

**Louisville Gas and Electric Company and Kentucky Utilities Company
Southeast Energy Exchange Market (“SEEM”) Quarterly Status Report No. 5
Case Nos. 2020-00349 and 2020-00350
September 30, 2022**

SEEM Agreement

As reported in the Companies’ fourth Quarterly Status Report, FERC issued its Notice of Filing Taking Effect By Operation of Law arising out of a 2-2 tie vote on the SEEM Agreement on October 13, 2021.¹ Clean Energy Coalition and Public Interest Organizations (collectively, “Rehearing Parties”) unsuccessfully sought rehearing at FERC.²

On November 24, 2021, the Companies, along with the other FERC-jurisdictional SEEM Members, filed ministerial revisions to the SEEM Agreement to address commitments previously made to FERC.³ FERC issued an order accepting the revisions on January 21, 2022.⁴ The Rehearing Parties requested rehearing on February 18, 2022, and FERC issued a notice that the rehearing request was denied by operation of law on March 21, 2022.⁵ On May 19, 2022, FERC issued an order addressing the arguments raised on rehearing sustaining the results of the January 21, 2022 order.⁶

OATT Amendment

FERC accepted the Companies’ separate FERC filing of the revisions to the Companies’ Open Access Transmission Tariff (“OATT”) to enable a zero-cost transmission service in

¹ *Ala. Power Co., et al.*, Notice of Filing Taking Effect by Operation of Law, FERC Docket Nos. ER21-1114- 002 and ER21-1120-002 (October 13, 2021). FERC explained that because the FERC Commissioners were divided two against two, the Commission did not act on the filing on or before October 11, 2021. Thus, pursuant to Section 205 of the Federal Power Act, the proposed SEEM Agreement became effective by operation of law as of October 12, 2021.

² *Ala. Power Co., et al.*, Order Rejecting Rehearing Requests as Untimely, 177 FERC ¶61,178 (December 10, 2021); *Ala. Power Co., et al.*, Order Addressing Arguments Raised on Rehearing, 178 FERC ¶61,196 (March 24, 2022).

³ *Ala. Power Co.*, Revisions to the Southeast Energy Exchange Market Agreement and Request for Waiver of Prior Notice, FERC Docket No. ER22-476-000 (November 24, 2021).

⁴ *Ala. Power Co.*, Order Accepting Tariff Revisions, 178 FERC ¶ 61,048 (January 21, 2022).

⁵ *Ala. Power Co.*, Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration, 178 FERC ¶ 62,157 (March 21, 2022).

⁶ *Ala. Power Co.*, Order Addressing Arguments Raised on Rehearing, 179 FERC ¶ 61,128 (May 19, 2022).

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connection with SEEM transactions on November 8, 2021.⁷ Requests for Rehearing were filed on December 8, 2021, by the Rehearing Parties. FERC issued a notice denying rehearing by operation of law on January 10, 2022, and a subsequent order denying rehearing with additional discussion in support of the November decision on March 24, 2022.⁸

Appeal

On February 8, 2022, the Rehearing Parties filed a joint petition for review with the D.C. Circuit Court of Appeals. Specifically, the petition seeks review of the following: the October 13, 2021 SEEM Agreement order, the December 10, 2021 rehearing order, the November 8, 2021 OATT order, the January 10, 2022 rehearing order, and the February 7, 2022 rehearing order. The Companies, along with the other FERC-jurisdictional SEEM Members, intervened in the appeal proceeding and filed a motion to dismiss the appeal on May 16, 2022. FERC also filed a motion for summary affirmance on May 16, 2022.

The D.C. Circuit Court of Appeals issued an order on July 7, 2022, denying FERC’s motion for summary affirmance and defer the motion to dismiss. A briefing schedule was established, and the Rehearing Parties’ opening brief was filed on September 21, 2022. R Street will be filing an amicus brief before the end of September. FERC’s reply brief is due December 8, 2022, and the reply brief from the Companies and other FERC-jurisdictional SEEM Members is due December 22, 2022.

⁷ A compliance filing was made as directed by FERC on December 7, 2021 and accepted by letter order on January 7, 2022. *See*, LG&E/KU, Tariff Filing, Docket Nos. ER21-1118-004.

⁸ *Duke Energy Progress, LLC, et. al.*, Order Addressing Arguments Raised on Rehearing, 178 FERC ¶61,195 (March 24, 2022).