

**Board of Trustees Compliance Committee
Decision on Appeal of Compliance Registry Determination
(Issued July 5, 2007)**

Statement of Appeal

On May 11, 2007, the City of Tampa, Florida filed an appeal of the inclusion of its McKay Bay Resource Recovery facility (McKay Bay), which is operated by Wheelabrator Technologies, Inc., (COT) on the NERC Compliance Registry within Florida Reliability Coordinating Council (FRCC) for the function of generator owner (GO). In support of its appeal, COT asserts that its McKay Bay electric generating facility is a Qualifying Facility (QF) and as such, is exempt from the Federal Power Act. Additionally, COT states that it should be exempt based on the criteria listed in the *Statement of Compliance Registry Criteria (Rev. 3.0)*, including Sections I and III. According to COT, Section I provides, among other things, that “generation resources”... “generally operated at voltages of 100 kV or higher will be considered part of the bulk power system.” COT states it should be exempt from being registered as a GO because it is connected at 69 kV, which is below the 100 kV threshold. COT states it should be exempt because it is electrically interconnected via radial facilities. In addition, COT states that it should be exempt because McKay Bay’s export power is less than the NERC threshold. COT further states that McKay Bay’s firm capacity contracts will not affect system reliability.

Rule

Rule 501 of NERC’s *Rules of Procedure* states that an entity directly connected to the bulk power system (BPS) selling, purchasing, or transmitting electric energy over the BPS will generally be considered a user of the BPS unless the entity’s actions or facilities have no material impact on the BPS. Additionally, NERC maintains a compliance registry of the BPS owners, operators, and users that are subject to approved reliability standards. The provisions in the *Statement of Compliance Registry Criteria (Rev. 3.0)* that apply to this case are section III.c.1 “Individual generating unit >20 MVA (gross nameplate rating) and is directly connected to the bulk power system” and section III.c.4 “Any generator, regardless of size, that is material to the reliability of the bulk power system.”

On May 18, 2007, in Docket No. RM07-11-000, the Federal Energy Regulatory Commission revised its regulations governing qualifying small power production and cogeneration facilities (QFs) to eliminate the exemption of QFs from the requirements of Section 215 of the Federal Power Act. *Applicability of Federal Power Act Section 215 to Qualifying Small Power Production and Cogeneration Facilities*, 119 FERC ¶ 61,149 (2007) (“Order No. 696”). The revised regulations became effective on June 25, 2007. See 72 Fed. Reg. 29,096 (May 24, 2007).

Procedures

On May 16, 2007, FRCC provided its detailed basis for including COT on the NERC Compliance Registry. On May 22, 2007 and June 1, 2007, the NERC Board of Trustees Compliance Committee considered the appeal filed by COT and the response from FRCC, in accordance with the provisions of Rule 501 of NERC's *Rules of Procedure*.

Statement of Facts:

FRCC registered COT for the function of GO within its footprint on the basis of section III.c.4 of the NERC *Statement of Compliance Registry Criteria (Rev. 3.0)* which states that NERC or the region may register "Any generator, regardless of size, that is material to the reliability of the bulk power system." FRCC has identified that COT sells a portion of its firm power to Tampa Electric Company, which Tampa Electric relies on to meet its operating and planning reserve margins. This unit also is included in the transmission planning studies during normal and contingency analysis to ensure that NERC standards are met. Additionally, within the FRCC footprint, there is over 2,000 MW of generation connected at the 69 kV level, which is over 2 times the largest single contingency (generating unit loss). Being a peninsula, FRCC's import capability is limited to 3,700 MW so the ability to import additional energy is limited on peak days.

Analysis

The NERC Board of Trustees Compliance Committee agrees with FRCC that COT should remain registered as a GO. As stated by FRCC, COT sells a portion of its output to Tampa Electric and Tampa Electric relies on that purchase, in part, to meet its operating and planning reserve margins. The unit also is included in the transmission planning studies during normal and contingency analysis to ensure that NERC standards are met. The fact that, within FRCC, over 2,000 MW of generation is connected at the 69 kV level also is important. Because of the limits on FRCC's import capability, FRCC must rely on a large quantity of generation connected at the 69 kV level to provide for BPS reliability. The underfrequency settings and generator trip settings must be coordinated to ensure adequate resources are available in order to avoid stability issues under certain conditions. Therefore, this generator, and others like it in the FRCC footprint, has an aggregate importance to the reliability of the FRCC BPS. For these reasons, FRCC considers that the registration of GO for COT is appropriate as its generating facility does have a material impact on the reliability of the FRCC BPS. Moreover, generating facilities in the FRCC footprint that are connected below 100 kV were evaluated based on material impact to the BPS. Key factors used in this evaluation are:

- Generator Nameplate Rating — Is the generator rated at 20 MVA or greater?
- Firm Sales — Are there commitments in place for the entity to supply firm power to another entity on the transmission grid?

Because of firm sales, the generator is:

- Included in local and regional planning models which are used for studies and assessments (normal and contingency) necessary to satisfy the TPL standards.
- Included in unit commitment determinations by the other entities in the region to ensure appropriate generation resources are available to meet operating requirements that can include operating reserve resources.

The above items cause the entity's generation to have a material impact on the reliability of the BPS in Florida. The fact that the generator is connected radially does not alter this conclusion. The exemption for radial transmission facilities serving only load does not apply to generators. The fact that McKay Bay's export power is less than the NERC threshold also does not alter this conclusion.

The other points raised in COT's appeal do not provide a basis to reach a different conclusion. Because FERC has revised its regulations, the QF exemption from the requirements of Section 215 of the Federal Power Act was eliminated as of June 25, 2007.

Conclusion

The NERC Board of Trustees Compliance Committee finds that COT is properly included on the NERC Compliance Registry. Accordingly, the NERC Board of Trustees Compliance Committee denies COT's appeal filed on May 11, 2007. COT has the right to file an appeal of this ruling with the Federal Energy Regulatory Commission within 21 days of the issuance of this decision, as specified in Rule 501.1.3.4 of NERC's *Rules of Procedure*.

By the Board of Trustees Compliance Committee