132 FERC ¶ 61,257
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.

United States Department of Energy --
Western Area Power Administration
(Pick-Sloan Missouri Basin Program-Eastern Division)

Docket No. EF10-3-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES ON A FINAL BASIS

(Issued September 23, 2010)

1. In this order, we confirm and approve on a final basis Western Area Power Administration's (Western) transmission and ancillary service rates and transmission service penalty rate for unreserved use.[1]

I. Background

2. On December 23, 2009, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of the proposed formula Integrated System Transmission and Ancillary Service rate schedules for Western's Pick-Sloan Missouri Basin Program-Eastern Division (Pick-Sloan).[2] The Deputy Secretary placed the rates

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[1] The particular rate schedules for which Western seeks confirmation and approval are as follows: UGP-FPT1 for firm point-to-point transmission service, UGP-NFPT1 for non-firm point-to-point transmission service, UGP-NT1 for network integration transmission service, and UGP-TSP1 for transmission service penalty rate for unreserved use, and UGP-AS1, UGP-AS2, UGP-AS3, UGP-AS4, UGP-AS5, UGP-AS6, and UGP-AS7 for ancillary services.

[2] Pick-Sloan consists of eight power plants located on the Missouri River and its tributaries in the states of Montana, North Dakota, and South Dakota, as well as

(continued…)

into effect on an interim basis effective January 1, 2010,[3] and requests final confirmation and approval of the rates for the period January 1, 2010 through December 31, 2014.[4]

3. The transmission facilities in Pick-Sloan are integrated with transmission facilities of Basin Electric Power Cooperative (Basin) and Heartland Consumers Power District (Heartland) so that transmission services are provided over their integrated system. Western acts as the administrator of the integrated system, and it monitors service under Western's Open Access Transmission Tariff (tariff).[5]

4. In its filing, Western explains that it is proposing revisions to its network integration transmission service, firm and non-firm point-to-point transmission service, and ancillary service rates. Western is also proposing to add Generator Imbalance Service as an ancillary service. Western's current rates for its transmission Service are based on a revenue requirement that recovers the annual costs of Western, Basin, Heartland, and approved customer facility credits associated with providing integrated systems transmission service. The annual costs are offset by transmission revenue credits to avoid over recovery of costs.

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transmission lines, substations, communication equipment, and facilities related to operation and maintenance.

[3] At the conclusion of Western's underlying rate proceeding, Rate Order Nos. WAPA-144 and WAPA-148, placing the rate schedules into effect on an interim basis, were issued on December 23, 2009 under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00, FERC Stats. & Regs. ¶ 9919 (2001) (Delegation Order). *See Western Area Power Administration Rate Adjustment for the Pick-Sloan Missouri Basin Program – Eastern Division*, Rate Order Nos. WAPA-144 and WAPA-148 (December 23, 2009).

[4] The proposed revised Rate Schedules UGP-FPT1, UGP-NFPT1, UGP-NT1, UGP-TSP1, UGP-AS1, UGP-AS2, UGP-AS3, UGP-AS4, UGP-AS5, UGP-AS6, and UGP-AS7 supersede the present rate schedules, which were approved on a final basis in *United States Department of Energy – Western Area Power Administration (Pick-Sloan Missouri Basin Program-Eastern Division)*, 115 FERC ¶ 62,230 (2006).

[5] On June 28, 2007, in Docket No. NJ07-2-000, the Commission conditionally granted Western's petition for a declaratory order, and, at that point in time, deemed its tariff to represent an acceptable reciprocity tariff. *See Western Area Power Administration*, 119 FERC ¶ 61,329 (2007).

5. Western is changing the method of developing the revenue requirement for network, firm point-to-point, and non-firm point-to-point transmission services. Western is changing the implementation of the formula rates to recover expenses and investments in transmission on a current (forward looking) rather than a lagging basis. Western asserts that this change will allow it to more accurately match cost recovery with cost incurrence. To implement this change, Western proposes to use estimates of the integrated system transmission system costs and load for the upcoming year in the formula rate calculation. Western proposes to then true-up the estimates based on the integrated system actual costs and actual load. Western states that the integrated system rates will continue to be recalculated every year. Western notes that revenue collected in excess of actual net revenue requirements will be returned to customers through a reduction in revenue requirement in a subsequent year, and that actual revenues that are less than the net revenue requirements would be recovered by an increase in a subsequent year's revenue requirement. According to Western, this proposed true-up procedure will ensure the integrated system will recover no more and no less than its actual transmission costs.

