

157 FERC ¶ 61,105  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, and Colette D. Honorable.

Alcoa Power Generating Inc.

Docket No. ER13-108-001

ORDER GRANTING CONTINUED WAIVER OF ORDER NO. 1000

(Issued November 17, 2016)

1. On August 16, 2016, Alcoa Power Generating Inc. (APGI), on behalf of APGI's Long Sault Division (Long Sault), filed an informational filing, which is, in effect, a request for continued waiver of Order No. 1000<sup>1</sup> requirements for Long Sault. This order grants Long Sault a continued waiver of the Order No. 1000 requirements, as discussed below.

**I. 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

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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 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).

<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).

regional transmission planning process that produces a regional transmission plan; (2) amend its Open Access Transmission Tariff (OATT) to describe procedures for the 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>

## **II. Description of APCI and Long Sault**

4. APCI is a wholly-owned subsidiary of Alcoa Inc. (Alcoa). APCI states that Long Sault owns limited transmission facilities in the State of New York used to connect Alcoa's smelting and fabricating facilities near Massena, New York with the New York Power Authority (NYPA), National Grid US (National Grid), and Cedars Rapids Transmission Company (Cedar Rapids). In particular, APCI states that Long Sault's transmission facilities include approximately six-miles of double-circuit 115 kV transmission lines (the Cedar Lines). APCI states that the Cedar Lines connect with National Grid and Cedar Rapids, and the capacity of the Cedar Lines is under a long-term contract to Cedar Rapids through 2035. APCI also states that Long Sault's transmission facilities include three, approximately seven-mile, 115 kV transmission lines (the Moses-Alcoa Lines), which are owned 85 percent by Long Sault and 15 percent by NYPA. APCI states that the Moses-Alcoa Lines connect NYPA's St. Lawrence hydroelectric project to the Alcoa manufacturing facilities near Massena, New York. APCI also states that Long Sault provides transmission service over the Moses-Alcoa Lines to the Town of

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

Massena Electric Department under a long-term contract that predates Order Nos. 888<sup>4</sup> and 889.<sup>5</sup>

5. APCI states that, in 1996, Long Sault filed an OATT in accordance with Order No. 888,<sup>6</sup> and, in 2006, it obtained a waiver of the Commission's Open Access Same-Time Information System (OASIS) requirements under Order No. 889.<sup>7</sup> APCI states that, in 2007, the Commission granted APCI's request for a waiver of the requirement to have an OATT on file for Long Sault because the Commission found that Long Sault's transmission lines were limited and discrete facilities, and that the only transmission service that Long Sault provided was based on pre-OATT agreements.<sup>8</sup> APCI states that, in granting Long Sault the OATT waiver, the Commission instructed APCI to file a *pro forma* OATT for Long Sault within 60 days of Long Sault receiving a request for transmission service.<sup>9</sup> APCI states that, more recently in 2013, the Commission

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<sup>4</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>5</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>6</sup> APCI August 16, 2016 Transmittal Letter at 2 & n.5 (citing *Long Sault, Inc.*, Docket No. OA96-11-000 (March 13, 1997) (delegated letter order)).

<sup>7</sup> *Id.* at 2-3 & n.6 (citing *Alcoa Power Generating Inc. (Long Sault Division)*, 116 FERC ¶ 61,257 (2006)).

<sup>8</sup> *Id.* at 3 & n.7 (citing *Alcoa Power Generating Inc. (Long Sault Division)*, 120 FERC ¶ 61,035 (2007)).

<sup>9</sup> *Id.* at 3 & n.9 (citing *Alcoa Power Generating Inc. (Long Sault Division)*, 120 FERC ¶ 61,035 at P 16).

reiterated its conclusion that Long Sault's transmission facilities are limited and discrete, and it granted Long Sault a waiver of the requirements of Order No. 1000.<sup>10</sup>

### **III. Alcoa's Reorganization**

6. APGI states that, on September 28, 2015, Alcoa announced that its Board of Directors approved a plan to separate its operations into two independent, publicly-traded companies: (1) Alcoa Corporation (Alcoa Corp.); and (2) Arconic Inc. (Arconic).<sup>11</sup> APGI states that APGI, including Long Sault, will become a subsidiary of Alcoa Corp., and Arconic will own the manufacturing facilities near Massena, New York.

7. APGI explains that, upon Alcoa's reorganization, Arconic will need to obtain transmission service from Long Sault so that Long Sault may continue to provide transmission service to Arconic's manufacturing facilities near Massena, New York. APGI states that, because Long Sault will not be affiliated with Arconic after the Alcoa reorganization, Arconic's request for transmission service from Long Sault will constitute a third-party request for transmission service. As a result, APGI states that it filed, on July 18, 2016, a proposed *pro forma* OATT for transmission service over Long Sault's transmission facilities (OATT Filing).<sup>12</sup> APGI states that, in light of the Order No. 1000 waiver the Commission granted to Long Sault in 2013, it did not incorporate the Order No. 1000 requirements into Long Sault's proposed *pro forma* OATT.<sup>13</sup>

### **IV. Request for Continued Waiver of Order No. 1000**

8. APGI submits that there has been no material change to the facts and circumstances upon which the Commission granted Long Sault a waiver of the Order No. 1000 requirements in 2013. APGI states that the Commission granted the waiver because it found that Long Sault's transmission lines are limited and discrete

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<sup>10</sup> *Id.* at 3 & n.8 (citing *Alcoa Power Generating Inc. (Long Sault Division)*, 143 FERC ¶ 61,038, at P 12 (2013)).

