

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

[Docket No. RM95-9-003]

Open Access Same-Time Information  
System (OASIS) and Standards of  
Conduct; Order Granting Motion for  
Expedited Clarification

Issued September 30, 1999.

This order addresses a motion that, among other matters, seeks expedited clarification that back-up procedures are mandatory in the event of an OASIS communications equipment breakdown. As discussed below, we clarify that, during periods when an OASIS node is not in operation, transmission customers may make, and OASIS personnel shall respond to, requests for transmission service by telephone or facsimile. On restoration of the OASIS node's operations, OASIS personnel shall promptly (within one hour of restored operations) post on the OASIS: (1) All requests for service that were received during the outage; (2) whether those requests were accepted or denied; (3) which, if any, requests were made by an affiliate; and (4) the day/time when the OASIS service outage began and ended.<sup>1</sup> The motion is denied in all other respects.

## Background

On September 3, 1999, Coral Power, L.L.C., Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., and Tractabel Energy Marketing, Inc. (collectively Movants) filed a motion seeking expedited clarification that, in the event of an OASIS communications equipment malfunction, transmission providers must allow transmission customers to use certain back-up procedures. Movants request clarification that, in the event of OASIS communications breakdown, transmission providers must accept requests for transmission service made by telephone or facsimile. Movants also argue that the Commission should not limit exceptions to the OASIS-only reservation requirements to circumstances when OASIS communications are down. Finally, Movants argue that, to prevent abuse, if an affiliated customer submits a telephone or facsimile request because of a failure in OASIS connections, the affiliate customer should be required to submit a sworn affidavit of a corporate

<sup>1</sup> These postings should be made in the format and location prescribed by the OASIS Standards and Communication Protocols Document (S&CP Document).

officer attesting to these facts and that this affidavit should be posted on the OASIS.

On September 20, 1999, Southern Company Services, Inc.,<sup>2</sup> filed an answer to Movants' motion. Southern agrees that, to the extent practicable, a transmission provider should accept telephone and facsimile reservations when its OASIS is unavailable. However, it objects to the Movants' other two proposals.

## Discussion

The OASIS regulations do not contain any explicit requirement that transmission providers accept requests for transmission service by telephone or facsimile in the event that an OASIS node's communications equipment malfunctions. Nevertheless, it is preferable to have transmission providers accept transmission service requests by telephone or facsimile during such outages, rather than for them to deny all requests for service until the OASIS node's operations are restored. Accordingly, as further discussed below, we will grant Movants' motion for expedited clarification.

We believe this interpretation is entirely consistent with the primary purpose of the OASIS rules, as discussed in the RIN NOPR,<sup>3</sup> and as codified at 18 CFR 37.2, *i.e.*, to provide potential transmission customers with timely information that will enable them to obtain transmission service on a non-discriminatory basis.<sup>4</sup> This purpose is not served if a transmission provider cites our regulations as a basis for refusing requests for transmission service during an OASIS outage. The OASIS is intended to *promote* access to transmission and access to information about transmission and *not to impede* the provision of transmission service.

<sup>2</sup> On behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as "Southern Company") (Southern).

<sup>3</sup> Real-Time Information Networks and Standards of Conduct, notice of proposed rulemaking, FERC Stats. & Regs. Proposed Regulations ¶ 32,516 at 33,170, 33,177 (1995).

<sup>4</sup> In Order No. 889, Open Access Same-time Information System (OASIS) and Standards of Conduct, FERC Stats. & Reg. ¶ 31,035 at 31,594 (1996) we stated: "Section 37.2 sets out the fundamental purpose of this part—to ensure that all potential customers of open access transmission service have access to the information that will enable them to obtain transmission service on a non-discriminatory basis. Comments in response to the RIN NOPR did not take issue with the proposed language of § 37.2 and we are adopting this provision largely without change." Likewise, as noted in Order No. 889-A, Open Access Same-time Information System (OASIS) and Standards of Conduct, FERC Stats. & Regs., Regulations Preambles ¶ 31,556 (1997) the requests for rehearing did not challenge this provision.

Likewise, the requirement at 18 CFR 37.6(e)(1) that "[a]ll requests for transmission services offered by Transmission Providers under the *pro forma* tariff must be made on the OASIS" implicitly presupposes a functioning operational OASIS.

This is illustrated by our action in response to a request that we clarify whether the directive at 18 CFR 37.6(e)(1), that all requests for transmission services must be made on the OASIS, foreclosed the use of requests by telephone or facsimile in certain circumstances involving next-hour transactions. We responded by clarifying that,

during Phase 1, a request for transmission service made after 2:00 p.m. of the day preceding the commencement of such service, will be "made on the OASIS" if it is made directly on the OASIS, or, if it is made by facsimile or telephone *and* promptly (within one hour) posted on the OASIS by the Transmission Provider. In all other circumstances, requests for transmission service must be made exclusively on the OASIS.<sup>5</sup>

The need for an exception to the OASIS-only reservation requirement is even stronger in the case where the OASIS node is not functioning at all.<sup>6</sup> We, therefore, clarify that, during periods when an OASIS node is not in operation, transmission customers may make, and OASIS personnel shall respond to, requests for transmission service by telephone or facsimile. Moreover, OASIS personnel may not deny such requests on the basis that they were made off-line.

