

143 FERC ¶ 61,064  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

North America Power Partners

Docket No. IN09-6-000

ORDER MODIFYING STIPULATION AND CONSENT AGREEMENT

(Issued April 23, 2013)

1. The Commission approves a revision to Paragraph 27 of the Stipulation and Consent Agreement (Settlement Agreement) between the Office of Enforcement (Enforcement), and North America Power Partners (NAPP) approved by the Commission in October 2010.<sup>1</sup> Under the revised Paragraph 27, NAPP will pay \$304,063.50, plus interest, in disgorgement to PJM Interconnection, LLC (PJM) by June 30, 2013, and \$500,000 in civil penalty to the United States Treasury by December 31, 2013. This order is in the public interest because it ensures payment of the disgorgement and civil penalty amounts approved by the Commission.

2. Under the Settlement Agreement, NAPP agreed to pay a \$500,000 civil penalty, disgorge \$2,258,127, plus interest in unjust profit and undertake compliance monitoring after Enforcement determined that NAPP violated various provisions of the PJM Open Access Transmission Tariff and 18 C.F.R. § 1c.2 (2010). Paragraph 27 established a payment plan requiring that: \$1,150,000, plus interest in disgorgement be paid to PJM within 30 days of the Effective Date of the Settlement Agreement; \$804,063.50, plus interest in disgorgement be paid to PJM by December 31, 2011; and \$304,063.50, plus interest in disgorgement be paid to PJM and \$500,000 in civil penalty be paid to the United States Treasury by December 31, 2012. NAPP made the first two payments to PJM as required by the Settlement Agreement.

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<sup>1</sup> *North America Power Partners*, 133 FERC ¶ 61,089 (2010).

3. On December 28, 2012, NAPP submitted a motion to amend Paragraph 27 of the Settlement Agreement. NAPP requested that the Commission extend the deadline for NAPP's final disgorgement payment until June 30, 2013 and payment of the \$500,000 civil penalty until December 31, 2013. In its request, NAPP stated that due in part to changes in the PJM capacity market, it experienced significantly less revenue in 2012 than it originally anticipated when it entered into the Settlement Agreement with Enforcement. NAPP states that the decrease in revenue has impacted its ability to meet the final payments set forth in the Settlement Agreement. In support of its motion NAPP provided an affidavit from its Vice President of Finance detailing NAPP's current financial condition and future projections. The Office of Enforcement does not object to the request for additional time to comply with Paragraph 27 of the Settlement Agreement.

6. NAPP has demonstrated that its ability to pay has changed since the Stipulation Agreement was approved by the Commission in 2010. NAPP's proposal is consistent with the intent of the Stipulation Agreement and ensures that NAPP's unjust profits are disgorged and a civil penalty is paid.

The Commission finds:

The revision to Paragraph 27 of the Settlement Agreement proposed by NAPP is in the public interest.

The Commission orders:

Paragraph 27 of the Settlement Agreement between Enforcement and NAPP is modified to require NAPP to pay \$304,063.50, plus interest, in disgorgement to PJM by June 30, 2013, and \$500,000 in civil penalty to the United States Treasury by December 31, 2013.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

Document Content(s)

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