

132 FERC ¶ 61,061
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Maine Public Service Company

Docket No. ER10-1351-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued July 23, 2010)

1. On May 27, 2010, Maine Public Service Company (Maine PSC) filed revisions to its Open Access Transmission Tariff (OATT). Maine PSC states that the proposed revisions are minor modifications to its open access transmission charges calculations. Maine PSC requests that the filing become effective June 1, 2010, consistent with the implementation of Maine PSC's recalculated formula rate charges. As discussed below, the Commission accepts Maine PSC's filing effective June 1, 2010, as requested.

Background

2. In 2000, Maine PSC filed a revised formula for calculating wholesale and retail transmission rates. As part of the settlement agreement (2000 Settlement Agreement) in that proceeding,¹ Maine PSC agreed to provide the settling parties and Commission trial staff with any subsequent changed charges that Maine PSC was considering in a yearly informational filing with the Commission.² The 2000 Settlement Agreement also provided the parties a right to dispute any of Maine PSC's proposed changes with the Commission and required Maine PSC to respond to reasonable requests for supporting documentation from any party or Commission trial staff.³ Section 2.5 of that agreement also required Maine PSC to meet with the parties and Commission trial staff by March 1, 2003.

¹ The Commission approved the 2000 Settlement Agreement in *Maine Pub. Serv. Co.*, 92 FERC ¶ 61,208 (2000).

² 2000 Settlement Agreement, section 2.4.

³ *Id.*

3. In 2003, Maine PSC and the parties reached another agreement (2003 Settlement Agreement) in which the parties agreed to meet again with trial staff by March 1, 2006.⁴ In 2006, Maine PSC and the parties again reached an agreement (2006 Settlement Agreement) which required Maine PSC to meet with the parties and trial staff by March 1, 2009.⁵ In 2009, the parties again reached agreement (2009 Settlement Agreement) to meet again by March 1, 2012.⁶ In the delegated letter order accepting the 2009 Settlement Agreement, Maine PSC was advised “that annual updates in the forthcoming years should be submitted, for informational purposes only” and “the Commission will not act on or notice the informational filing because the formula rate implementation protocols provide specific procedures for notice, review, and challenges to the annual updates.”⁷

4. In its May 27, 2010 filing, Maine PSC states that under its OATT its rates are calculated pursuant to a formula rate. Maine PSC proposes changes to its transmission wheeling rate to, make corrections, and provide clarification, and remove portions of the formula that reference Schedule 5, which is no longer effective.⁸ Maine PSC states that the proposed revisions do not affect the charges calculated by the rate formula.

5. Maine PSC seeks a waiver of the 60-day notice filing to allow this filing to become effective on June 1, 2010. Maine PSC argues that good cause exists to grant the waiver since the proposed changes are minor and ministerial in nature and a June 1, 2010, effective date ensures that the Formula Rate has the correct references for the changed charges implemented on June 1, 2010.

⁴ *Maine Pub. Serv. Co.*, Docket No. ER00-1053-010 (Apr. 1, 2004) (unpublished delegated letter order accepting the 2003 Settlement Agreement).

⁵ *Id.*, Docket No. ER00-1053-019 (Feb. 8, 2007) (unpublished delegated letter order accepting the 2006 Settlement Agreement).

⁶ *Id.*, Docket No. ER00-1053-022 (June 9, 2010) (unpublished delegated letter order accepting 2009 Settlement Agreement).

⁷ *Id.*

⁸ Maine PSC removed references to Schedule 5 of the formula regarding cancelled plants because the time frame to which the schedule was applied has ended. Schedule 5 provided a summary of booked transactions during 2006 through 2008 related to the cancelled plant and was only applicable to charges for June 1, 2007 through May 31, 2010.

Notice of Filing and Responsive Pleadings

6. Notice of Maine PSC's filing was published in the *Federal Register*, 75 Fed. Reg. 32,937 (2010), with interventions and comments due on or before June 17, 2010. Houlton Water Company (Houlton) and Maine Public Utilities Commission filed motions to intervene and Houlton filed comments. Maine PSC filed an answer.

7. Houlton requests that the Commission accept Maine PSC's filing subject to refund and to the outcome of Maine PSC's Annual Update informational filing submitted on June 15, 2010. Houlton states that, as part of the annual update process, Maine PSC provided Houlton with a pre-filing copy and advised that Maine PSC would be filing its proposed tariff revisions with the Commission. Houlton states that, by providing this information to customers, Maine PSC recognized that the instant tariff filing and the Annual Update "implicate overlapping issues and factual underpinnings."⁹ Consequently, Houlton requests that the Commission consolidate these proceedings as consistent with Commission policy and to conserve Commission resources.

8. In response, Maine PSC states that it opposes Houlton's request for consolidation. Maine PSC argues that its Annual Update filed with the Commission on June 15, 2010, was for informational purposes only and provided the updated charges in its formula rate that went into effect on June 1, 2010. Furthermore, Maine PSC asserts that the Commission has specifically stated that in the future it did not intend to act on or notice these annual informational filings.¹⁰

Discussion

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest or comments, unless otherwise ordered by the decisional authority. We will accept Maine PSC's answer because it has provided information that assisted us in our decision-making process.

10. We deny Houlton's request to consolidate this proceeding with Maine PSC's June 15, 2010 informational filing. The annual informational filings required as part of

⁹ Houlton Comments at 3.

¹⁰ Maine PSC Answer at 2 (*citing Maine Pub. Serv. Co.*, Docket No. ER00-1053-022 (June 9, 2010) (unpublished delegated letter order)).

Docket No. ER00-1053 serve a different purpose.¹¹ The proposed revisions to Maine PSC's open access transmission charges calculations at issue in this proceeding are minor modifications that are ministerial in nature. Accordingly, we will accept Maine PSC's filing and waive prior notice to allow it to become effective June 1, 2010, consistent with the implementation of its updated formula rate charges.

The Commission orders:

Maine PSC's proposed tariff revisions are hereby accepted for filing to become effective June 1, 2010, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹ With respect to Houlton's concerns regarding the June 15, 2010 informational filing, Houlton, and any other parties, retain the right to review and challenge the tariff under the Settlement Agreement and also in accordance with any statutory rights that parties may have. *Maine Pub. Serv. Co.*, Docket No. ER00-1053-022 (June 9, 2010) (unpublished delegated letter order) ("Acceptance of the June 1, 2009 informational filing is without prejudice to parties' and the Commission's rights to review and challenge the tariff and also in accordance with any statutory rights that parties and the Commission may have. This letter also advises [Maine PSC] that annual updates in the forthcoming years should be submitted, for informational purposes only, in Docket Nos. ER09-1305-000 and ER00-1053-000. Upon receipt, the Commission will not act on or notice the informational filing because the formula rate implementation protocols provide specific procedures for notice, review, and challenges to the annual updates.").