

144 FERC 61,028  
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.

Electric Energy, Inc.

Docket No. ER13-73-000

ORDER GRANTING WAIVER OF ORDER NO. 1000

(Issued July 18, 2013)

1. On October 10, 2012, Electric Energy, Inc. (Electric Energy) filed a request for waiver of the requirements of Order No. 1000.<sup>1</sup> This order grants Electric Energy a waiver of the requirements of Order No. 1000, as described below.

**Background**

2. In Order No. 1000, the Commission amended the transmission planning and cost allocation requirements of Order No. 890<sup>2</sup> to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. Order No. 1000's transmission planning reforms require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its Open Access Transmission Tariff (OATT) to describe procedures for the

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<sup>1</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (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).

consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities; and (4) improve coordination between neighboring transmission planning regions for new interregional transmission facilities.

3. Order No. 1000 also requires that each public utility transmission provider must participate in a regional transmission planning process that has: (1) a regional cost allocation method for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation; and (2) an interregional cost allocation method for the cost of certain new transmission facilities that are located in two or more neighboring transmission planning regions and are jointly evaluated by the regions in the interregional transmission coordination procedures required by Order No. 1000.<sup>3</sup>

### **Description of Electric Energy**

4. Electric Energy states that it is an electric utility generating company that owns and operates a six-unit coal-fired generating plant in Joppa, Illinois (Joppa Plant) with a total generating capacity of 1,086 MW, and, through its wholly-owned affiliate Midwest Electric Power, Inc., two gas turbines at the Joppa Plant with a total capacity of approximately 74 MW. Electric Energy states that it was formed to provide electricity to a uranium enrichment facility near Paducah, Kentucky that is owned and operated by the U.S. Enrichment Corporation.<sup>4</sup> Electric Energy states that it is interconnected with the transmission facilities of the Sponsors or their affiliates and that it is also interconnected with the transmission system of the Tennessee Valley Authority (TVA), which serves as security coordinator for the Electric Energy system. Electric Energy states that the transmission facilities it owns and operates consist of the switch yard located at the Joppa Plant (the Joppa Bus) and six 161 kV transmission lines, each of which is approximately eight miles long. Electric Energy describes its transmission system as a radial feed between the Joppa Bus and the DOE Bus at the Paducah uranium enrichment plant.

### **Request for Waiver**

5. Electric Energy requests waiver of the requirements of Order No. 1000. Electric Energy states that, although the Commission previously denied its request for waiver of

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<sup>3</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 9.

<sup>4</sup> Electric Energy states it is jointly owned by Ameren Energy Generation Company, LLC, a subsidiary of Ameren Corp. and by Kentucky Utilities, a subsidiary of PPL Utilities, Inc. (together, Sponsors).

Order No. 888<sup>5</sup> and required it to file an OATT,<sup>6</sup> the Commission has relieved Electric Energy from certain OATT requirements.<sup>7</sup> Electric Energy argues that it satisfies the waiver criteria set forth in Order No. 1000 because it owns and operates a limited, discrete set of transmission facilities that were collectively designed solely to transmit power from a single point of receipt (the Joppa Bus) to a single point of delivery (the DOE Bus). Electric Energy states that there are no loads within the Electric Energy balancing authority area, and Electric Energy is incapable of providing network integration service. Electric Energy further states that unaffiliated entities have not made any requests to use Electric Energy's transmission system either to provide unbundled transmission service or to establish new generator interconnections.<sup>8</sup> Electric Energy argues that, because of the unique characteristics of its electric system, the Commission did not require Electric Energy to meet all the requirements of Order No. 890,<sup>9</sup> including the requirement to include in its OATT a local transmission planning process.

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<sup>5</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), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *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>6</sup> Transmittal Letter at 3 (citing *Northern States Power Co.*, 76 FERC ¶ 61,250 (1996) (denying Electric Energy a waiver of Order No. 888 because the fact that Electric Energy already provided transmission service argued against any presumption that Electric Energy is unlikely to receive a transmission request and that the Commission was therefore not persuaded that others are not likely to use Electric Energy's transmission system)).

<sup>7</sup> Transmittal letter at 3 (citing *Baltimore Gas & Elec. Co.*, Docket No. OA96-156-000, *et al.* (Feb. 24, 1999) (delegated letter order) (accepting in compliance with Order No. 888 what Electric Energy calls its "non-standard" OATT without condition or modification)). *Id.*

<sup>8</sup> *Id.* at 4-6.

