

151 FERC ¶ 61,112  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
and Tony Clark.

Entergy Services, Inc.

Docket No. ER07-956-008

ORDER ON COMPLIANCE

(Issued May 14, 2015)

1. On September 15, 2014, in response to two orders<sup>1</sup> issued by the Commission on July 31, 2014, Entergy Services, Inc. (Entergy) filed a comprehensive bandwidth recalculation report for calendar year 2006. The July 31 Letter Order and the July 31 Order resolved all outstanding issues pending at the Commission related to the calculation of the bandwidth formula contained in Entergy's System Agreement Service Schedule MSS-3 for test year 2006 and directed Entergy to file a comprehensive recalculation report showing updated payments and receipts. Entergy's compliance filing consists of the recalculation of the true-up payments and receipts based on 2006 test year data and supporting workpapers for each identified adjustment, along with the applicable interest calculation through September 24, 2014, the date the payments and receipts will be made among the Entergy Operating Companies. For the reasons discussed below, Entergy's compliance filing is accepted.

**I. Background**

2. In Opinion No. 480,<sup>2</sup> the Commission found that rough production cost equalization had been disrupted on the Entergy System and approved a numerical bandwidth of +/- 11 percent of the Entergy System average production cost to restore the

---

<sup>1</sup> *Entergy Services, Inc.*, 148 FERC ¶ 61,086 (2014) (July 31 Letter Order) and *Entergy Services, Inc.*, 148 FERC ¶ 61,085 (2014) (July 31 Order).

<sup>2</sup> *La. Pub. Serv. Comm'n v. Entergy Servs., Inc.*, Opinion No. 480, 111 FERC ¶ 61,311 (2005), *order on reh'g*, Opinion No. 480-A, 113 FERC ¶ 61,282 (2005), *order on compliance*, 117 FERC ¶ 61,203 (2006), *order on reh'g and compliance*, 119 FERC ¶ 61,095 (2007), *aff'd in part and remanded in part*, *La. Pub. Serv. Comm'n v. FERC*, 522 F.3d 378 (D.C. Cir. 2008), *order on remand*, 137 FERC ¶ 61,047 (2011), *order on reh'g*, 146 FERC ¶ 61,152, *order on compliance*, 146 FERC ¶ 61,153 (2014).

rough equalization of production costs among the Operating Companies.<sup>3</sup> The Commission stated that the bandwidth, i.e., “the bandwidth remedy”, would be implemented prospectively and would be effective beginning in calendar year 2006, and that any equalization payments would be made beginning in 2007 after the full calendar year of data for 2006 became available.<sup>4</sup> Entergy is required, by June 1 of each year, to make a compliance filing implementing the bandwidth formula using the prior calendar year’s production costs.

3. On January 11, 2010, the Commission issued Opinion No. 505,<sup>5</sup> wherein it considered the September 23, 2008 Initial Decision<sup>6</sup> concerning Entergy’s first annual bandwidth filing. Opinion No. 505, as well as subsequent orders in the Opinion No. 505 proceeding, ordered various bandwidth formula and bandwidth calculation adjustments, which modified the 2006 test year bandwidth calculation.<sup>7</sup> In addition, numerous other Commission proceedings affect the test year 2006 bandwidth calculation.<sup>8</sup> After

---

<sup>3</sup> Opinion No. 480, 111 FERC ¶ 61,311 at PP 1, 145, *order on reh’g*, Opinion No. 480-A, 113 FERC ¶ 61,282 at PP 15, 46. At the time the Commission issued Opinion Nos. 480 and 480-A, the Operating Companies were Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), Entergy New Orleans, Inc. (Entergy New Orleans), and Entergy Gulf States, Inc. (Entergy Gulf States). At the end of 2007, Entergy Gulf States was split into Entergy Texas, Inc. (Entergy Texas) and Entergy Gulf States Louisiana, L.L.C. (Entergy Gulf States Louisiana). Accordingly, the Operating Companies currently involved with this proceeding are Entergy Arkansas, Entergy Gulf States Louisiana, Entergy Louisiana, Entergy Mississippi, Entergy New Orleans, and Entergy Texas.

<sup>4</sup> Opinion No. 480-A, 113 FERC ¶ 61,282 at PP 53-54; *Entergy Servs., Inc.*, 117 FERC ¶ 61,203, at P 43 (2006).

<sup>5</sup> *Entergy Servs., Inc.*, Opinion No. 505, 130 FERC ¶ 61,023 (2010), *order on reh’g*, Opinion No. 505-A, 139 FERC ¶ 61,103, *order on compliance*, 139 FERC ¶ 61,104 (2012), *order granting clarification in part and denying clarification in part*, 145 FERC ¶ 61,045 (2013), *order on reh’g*, 145 FERC ¶ 61,046 (2013).