6. Western asserts that the proposed revisions will enhance the recovery of investment costs, and will facilitate cost recovery from appropriate sources based upon changes resulting from the evolving and expanding transmission system and ancillary services requirements.

7. Western explains, further, that an expanded review period for the annual recalculation, under the formula rates, of revenue requirements and charges will be initiated. In order to ensure that the latest investment cost data is used in revenue requirement calculations and to allow the enhanced review, Western explains that the annual effective date of implementation for the new rates will be January 1st of each year.[6]

8. Western anticipates that the annual transmission and ancillary service revenue requirement will increase from $155,056,530 to $163,521,251 during the first year of the four-year rate period. Western maintains, further, that the proposed rates will provide sufficient revenue to pay all annual costs, including interest expenses, and repay required investments within the allowable periods.

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[6] Previously, Western had been conducting an annual rate recalculation using the previous year's data with the recalculated rate to be effective on May 1st of each year.

9. Western explains, further, that, while the following rate schedules will go into effect on an interim basis on January 1, 2010, the rates themselves will not be charged to its customers until Western provides these services: (1) Rate Schedule UGP-AS7 for Generator Imbalance Service; and (2) Rate Schedule UGP-TSP1 for Penalty Rate for Unreserved Use of Transmission Service. Western states that it will post notice on its Open Access Same-Time Information System (OASIS) Web site when it intends to initiate charging for Rate Schedules UGP-AS7 or UGP-TSP1.

II. Notice, Interventions, and Protests

10. Notice of the application was published in the *Federal Register*, 75 Fed. Reg. 1052 (2010), with interventions and protests due on or before January 22, 2010.

11. Missouri River Energy Services (Missouri River) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed timely motions to intervene and protests.

12. Basin filed a motion to intervene out-of-time and an answer to Missouri River's and Midwest ISO's protests. The Midwest ISO Transmission Owners (Transmission Owners) filed a motion to intervene out-of-time and comments.[7] Western filed an answer to the protests and comments.

[7] The Transmission Owners are the following: Ameren Services Company, as agent for: Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Company, and Illinois Power Company; American Transmission Company LLC, American Transmission Systems, Inc., a subsidiary of First Energy Corporation; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Corporation for: Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc; Indiana Municipal Power Agency; Indianapolis Power & Light Company; Michigan Public Power Agency; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water L&P); Montana Dakota Utilities Company; Muscatine Power and Water; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

13. In its protest, Midwest ISO does not protest the penalty rate itself, but rather the terms and conditions surrounding the application of the rate. Midwest ISO notes the Commission's limited scope of review, but urges the Commission to examine the record in light of the requirements of Order No. 890 and the principles of open access transmission service. Specifically, Midwest ISO argues that the applicability of the Penalty Rate for Unreserved Use of Transmission Service needs to be revised to provide that the Penalty Rate is inapplicable to regional transmission organizations (RTOs) and independent transmission coordinators. Midwest ISO also requests the Commission to direct Western to clarify whether or not RTOs, and, specifically, Midwest ISO, are considered "Eligible Customers"[8] for purposes of the ancillary services component of the Penalty Rate, and to clarify the extent to which the term "Eligible Customer" applies in this context. Midwest ISO requests the Commission to direct Western to provide written notification of implementation of the Penalty Rate to all potential Eligible Customers prior to imposing charges for ancillary services as a component of the Penalty Rate.

14. Midwest ISO also argues that the Penalty Rate does not provide for the distribution of revenues recovered through operational penalties. Midwest ISO requests the Commission to direct Western to amend its Penalty Rate to provide for the distribution of those revenues, as required by the Commission's directive in Order No. 890.[9] Midwest ISO also requests the Commission to direct Western to clarify that Midwest ISO will be eligible to receive its equitable portion of the revenues associated

[8] Section 1.13 of Western's tariff defines "Eligible Customer" as any electric utility (including the Transmission Provider and any power marketer), Federal power marketing agency, or any person generating electric energy produced in the United States, Canada or Mexico for sale for resale. The section provides further that, with respect to transmission service that the Commission is prohibited from ordering under section 212 of the FPA, 16 U.S.C. § 824k (2006), that entity is eligible only if the service is provided under a state requirement that the Transmission Provider offer the unbundled transmission service, or under a voluntary offer of that service by the Transmission Provided. The section provides, further, that any retail customer taking unbundled transmission service under a state requirement that the Transmission Provider offer the transmission service, or under a voluntary offer of that service by the Transmission Provider, also is an Eligible Customer under the tariff.

