

136 FERC ¶ 61,149  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

August 31, 2011

In Reply Refer To:  
El Paso Electric Company  
Docket Nos. ER10-2599-000  
ER11-3884-000

El Paso Electric Company  
PO Box 982  
El Paso, TX 79960

Attention: Mary E. Kipp, Senior Vice President,  
General Counsel & Chief Compliance Officer

Dear Ms. Kipp:

1. On June 24, 2011, you filed on behalf of El Paso Electric Company (El Paso) a proposed settlement agreement (Settlement) with the Commission in the above-referenced dockets.
2. The Settlement resolves all issues in the above-captioned proceedings related to reimbursement of network upgrade costs associated with the interconnection of the Macho Springs Generating Facility to non-open access capacity rights of Tucson Electric Power Company (Tucson) on the El Paso system under the 1982 Tucson-El Paso Power Exchange and Transmission Agreement. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding.
3. We also find that the accompanying Interconnection Agreement is just and reasonable. Accordingly, the Interconnection Agreement is also accepted, effective September 1, 2011, as requested; however, the Interconnection Agreement contains a numerical error with respect to the numbering sequence after section 11.5 (Provision of Security). The section entitled Interconnection Customer Compensation, also designated as section 11.5, should actually be section 11.6. El Paso is directed to submit a compliance filing within 15 days of the date of this order to correct the numbering sequence.

4. In addition, we note that El Paso filed the Settlement and Interconnection Agreement using a Whole Document Format and submitted the tariff records in Portable Document Format (PDF). When submitting a tariff record in PDF, the *Implementation Guide* requires that a title page should be included that contains the following information: (a) tariff submitter; (b) FERC tariff program name; (c) tariff title; (d) tariff record proposed effective date; (e) tariff record title; (f) option code; and (g) other information as the FERC may require by notice or order.<sup>1</sup> Therefore, within 15 days of the date of this order, El Paso is required to file a revised tariff record to include the necessary title page information.

5. Article V of the Settlement provides that:

It is the intent of the Parties that, to the maximum extent permitted by law, the provisions of this Settlement shall not be subject to change under Sections 205 and 206 absent the written agreement of the Parties, and that the standard of review unilaterally proposed by either El Paso or Tucson, or by the Commission acting *sua sponte* or at the request of a third party, shall be the public interest standard of review, sometimes referred to as the *Mobile Sierra* public interest standard.

6. Because, as noted above, the rates at issue here stem from a bilateral transmission service agreement that is not under an open access transmission tariff and are not generally applicable, we find that those rates are contract rates. In this situation, we agree that the "public interest" presumption applies as described in Article V of the Settlement. The Settlement should not be understood as establishing the standard of review for changes to El Paso's open access transmission tariff's rates, terms, and conditions.

7. This order terminates Docket Nos. ER10-2599-000 and ER11-3884-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>1</sup> See *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings* (October 8, 2010) (*Implementation Guide*) at 7-8, available at <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.