

135 FERC ¶ 61,196
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.

Public Service Company of New Mexico

Docket Nos. ER11-1915-000
ER11-1916-000
ER11-1917-000
ER11-2838-000
(consolidated)

ORDER ACCEPTING AND SUSPENDING PROPOSED TARIFF REVISION AND
CONSOLIDATING PROCEEDINGS

(Issued May 31, 2011)

1. On February 4, 2011, Public Service Company of New Mexico (PNM) submitted a filing proposing to increase the rates for power losses for firm and non-firm point-to-point transmission service in a pre-Open Access Transmission Tariff (OATT) Interconnection Agreement with El Paso Electric Company (El Paso). According to PNM, it originally requested these rate increases in its October 27, 2010 filing (October Filing) made in Docket No. ER11-1915-000, *et al.*¹ proposing new transmission rates, but it mistakenly omitted the revised tariff sheets in the El Paso Agreement that reflect the power losses rates from its original filing.² In this order, we accept and suspend PNM's proposed revisions to the El Paso Agreement for a nominal period to become effective on June 1, 2011, subject to the outcome of the hearing and settlement judge procedures in the Docket No. ER11-1915-000, *et al.* proceeding. Additionally, we will consolidate the instant filing with Docket No. ER11-1915-000, *et al.*

¹ The proposed revisions to the El Paso Agreement were filed in Docket No. ER11-1917-000.

² The power losses rates charged to El Paso for firm and non-firm point-to-point transmission service are stated in Operating Procedure 9 of the El Paso Agreement.

I. Background

2. PNM is a vertically-integrated electric utility involved in the generation, transmission, and sale of electricity in various wholesale markets in the western United States. PNM owns transmission lines within New Mexico that are interconnected with lines owned by El Paso. PNM provides firm and interruptible transmission service to El Paso pursuant to the El Paso Agreement. The rates for firm and interruptible service currently set forth in the El Paso Agreement are the same as those currently set forth in PNM's Schedule 7 (for firm point-to-point service) and Schedule 8 (for non-firm point-to-point service) of PNM's OATT. In addition, the power losses rates set forth in Operating Procedure 9 of the El Paso Agreement are the same as the power losses rates set forth in sections 15.7 and 28.5 of PNM's OATT.

3. On October 27, 2010 in Docket Nos. ER11-1915-000, ER11-1916-000, and ER11-1917-000, PNM proposed to increase the transmission rates in its OATT, its Electric Coordination Tariff, and two pre-OATT bilateral agreements, including the El Paso Agreement. In addition, in its transmittal letter PNM proposed to increase the rates in the El Paso Agreement to be the same as the new rates proposed under its OATT for firm and non-firm transmission service and real power losses.³

4. In an order issued on December 29, 2010,⁴ the Commission found that PNM's filing raised issues of material fact that could not be solved based on the existing record. Accordingly, the Commission accepted PNM's proposed revisions, suspended them for the maximum five-month period, to be effective June 1, 2011, subject to refund, and set them for hearing and settlement judge procedures.

5. Subsequently, on January 10, 2011, pursuant to the December Order, the Chief Judge appointed a settlement judge to convene a settlement conference, explore the possibility of settlement, discuss the differences between the parties, and in general conduct the settlement negotiations. Settlement procedures are ongoing.

II. PNM's Filing

6. PNM states that in its October Filing, among other changes, it proposed increases to the rates charged for firm and non-firm point-to-point transmission service under Schedules 7 and 8 of its OATT and to the power losses rates under sections 15.7 and 28.5 of its OATT. PNM notes that it also sought approval for corresponding changes under

³ PNM proposed to increase the real power losses for firm and non-firm point-to-point transmission from 3.00 percent to 3.58 percent.