<sup>11</sup> *See* Alcoa and APGI July 12, 2016 Section 203 Application (Docket No. EC16-147-000) at 1-2. *Alcoa Inc.*, 156 FERC ¶ 62,140 (2016) (order authorizing the transfer of jurisdictional facilities in Alcoa's reorganization).

<sup>12</sup> On October 28, 2016, the Commission accepted Long Sault's OATT for filing, subject to the outcome of APGI's filing in this proceeding. *Alcoa Power Generating, Inc.*, Docket No. ER16-2222-000, *et al.* (October 28, 2016) (delegated letter order).

<sup>13</sup> APGI August 16, 2016 Transmittal Letter at 3.

transmission facilities.<sup>14</sup> APGI recognizes that, as a result of Alcoa's reorganization and APGI's OATT Filing, Long Sault will now be providing transmission service under an OATT to Arconic. APGI states, however, that nothing material has changed or will change as a result of the Alcoa reorganization or on the basis of APGI's OATT Filing regarding the transmission facilities owned and operated by Long Sault or the Long Sault Division itself.<sup>15</sup> Therefore, APGI states that it is informing the Commission of this non-material change to the facts and circumstances it previously presented to the Commission and upon which the Commission relied in granting Long Sault a waiver of the Order No. 1000 requirements.

## V. Notice of Filing

9. Notice of the filing was published in the *Federal Register*, 81 Fed. Reg. 57,898 (2016), with interventions, comments and protests due on or before September 6, 2016. None were filed.

## VI. Discussion

10. As a preliminary matter, we note that APGI's informational filing is, in effect, a request for continued waiver of the Order No. 1000 requirements for Long Sault, and we treat it as such.<sup>16</sup>

11. 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>17</sup> The Commission subsequently clarified that it would "entertain requests for waiver of Order No. 1000 on a case-by-case basis."<sup>18</sup>

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<sup>14</sup> *Id.* & n.8 (citing *Alcoa Power Generating Inc*, 143 FERC ¶ 61,038 at P 12).

<sup>15</sup> *Id.* at 3-4.

<sup>16</sup> *Stowers Oil and Gas Co.*, 27 FERC ¶ 61,001, at 61,002 n.3 (1984) ("Nor does the style in which a petitioner frames a document necessarily dictate how the Commission must treat it.").

<sup>17</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 832.

<sup>18</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 753.

12. In *Black Creek Hydro, Inc.*,<sup>19</sup> the Commission stated that it would grant requests for waiver of 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.<sup>20</sup> The Commission also explained that waiver 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 transmission grid, unless other circumstances are present which indicate that a waiver would not be justified.<sup>21</sup>

13. Under the circumstances presented, we grant APGI's request for a continued waiver of the requirements of Order No. 1000 for Long Sault. While Long Sault will provide OATT transmission service to Arconic after the Alcoa reorganization, APGI states that there have been no material changes in Long Sault's transmission facilities, and the Commission has previously held that Long Sault's transmission lines constitute limited and discrete transmission facilities.<sup>22</sup> APGI states that, other than the OATT transmission service that Long Sault will provide to Arconic to serve Arconic's manufacturing facilities near Massena, New York, the only transmission service that Long Sault provides is based on pre-OATT agreements. Additionally, APGI states that the entire capacity of Long Sault's Cedar Lines is under contract to Cedar Rapids, and there is no residual capacity to be offered.<sup>23</sup> In light of these circumstances, we find that Long Sault's transmission lines continue to comprise limited and discrete facilities and

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<sup>19</sup> *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996).

<sup>20</sup> *Id.*

<sup>21</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>22</sup> *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035 at P 15; *Alcoa Power Generating Inc.*, 143 FERC ¶ 61,038 at P 12.

<sup>23</sup> APGI states that the capacity of the Cedar Lines is under a long-term contract to Cedar Rapids through 2035. APGI August 16, 2016 Transmittal Letter at 2.

granting Long Sault a continued waiver of the Order No. 1000 requirements is warranted.<sup>24</sup>

14. While we are granting Long Sault a continued waiver of the requirements of Order No. 1000, this does not mean that APCI and Long Sault are immune from the potential of being allocated costs of regional transmission facilities that are selected in the regional transmission plan for purposes of cost allocation.<sup>25</sup> Further, we note that, in the Commission's order granting Long Sault's original waiver of Order No. 1000 requirements, the Commission accepted APCI's commitment to participate, as a stakeholder, in the regional transmission planning activities undertaken by public utility transmission providers in Long Sault's region pursuant to Order No. 1000, as APCI had committed to do in its original submittal.<sup>26</sup>

The Commission orders:

APCI's request for Long Sault's continued 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.

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<sup>24</sup> The Commission has granted waiver of Order No. 1000 requirements to applicants that have an OATT and an OATT customer. *See, e.g., SU FERC L.L.C.*, 143 FERC ¶ 61,139 (2013); *Electric Energy Inc.*, 144 FERC ¶ 61,028 (2013).

<sup>25</sup> *Alcoa Power Generating Inc.*, 143 FERC ¶ 61,038 at P 12.

<sup>26</sup> *Alcoa Power Generating Inc.*, 143 FERC ¶ 61,038 at P 12 & n.12.