<sup>9</sup> *Id.* at 3 (citing *Electric Energy, Inc.*, 125 FERC ¶ 61,365 (2008) (accepting Electric Energy's OATT that included some, but not all revisions required by Order No. 890)). Electric Energy states that it noted in the transmittal letter it submitted with its Order No. 890 compliance filing that the following requirements of Order No. 890 did not apply to Electric Energy: (1) the obligation to include in Attachment C of the OATT

(continued...)

### **Procedural Matters**

6. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 64,975 (2012), with interventions, comments and protests due on or before November 9, 2012. The Commission subsequently granted an extension of time to submit interventions, comments and protests to and including November 26, 2012. None were filed.

### **Discussion**

7. In Order No. 1000, the Commission stated that the criteria for waiver of the requirements of the Final Rule is unchanged from that used to evaluate requests for waiver under Order Nos. 888, 889, and 890.<sup>10</sup> The Commission subsequently clarified that it would “entertain requests for waiver of Order No. 1000 on a case-by-case basis.”<sup>11</sup>

8. In *Black Creek Hydro, Inc.*,<sup>12</sup> the Commission stated that it would grant requests for waiver of the requirement to file a *pro forma* tariff under Order No. 888 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. 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 the date of the request, and must comply with any additional requirements that are effective on the date of the request. The Commission also explained that waiver of the OASIS and Standard of Conduct requirements of Order No. 889 would be appropriate: (1) if the applicant owns, operates, or controls only limited and discrete transmission facilities; or (2) if the applicant is a small public utility that owns, operates, or controls an integrated

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its method for calculating Available Transmission Capability to be posted on its Open Access Same-Time Information System (OASIS); (2) the obligation to include in Attachment J of the OATT formal Transmission Loading Relief procedures adopted for addressing parallel flows of electricity; and (3) the obligation to include in Attachment K of the OATT a detailed transmission planning process and procedures under which interested parties might have a role in the transmission planning process.

<sup>10</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 832.

<sup>11</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 753.

<sup>12</sup> 77 FERC ¶ 61,232 (1996).

transmission grid, unless other circumstances are present which indicate that a waiver would not be justified.<sup>13</sup>

9. Based on the statements in Electric Energy's filing, we find that Electric Energy controls limited and discrete transmission facilities that do not form an integrated transmission grid. The only entities to use the Electric Energy transmission facilities have been Electric Energy, its Sponsors, and its affiliates. Electric Energy states that it does not have any other existing or potential customers directly interconnected with its transmission facilities, and Electric Energy's transmission system is primarily radial with limited interconnections. In light of these circumstances, we grant Electric Energy a waiver of the Order No. 1000 requirements related to OATT revisions.<sup>14</sup> However, while we are granting waiver here of the requirements of Order No. 1000, this does not mean that Electric Energy is immune from the potential of being allocated costs of regional transmission facilities that are selected in a regional transmission plan for purposes of cost allocation. As noted in Order No. 1000-A, the public utility transmission providers in each transmission planning region, in consultation with their stakeholders, may consider proposals to allocate costs directly to entities (for example, generators or network customers) as beneficiaries that could be subject to regional or interregional cost allocation.<sup>15</sup> Further, we accept Electric Energy's commitment to participate, as a stakeholder, in the Order No. 1000-compliant regional transmission planning activities undertaken by public utility transmission providers in its region.<sup>16</sup>

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<sup>13</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), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct.

<sup>14</sup> We note that the Commission has previously granted waiver of Order No. 1000 for similar reasons. See *Alcoa Power Generating, Inc.*, 143 FERC ¶ 61,038 (2013); *Lockhart Power Co.*, 143 FERC ¶ 61,040 (2013); and *SU FERC, L.L.C.*, 143 FERC ¶ 61,139 (2013).

<sup>15</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 680.

<sup>16</sup> Transmittal Letter at 7 (stating that “[Electric Energy] recognizes that, as a transmission provider with an OATT on file with the FERC, it is incumbent on [Electric Energy] to cooperate with other transmission owners in an effort to implement the FERC’s open access transmission policies.”).

The Commission orders:

Electric Energy's request for waiver of the Order No. 1000 requirements is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.