[9] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

with the application of the Penalty Rate. Midwest ISO also contends that the Penalty Rate does not differentiate between unreserved flow versus loop flow in the administration of the Penalty Rate. Specifically, Midwest ISO requests the Commission to direct Western to explain the methodology for calculating capacity for different flowgates for the various transmission systems, and, further, explain the basis for the difference in methodologies that prevents them from being discriminatory or preferential.

15. Midwest ISO adds that the Penalty Rate will have a negative impact on wind generation. According to Midwest ISO, the threat of penalties should transmission capacity become unavailable, e.g., an unscheduled transmission outage or a scheduled transmission outage, could create an impossible scenario for those wind developers who participate in the energy market only as price takers. Finally, Midwest ISO contends that it is impossible for Western to monitor and enforce the Penalty Rate on a non-discriminatory basis. Midwest ISO requests the Commission to remand the proposed tariff changes to the Department of Energy and order Western to provide answers to these questions before final Commission approval to ensure that Western's Penalty Rate is not administered in an unduly discriminatory manner.

16. In its filing, Missouri River recognizes that the Delegation Order[10] addresses situations where Western proposes a specific stated rate under its process, rather than a formula rate, and Missouri River states that it will not contest the appropriateness of Western proposing a formula rate.[11] Missouri River also states that it is not opposed to refunds or surcharges as a result of the true-up provided in the proposed rate methodology, consistent with Commission policy.[12] Missouri River, however, argues that Western's transmission formula rates should be remanded to Western because the rates fail to include interest on the refunds in the event that in any year there are excess revenues, and also argues that the Delegation Order requires that the rates include interest.[13]

[10] *See supra* note 3.

[11] Missouri River Protest at 10.

[12] *Id.*

[13] *Id.* at 9, citing Delegation Order §§ 1.3, 1.4. We note that the Commission's standard of review to which Missouri River refers is in § 3 and not § 1.3. *See* notes 15 and 16 below.

17. Missouri River separately argues that the Commission should reject the energy and generator imbalance service rates under Rate Schedules UGP-AS4 and UGP-AS7 because Western has not demonstrated that these rates will be applied on a non-discriminatory and non-preferential basis. Missouri River asserts that these rates should be reviewed under the Commission's safe harbor guidelines of Order No. 888 because they are "related to" services under Western's reciprocity tariff, and that the Commission should reject these rates because Western has not demonstrated that they are non-discriminatory and non-preferential.

18. In its filing, Transmission Owners state that they support Midwest ISO's protest. Specifically, Transmission Owners request the Commission to remand the proposed Rate Schedule UGP-TSP1 to Western to clarify how it will determine and measure unreserved use and distinguish it from loop flows due to system conditions, how it will bill for unreserved use, and which entities it will bill. Finally, on a procedural matter, Transmission Owners assert that they submitted comments in response to Western's September 24, 2009 *Federal Register* notice that were not addressed in Western's underlying rate proceeding.[14] Transmission Owners request the Commission to consider those comments in this proceeding.

19. In its answer, Basin points out that the Commission has a limited scope of review in confirming and approving Federal rates. Basin points out, further, that the Commission can reject those rates only if it finds that they are arbitrary, capricious, or in violation of the law, Department of Energy regulations, or agreements between Western's Administrator and the applicable power generating agency. Basin also argues that the review under the Delegation Order is limited to: (1) rates; (2) revenue levels generated by the rates; and (3) assumptions and projections used in developing the rates. According to Basin, the Delegation Order does not mention, and does not cover, non-rate terms and

[14] In that proceeding, Transmission Owners raised questions regarding how Western's proposed unreserved use penalty will be implemented. They requested that Western provide more details regarding the calculation of unreserved use, how it will identify that the unreserved use is a result of exceeding reserved capacity, rather than loopflows due to system conditions, and what method Western will use to determine which flows are from insufficient capacity and which are loop flows. The Transmission Owners also requested Western to explain how its method of determining insufficient capacity is consistent with the Congestion Management Process required under Attachment LL of the Midwest ISO's Open Access Transmission Energy and Operating Reserve Markets Tariff. Finally, Transmission Owners raised questions regarding which entities will be billed for unreserved use penalty charges, how often Western will bill customers for these charges.

conditions of service or the manner in which they may be applied in the future. Basin argues that the Commission's role is not to decide if it agrees with the manner in which Western and the Deputy Secretary considered these issues, but rather if they are arbitrary and capricious.

