

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Tenaska Alabama II Partners, L.P. and
Alabama Power Company
Docket No. EC20-4-000

February 7, 2020

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Reference: Data Request

Dear Counsel:

On October 2, 2019, as amended on November 21, 2019, you filed an application on behalf of Tenaska Alabama II Partners, L.P. (TAP II) and Alabama Power Company (Alabama Power) (together, Applicants) pursuant to section 203(a) of the Federal Power

Act¹ requesting Commission authorization for Alabama Power to acquire the membership interests of TAP II (Proposed Transaction). Please be advised that the application is deficient and the Commission requires additional information in order to process it. Accordingly, please respond to the information requested below.

I. Horizontal Market Power

You state in your November 21, 2019 Data Response that after May 24, 2023, Alabama Power expects to have market control over the Tenaska Central Alabama Generation Station (Generator) and will keep the facility subject to commitment and dispatch under the terms of the Southern Company Intercompany Interchange Contract. In addition, you state that Alabama Power does not anticipate that the Generator will be committed to a third party under a long-term power sale arrangement with another public utility or otherwise.

Commission regulations require the submission of a Horizontal Competitive Analysis Screen unless Applicants affirmatively demonstrate that the merging entities do not currently conduct business in the same geographic markets or the extent of the business transactions in the same geographic market is *de minimis*.² The Commission has also stated “merger analysis should be as forward-looking as practicable.”³

- a. Please provide a Horizontal Competitive Analysis Screen, if applicable, that accounts for the change in control over the Generator after May 24, 2023, as required under 18 C.F.R. § 33.3 (2019).
- b. Please explain whether Alabama Power’s control over the Generator after May 24, 2023 will have an adverse effect on horizontal competition, and if so, explain how Applicants propose to remedy such an effect.

The information requested in this letter will constitute an amendment to the application. The application will not be a completed application for purposes of section 33.11(a) of the Commission’s regulations, 18 C.F.R. § 33.11(a) (2019), until the information requested in this letter is submitted. A notice of amendment will be issued upon receipt of your response.

¹ 16 U.S.C. § 824b (2012).

² 18 C.F.R. § 33.3(a)(1), (a)(2)(ii).

³ *Revised Filing Requirements Under Part 33 of the Commission’s Regulations*, Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 38 (2000) (cross-referenced at 93 FERC ¶ 61,164), order on reh’g, Order No. 642-A, 94 FERC ¶ 61,289 (2001).

This letter is issued pursuant to the authority delegated to the Director, Division of Electric Power Regulation – West, under 18 C.F.R. § 375.307(a)(1)(v) (2019) and is interlocutory. This order is not subject to rehearing pursuant to 18 C.F.R. § 385.713 (2019). Please file the requested information within 30 days of the date of this letter.⁴

Please submit your response electronically.

In addition, please provide a copy of the response to all parties that have either requested or been granted intervention in this proceeding. Failure to respond to this letter within the time period specified may result in an order rejecting the filing.

Sincerely,

Steven T. Wellner, Director
Division of Electric Power
Regulation – West

⁴ Applicants' November 21, 2019 response to the Data Request issued by staff failed to comply with the Commission's requirements regarding text-searchable formats. Responses and other text-only documents must be either created through the print-to-PDF process or saved after applying Optical Character Recognition. *Filing Via the Internet*, 121 FERC ¶ 61,171, at PP 6, 23 (2007).

Document Content(s)

EC20-4-000 data request 2.DOCX.....1-3