June 27, 1988, MED leases 40 MW of transmission capacity, and in the second agreement dated September 7, 1988, MED leases 3 MW of transmission capacity. *Id.* at 23.

<sup>67</sup> *Id.* at 23.

27. Alcoa Power argues that denying the requested waivers would impose an unnecessary regulatory burden on Alcoa Power, the costs of which would be borne by its customers. Alcoa Power asserts that this cost would outweigh any possible benefit of requiring Alcoa Power to keep accounting in accordance with the Commission's Uniform System of Accounts under Part 101 and annually preparing and filing FERC Form No. 1 under Parts 41 and 141. Alcoa Power asserts that the capitalization and depreciation advantages of the Uniform System of Accounts matter little as applied to Alcoa Power's mature and declining transmission operations.<sup>68</sup> Alcoa Power also points out that its FERC Form No. 1 reports have little or no usefulness to either the Commission or Alcoa Power's customers, since all of the transmission investment and expense is aggregated across four divisions and is not separately broken out by division in its FERC Form No. 1.<sup>69</sup> Alcoa Power estimates that regulatory costs, which constitute over 5 percent of Alcoa Power's annual costs in providing transmission service at the Tapoco and Long Sault Divisions, would be eliminated if the Commission grants Alcoa Power the requested waivers.<sup>70</sup> Alcoa Power states that reducing Alcoa Power's regulatory costs was a significant driver for Arconic Tennessee, Arconic Massena, and Alcoa USA to negotiate the TSAs with Alcoa Power.<sup>71</sup>

28. Alcoa Power contends that it would not serve a regulatory purpose to require Alcoa Power to incur the cost of maintaining books and records in accordance with the Uniform System of Accounts and to annually file FERC Form No. 1 because of its ownership of limited and discrete transmission facilities with which it maintains certain limited and unique cost-based rates on file with the Commission. Alcoa Power states that, in accordance with the Commission's prior orders granting such waivers, it commits to continue to maintain its books and records in accordance with generally accepted accounting principles in the United States (U.S. GAAP).<sup>72</sup> Alcoa Power states that the information contained in Alcoa Power's audited financial statements and accounting records will provide interested parties and the Commission with sufficient information concerning Alcoa Power's costs to demonstrate that Alcoa Power's rates on file with the

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<sup>68</sup> *Id.* at 18-19.

<sup>69</sup> *Id.* at 19.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 24 (citing, e.g., *Maine GenLead*, 146 FERC ¶ 61,223 at P 18 (stating that the Commission expects Maine GenLead, LLC to keep its accounting records in accordance with U.S. GAAP).

Commission are just and reasonable.<sup>73</sup> Alcoa Power states that the Commission would retain the ability to rescind any waiver granted should the necessity for doing so become apparent.<sup>74</sup>

**b. Commission Determination**

29. We deny Alcoa Power the requested waivers related to the Commission's Uniform System of Accounts and FERC Form No. 1. The Commission has previously granted these waivers to public utilities that have limited and discrete transmission facilities and provide limited jurisdictional cost-based service.<sup>75</sup> In this order, we find that Alcoa Power's Tapoco and Long Sault Divisions own limited and discrete transmission facilities. We also continue to find that Alcoa Power's AGC and Colockum Divisions own limited and discrete transmission facilities.<sup>76</sup> However, we find that Alcoa Power does not provide limited jurisdictional cost-based services.<sup>77</sup> We find that Alcoa Power provides or will provide cost-based services under seven jurisdictional agreements, which include: (1) Alcoa Power's reactive supply and voltage control service from its Warrick Unit 4, which it jointly owns with SIGECO; (2) two TSAs with Arconic, a non-affiliate, and one TSA with Alcoa USA, an affiliate, which Alcoa Power plans to file at the Commission to replace its OATT transmission service agreements with these customers who take service from Alcoa Power's Tapoco and Long Sault Divisions; (3) two pre-Order No. 888 long-term contracts that provide MED with back-up transmission capacity over the Long Sault Division's MAL Lines; and (4) Alcoa Power's rate schedule with CRT, in which the entire capacity of the Long Sault Division's Cedars Lines is under a

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<sup>73</sup> *Id.* at 24.

