

112 FERC ¶ 61,275  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Lockhart Power Co.

Docket No. EL05-129-000

ORDER GRANTING REQUEST FOR WAIVER OF ORDER NOS. 2003, 2006,  
AND 661

(Issued September 15, 2005)

1. Lockhart Power Co. (Lockhart) requests waiver of the requirement that it amend its Open Access Transmission Tariff (OATT) to incorporate Order No. 2003's<sup>1</sup> Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA), Order No. 2006's<sup>2</sup> Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA), and Order No. 661's<sup>3</sup> amendments to the LGIP and LGIA. This order conditionally grants Lockhart's request for waiver, with the understanding that if a customer seeks jurisdictional interconnection service from Lockhart, it will be required to file the *pro forma* LGIA and LGIP (as modified by Order No. 661) and *pro forma* SGIA and SGIP within 30 days of its receiving such a request. Additionally, the Commission will require that Lockhart remove any interconnection procedures and agreements from its currently effective OATT within 30 days of the issuance of this order.

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<sup>1</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 (2005), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005).

<sup>2</sup> See *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 Fed. Reg. 34,189 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005), *reh'g pending*.

<sup>3</sup> See *Interconnection for Wind Energy*, Order No 661, 70 Fed. Reg. 34,993 (June 16, 2005), FERC Stats. & Regs. ¶ 31,186 (2005), *reh'g pending*.

### **Request for Waiver**

2. Lockhart states that it is a public utility that generates hydroelectric power for a single wholesale customer, the City of Union, South Carolina, and for its own retail load. Though Lockhart is interconnected with Duke Power Company (Duke), Lockhart states that it has minimal transmission facilities that are devoted to delivering generation from Duke to the City of Union. Lockhart is neither a control area operator nor does it intend to operate an interstate transmission grid.

3. Lockhart notes that on July 9, 1996, it filed an OATT in compliance with the requirements of Order No. 888.<sup>4</sup> By Order dated January 31, 1997,<sup>5</sup> the Commission granted Lockhart's request for waiver of the requirement of Order No. 889.<sup>6</sup> Lockhart asserts that the conditions under which it was granted waiver of Order No. 889 have not materially changed.

4. Lockhart asserts that due to the nature and configuration of its system, it would be costly and time consuming to implement the filing requirements of Order Nos. 2003, 2006, and 661, and requests waiver of the requirement that it adopt the LGIP, LGIA, SGIP and SGIA into its OATT.

### **Motion to Intervene and Protest**

5. The filing was noticed on June 24, 2005, with comments, protests, and interventions due on or before July 12, 2005. No comments, protests, or interventions were filed within the comment period. On August 12, 2005, Lockhart filed an

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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, 1991-1996 FERC Stats. & Regs., Regs. Preambles ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *reh'g denied*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in 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> *Soyland Power Cooperative, Inc.*, 78 FERC ¶ 61,095 (1997).

<sup>6</sup> *Open-Access Same-Time Information System and Standards of Conduct*, Order No. 889, 1991-1996 FERC Stats. & Regs., Regs. Preambles ¶ 31,035, *clarified*, 77 FERC ¶ 61,335 (1996), *order on reh'g*, Order No. 889-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997), *order on reh'g*, Order No. 889-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).

amendment to its waiver request. The amendment was noticed on September 1, 2005, with comments, protests, or interventions due on or before September 12, 2005. None was filed.

### Discussion

6. Order Nos. 2003, 2006, and 661 require that all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce append to their OATTs the *pro forma* LGIP and LGIA (as amended by Order No. 661) and *pro forma* SGIP and SGIA. However, the Commission recognized that not all public utilities are likely to receive interconnection requests and the burden of complying with these orders may outweigh the benefits to consumers for some public utilities. In such cases, the Commission stated that it would consider requests to waive these requirements until such time as the public utility receives a request for interconnection service.<sup>7</sup>

7. The Commission recently applied this criterion in granting East Texas Electric Cooperative's (ETEC) request for waiver of Order No. 2003 on the grounds that: (1) though it had an OATT on file with the Commission, no customers were taking service under the OATT; (2) it had received no requests for interconnection service; (3) it was not likely that ETEC would receive requests for interconnection service in the future; and (4) the burden of complying with Order No. 2003 would outweigh the benefits to ETEC's customers.<sup>8</sup>

8. Here, due to the nature of Lockhart's electric system, no entity has applied for service under Lockhart's OATT and it is unlikely that it will receive interconnection requests in the future. We also find Lockhart would incur unnecessary and significant costs should it be obligated to conform to the filing requirements under Order Nos. 2003, 2006, and 661. Because the burden of complying is likely to exceed any benefits, the Commission will grant Lockhart's waiver request. The Commission will waive section 35.28(f)(3)(ii) of its regulations to allow Lockhart's otherwise untimely request for waiver.<sup>9</sup>

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<sup>7</sup> Order No. 2003 at P 830-31; Order No. 2006 at P 573.

<sup>8</sup> *Inland Power and Light Co.*, 107 FERC ¶ 61,054, *orders on reh'g sub nom. Bridger Valley Electric Assn. Inc.*, 107 FERC ¶ 61,270 (2004) and *East Texas Electric Coop., Inc.*, 110 FERC ¶ 61,270 (2004).

<sup>9</sup> 18 C.F.R. § 35.28(f)(3)(ii) (2005).

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9. However, should Lockhart receive a request for interconnection service in the future, the Commission will require that Lockhart amend its OATT to include either the LGIP and LGIA or SGIP and SGIA (as appropriate) within 30 days of receiving such a request. Additionally, we require that Lockhart file to remove any interconnection provisions it currently has in its tariff within 30 days of the issuance of this order.

The Commission Orders:

Lockhart's request for a waiver from the requirements that it modify its OATT to include the LGIP, LGIA, SGIP, SGIA, and Wind Interconnection Rules, is granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.