

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

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[Docket No. RP96-317-000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

August 1, 1996.

Take notice that on July 29, 1996, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective September 1, 1996:

Third Revised Sheet No. 6
Second Revised Sheet No. 9
Second Revised Sheet No. 53
First Revised Sheet No. 54
Second Revised Sheet No. 59
Original Sheet No. 59A
Second Revised Sheet No. 60

Great Lakes also tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets to become effective September 1, 1996:

Sixth Revised Sheet No. 3-A
Fourth Revised Sheet No. 224
Fifth Revised Sheet No. 246
Sixth Revised Sheet No. 270
Sixth Revised Sheet No. 295
Third Revised Sheet No. 615

Great Lakes states that the proposed revised tariff sheets are being filed to reflect a revision to the methodology for allocating system fuel and other use gas, and the corresponding determination of Transporter's Use percentages, to reflect more distance sensitivity. Great Lakes further states that the proposed revised tariff sheets are being filed to revise the mechanics of its Transporter's Use mechanism so as to conform with the standards required by the Federal Energy Regulatory Commission's Order No. 587 issued July 17, 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Commission's Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

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[Docket Nos. EL94-45-001 and QF88-84-006]

LG&E-Westmoreland Southampton; Order Granting Rehearing in Part and Denying Rehearing in Part, and Announcing Policy Concerning Non-Compliance With the Commission's QF Regulations

Issued July 31, 1996.

On August 9, 1994, LG&E-Westmoreland Southampton (Southampton) filed a request for rehearing of the Commission's order issued in this proceeding on July 7, 1994. *LG&E-Westmoreland Southampton*, 68 FERC ¶ 61,034 (1994). In that order, the Commission denied the request by Southampton, the owner of a topping-cycle cogeneration facility, for waiver of the Commission's operating standard applicable to qualifying cogeneration facilities, see 18 CFR § 292.205 (1995), for calendar year 1992.

We will deny rehearing to the extent Southampton asks us to upset our decision to deny its request for waiver of section 205 of the Federal Power Act (FPA) to excuse its non-compliance during calendar year 1992 with the Commission's requirements for qualifying facility (QF) status. We will grant rehearing to the extent Southampton asks us to allow it to remain exempt during that year from the other requirements of the FPA, as well as certain other federal and state regulation. Because this is just one of several pending cases that present the Commission with the question of how to regulate previously certificated (or self-certificated) QFs that have been found to be in non-compliance with the Commission's QF regulations during some past period of operation, and in order to encourage respect for and compliance with those regulations, we take this opportunity to announce a policy of general application concerning the consequences of failing to retain QF status.

Background

We discuss the background of this proceeding in detail in the previous order. In brief, Southampton owns a 62.6 MW topping-cycle cogeneration facility located in Franklin, Virginia that failed to meet the Commission's operating standard for qualifying cogeneration facilities during calendar years 1991 and 1992. Southampton previously was granted limited waiver to excuse non-compliance for calendar year 1991. In this proceeding, Southampton requested an additional waiver to excuse non-compliance for calendar year 1992. Southampton sought to justify a second waiver on the fact that, among other things, the facility was engaged in start-up and testing operations during a portion of 1992, and that the third-party plant operator mistakenly delivered (without Southampton's knowledge) steam produced in a non-sequential manner to the thermal host.

The Commission, after balancing all relevant considerations, found this explanation to be insufficient to justify a second waiver of its QF requirements. The Commission found particularly troubling the fact that Southampton, in justifying waiver for calendar year 1991, previously represented to the Commission that it expected to comply with all applicable QF requirements during calendar year 1992 and later years. The Commission also found that the circumstances leading to Southampton's second waiver request were not entirely outside of its control: "We believe that the Commission should not, through its waiver authority, insulate a QF from the risks of non-performance due to operator error or poor management." 68 FERC at 61,113.

Finally, the Commission noted that Southampton may have operated as a public utility within the meaning of the Federal Power Act (FPA) during the period of time in which it failed to comply with the Commission's operating standard. For this reason, the Commission directed Southampton to "show cause why it should not be required to file appropriate rate schedules with the Commission reflecting sales for resale" to its utility-purchaser. 68 FERC at 61,113 n.9.

Request for Rehearing and Responses

On rehearing, Southampton argues that the Commission should have granted waiver for calendar year 1992.¹

¹ Also on August 9, 1994, when it filed its rehearing request, Southampton filed a motion to treat its request for rehearing as if it had been filed on time, *i.e.*, on August 8, 1994. Southampton