Movants have further requested that off-line requests for transmission service be allowed not only when the OASIS node is not functioning but also when the transmission customer's OASIS communications equipment is malfunctioning. Southern responds by pointing out that the Commission specifically rejected this argument in *Carolina Power & Light Company*, 85 FERC ¶ 61,145 at 61,579 (1998). We agree and will deny Movants' request. In our view, customers should be able to make advance alternate arrangements that would allow them to avert these kinds of malfunctions of, or interruptions to, their OASIS communications. We are taking a strict position on this because it would not be possible in each instance to verify the

<sup>5</sup> Open Access Same-time Information System (OASIS) and Standards of Conduct, clarifying order, 77 FERC ¶ 61,335 at 62,492 (1996).

<sup>6</sup> Similarly, the importance to the Commission of maintaining transmission business operations during emergencies is highlighted by our exception at 18 CFR 37.4(a)(2) that allows system operators to deviate from the standards of conduct, if needed to preserve system reliability during emergencies.

source of a customer's communication problems and allowing such an exception could lead to widespread circumvention of the requirement in 18 CFR 37.6(e)(2) that all requests for transmission service be made on the OASIS, in hope of obtaining preferential treatment. It also could lead to serious abuses regarding off-line communications between transmission system operations employees, and affiliated wholesale merchant employees.

To address this concern, the Movants propose that we require an affiliated customer who submits a telephone or facsimile request because of a failure in OASIS connections to submit a sworn affidavit of a corporate officer attesting to these facts and that this affidavit should be posted on the OASIS. Southern argues, to the contrary, that Order No. 889 and the Standards of Conduct were intended to apply equally to all transmission customers and were not intended to place additional burdens on affiliate customers.

In our view, the better solution for Movants' concern is to put the burden on all transmission customers to make advance alternate arrangements, and require transmission providers to take telephone and facsimile service requests only when the OASIS node itself (instead of the customer's equipment) is inoperable. Nevertheless, this proposal prompts us to add to our clarification that, on restoration of the OASIS node's operations, OASIS personnel shall promptly (within one hour of restored operations) post on the OASIS: (1) All requests for service that were received during the outage; (2) whether those requests were accepted or denied; (3) which, if any, requests were made by an affiliate; and (4) the day/time when the OASIS service outage began and ended.<sup>7</sup>

*The Commission orders:* Movants' request for expedited clarification is granted in part, and denied in part, as discussed in the body of this order.

By the Commission.

**David P. Boergers,**

Secretary.

[FR Doc. 99-25921 filed 10-5-99; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Joint Application for Approval of Transfer of License, for Conforming Amendments to Project Description and Soliciting Comments, Motions To Intervene, and Protests

September 30, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Joint Approval to Transfer License and to Amend Project Boundary and Description.

b. *Project Nos.:* 2312-012 (Amendment of License) and 2312-011 (Transfer of License).

c. *Date Filed:* September 23, 1999.

d. *Applicants:* Fort James Operating Company (Fort James) and PP&L Great Works, LLC (Great Works).

e. *Name of Project:* Great Works Hydroelectric Project.

f. *Location:* The project is located on the Penobscot River near the Town of Great Works, Penobscot County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a), 825(r) and §§ 799 and 801.

h. *Applicant Contacts:*

For Fort James Operating Company (Transferor):

Mr. Clifford A. Cutchins, IV, Fort James Operating Company, 1650 Lake Cook Road, Deerfield, IL 60015-0089, (847) 317-5320.

James M. Costan, McGuire, Woods, Battle & Boothe LLP, 1050 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036, (202) 857-1754.

For PP&L Great Works, LLC (Transferee):

Robert W. Burke, Jr., PP&L Great Works, LLC, 11350 Random Hills Road, Suite 400, Fairfax, VA 22030-6044, (703) 293-2612.

H. Liza Moses, Le Boeuf, Lamb, Greene & McRae, L.L.P., 125 West 55th Street, New York, NY 10019-5389, (212) 424-8224.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219-2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing comments and or motions:* November 8, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426.

Please include the project number (2312-011) on any comments or motions filed.

k. *Description of Request:* Fort James and Great Works request Commission authorization to transfer the Project license, FERC No. 2312, to Great Works in connection with Fort James' planned sale of its hydroelectric dam and associated structures and lands on the Penobscot River. The two parties also seek authorization to amend Exhibit K to delete lands that are not necessary and appropriate to the operation and maintenance of the Great Works Dam and to identify certain facilities within and adjacent to the powerhouse that Fort James will retain that are not necessary or appropriate to the operation and maintenance of the dam but are essential to the operation of its Old Town Paper Mill.

The transfer application was filed within five years of the expiration of the license for Project No. 2312.<sup>1</sup> In Hydroelectric Relicensing Regulations Under the Federal Power Act, 54 FR 23,756 (June 2, 1989); FERC Statutes and Regulations, Regulations Preambles 1986-1990 ¶ 30,854 at p. 31,438 n. 318 (May 17, 1989) (Order No. 513), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing, such as when a transfer is intended to escape consideration of a transferor's poor compliance record.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. This filing may be viewed on <http://www.ferc.fed.us/online/rims.htm> (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

*Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and

<sup>1</sup> On March 28, 1997, James River Paper Company, Inc. submitted a Notice of Intent to File Application for New License by March 31, 2000. Subsequently, an Order Amending License was issued on September 29, 1997, changing the company name from James River-Norwalk, Incorporated to Fort James Operating Company.

<sup>7</sup> See note 1 *Supra*.