

114 FERC ¶61,139
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 16, 2006

In Reply Refer To:
Southern Company Services, Inc.
Docket No. ER06-375-000

Balch & Bingham, LLP
Attn: Jennifer M. Buettner, Esq.
Attorney for Southern Company Services, Inc.
1710 Sixth Avenue North
Birmingham, AL 35203

Dear Ms. Buettner:

1. On December 22, 2005, Southern Company Services, Inc. (Southern)¹ filed an executed rollover service agreement (Agreement) for continued long-term firm point-to-point transmission service under the Southern Companies' open access transmission tariff (OATT). The agreement between Southern and Progress Ventures, Inc. (Progress) is proposed to be effective on December 1, 2005, with continuing service through November 30, 2006. In this order, the Commission accepts the Agreement for filing, to become effective, as requested, as of December 1, 2005.

Background

2. In August 2000, Southern entered into an original service agreement with Oglethorpe Power Corporation (Oglethorpe). That agreement provided for long-term firm point-to-point transmission service for the period December 1, 2000 through November 30, 2001. Subsequently, Oglethorpe and Southern executed successive rollover agreements each for a one year term, and Oglethorpe assigned the service agreement to Progress.

¹ Southern Company Services, Inc. acts as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies or Southern).

3. Southern states this Agreement represents the fourth successive rollover agreement and provides for long-term firm point-to-point transmission service from December 1, 2005 through November 30, 2006. Southern states that this Agreement does not restrict Progress's ability to roll over its service for another term upon the expiration of the current term. Specifically, section 5.0 states that:

[t]he Transmission Provider's transmission analysis has not identified limitations on its ability to accommodate the possible rollover of the Transmission Customer's service hereunder for another term. However, should the Transmission Customer exercise its rights under section 2.2 to do so, Southern Companies reserve the right to limit or condition, in a manner consistent with the Commission's rollover rules and policies in effect at that time, the Transmission Customer's ability to rollover service for subsequent, additional rollover periods. In the event the Transmission Provider includes any limit or condition in the Transmission Customer's rollover service agreement, the Transmission Customer reserves the rights to request that the Transmission Provider file the service agreement in unexecuted form and to protest the inclusion of any such proposed limit or condition in a manner consistent with the Commission's procedures for protesting utility filings and the Commission's rules and policies.

4. Southern requests that the Commission waive its 60-day prior notice requirement to allow the Agreement to become effective December 1, 2005.

Notice

5. Notice of Southern's filing was published in the *Federal Register*, 71 Fed. Reg. 3,078 (2006), with interventions and protests due on or before January 12, 2006. None was filed.

Discussion

6. The Commission will accept the Agreement, and also grant waiver of the Commission's 60-day prior notice requirement and make the Agreement effective December 1, 2005.²

7. Section 5.0 of the Agreement, quoted above, states that Southern has not identified any limitations on its ability to roll over Progress's service for another term and then continues to discuss potential future rollovers. This language does not create any substantive rights vis-à-vis future proposals to limit the Transmission Customer's rollover

² See *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,984, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (providing for certain agreements to be filed up to 30 days after service commences).

requests, but rather clarifies that the Transmission Provider, *i.e.*, Southern, may, in the future, propose rollover limits that are consistent with then-effective Commission policy and that the Transmission Customer has the right to object to such proposals.

By direction of the Commission.

Magalie R. Salas,
Secretary.