

136 FERC ¶ 61,121  
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.

Entergy Arkansas, Inc.

Docket Nos. ER11-3156-000  
ER11-2560-000  
(Consolidated)

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE UPDATE,  
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES, AND  
CONSOLIDATING PROCEEDINGS

(Issued August 23, 2011)

1. In this order, we accept for filing Entergy Arkansas Inc.'s (Entergy Arkansas) 2011 Wholesale Formula Rate Update (2011 Update) for Arkansas Electric Cooperative Corporation (AECC), and suspend it for a nominal period, to become effective March 1, 2011, as requested, subject to refund, and establish hearing and settlement judge procedures. We also consolidate this filing with the ongoing proceeding in Docket No. ER11-2560-000, which involves similar issues and is currently in settlement procedures.

**I. Background**

2. On December 29, 2010, in Docket No. ER11-2560-000, Entergy Services, Inc. (Entergy) filed on behalf of Entergy Arkansas proposed changes to the formula rate contained in the Power Coordination, Interchange and Transmission Service Agreement between Entergy Arkansas and AECC (PCITSA). On February 28, 2011, the Commission accepted those proposed formula changes, subject to refund, and set the matter for hearing and settlement judge procedures.<sup>1</sup> Settlement conferences were held on March 24, 2011 and June 22, 2011. A third settlement conference is scheduled for August 16, 2011.

3. On March 21, 2011, in Docket No. ER11-3156-000, Entergy filed on behalf of Entergy Arkansas the 2011 Update to redetermine the formula rate charges in accordance with the PCITSA as well as agreements settling prior update proceedings (Agreements).

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<sup>1</sup> *Entergy Arkansas, Inc.* 134 FERC ¶ 61,143 (2011).

Entergy states that, in light of the settlement procedures underway in Docket No. ER11-2560-000, its 2011 Update includes the formula changes accepted for filing in Docket No. ER11-2560-000.

4. Entergy requests that the redetermined charges become effective March 1, 2011, subject to refund, in accordance with the Agreements.

## **II. Notice of Filing and Responsive Pleadings**

5. Notice of Entergy's filing was published in the *Federal Register*, 76 Fed. Reg. 17,407 (2011), with interventions or protests due on or before April 11, 2011.<sup>2</sup> On April 11, 2011, AECC filed a motion to intervene, preliminary protest, and motion to consolidate. On June 3, 2011, AECC filed a supplemental protest. On June 20, 2011, Entergy filed an answer.

6. AECC contends that there are a number of questionable increases in Entergy Arkansas' costs from the 2010 Update to the 2011 Update and that Entergy Arkansas has not shown that its proposed redetermined rates are just and reasonable and not unduly discriminatory. Therefore, AECC argues that the proposed rates should be set for hearing.

7. AECC alleges that: (1) Entergy Arkansas' rates are unduly discriminatory; (2) Entergy Arkansas improperly excludes Jonesboro's transmission usage from the transmission rate divisor; and (3) AECC has been unable to determine that Entergy Arkansas properly treated a number of items. These items include inclusion of certain accumulated deferred income taxes, fixed placeholders in rate formulas which allow for the potential recovery of Non-Retail Specifically Assigned Costs, as well as an increase in O&M expenses and certain RTO-related accounts which may include production-related costs.

8. AECC further states that on April 8, 2011, it submitted informal discovery questions to Entergy Arkansas in both Docket Nos. ER11-2560-000 and ER11-3156-000, and that in response Entergy Arkansas marked each response as being provided only in Docket No. ER11-2560-000 and as a "Confidential Settlement Communication Subject to

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<sup>2</sup> Entergy states that Entergy Arkansas' Form 1 annual report is to be filed by April 18, 2011. Accordingly, Entergy explains, as provided for in the Agreements, interested parties would have until June 1, 2011 to review the calculation of the rate redetermination and file comments.

FERC Rule 602.”<sup>3</sup> AECC states that on May 12, 2011, it resubmitted its questions along with additional data requests to Entergy Arkansas in Docket No. ER11-3156-000, and Entergy Arkansas has yet to respond. AECC argues that Entergy’s Arkansas non-responsiveness has significantly undermined the review procedure provided for in the PCITSA and AECC’s ability to conduct a meaningful analysis of Entergy Arkansas’ FERC Form No. 1 and evaluate the data and assumptions underlying Entergy’s 2011 Update.

9. AECC also raises a number of other concerns related to the 2011 Update including, but not limited to: (1) a 239.4 percent increase in Payroll Related Tax Expenses; (2) a 21.87 percent increase in general plant depreciation expenses; (3) a 2009 Ice Storm Adder contributing \$.13/kW to the proposed rate; and (4) a 19.89 percent increase in includable administrative & general expenses.

10. AECC moves for consolidation of Docket No. ER11-3156-000 with the proceeding pending in Docket No. ER11-2560-000. AECC notes that when Entergy filed the 2011 Update in Docket No. ER11-3156-000, it stated that “[i]n light of the settlement procedures underway in Docket No. ER11-2560, Entergy files this 2011 Wholesale Rate Update including the formula changes accepted for filing in Docket No. ER11-2560.” AECC submits that the redetermination of the formula rate charges to AECC in the 2011 Update in Docket No. ER11-3156-000 is inextricably linked to the ongoing proceeding in Docket No. ER11-2560-000 on the formula contained in the PCITSA, and that administrative efficiency calls for consolidation of Docket Nos. ER11-2560-000 and ER11-3156-000. In the alternative, AECC requests that Entergy be directed to modify the 2011 Update in Docket No. ER11-3156-000 to conform to the outcome of the settlement and/or hearing in Docket No. ER11-2560-000.

### **III. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), AECC’s timely, unopposed motion to intervene serves to make it a party to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Entergy’s answer and will, therefore, reject it.

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<sup>3</sup> FERC Rule 602, 18 C.F.R. § 385.602 (2011) addresses offers of settlement.

**B. Hearing and Settlement Judge Procedures and Consolidation**

12. Entergy Arkansas' 2011 Update raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

13. Our preliminary analysis indicates that Entergy Arkansas' proposed 2011 Update has not been shown to be just and reasonable and may be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept Entergy Arkansas' proposed 2011 Update for filing, suspend it for a nominal period, make it effective March 1, 2011, subject to refund, and set it for hearing and settlement judge procedures.

14. In addition, we grant the motion to consolidate filed by AECC. We find that there are common issues of law and fact in the filings made by Entergy in Docket No. ER11-2560-000 and Docket No. ER11-3156-000. Therefore, in order to promote administrative efficiency, we will consolidate Entergy's filings in these dockets for purposes of hearing, settlement and decision.

**The Commission orders:**

(A) Entergy Arkansas' proposed 2011 Update is hereby accepted for filing and suspended for a nominal period, to become effective March 1, 2011, as requested, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I (2011)), a public hearing shall be held concerning Entergy Arkansas' proposed 2011 Update. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Docket No. ER11-3156-000 is hereby consolidated with the ongoing proceedings in Docket No. ER11-2560-000 for purposes of hearing, settlement and decision, as discussed in the body of this order.

(D) The settlement judge or presiding judge, as appropriate, designated in Docket No. ER11-2560-000 shall determine the procedures best suited to accommodate the consolidation ordered herein.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.