<sup>6</sup> *Entergy Servs., Inc.*, 124 FERC ¶ 63,026 (2008).

<sup>7</sup> *See, e.g.*, Opinion No. 505-A, 139 FERC ¶ 61,013 at PP 58-60 (providing guidance on the assignment of accumulated deferred income taxes associated with net operating loss carry-forwards). *See also* Entergy Compliance Filing at 5-7.

<sup>8</sup> *See, e.g.*, Docket No. ER07-682, resulting in *Entergy Services, Inc.*, Opinion No. 506, 130 FERC ¶ 61,026 (2010), *order on reh’g*, 143 FERC ¶ 61,120 (2013); Docket  
(continued ...)

considering at length the various complaints and compliance proceedings that affect the test year 2006 bandwidth calculation, in the July 31 Order, the Commission ordered Entergy to file a comprehensive bandwidth recalculation report showing the updated payments and receipts based on the 2006 and 2007<sup>9</sup> calendar year data in compliance with all bandwidth formula and bandwidth calculation adjustments that the Commission accepted or ordered, effective as of June 1, 2007 and June 1, 2008, respectively, along with supporting calculations for each identified adjustment.

## II. Entergy's Compliance Filing

4. In its compliance filing, Entergy provides a comprehensive bandwidth recalculation report showing the payment/receipt amounts based on 2006 test year data. Entergy states that it has performed the recalculation consistent with the orders that affect the 2006 bandwidth calculation. Entergy states that the required changes include, inter alia, changes to the source data for calculating the variable Energy Ratio, changes to the accounting for interim storm damage costs associated with Hurricanes Katrina and Rita, changes to the accounting for net operating loss accumulated deferred income taxes, changes to the accounting for the acquisition costs of the Spindletop regulatory asset, and exclusion of interruptible load from the variable demand ratio.<sup>10</sup>

5. The July 31 Letter Order directed that interest be included with the bandwidth payments/receipts made pursuant to the comprehensive recalculation from June 1, 2007. Entergy states that calculation of interest resulted in payments/receipts as follows:

Company	(Payment)/Receipt \$ Millions
Entergy Arkansas	(\$6.4)
Entergy Gulf States Louisiana	\$4.6

---

No. EL08-51, resulting in *Entergy Services, Inc.*, Opinion No. 509, 132 FERC ¶ 61,253 (2010), *order on reh'g*, 139 FERC ¶ 61,101 (2012); and Docket No. EL07-52, resulting in *La Pub. Serv. Comm'n v. Entergy Corp.*, 119 FERC ¶ 61,212 (2007), *order on reh'g*, 139 FERC ¶ 61,100 (2012).

<sup>9</sup> Entergy filed a separate bandwidth recalculation report in Docket No. ER08-1056 regarding the second annual (2007) bandwidth calculation.

<sup>10</sup> Entergy Compliance Filing at 5-12.

Entergy Louisiana	\$0.7
Entergy Mississippi	(\$1.5)
Entergy New Orleans	\$0.0
Entergy Texas	\$2.6

6. Entergy further states that pursuant to its comprehensive recalculation and calculated quarterly interest, the chart below summarizes the remaining or true-up amounts to be paid/received on September 24, 2014:

Company	Total 2007 bandwidth (payments)/receipts including interest	2007 bandwidth amounts previously (paid)/received per the May 27, 2007 initial filing	Remaining 2007 bandwidth amounts to be (paid)/received
Entergy Arkansas	(\$278.3)	(\$251.7)	(\$26.5)
Entergy Gulf States Louisiana	\$108.7	\$89.7	\$19.0
Entergy Louisiana	\$93.8	\$91.1	\$2.7
Entergy Mississippi	\$34.5	\$40.6	(\$6.1)
Entergy New Orleans	\$0.0	\$0.0	\$0.0
Entergy Texas	\$41.3	\$30.4	\$10.9

7. Entergy states that it will provide the updated bandwidth payment/receipt amounts to the current wholesale customers on their next monthly bill.<sup>11</sup>

---

<sup>11</sup> *Id.* at 13.

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

8. Notice of Entergy's compliance filing was published in the *Federal Register*, 79 Fed. Reg. 58,760, with interventions and protests due on or before October 6, 2014. Texas Industrial Energy Consumers (Texas Consumers) filed a protest. Entergy filed an answer.

