

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

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Electronic Tariff Filings –	)	
Baseline Filing Schedules	)	Docket No. RM01-5
and Test Environment	)	
_____	)	

**EXPEDITED MOTION OF THE EDISON ELECTRIC INSTITUTE  
AND ELECTRIC POWER SUPPLY ASSOCIATION  
FOR DELAY OF THE E-TARIFF BASELINE FILING TIME FRAME  
AND EXTENDED RETENTION OF THE E-TARIFF TEST ENVIRONMENT**

Relief Requested

The Edison Electric Institute (EEI) and Electric Power Supply Association (EPSA) request that the Federal Energy Regulatory Commission (FERC or the Commission):

- (1) respond to this motion by March 19, 2010 or as soon thereafter as practicable;
- (2) complete any further work the Commission intends to do on the eTariff pre-production test environment including the public viewer (“test environment”), such as adding functions and resolving issues that have been raised, as soon as possible – ideally by the end of March 2010 – and notify the service list for this docket when that work has been completed, while also providing with instructions for accessing the public viewer;
- (3) keep the test environment or its equivalent in place during the baseline filing period and ideally permanently, so companies can continue to test file tariffs,

tariff amendments, and other types of filings in a fully functional test environment before actually filing them in the live eTariff database, and work promptly with companies to trouble-shoot causes of test filing problems and share lessons learned with all companies;

- (4) delay the six-month eTariff baseline filing time frame that is currently scheduled to begin on April 1, 2010, so the six-month period begins one month after the Commission's eTariff test environment is fully functional provided the Commission keeps the test environment in place during the baseline filing period, or least two months after the test environment is fully functional if the Commission does not keep the test environment in place during the baseline filing period with ample notice so companies know that they must finish all testing including as to amendments and other types of filings before the start of the baseline filing process; and
- (5) issue a notice announcing the baseline filing schedule for companies as soon as possible, shifting the dates each company has proposed for its baseline filing later in time by the amount of the delay in the six-month baseline time period, but allowing companies to seek modifications to the schedule if that change causes them problems provided the schedule remains relatively evenly balanced in terms of numbers of companies filing per month.<sup>1,2</sup>

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<sup>1</sup> EEI and EPSA would work with our members to address such company concerns, proposing consolidated modifications aimed at keeping the schedule evenly spread out. A number of EEI members already have indicated that they can work with a shift later in time by the amount of the delay.

<sup>2</sup> If the Commission does keep the test environment in operation after the start of the baseline filing process, the Commission should allow companies the voluntary option to file early, in accordance with their original proposed schedules in April and May.

## Background

At the FERC eTariff question-and-answer session on February 22, 2010 (February 22 session), Commission staff acknowledged that the eTariff test environment was not fully in place and additional functions were still being added to the site. In addition, the staff stated that the test environment would be kept in place only until a few days or a week prior to the start of the six-month baseline filing time frame, at which point the test environment (other than a limited-function “sandbox”) would be shut down and no longer be available.

As a result, some participants in the February 22 session asked if the Commission would be willing to delay the baseline filing time frame and keep the test environment in operation for an additional period of time. The participants noted that unless and until companies can fully test their filing software and test-file tariffs, amendments, and other types of filings in a fully functional test environment, the companies cannot be confident that they will be able to meet actual baseline filing deadlines. Commission staff suggested that the Commission might be willing to consider such a request, especially if the request was filed by industry groups rather than individual companies. The staff noted that the request would need to be substantiated.

In addition, some participants in the February 22 session asked if the Commission would keep the pre-production test environment in place throughout the baseline filing process. They noted that companies filing later in the six-month baseline filing period would benefit from being able to use the test environment during that period, as many companies filing later in the six-month period may not yet have purchased or fully test-used software. Commission staff responded that the Commission plans to keep the

“sandbox” for rudimentary testing of software in place throughout the six-month baseline filing process, but the Commission does not plan to keep the more complete test environment with the ability to identify more sophisticated problems in place during the baseline filing process or beyond. The staff noted that this would require funds and staff resources that are not currently available.

