

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

East Texas Electric Cooperative, Inc.

Docket No. EL04-63-001

ORDER ON REHEARING

(Issued March 8, 2005)

1. This order denies East Texas Electric Cooperative Inc.'s (East Texas) request for rehearing of an April 19, 2004<sup>1</sup> Order and clarifies the compliance procedures East Texas will be required to follow should it receive a large generator interconnection request at some future time. This order benefits customers by providing regulatory certainty for all participants in the interconnection process.

I. **Background**

2. This case arises out of East Texas' compliance with the Commission's rulemaking on large generator interconnection, which required that that all public utilities with an open access transmission tariff (OATT) currently on file with the Commission modify that OATT to include the *pro forma* Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA).<sup>2</sup>

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<sup>1</sup> *Inland Power and Light Co., et al.*, 107 FERC ¶ 61,054 (2004) (April 19 Order).

<sup>2</sup> See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs., ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *reh'g pending*; see also *Notice Clarifying Compliance Procedures*, 106 FERC ¶ 61,009 (2004).

3. In its April 19 Order, the Commission found that East Texas does not currently have any customers taking service under its OATT and, up to that point, had never received a request for interconnection service.<sup>3</sup> Relying on these factors, the Commission granted East Texas' request for waiver but stated that should East Texas "receive a request for large generator interconnection service in the future [it would be required to amend its OATT] to include the *pro forma* LGIA and LGIP within 30 days of receiving such a request."<sup>4</sup>

## II. East Texas' Request for Clarification, and/or Rehearing

4. On May 18, 2004, East Texas requested clarification, or in the alternative, rehearing, of the April 19 Order. East Texas requests rehearing of the requirement that it adopt the *pro forma* LGIA and LGIP within 30 days should it ever receive a large generator interconnection request. It asserts that it has neither the manpower nor technical expertise to implement Order No. 2003 and requests that the waiver of Order No. 2003 not be revoked should it receive an interconnection request.

5. Additionally, East Texas requests that the Commission clarify the basis for its waiver of Order No. 889. East Texas asserts that the proper basis for its Order No. 889 waiver is that it is a "small public utility that owns, operates, or controls an integrated transmission grid."

## III. Discussion

6. We deny East Texas' request for rehearing. East Texas has not received a waiver of Order No. 888's requirement that it adopt an OATT.<sup>5</sup> Therefore, it was required to either adopt the *pro forma* LGIP and LGIA as of Order No. 2003's effective date (in this case, January 20, 2003) or request a case-specific waiver "for good cause shown."<sup>6</sup>

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<sup>3</sup> April 19 Order at P 23.

<sup>4</sup> *Id.* at P 24.

<sup>5</sup> Order No. 888 at 31,854; *see also* April 19 Order at P 11 (explaining that companies exempt from Order No. 888 are not required to seek additional waiver of Order No. 2003).

<sup>6</sup> 18 C.F.R. § 35.28(f)(3) (2004); *see also* Order No. 2003-B at P 145.

7. In support of its case specific waiver, East Texas noted its small size and the absence of interconnection requests within its service area to date.<sup>7</sup> Based on these facts, the Commission granted East Texas' request for waiver in the April 19 Order.<sup>8</sup> However, the circumstances can change. As we said in Order No. 888:

If the circumstances that give rise to the exemption change, the waiver may no longer be appropriate. For example, a radial line today could very easily become part of a network tomorrow and a portion of a grid that no one is interested in using today could become an important transmission link tomorrow.<sup>9</sup>

Giving East Texas a waiver is not the same as saying that East Texas is not required to provide open access transmission services (of which interconnection is one), as mandated by Order No. 888, upon request. Once such a request is received, the waiver ends and East Texas has an obligation to provide the requested service.

8. We also note that should East Texas receive a large generator interconnection request, it would have 30 days to adopt the *pro forma* LGIP and LGIA essentially giving it an additional 30-days to do what it is required to do. More importantly, East Texas would be able to recover any costs incurred in studying the interconnection request since all LGIA and LGIP study fees are cost-based. If necessary, East Texas could hire contractors to conduct the necessary interconnection studies and charge those costs (subject to regulatory oversight) to the interconnecting generator.

9. Finally, the Commission agrees with East Texas that its Order No. 889 waiver is based on the fact that East Texas is a "small public utility that owns, operates, or controls an integrated transmission grid." However, this clarification does not affect our underlying decision.

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<sup>7</sup> See April 19 Order at P 12-3.

<sup>8</sup> *Id.* at P 23.

<sup>9</sup> Order No. 888 at p. 31,854. In fact, Order No. 888 specifically stated that a public utility receiving a waiver must commit "to file an open access tariff within 60 days of a request to use its facilities. . . ." *Id.*

The Commission orders:

East Texas' request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.