20. Basin argues that the Commission should dismiss Midwest ISO's arguments regarding the Penalty Rate for unreserved use because they are beyond the scope of review of this filing, and represent a collateral attack on Order No. 890. Basin also argues that the Commission should dismiss Missouri River's arguments concerning interest on refunds under the Western formula rates because, while the Commission policy may favor the inclusion of interest in the formula rates of jurisdictional utilities, it has no authority to impose that requirement on non-jurisdictional entities, such as Western, over which it has limited confirmation authority with respect to rates. Basin argues that Western's policy decision not to include interest in the formula rate calculations is not subject to Commission review. Basin concludes, therefore, that the Commission should accept Western's rates.

21. In its answer, Western responds to the protesters' arguments, arguing that: (1) they represent a collateral attack on Order No. 890; (2) the standard of review is that provided by Department of Energy Delegation Order No. 00-037.000, because these are rate provisions and not tariff provisions; (3) its distribution of the revenues received from operational penalties is reasonable in light of Western's status as a Federal power marketing administration; (4) its decision regarding the distribution of the revenues received from operational penalties was a policy decision; (5) unreserved flow and loop flow must be determined on a case-by-case basis; and (6) its decision not to pay interest for over-collections or to collect interest for under-collections of transmission revenue is a policy decision. Western observes that Missouri River has curiously only requested that Western pay interest on any potential over-collections, and states that it is important to note that Western's rate does not assess any interest on under-collections as well. Western evaluated Missouri River's comment and addressed it during its decision-making process. Namely, Western intends to make every effort to accurately forecast costs and load in an effort to minimize any over- or under-collections of annual revenue, and Western did not feel it was equitable to pay interest on over-collections and not assess interest on under-collections. Western asserts that, as a Federal entity that sells its transmission at cost based rates that are the lowest possible consistent with sound business principles, Western has every incentive to estimate as accurately as possible its revenue requirement estimates. Finally, Western states that, to the extent a customer has a concern about the implementation of Western's rates, that concern should be addressed in another forum, or through the dispute resolution procedures contained in Western's tariff. Western concludes, therefore, that under the Commission's standard of review of

these rates, i.e., the Delegation Order's limited standard of review, the Commission should issue an order confirming and approving these rates.

III. Discussion

A. Procedural Matters

22. 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. We will grant the motions to intervene out-of-time given the parties' interest in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

23. 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 unless otherwise ordered by the decisional authority. We will accept the answers because they have provided information that assisted us in our decision-making process.

B. Standard of Review

24. The Secretary of Energy has delegated the authority to confirm and approve Western's rates on a final basis to the Commission.[15] 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.[16]

[15] Delegation Order § 3.

[16] *Id*.

25. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.[17] The 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., Department of Energy Order No. RA 6120.2, which prescribes financial reporting policies, procedures, and methodologies), or if they violate agreements between Western's Administrator and the applicable power generating agency.

26. 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.[18]

C. Commission Determination

27. By statute,[19] 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 Power Repayment Study indicates that the revenues to be collected under the rates should 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 rates recover no more than Western's annual costs and the remaining Federal investment, the rates are the lowest possible to customers. Our review also indicates that the Power Repayment Study was prepared in a manner consistent with Department of Energy Order No. RA 6120.2, which requires that Western's financial

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[17] 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 Federal Power Marketing Administrations, such as Western, market the output of the projects.

[18] *See, e.g., U.S. Dep't 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 (9th Cir.1996); *U.S. Dep't 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).

[19] 16 U.S.C. § 825s (2006).

statements must be prepared in accordance with generally accepted accounting principles, as appropriate, and that its Power Repayment Study be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

28. Because Western's proposed rates are consistent with the standards by which they must be judged, i.e., the standards provided in the Delegation Order, they merit final confirmation and approval.