In the past week, EEI and EPSA have noticed that the Commission’s public viewer has been installed within FERC Online, though this has not been broadly announced through, for example, a notice to the eTariff docket service list. Also, the public viewer appears to be sorting records alphanumerically based on the Record Content Description and Tariff Record Title instead of by Record Collation Value. As a result, the public viewer displays tariff records for test-filed tariffs out of actual order, listing sheet or section numbers 1, 10, 100, 2, 20, 200, etc. rather in actual numerical order 1, 2, 3, etc. And there does not appear to be an option to sort the records so as to put them in actual order, which should be the default display. This and any other such problems need to be resolved to prevent public confusion.

#### EEI and EPSA Have a Direct Interest in These Issues

EEI is the association of shareholder-owned electric utilities, international affiliates, and industry associates worldwide. Our U.S. members serve 95 percent of the ultimate customers in the shareholder-owned segment of the industry, and represent approximately 70 percent of the U.S. electric power industry.

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 global power markets. EPSA seeks to bring the benefits of competition to all power customers. 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.

Virtually all of EEI's and EPSA's U.S. members have tariffs, rate schedules, and related documents that are covered by the Commission's new electronic tariff (eTariff) filing requirements. Those requirements are set out in Order No. 714<sup>3</sup> in this docket and other documents posted on the Commission's website, including a North American Energy Standards Board (NAESB) eTariff standard and implementation guide. Order No. 714 requires companies to submit "baseline" electronic versions of their generally applicable tariffs that are currently in effect over a six-month staggered schedule starting this coming April 1<sup>st</sup>. After doing so, companies must submit subsequent tariff-related filings electronically. The baseline and subsequent filings must be made in conformance with detailed filing requirements set out in Order No. 714, the NAESB standard and guide, and other guidance provided on the FERC website.

The eTariff pre-production test environment is meant to allow eTariff software developers to ensure that their software is compatible with the Commission's eTariff web portal and meets the Commission's complex eTariff filing requirements, including extensive metadata, XML, and other technical requirements. In addition, the test environment is meant to enable companies to use the eTariff software to test-file their tariffs, to ensure that the companies understand the Commission's eTariff requirements and can use their software properly to comply with those requirements.

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<sup>3</sup> *Electronic Tariff Filings*, 73 FR 57,515 (Oct. 3, 2008), 124 FERC ¶ 61,270, FERC Stats. & Regs [Regulations Preambles] ¶ 31,276 (2008) (Sept. 19, 2008).

### Justification for This Motion

A number of EEI and EPSA members have indicated that, because of the evolving nature of the pre-production test environment, they and their software developers have not been able to complete testing their software and conducting test filings. The companies are concerned that if the Commission retains the April 1<sup>st</sup> start date for the baseline filings – and disables the test environment at the end of March – companies, software developers, and the Commission will not have enough time to finish identifying and resolving problems in the eTariff portal, software, and filing process, thereby resulting in significant difficulties during the baseline filing process and beyond.

In addition, EEI and EPSA members have echoed concerns about the eTariff pre-production test environment being disabled – and only the “sandbox” being left in operation – before the baseline filing process begins. This means that companies filing baseline tariffs later in the six-month period must complete testing now, putting them in a time squeeze. Moreover, in the future, companies will ultimately face the challenge of making new types of eTariff filings for the first time, including new companies making new baseline filings, and they need some way to become familiar with the process and to test-file documents before having to make actual filings. EEI and EPSA recognize that the Commission has not allocated staff and funds to provide such a full testing option after the upcoming baseline filings begin. But we encourage the Commission to reconsider whether there would be a way to provide a full test environment – allowing companies to submit test filings that would be recognized as such and not treated as actual filings while receiving complete responses that would help them trouble-shoot their filings – at least for the remainder of this calendar year and ideally permanently.