⁴ *Pub. Serv. Co. of N.M.*, 133 FERC ¶ 61,268 (2009) (December Order).

the El Paso Agreement. PNM also explains that it submitted proposed revisions to Service Schedule I of the El Paso Agreement, which contains the rates for the firm and interruptible transmission service PNM provides to El Paso under the El Paso Agreement. However, PNM states that as a result of an administrative oversight, it omitted the proposed revisions to Operating Procedure 9 to reflect the increased power losses rates. Thus, PNM indicates that it is now submitting a revised version of Operating Procedure 9 that reflects rate increases for power losses which correspond to sections 15.7 and 28.5 of its OATT, as requested in the October Filing. PNM notes that the Commission accepted PNM's October Filing effective June 1, 2011, subject to refund and hearing and settlement judge procedures. Accordingly, PNM requests waiver of the Commission's prior notice requirement to allow the rate increases in the instant proceeding also to become effective June 1, 2011, subject to refund and the already-established hearing and settlement judge procedures.

III. Notice and Responsive Pleadings

7. Notice of PNM's filing was published in the *Federal Register*, 76 Fed. Reg. 9009 (2011), with interventions and comments due on or before February 25, 2011. On February 24, 2011, El Paso filed a timely motion to intervene, protest and request for consolidation.

8. El Paso states that the issues in the instant proceeding regarding the power losses rate should be preserved for hearing and settlement along with the issues being addressed in Docket No. ER11-1915-000, *et al.* In addition, El Paso argues that the instant filing is integrally related to PNM's October Filing. Therefore, El Paso requests that the Commission consolidate the instant proceeding with the proceedings in Docket No. ER11-1915-000, *et al.*

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

B. Substantive Matters

10. We will accept PNM's proposal to increase the power losses rates charged under the El Paso Agreement, subject to refund, and subject to the outcome of the hearing procedures established in the Docket No. ER11-1915-000, *et al.* proceeding. PNM

originally proposed these rate increases in the October Filing along with other changes,⁵ but it failed to submit the necessary revisions to Operating Procedure 9 of the El Paso Agreement, which sets forth the power losses rates PNM will charge El Paso.⁶ Both PNM and El Paso request that the Commission accept the instant filing subject to the outcome of the already-established hearing and settlement judge procedures. We find this request to be appropriate because the rates under the El Paso Agreement are based on the rates provided under PNM's OATT, which are the subject of the ongoing Docket No. ER11-1915-000, *et al.* proceeding. Accordingly, we will accept PNM's revisions to Operating Procedure 9 of the El Paso Agreement, suspend it for a nominal period to become effective June 1, 2011, consistent with the December Order, subject to refund, and subject to the outcome of the hearing and settlement judge procedures established by the December Order in the Docket No. ER11-1915-000, *et al.* proceeding.

11. In addition, we will consolidate the instant proceeding with Docket No. ER11-1915-000 *et al.* in order to promote administrative efficiency. The Commission's practice is to consolidate proceedings only where the issues are closely intertwined in order to avoid unnecessary duplication of efforts.⁷ As discussed above, PNM proposed to increase the power losses rates charged under the El Paso Agreement in the October Filing, but mistakenly omitted the revised tariff sheets reflecting the rate increases from that filing. Further, the rates stated in the El Paso Agreement are developed based on PNM's OATT rates proposed in its October Filing. Therefore, we find that the issues that may be raised concerning the proposed revisions to the El Paso Agreement rates are in fact specifically related to the issues surrounding the October Filing's proposed rates, and this fact supports the Commission's determination in this order to consolidate these proceedings for joint consideration for purposes of hearing and decision.

The Commission orders:

(A) PNM's revisions to the El Paso Agreement are hereby accepted for filing and suspended for a nominal period, to become effective June 1, 2011, subject to refund, as discussed in the body of this order.

⁵ October Filing Transmittal Letter at 5.

⁶ The power losses rates PNM charges El Paso for firm and non-firm transmission service match the power losses rates charged under sections 15.7 and 28.5 of PNM's OATT.

⁷ *Missouri River Energy Servs.*, 124 FERC ¶ 61,309, at P 39 (2008).

(B) PNM's request to consolidate Docket No. ER11-2838-000 with Docket Nos. ER11-1915-000, ER11-1916-000, and ER11-1917-000 is hereby granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.