29. We find that the protesters' issues[20] are largely, if not entirely, beyond the scope of the Commission's review authority because they are issues that go to the design of the rates, or involve policy decisions made by Western regarding the rates.[21] The Commission's scope of review is limited to determining whether Western's rates are the lowest possible to customers consistent with sound business principles, and 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 its capital investment, and costs assigned by other statutes.[22]

30. On Western's decision to not provide for interest on refunds of any excess revenues collected, and Missouri River's objection, in particular, we note that Western has opted to neither provide interest on refunds of excess revenues, nor to charge interest

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[20] *E.g.*, application of the Penalty Rate in the future, including possible claims of discrimination or preference, the distribution of revenues received from application of operational penalties, the determination not to provide for interest, and other claims that the rates may be discriminatory or preferential.

[21] *See, e.g., United States Dep't of Energy – Bonneville Power Administration*, 128 FERC ¶ 61,058, at P 28-30 (2009); *United States Dep't of Energy – Western Power Administration (Central Valley Project, California-Oregon Transmission Project, and Pacific Alternating Current Intertie),* 118 FERC ¶ 61,052, at P 14 (2007), *reh'g denied,* 122 FERC ¶ 61,124, at P 10-11 (2008); *United States Dep't of Energy – Southwestern Power Administration (Jim Woodruff Project),* 116 FERC ¶ 61,044, at P 10-17 (2006); *United States Dep't of Energy – Bonneville Power Administration*, 107 FERC ¶ 61,138, at P 25-27 (2004); *United States Dep't of Energy – Western Area Power Administration (Pacific Northwest-Pacific Southwest Intertie Project*, 87 FERC ¶ 61,346, at 62,337 (1999); *United States Dep't of Energy – Bonneville Power Administration,* 80 FERC ¶ 61,118 (1997).

[22] The Commission also looks at the assumptions and projections used in developing the rates, but the protestors do not challenge the assumptions and projections.

on under-collections. Western, moreover, indicates that it intends to make every effort to accurately forecast costs and load in an effort to minimize any over- or under-collections of annual revenue, and that, as a federal entity that sells its transmission at cost based rates that are the lowest possible consistent with sound business principles, Western has every incentive to estimate as accurately as possible its revenue requirement. Accordingly, we disagree with Missouri River that inclusion of interest on over-collections is necessary to meet the requirements of section 3 of the Delegation Order that rates are the lowest possible to customers consistent with sound business principles. In any event, the decision to choose to neither provide for interest nor to charge interest is a policy call that is beyond the scope of the Commission's review. Insofar as Missouri River also claims that section 1.4 of the Delegation Order requires interest, we disagree. Section 1.4 of the Delegation Order does speak of providing interest, but in a scenario where the rate the Commission confirms and approves on a final basis is lower than the rate the Deputy Secretary has confirmed and approved on an interim basis. That is not the case here, where the Commission is confirming and approving the rate that Western filed. Moreover, as Missouri River itself recognizes, (and does not contest),[23] the "rate" is not a stated rate, but is a formula rate, and the annual charges (while they may change from year to year) are not subject to annual review, confirmation and approval by either the Deputy Secretary or the Commission.

31. As to Missouri River's claim that we should evaluate the proposed imbalance service rates in light of Order No. 888, this is the wrong forum to pursue such an issue. What is at issue here is whether or not the proposed rates meet the criteria laid out in the Delegation Order, described above.[24] To the extent that Missouri River argues that the rates -- and, thus, Western's Open Access Transmission tariff -- do not meet the requirements for safe harbor status, that claim is more appropriately brought in a separate proceeding, such as a separate complaint proceeding, focused on Western's safe harbor status.

32. Finally, to the extent that protestors have a particular concern about the future implementation of Western's rate schedules, that concern should be addressed elsewhere, and we note that there are dispute resolution procedures contained in Western's tariff.

[23] Missouri River Protest at 10.

[24] Indeed, Missouri River admits that the open access transmission tariff's provisions "do not fit within the scope of review contemplated in the Delegation Order." Missouri River Protest at 11.

These issues are not appropriately taken into account during our review of Western's rates proposed in this proceeding, however.[25]

The Commission orders:

The Commission hereby confirms and approves on a final basis Western's proposed Rate Schedules UGP-NT1, UGP-FPT1, UGP-NFPT1, UGP-AS1, UGP-AS2, UGP-AS3, UGP-AS4, UGP-AS5, UGP-AS6, and UGP-AS7 for transmission and ancillary services for Pick-Sloan, and Rate Schedule UGP-TSP1, Transmission Service Penalty Rate for Unreserved Use for Pick-Sloan, for the period effective January 1, 2010 and ending December 31, 2014.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[25] *See supra* note 16 and accompanying text.