

UNITED STATES OF AMERICA 122 FERC ¶ 62,236
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy
Western Area Power Administration
Pacific Northwest – Pacific Southwest
Intertie Project

Docket No. EF08-5191-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(Issued March 18, 2008)

Summary:

On October 2, 2007, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Western Area Power Administration's (Western) Rate Schedules INT-FT4 and INT-NFT3 for the sale of firm and nonfirm transmission service rates for the Pacific Northwest-Pacific Southwest Intertie Project (Intertie Project).¹ The Deputy Secretary placed the rates into effect on an interim basis effective October 1, 2007,² and requests final confirmation and approval of the rates for the period October 1, 2007, through September 30, 2012.³ Western states that the current Power Repayment Study (PRS) indicates that the existing transmission service rates yield insufficient revenue to satisfy the cost recovery criteria through the study period. Western further states that, the increase in revenue is a result of lower than projected

¹ The Intertie Project was authorized by section 8 of the Pacific Northwest Power Marketing Act of August 31, 1964. *Codified at* 16 U.S.C. § 837g.

² Rate Order No. WAPA-130 was issued on September 28, 2007 under authority granted by Department of Energy Delegation Order Nos. 00-037.00 (December 6, 2001) and 00-001.00C, (January 31, 2007), (Delegation Order).

³ These rate schedules will supersede the prior rate schedules (INT-FT2, INT-FT3, and INT-NFT2), which were extended by a series of Rate Orders with the most recent being Rate Order No. WAPA-133.

sales of transmission service, increased operation and maintenance costs, and increased purchased transmission.

Western maintains that the proposed rates are designed to yield sufficient revenue to recover all of the project costs within the prescribed time periods.

Notice of the application was published in the *Federal Register*, 72 Fed. Reg. 59,087 (2007), with comments, protests, or motions to intervene due on or before November 1, 2007. No responses were received. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

Standard of Review:

The Secretary of Energy has delegated the authority to confirm and approve Western's rates on a final basis to the Commission,⁴ and established the scope of Commission review. The scope of Commission review is limited to:

- ! whether the rates are the lowest possible to customers consistent with sound business principles;
- ! whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and
- ! the assumptions and projections used in developing the rate components that are subject to Commission review.⁵

The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁶ The

⁴ Section 3 of the Delegation Order.

⁵ Id.

⁶ The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The Power Marketing Administrations market the output of the projects.

Commission may reject the rate determinations of Western's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate Department of Energy regulations (e.g., Order No. RA 6120.2, which prescribes Western's financial reporting policies, procedures, and methodologies), or if they violate agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body which reviews the record developed by the Administrator. In other words, the Commission does not develop a record on its own. Consequently, the Commission only affirms or remands the rates submitted to it for final review.⁷

Discussion:

Western explains that the current PRS indicates that the existing transmission service rates yield insufficient revenue to satisfy the cost recovery criteria through the study period. Western further explains that the existing Rate Schedules consist of separate firm transmission service for the 230/345-kilovolt (kV) and 500-kV transmission systems, and a nonfirm transmission service rate for the 230/345/500-kV transmission system.

Western states that the existing firm transmission service Rates Schedules are being superseded by Rate Schedule INT-FT4. Under Rate Schedule INT-FT2, the rate for firm point-to-point 500-kV transmission service is \$17.23 per kilowattyear (kWyear). Under Rate Schedule INT-FT3, the rate for firm point-to-point 230/345/kV transmission service is \$12.00 per kWyear. The proposed rate for firm point-to-point 230/345/500-kV transmission service under Rate Schedule INT-FT4 is \$15.24 per kWyear. The proposed rate for firm transmission service in Rate Schedule INT-FT4 results in a decrease of approximately 11.5 percent when compared with the existing rate under Rate Schedule INT-FT2, and an increase of 27 percent when compared with the existing rate under Rate Schedule INT-FT3. The existing nonfirm transmission service Rate Schedule is being superseded by Rate Schedule INT-NFT3. Under Rate Schedule INT-NFT2, the rate for nonfirm point-to-point 230/345/500 kV transmission service is 2.00 mills per kilowatthour (kWh). The proposed rate for nonfirm point-to-point 230/345/500 kV transmission service under Rate Schedule INT-NFT3 is 1.74 mills per kWh. The

⁷ *U.S. Department of Energy - Western Area Power Administration (Boulder Canyon Project)*, 61 FERC & 61,229 at 61,844 (1992), *aff'd in relevant respects*, *Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss*, *Overton Power District No. 5 v. O'Leary*, 73 F. 3d 253 (1996); *U.S. Department of Energy - Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC & 61,058, at 61,240-41 & nn.17 & 20, *reh'g denied*, 60 FERC & 61,002 (1992); *U.S. Secretary of Energy, Bonneville Power Administration*, 13 FERC & 61,157, at 61,338 (1980).

proposed rate for nonfirm transmission service in Rate Schedule INT-NFT3 results in a decrease of 13 percent when compared with the existing rate under Rate Schedule INT-NFT2. Western maintains that the increase in revenue is a result of lower than projected sales of transmission service, increased operation and maintenance costs, and increased purchased transmission.

By statute,⁸ Western must repay the federal investment within a reasonable period of time, which as a general practice is 50 years. Our review of Western's PRS indicates that the revenues to be collected under the proposed rate will be sufficient to recover Western's costs, including the recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the proposed rate recover no more than Western's annual costs and the remaining federal investment, the rate is the lowest possible to customers. Our review also indicates that the PRS was prepared in a manner consistent with Order No. RA 6120.2, which requires that Western's financial statements, must be prepared in accordance with generally accepted accounting principles, as appropriate, and that its PRS be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

The Commission's review indicates that the proposed Intertie Project rates will ensure Western will be able to meet its financial obligations. Therefore, the Intertie Project rates are confirmed and approved on a final basis as requested.

The Director:

Confirms and approves on a final basis the Intertie Project rates for the period of October 1, 2007, through September 30, 2012.

Authorities:

This action is taken pursuant to authority delegated to the Director, Division of Tariffs and Market Development - Central, under 18 C.F.R. § 375.307 of the Commission's Regulations. This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Penny Murrell, Director
Division of Tariffs and Market
Development - Central

⁸ 46 U.S.C. § 825s (2000).

Document Content(s)

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