

128 FERC ¶ 61,069
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Entergy Services, Inc.

Docket No. ER09-1185-000

ORDER ACCEPTING PROPOSED TARIFF AMENDMENT

(Issued July 20, 2009)

1. On May 21, 2009, in Docket No. ER09-1185-000, Entergy Services, Inc. (Entergy) filed a proposed amendment to Service Schedule MSS-3 of the Entergy System Agreement. The amendment addresses the timing for reflecting an Operating Company's purchased power costs in the calculation of bandwidth payments and receipts. In this order, we accept Entergy's proposed amendment, to be effective May 31, 2009, as requested.

I. Background

A. System Agreement

2. A detailed history of Entergy's production cost equalization under the System Agreement can be found in Opinion No. 480.¹ In brief, the Entergy System has operated for over fifty years under a System Agreement that acts as an interconnection and pooling agreement, provides for the joint planning, construction and operation of the Operating Companies' facilities, and maintains a coordinated power pool among its six Operating Companies. The System Agreement comprises seven Service Schedules, MSS-1 through MSS-7. Each schedule specifies the rates at which costs associated with a specific utility function are allocated among the Operating Companies. In Opinion Nos. 234, 234-A, 292, and 292-A² the Commission found that the Entergy system is highly integrated and

¹ *Louisiana Pub. Serv. Comm'n v. Entergy Services, Inc.*, Opinion No. 480, 111 FERC ¶ 61,311, *aff'd*, Opinion No. 480-A, 113 FERC ¶ 61,282 (2005), *remanded Louisiana Pub. Serv. Comm'n v. FERC*, 522 F.3d 378 (2008).

² *Middle South Energy, Inc.*, Opinion No. 234, 31 FERC ¶ 61,305, *reh'g denied*, Opinion No. 234-A, 32 FERC ¶ 61,425 (1985), *aff'd*, *Mississippi Industries v. FERC*, 808 F.2d 1525 (D.C. Cir.), *vacated and rev'd in part and remanded*, 882 F.2d 1104 (D.C. Cir. 1987), *cert. denied*, 484 U.S. 985 (1987), *order on remand*, *System Energy Resources, Inc.*, Opinion No. 292, 41 FERC ¶ 61,238 (1987), *reh'g denied*, Opinion 292-
(continued...)

that generation facilities are planned, constructed and operated for the benefit of the whole system.³

3. On June 14, 2001, the Louisiana Public Service Commission (Louisiana Commission) filed a complaint pursuant to section 206 of the Federal Power Act (FPA).⁴ The Louisiana Commission alleged that the System Agreement no longer operated to produce rough production cost equalization. In Opinion No. 480, the Commission found that rough production cost equalization has been disrupted on the Entergy system.⁵ Opinion Nos. 480 and 480-A approved a numerical bandwidth of +/- 11 percent of the Entergy system average production cost in order to maintain the rough equalization of production costs among the Entergy Operating Companies. Each Operating Company's bandwidth calculations to Service Schedule MSS-3 of the System Agreement are based on the methodology proposed in Exhibits ETR-26 and ETR-28.

B. Entergy's Filing

4. Entergy states that it proposes to amend section 30.12 of Service Schedule MSS-3 to ensure purchased power costs are reflected in an Operating Company's actual production costs in the year in which the costs are incurred, but without limiting a regulator's discretion to determine when such costs are appropriately recovered from an Operating Company's customers. Entergy asserts that it is authorized to state that the Arkansas Public Service Commission (Arkansas Commission), the Council of the City of New Orleans, the Louisiana Commission, the Mississippi Public Service Commission, East Texas Cooperatives, and Texas Industrial Energy Consumers support this proposed amendment and the requested effective date.⁶

5. Entergy states that the prior accounting method had no effect on the amount of purchased power costs recorded because the full amount of purchased power expense incurred in a year remained recorded in an account that is included in the bandwidth formula, while the deferral and amortization accounting took place in accounts not

A, 42 FERC ¶ 61,091 (1988), *aff'd sub nom. City of New Orleans v. FERC*, 875 F. 2d 903 (D.C. Cir. 1989), *cert. denied*, 494 U.S. 1078 (1990).