9. Texas Consumers argues that the Commission should reject the portions of Entergy's recalculation that allocate the 2006 equalization payments owed to Entergy Gulf States among its former Texas and Louisiana retail jurisdictions. Texas Consumers explains that because Entergy Gulf States was the Operating Company for which payments were calculated in the original 2007 bandwidth filing, allocation of those receipts between the Texas and Louisiana retail jurisdictions should be addressed at the Public Utility Commission of Texas (Texas Commission) and the Louisiana Public Service Commission (Louisiana Commission), respectively.<sup>12</sup>

10. Texas Consumers explains that for the entirety of the 2006 compliance year, a single Operating Company – Entergy Gulf States – served both Texas and Louisiana retail customers. It notes that Entergy Gulf States did not jurisdictionally separate into Entergy Texas and Entergy Gulf States Louisiana until December 31, 2007. Texas Consumers notes that in its recalculation filing, Entergy first calculated the incremental 2006 bandwidth receipts due to Entergy Gulf States, but then took the additional step of allocating those receipts to Entergy Gulf States' former retail jurisdictions. Texas Consumers argues that because the Operating Company serving Texas and Louisiana for the duration of 2006 and at the time of the 2007 bandwidth filing was Entergy Gulf States, the recalculated bandwidth receipts are due to Entergy Gulf States, not to Entergy Texas or Entergy Gulf States Louisiana.<sup>13</sup> Texas Consumers argues that the Commission has previously rejected Entergy's requests to modify the Entergy System Agreement so that bandwidth receipts owed to Entergy Gulf States could be allocated between Entergy Gulf States' retail jurisdictions, and contends that that is exactly what Entergy's bandwidth recalculation attempts to accomplish.<sup>14</sup>

---

<sup>12</sup> Texas Consumers Protest at 1.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 2 (citing *Entergy Services, Inc.*, 127 FERC ¶ 61,126, at P 23 (2009)).

11. Texas Consumers notes that Entergy cites Opinion No. 514<sup>15</sup> as requiring that bandwidth payments should be allocated directly to Entergy Texas and Entergy Louisiana.<sup>16</sup> Texas Consumers contends that because Opinion No. 514 applied to the 2007 compliance year – the year Entergy Gulf States jurisdictionally separated into Entergy Texas and Entergy Gulf States Louisiana – it does not apply to the instant case which addresses 2006 production costs. Texas Consumers explains that the Commission stated in Opinion No. 514 that its finding allowing bandwidth receipts to be separated was based on the fact that the companies legally separated during the 2007 compliance year, as well as at the time of the calendar year 2007 bandwidth filing in May 2008.<sup>17</sup> Texas Consumers adds that the calendar year 2006 bandwidth filing identifies Entergy Gulf States as the relevant Operating Company, and contends that that treatment should be carried through for any corrections Entergy makes to the 2007 filing. Texas Consumers adds that the 2006 bandwidth payments that Entergy has already made also treated Entergy Gulf States as the relevant Operating Company, and argues that deviating from that approach for the corrected 2006 payments would create inconsistent results.<sup>18</sup>

12. In its answer, Entergy contends that Texas Consumers seek to repeat a trapping situation that occurred when the original 2007 bandwidth payments were received by Entergy Gulf States in calendar year 2007, when Entergy Gulf States was an individual utility. Entergy explains that the Texas Commission and the Louisiana Commission adopted different methods to allocate payments between the respective retail jurisdictions. Entergy further explains that the result was that retail customers in Texas were credited approximately \$19 million more in 2007 bandwidth payments than was received by the utility. Entergy explains that in that situation, the Commission determined that it did not have jurisdiction to address the allocation of an individual utility's bandwidth receipts among the utility's retail jurisdictions.<sup>19</sup> Entergy argues that

---

<sup>15</sup> *Entergy Services, Inc.*, Opinion No. 514, 137 FERC ¶ 61,029 (2011), *order on reh'g*, Opinion No. 514-A, 142 FERC ¶ 61,013 (2013), *order on compliance* 142 FERC ¶ 61,011, *order on reh'g*, 148 FERC ¶ 61,087 (2014).

<sup>16</sup> Texas Consumers Protest at 3 (citing Entergy Compliance Filing at 13).

<sup>17</sup> *Id.* (citing Opinion No. 514, 137 FERC ¶ 61,029 at P 154).

<sup>18</sup> *Id.* at 4.

<sup>19</sup> Entergy Answer at 4 (citing *Entergy Services, Inc.*, 127 FERC ¶ 61,126 at P 23).

Texas Consumers advocates for the same result with respect to the recalculation of the 2007 bandwidth filing so that it may pursue an incremental trapping of bandwidth payments.<sup>20</sup>

13. Entergy argues, however, that Texas Consumers' arguments fail because Entergy Gulf States has ceased to exist and is not able to receive bandwidth payments. Entergy notes that Entergy Texas and Entergy Gulf States Louisiana are the successors to Entergy Gulf States, and explains that the Commission has already concluded in Opinion No. 514 that the jurisdictional separation of Entergy Gulf States into two separate Texas and Louisiana utilities imparts exclusive jurisdiction to the Commission to apply the bandwidth formula to those separate utilities.<sup>21</sup> Entergy adds that the Commission emphasized in Opinion No. 514 that it must assure the System Agreement achieves rough production cost equalization among all the Operating Companies, including Entergy Texas and Entergy Gulf States Louisiana, by allowing those utilities to take the place of Entergy Gulf States in the calculation of bandwidth payments and receipts. Entergy contends that it is the existence of Entergy Texas and Entergy Gulf States Louisiana that creates this obligation, not the timing of when a bandwidth filing is made or payments received.<sup>22</sup>

#### IV. Discussion

##### A. Procedural Matters

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept Entergy's answer because it has assisted us in our decision-making process.

