

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

TRES AMIGAS, LLC

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Docket No. EL10-22-000

**MOTION FOR LEAVE TO INTERVENE AND REQUEST FOR EXTENSION  
OF COMMENT DATE OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the Electric Power Supply Association (“EPSA”)<sup>2</sup> moves to intervene and requests an extension, from December 29, 2009 to January 12, 2010, of the comment date in the above captioned proceeding. On December 8, 2009, Tres Amigas LLC (“Applicant”) submitted a petition for disclaimer of jurisdiction (the “Petition”)<sup>3</sup> to the Federal Energy Regulatory Commission (“FERC” or the “Commission”) that requests a ruling by the Commission that,

[A]ny transmission owner that constructs transmission facilities interconnecting the ERCOT grid to the proposed Tres Amigas Superstation (“Tres Amigas”) will not be subject to FERC jurisdiction as a public utility under the Federal Power Act by virtue of such interconnection, that transmission services over the alternating current (“AC”) lines from ERCOT to Tres Amigas (and synchronized with the ERCOT grid) will not be subject to the Commission’s jurisdiction, and that establishing a new AC to Direct Current (“DC”) interconnection between Tres Amigas and ERCOT will not change the jurisdictional status of any other ERCOT utilities or ERCOT transactions.<sup>4</sup>

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<sup>1</sup> 18 C.F.R. §385.212 and §385.214 (2009)

<sup>2</sup> The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

<sup>3</sup> See Petition for Disclaimer of Jurisdiction of Tres Amigas, LLC, Docket No. EL10-22-000 (filed Dec. 8, 2009).

<sup>4</sup> *Id.* at 1.

On December 9, 2009, the Commission issued a Notice of Filing setting December 29, 2009, as the comment date in this proceeding. In light of the intervening holidays and in order to permit EPSA to prepare and submit comments that reflect input of its members, EPSA respectfully requests that the Commission extend the comment date by 14 days, so that submissions would be due on January 12, 2010.

## **I. COMMUNICATIONS**

Communications in connection with this filing should be addressed to:

Nancy Bagot  
Vice President of Regulatory Policy  
Electric Power Supply Association  
1401 New York Ave, NW  
11<sup>th</sup> Floor  
Washington, D.C. 20005  
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## **II. BACKGROUND**

The Petition states that the relief requested is essential for the Tres Amigas Superstation project to move forward. Concurrently with the filing of the Petition, Tres Amigas submitted an application for negotiated rates which the company states are critical to the project.<sup>5</sup> As described in the Petition and the Rate Application, the Tres Amigas Superstation is a three-way transmission superstation in eastern New Mexico designed to link three asynchronous grids – the Western Electric Coordinating Council (“WECC”), the Electric Reliability Council of Texas (“ERCOT”) and the Eastern Interconnection. The project will

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<sup>5</sup> See Application for Authorization to Sell Transmission Services at Negotiated Rates and for Related Relief, Docket No. ER10-396-000 (filed Dec. 8, 2009) (the “Rate Application”).

“employ cutting edge technologies, such as voltage source converters and underground superconducting DC transmission cable,” in order to remove barriers to power transmission across the entire electric system.<sup>6</sup> While planning to function as a Balancing Authority Area in WECC, the superstation would permit power sellers in any of the interconnections to schedule power to either of the other two interconnections. Tres Amigas notes, “The project is deliberately being engineered to allow for substantial growth on a component basis so that it can contribute to the expansion of renewable generation in the region.”<sup>7</sup>

In the Petition, Tres Amigas “asks the Commission to disclaim jurisdiction over any ERCOT transmission owner that builds a transmission line to establish a new AC/DC interconnection between ERCOT and the Tres Amigas superstation, and further requests that it find that establishment of such a new ERCOT interconnection would not subject any facilities, entities or transactions inside ERCOT to Commission jurisdiction.”<sup>8</sup> This is critical to the project, according to Tres Amigas, because transmission and renewable generation developers operating in ERCOT have indicated to Tres Amigas that they must have assurance that any facilities operating in ERCOT “will not become subject to FERC jurisdiction as a result of establishing an AC/DC interconnection between ERCOT and Tres Amigas.”<sup>9</sup> This is deemed necessary to preserve ERCOT’s status as an intrastate electric system subject to the exclusive regulation of the Public Utility Commission of Texas.

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<sup>6</sup> Petition at 4.

<sup>7</sup> Rate Application at 5.

<sup>8</sup> Petition at 2.

<sup>9</sup> *Id.* at 8

### **III. MOTION TO INTERVENE**

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers.

Many of EPSA's members are interconnected with and/or are pursuing interconnection to the grid ERCOT, WECC and the Eastern Interconnection. EPSA members have been active participants in stakeholder processes in all three interconnections, and EPSA has participated in many proceedings before the Commission's on transmission and market issues in all the relevant regions.

As a result, EPSA has a direct and substantial interest in the instant proceeding that cannot be adequately represented by any other party, and allowing EPSA to actively participate in this proceeding would be in the public interest. EPSA respectfully requests that the Commission grant this timely motion to intervene and support the Petitioner's filing.

### **IV. REQUEST FOR EXTENSION OF TIME**

The Petition seeks a ruling from the Commission on critical and complex jurisdictional issues. Based on both the innovative design and proposed operation of the Tres Amigas Superstation, and the related transactions and transmission across interconnections it intends to establish, the Petition presents questions of first impression that require careful analysis and consideration. The

factual, policy and legal statements proffered by Tres Amigas to support its petition need to be carefully reviewed and evaluated to verify whether such requests are reasonable, legal or feasible in light of the operation of the three electricity interconnections in the United States.

EPSA requests a 14-day extension in order to enable it to evaluate the petition thoroughly and provide meaningful comment to the Commission. In light of the current comment deadline falling between two major holidays, Christmas and New Years, EPSA is concerned that it will be unable adequately to develop and more importantly, that its member companies may not be available to review, and provide meaningful input regarding, comments on the current schedule. An extension of two weeks, to January 12, 2010, will not create an undue burden on the Petitioner. In light of the weight of the issues posed, it is in the interest of all parties and each region that a thoughtful and complete record is developed to inform the Commission's decision-making process.

## CONCLUSION

Wherefore, EPSA respectfully requests that the Commission grant their timely motion to intervene and be made a party to this proceeding with all the rights pertaining thereto, and grant this Motion to extend the comment date by 14 days so that the filing deadline on the Petition would be January 12, 2010.

Respectfully submitted,



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Nancy Bagot, Vice President of Regulatory Policy  
Electric Power Supply Association  
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11<sup>th</sup> Floor  
Washington, D.C. 20005

December 18, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the comments by via email or postal mail upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., December 18, 2009.

*Nabagot*

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