³ Opinion No. 292 at 61,614; Opinion No. 234 at 61,650-51, 61,654-56.

⁴ 16 U.S.C. § 824e (2006).

⁵ Opinion No. 480 at P 136.

⁶ Entergy states that the Louisiana Commission supports the results of the proposed amendment, but does not agree that an amendment filing is necessary to correct a change in methodology affecting the Service Schedule MSS-3 bandwidth formula. Entergy adds that Union Electric Company does not oppose the proposed amendment.

included in the bandwidth formula. Therefore, the bandwidth payments/receipts calculation reflected the full amount of each Operating Company's purchased power expense incurred in that year. Under Entergy's revised accounting procedures the accounting for such deferrals is to establish a regulatory asset by crediting an account and then debiting an equal amount from another account when the deferred amounts are amortized and recovered through retail rates. The unintended effect of this accounting change is that it changes the timing of when deferred purchased power costs are reflected in the bandwidth calculation, as deferred purchased power costs would not be recorded to expense accounts included in the bandwidth payments/receipts until they are recovered through retail rates. Accordingly, Entergy states that the calculation of bandwidth payments/receipts would be based on when such costs are recovered by an Operating Company through retail rates rather than when they are incurred.

6. Entergy proposes to amend Service Schedule MSS-3 of the System Agreement to address the timing for reflecting an Operating Company's purchased power costs in the calculation of bandwidth payments/receipts. Specifically, Entergy proposes to amend the definition of Purchased Power Expense contained in section 30.12, Actual Production Cost, of Service Schedule MSS-3. Purchased Power Expense is currently defined as "Purchased Power Expense recorded in FERC Account 555, but excluding payments made pursuant to Section 30.09(d) of this Service Schedule." Entergy proposes to add at the end of this definition an additional exclusion as follows: "and excluding the effects, debits, and credits, resulting from a regulatory decision that causes the deferral of the recovery of costs or the amortization of previously deferred costs." Entergy states that this prevents the inconsistent treatment of costs among Operating Companies that could result from individual regulatory decisions on the appropriate timing of the recovery of the costs from customers.

7. Entergy requests that the Commission accept the proposed amendment effective May 31, 2009, which will allow implementation of the change for inclusion in the June 2009 bandwidth formula payment/receipt calculations. Entergy states that the Entergy Operating Companies recently filed their FERC Form 1s, which reflect accounting for deferrals. Entergy further states that it promptly prepared this filing to ensure that the purchased power costs actually incurred in 2008 by the individual Operating Companies are reflected in the June 2009 bandwidth payment/receipt calculations. Entergy notes that its requested effective date is supported by all interested parties.

II. Notice of Filing and Responsive Pleadings

8. Entergy's filing was noticed in the *Federal Register*, 74 *Fed. Reg.* 26,391(2009), with interventions and protests due on or before June 11, 2009. A timely motion to intervene was filed by Ameren Services Company, as an agent for Union Electric Company. Notices of intervention were filed by the Arkansas Commission and the Louisiana Commission.

9. The Louisiana Commission states that it supports the results of the requested amendment, but does not agree that the section 205 amendment filing is necessary to correct the change in methodology affecting the Service Schedule MSS-3 bandwidth formula.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and the timely, unopposed motion to intervene serve to make the parties that filed them parties to this proceeding.

B. Commission Determination

11. We find that Entergy's proposed amendment to section 30.12 of Service Schedule MSS-3 is just and reasonable. Entergy has demonstrated that the proposed amendment is needed to ensure that purchased power costs are consistently reflected in the Operating Companies' actual production costs in the year in which the costs are incurred, without limiting a regulator's discretion to determine when such costs are recovered from an Operating Company's customers. We find that Entergy has properly filed pursuant to section 205 of the FPA⁷ to amend its System Agreement and we accept Entergy's proposed amendment to the System Agreement, effective May 31, 2009, as requested.

The Commission orders:

Entergy's proposed amendment to section 30.12 of Service Schedule MSS-3 is hereby accepted, effective May 31, 2009.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ 16 U.S.C. § 824d (2006).