

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

United States Department of Energy --  
Southwestern Power Administration  
(Integrated System)

Docket No. EF05-4011-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES  
ON A FINAL BASIS

(Issued October 11, 2005)

1. In this order, we confirm and approve on a final basis Southwestern Power Administration's (Southwestern) power sales and transmission rates.

**Background**

2. On November 17, 2004, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Southwestern's Rate Schedules P-04, NFTS-04, and EE-04 applicable to the sale of power and energy and for transmission services from Southwestern's Integrated System.<sup>1</sup> The Deputy Secretary placed the rates

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<sup>1</sup>The Integrated System consists of 22 multi-purpose hydroelectric projects whose power output is sold to preference customers in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas. Rate Schedule P-04 provides rates for hydro peaking power. Rate Schedule NFTS-04 provides rates for non-federal transmission/interconnection facilities service. Rate Schedule EE-04 provides rates for excess energy.

into effect on an interim basis effective January 1, 2005,<sup>2</sup> and requests final confirmation and approval of the rates for the period January 1, 2005 through September 30, 2008.<sup>3</sup>

3. Southwestern explains that, based on its Power Repayment Study, existing rates will not satisfy cost recovery criteria for the Integrated System projects. According to Southwestern, the Power Repayment Study indicates that an increase in annual revenue of \$8.6 million or 7.5 percent, beginning January 1, 2005, is necessary to satisfy cost recovery criteria. Southwestern proposes to increase annual revenues from \$115.0 million to \$123.5 million, primarily to recover increased expenditures in operations and maintenance and investment. In addition, Southwestern proposes to increase the Purchased Power Deferral Account by \$737,300 to recover certain purchased energy costs. Additionally, Southwestern proposes an adjustment of \$0.0011 per kWh for purchased power pursuant to the Administrator's Discretionary Purchased Power Adder Adjustment rate provision.

### **Notice of Filing and Interventions**

4. Notice of the application was published in the *Federal Register*, 69 Fed. Reg. 71,027 (2004), with protests and interventions due on or before December 8, 2004.

5. Southwestern Power Resources Association (SPRA) filed a timely motion to intervene, raising no substantive issues. Northeast Texas Electric Cooperative, Inc. and Tex-LA Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives) filed a timely joint motion to intervene and protest.

6. East Texas Cooperatives again challenge, as they did in Southwestern's last case,<sup>4</sup> Southwestern's treatment of unfunded Civil Service Retirement System and Health and Life Insurance Benefits. East Texas Cooperatives argue that Southwestern should record these expenses in a liability account similar to Southwestern's accounting treatment for

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<sup>2</sup>Rate Order No. SWPA-51, placing the rate schedules into effect on an interim basis, was issued on November 16, 2004, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00.

<sup>3</sup>These rate schedules will supersede the present rate schedules, which were approved by the Commission on a final basis in *United States Department of Energy – Southwestern Power Administration (Integrated System)*, 105 FERC ¶ 61,085 (2003) (*Southwestern*).

<sup>4</sup> *Id.* at P 5.

advances for construction. East Texas Cooperatives, therefore, request the Commission to remand Southwestern's Rate Schedule P-04.

## **Discussion**

### **Procedural Matters**

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

### **Standard of Review**

8. The Secretary of Energy has delegated to the Commission the authority to confirm and approve Southwestern's rates on a final basis,<sup>5</sup> and also established the scope of Commission review. 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.<sup>6</sup>

9. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.<sup>7</sup> The

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<sup>5</sup> See Department of Energy, Delegation Order No. 00-037.00, FERC Stats. & Regs. ¶ 9,919 (2001).

<sup>6</sup>*Id.*

<sup>7</sup>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 power marketing administrations, such as Southwestern, market the output of the projects.

Commission may reject the rate determinations of Southwestern'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 Southwestern's Administrator and the applicable power generating agency.

10. 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 confirms and approves, or remands, the rates submitted to it for final review.<sup>8</sup>

11. By statute,<sup>9</sup> Southwestern must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of Southwestern's Power Repayment Study indicates that the revenues to be collected under the proposed rates will be sufficient to recover Southwestern's costs, including the recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the proposed rates recover no more than Southwestern'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 Southwestern's system financial 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.

12. Because Southwestern's proposed rates are consistent with the standards by which they must be judged, they merit final confirmation and approval.

13. Consistent with our determination on the same issues in Southwestern's last case, and in light of the limited scope of our review, the Commission will not remand

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<sup>8</sup>See, *e.g.*, *United States Department 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 (9<sup>th</sup> Cir. 1996); *United States Department 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).

<sup>9</sup> 16 U.S.C. § 825s (2000).

Southwestern's Rate Schedule P-04, as requested by East Texas Cooperatives in this case. East Texas Cooperatives are challenging Southwestern's decisions to increase or adjust certain accounts in the underlying P-04 rates. Southwestern's decisions are not within our jurisdictional purview.<sup>10</sup>

The Commission orders:

The Commission hereby confirms and approves on a final basis Southwestern's proposed Rate Schedules P-04, NFTS-04, and EE-04 applicable to the sale of power and energy and for transmission services from Southwestern's Integrated System for the period January 1, 2005 through September 30, 2008.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>10</sup> *Southwestern*, 105 FERC ¶ 61,085 at P 5, 11.