Furthermore, in Order No. 714, the Commission stated:

In order to provide companies with sufficient time to develop and test software, we will provide 18 months for implementation, until April 1, 2010, *with a staggered implementation schedule for companies over the next six months. Staff and industry should work out the schedule for staggered implementation during the technical conferences.*

Order No. 714, P104 (emphasis added). Pursuant to Order No. 714, at the request of Commission staff and in response to a related notice,<sup>4</sup> a large part of the energy industry submitted proposed baseline filing schedules in Docket No. RM01-5 this past January. When approved, these schedules will allow companies to plan for efficiently meeting the established deadlines for their eTariff baseline submittals. However, as of the date of this motion, just weeks from the initial implementation date of April 1, 2010, none of these submitted schedules has been approved. Moreover, during the Commission's question-and-answer session on February 22, Commission staff informed participants that there currently is no target date for approving the schedules. As a result, a delay in the six-month filing time frame is also warranted to allow completion of work on developing the staggered implementation schedule, as required by the Commission.

Also, EEI and EPSA have observed that the Commission is assigning company eTariff ID numbers in numerical order, and as of March 9, 2010 only about 550 companies have been assigned these numbers. There are at least 2000 electric, gas, and oil companies, including power marketers, that ultimately should be registering. The fact that only a portion were registered as of earlier this week, just three weeks before the full test environment is slated to shut down, is also evidence of April 1, 2010 being too

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<sup>4</sup> See *Electronic Tariff Filings; Notice of Date for Submission of Transitional Schedules*, 74 Fed. Reg. 65114 (Dec. 9, 2009). EEI filed a consolidated proposed schedule for participating EEI members on January 22, 2010, and amended it on January 29 and February 18, 2010. Similarly, EPSA filed a consolidated proposed schedule for participating EPSA members on January 22, 2010.

soon. Having additional time for remaining companies to register and prepare for their baseline filings would avoid problems later.

In further support of this motion, EEI and EPSA members have reported, for example, that:

- If the Commission were to retain the April 1, 2010 baseline filing start date and not give software vendors and tariff filers adequate time to test software and resolve problems with the filing process, the vendors, filers, and Commission staff will be left trying to deal with these problems in the live eTariff environment, creating additional work and confusion for all involved, including the public. These problems should be resolved in a test environment rather than in the “live” eTariff data base.
- In addition, for companies subscribing to a pay-per-use option from their software providers, not having the opportunity to use the test environment may increase their costs, as the software vendors may do test filings at no charge but charge for each actual attempted filing, and the companies may face multiple attempts at filing as they work out problems.
- We are seeing delays in vendor software releases due to the lack of a full testing environment, and until recently, the unavailability of the public viewer. This also has caused delays in all other processes in connection with a tariff filing deadline. An extension of FERC’s filing requirements for the scheduled tariff filings would be most appropriate.
- Our company is now contracting with the vendor we selected to provide an eTariff solution. We had to wait to make a final decision on a vendor until

vendors had a fully functioning version of their software to demonstrate. We did not feel that making an earlier decision on software would be beneficial, especially because there were many vendors still working on development of software that would address both company and FERC requirements. By FERC delaying the implementation period, we would be afforded the time to use the pre-production test site including the public viewer. If the delay is not granted, we would be limited to using the sandbox, which FERC has commented does not incorporate the review by FERC staff and posting to the public viewer that testing with the pre-production site offers.

- Our companies are in the final planning stages of vendor negotiations. In the process of conducting these negotiations, we have realized that the companies need additional time to work out the confidentiality details and customization with our software vendor regarding user accounts of individuals who will be using the software's databases. We need to ensure that user access is carefully structured to meet applicable company codes of conduct and FERC standards of conduct and market affiliate rules.
- Only certain filing type codes have been available to test in the pre-production test environment.
- FERC staff have verbally communicated that they encourage companies to minimize the number of Tariff IDs per company and may not permit more than three or four Tariff IDs per company. This requirement was not documented in the NAESB Implementation Guide or broadly understood to apply. Furthermore, one Commission staff example of a tariff showed the Tariff Title for the Tariff ID

as “Open Access Transmission Tariff,” suggesting that each tariff could have a separate Tariff ID. As a result, companies and software vendors may reasonably have assumed that each Tariff ID would contain a single tariff, and the vendors and companies may need to restructure and retest their software and tariff databases.