<sup>74</sup> *Id.* at 16.

<sup>75</sup> See, e.g., *Maine GenLead*, 146 FERC ¶ 61,223; *Alloy Power*, 117 FERC ¶ 61,167.

<sup>76</sup> *Alcoa Power Generating Inc.*, 145 FERC ¶ 61,201 at P 12 (finding that Alcoa Power's AGC Division owns limited and discrete transmission facilities); *Alcoa Power Generating Inc.*, 131 FERC ¶ 61,177 at P 17 (finding that Alcoa Power's Colockum Division owns limited and discrete transmission facilities).

<sup>77</sup> See, e.g., *Liberty Utilities (CalPeco Electric) LLC*, 160 FERC ¶ 61,037 (2017) (denying waiver of Parts 41, 101, and 141 of the Commission's regulations because the public utility's annual revenues under one jurisdictional agreement have increased from \$100,000 to \$322,414, and the public utility has several jurisdictional agreements with cost-based rates), *order on reh'g*, 162 FERC ¶ 61,003 (2018).



long-term contract to CRT.<sup>78</sup> Given these numerous jurisdictional cost-based services, the Commission's accounting, reporting and filing requirements serve a regulatory purpose. As the Commission has explained, Parts 41, 101, and 141 of the Commission's regulations are critical to our statutory obligation under sections 205 and 206 of the FPA<sup>79</sup> to ensure that rates are just and reasonable and not unduly discriminatory or preferential.<sup>80</sup> In addition, the Commission has stated that customers subject to cost-based rates have a right to cost data so that they may evaluate the ongoing reasonableness of their rates.<sup>81</sup> Accordingly, we deny Alcoa Power's request for waiver to comply with the Commission's regulations in Part 101 regarding the Commission's Uniform System of Accounts, sections 41.10 through 41.12 pertaining to FERC Form No. 1, and Part 141, including FERC Form No. 1, but excluding sections 141.14 and 141.15.

The Commission orders:

(A) Alcoa Power's requests for waiver of the requirements for its Tapoco and Long Sault Divisions to have OATTs that comply with Order Nos. 888, 889, and 890, maintain an OASIS, and comply with the Standards of Conduct are hereby granted, as discussed in the body of this order.

(B) Alcoa Power's request for waiver of the requirement for its Tapoco Division to comply with section 141.300 of the Commission's regulations concerning the annual filing of FERC Form No. 715 is hereby granted, as discussed in the body of this order.

(C) Alcoa Power's requests for waiver of the requirements for Alcoa Power to comply with the Commission's regulations in Part 101 regarding the Commission's Uniform System of Accounts, sections 41.10 through 41.12 pertaining to FERC Form

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<sup>78</sup> We note that, in 2014, the Commission denied Alcoa Power's request for the same waivers based on five jurisdictional cost-based services, including Alcoa Power's rate schedule with CRT. *Alcoa Power Generating Inc.*, 147 FERC ¶ 61,136, at P 13 & n.25 (2014). The other four jurisdictional cost-based services in this case are not included in our analysis here because Alcoa Power explains that: (1) it has since sold its Yadkin generating and transmission facilities and therefore no longer provides cost-based services from the Yadkin facilities; and (2) its interconnection agreements with Smoky Mountain and TVA, respectively, do not contain cost-based rates. Waiver Request at 16-17 & n.55.

<sup>79</sup> 16 U.S.C. §§ 825d, 825e (2018).

<sup>80</sup> See, e.g., *Liberty Utilities (CalPeco Electric) LLC*, 160 FERC ¶ 61,037 at P 9.

<sup>81</sup> *Id.*

No. 1, and Part 141, including FERC Form No. 1, but excluding sections 141.14 and 141.15, are hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.