##### B. Commission Determination

15. We accept Entergy's compliance filing. No party, including Texas Consumers, has protested the bandwidth formula recalculation amounts. Instead, Texas Consumers seeks to have the Commission reject Entergy's application of the bandwidth formula to Entergy Texas and Entergy Gulf States Louisiana for the purposes of determining refunds and surcharges associated with the 2007 bandwidth calculation, in favor of a recalculation for Entergy Gulf States, an entity which no longer exists.

---

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* (citing Opinion No. 514, 137 FERC ¶ 61,029 at PP 154-161).

<sup>22</sup> *Id.* at 5.

16. We note that in Opinion No. 514, the Commission faced similar circumstances presented by the current recalculation. The Commission considered its jurisdiction over application of the bandwidth formula using 2007 test year production costs (when Entergy Gulf States was still an individual utility) to calculate payments to be made to Entergy Gulf States' successors, Entergy Texas and Entergy Gulf States Louisiana. The Commission concluded that it maintains jurisdiction to determine the amount of payments payable to Entergy Texas and Entergy Gulf States Louisiana, who had then succeeded Entergy Gulf States as parties to the System Agreement, and adopted a methodology to allocate Entergy Gulf States' production costs between Entergy Texas and Entergy Gulf States Louisiana in order to apply the bandwidth formula.<sup>23</sup> This methodology was accepted by the Commission in an order on compliance in the Opinion No. 514 proceeding.<sup>24</sup>

17. In its protest, Texas Consumers contends that Opinion No. 514 is not pertinent to the instant case because at issue in Opinion No. 514 was the 2007 test year, during which Entergy Gulf States was jurisdictionally separated into Entergy Texas and Entergy Gulf States Louisiana, whereas this case pertains to 2006, i.e., the test year before the separation of Entergy Gulf States. We disagree. The relevant fact for Entergy's bandwidth recalculation is not that Entergy Texas and Entergy Gulf States Louisiana were not in existence in 2006; instead, what is relevant is that the two Operating Companies exist now and stand in place of Entergy Gulf States. Thus, while the original bandwidth payments and receipts in 2007 for the 2006 test year involved Entergy Gulf States, who was then a party to the System Agreement, any refunds and surcharges associated with the 2007 bandwidth payments and receipts now must reflect the current members of the System Agreement, and thus Entergy Texas and Entergy Gulf States Louisiana's succession to Entergy Gulf States as parties to the System Agreement. As the Commission explained in Opinion No. 514, while Entergy Gulf States Louisiana and Entergy Texas were not in existence in 2007, it is only logical to place them into Entergy Gulf States' position in order to ensure rough production equalization among the Operating Companies in existence when the resulting bandwidth payments and receipts occurred in 2008.<sup>25</sup> The Commission further noted that the creation of the two new Operating Companies required, as a matter of law, that the Commission decide how to apply the wholesale rate schedule to the facts presented.<sup>26</sup>

---

<sup>23</sup> Opinion No. 514, 137 FERC ¶ 61,029 at P 154.

<sup>24</sup> *Entergy Services, Inc.*, 142 FERC ¶ 61,011 (2013).

<sup>25</sup> Opinion No. 514, 137 FERC ¶ 61,029 at P 157.

<sup>26</sup> *Id.* P 158.

18. Here, it was reasonable for Entergy to recalculate the 2007 bandwidth filing and allocate refunds and surcharges for Entergy Texas and Entergy Gulf States Louisiana consistent with Opinion No. 514. Adoption of Texas Consumers' position would interfere with the proper application of the bandwidth formula by ignoring that Entergy Gulf States is no longer an Operating Company.

19. Texas Consumers also contends that its theory is supported by a Commission order in which the Commission determined that it did not have jurisdiction to address the allocation of an individual utility's bandwidth receipts among the utility's retail jurisdictions.<sup>27</sup> However, the circumstances that existed in that case – Entergy Gulf States was still in existence and the Texas Commission and the Louisiana Commission adopted different methods to allocate payments between the respective retail jurisdictions – no longer exist. Entergy Gulf States has ceased to exist and is no longer able to receive bandwidth payments.

The Commission orders:

Entergy's compliance filing is hereby accepted, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.

---

<sup>27</sup> *Entergy Services, Inc.*, 127 FERC ¶ 61,126 (2009).