- There has been a two-month delay in FERC delivering the public viewer. Without seeing how our "tariffs" will look in the public viewer, it is difficult to map out how we will label or describe our records. For example, the latest implementation guide says (on page 19) that the Tariff Record Title field may be used in a database-generated table of contents. The same thing applies to the Record Content Description. We are trying to develop criteria for how our company will use these fields in a consistent and meaningful manner. Knowing how the field content will be used in the table of contents and other public viewer features could change these criteria.
- If the public viewer is not displaying based on record collation values, utilities cannot validate that the FERC eTariff repository is getting populated correctly.
- Sometimes there are delays of a week or more in receiving email responses from [etariff@ferc.gov](mailto:etariff@ferc.gov), making it more challenging to figure out resolution to issues encountered.
- If FERC makes *any changes* on its side between now and April 1<sup>st</sup>, it will become increasingly difficult to retest the entire set of tariff filings in sequence prior to the April 1<sup>st</sup> date.

- Software vendors continue to uncover problems with the software. It is possible that as the FERC pre-production site accepts additional filing types, additional problems will be uncovered. If fixes require retesting with a complete progression of filing types, time again becomes an issue.
- We would want the extension to refine our procedures and make sure our staff is familiar with the software provided by our vendor. Also, our vendor's application is still in beta version and we would want to make sure all the problems are out of it before we have to file at FERC.
- Shutdown of the pre-production site on April 1<sup>st</sup> will present a challenge in terms of evaluating the impact of FERC proposed changes to eTariff going forward. The sandbox only provides validation testing against the specific filing being made, and does not provide the ability to test whether a filing that depends on a previous filing can be validated. Any changes that have impacts across a progression of filings would be more difficult to evaluate without the ability to test a filing progression against those changes.
- It is important to have a test environment, not just in anticipation of the baseline filings, but in the longer run for other types of filings too. Our company has test filed baseline filings and then tried to make amendments to them. So far, the test baseline filings have gone well. But the amendment process has been very difficult. We got 30 rejections in one week trying to figure out how to get an amendment to go through from a lifecycle perspective. We are currently performing reverse engineering to figure out all valid combinations of metadata

and error messages and to create a matrix to keep up with what was accepted and what gets rejected.

- It would be very helpful if FERC would provide the rules they are using in the first Secretary of the Commission (SOC) acceptance of an XML. When you attempt certain combinations, you do not even receive an email response or rejection. We are engaging legal resources with the experience from paper world, and they are struggling to understand the correct selection of these metadata combinations that finally gets the filing to go through. That is impacting our testing phase tremendously.
- Our company has not received responses to questions and issues we e-mailed to the eTariff help address 3 weeks ago. It would be helpful for the Commission to hold weekly forums so we can receive feedback on their progress and have additional opportunities to ask questions in order to resolve issues that do arise as the eTariff site goes “live.”

#### Conclusion, Contact Information

In conclusion, EEI and EPSA request the relief specified at the beginning of this motion, including a prompt response to the motion, completion of any remaining work to make the test environment fully functional and to address problems with it, keeping the test environment or its equivalent in place beyond the start of the baseline filing process, delaying the six-month baseline filing period by one or two months after the test environment is complete, and announcing the baseline filing schedule, which should reflect the delay but accommodate changes.

Time is of the essence in responding to this motion, to give software vendors and companies that will be responsible for filing tariffs and other documents using eTariff sufficient notice and time to ensure an orderly transition to eTariff, while addressing the concerns that EEI and EPSA have raised in the motion.

If the Commission has any questions about this motion or needs further information, please contact any of the undersigned individuals at the following phone numbers or e-mail addresses.

Respectfully submitted,

- signature -

Edward H. Comer  
Vice President & General Counsel  
202-508-5615  
[ecomer@eei.org](mailto:ecomer@eei.org)

Henri D. Bartholomot  
Director, Regulatory Legal Issues  
202-508-5622  
[hbartholomot@eei.org](mailto:hbartholomot@eei.org)  
Edison Electric Institute  
701 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2696

Nancy Bagot  
Vice President, Regulatory Affairs  
(202) 628-8200  
[nbagot@epsa.org](mailto:nbagot@epsa.org)  
Electric Power Supply Association  
1401 New York Avenue, NW, 11<sup>th</sup> Floor  
Washington, DC 20005

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