

121 FERC ¶ 61,257
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeem G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Ameren Services Company

Docket No. ER08-67-000

ORDER ACCEPTING FILING, DENYING WAIVER OF NOTICE
REQUIREMENTS AND ORDERING REFUNDS

(Issued December 14, 2007)

1. On October 17, 2007, Ameren Services Company (Ameren), on behalf of Union Electric Company (AmerenUE), submitted an executed service agreement for Wholesale Distribution Service (WDS) between AmerenUE (as transmission and distribution owner) and the City of Farmington, Missouri (Farmington), for service over AmerenUE's wholesale distribution facilities. As discussed below, this order accepts Ameren's filing, effective December 17, 2007, denies waiver of the Commission's 60-day prior notice requirement, and orders refunds.

I. Background

2. AmerenUE is a public utility that serves wholesale and retail customers located primarily in Missouri and a transmission-owning member of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). WDS is provided to certain customers that are connected to the AmerenUE transmission system pursuant to an agreement entitled Principles Governing Charges and Loss Factors for Wholesale Direct Assignment Facilities (Principles Agreement) between AmerenUE and the various WDS customers, including Farmington.¹

¹ See *Union Electric Co.*, Docket No. ER00-255-000 (Nov. 26, 1999) (unpublished letter order) (accepting the Principles Agreement for filing).

3. Farmington is a municipal electric company that is connected to the AmerenUE transmission system. While Farmington does not now take network service from the Midwest ISO, Westar Energy, Inc. (Westar) serves as Farmington's agent for purposes of obtaining related network service. Farmington has historically taken service across AmerenUE's distribution facilities and paid charges determined in accordance with the Principles Agreement since 1999.

II. The Filing

4. On October 17, 2007, Ameren filed the executed WDS agreement between AmerenUE and Farmington. Ameren states that it is filing the WDS agreement as a stand-alone agreement because the Midwest ISO has indicated that it does not wish to be a party to the WDS agreement.² To the extent that transmission service across transmission facilities subject to the Midwest ISO's functional control is necessary, Ameren states that Westar, as agent for Farmington, would take service under a Network Integration Transmission Service Agreement between Westar and the Midwest ISO. Ameren states that the Commission has accepted similar two-party agreements in the past.³

5. Ameren states that the WDS agreement utilizes a rate formula that is set forth in the Principles Agreement between Ameren and Farmington.⁴ Ameren further states that under the Principles Agreement, AmerenUE is designated as the "Transmission

² The WDS agreement is designated as Original Service Agreement No. 1887 under the Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT), FERC Electric Tariff, Third Revised Volume No. 1.

³ *Citing Wisc. Pub. Serv. Corp.*, 104 FERC ¶ 61,189, at P 12 (2003); *Mich. Elec. Transmission Co.*, Docket No. ER03-1154-000 (Sept. 23, 2003) (unpublished letter order) (accepting the WDS agreement for filing).

⁴ Section A.1 of the Principles Agreement provides:

The monthly charge shall be calculated by applying an annual carrying charge of 16.42% to the original installed cost of Wholesale Direct Assignment Facilities applicable to such customer, and dividing such result by twelve (12), as shown on the list attached to this Agreement as Attachment A. The resultant charges for Wholesale Direct Assignment Facilities (absent adjustment as provided for below) are also set forth in Attachment A.

Provider,” and wholesale distribution service has been provided to certain customers that connect to the AmerenUE transmission system, including Farmington.

6. According to Ameren, the Principles Agreement establishes baseline, customer-specific charges for service across AmerenUE’s wholesale distribution facilities, as well as baseline customer-specific distribution loss factors. Ameren states that the WDS agreement establishes the annual and monthly Wholesale Distribution Facilities Charges of \$511,272 and \$42,606, respectively; and that while this proposal increases the baseline charges from those previously accepted in the Principles Agreement, the charges are consistent with the Principles Agreement and are fully cost-supported.

7. Ameren maintains that the Principles Agreement sets out an approved rate formula, which is the operative rate for the service being provided under the WDS agreement.⁵ Ameren contends that the formula set out in the Principles Agreement has not changed; rather the Principles Agreement allows for changes to resulting charges when there have been “significant modifications” to the Wholesale Direct Assignment Facilities. Ameren adds that these significant modifications have occurred because AmerenUE has added a substation to serve Farmington and because its Esther substation no longer serves Farmington.

8. Ameren states that the modifications, (*i.e.*, the change in the substation that serves Farmington and related changes in feeder lines), resulted in a total increase in Original Installed Cost of the Wholesale Direct Assignment Facilities used to serve Farmington from the \$1,419,132 figure reflected in the Principles Agreement to \$3,113,742. AmerenUE attached a cost analysis to its filing. Applying the 16.42 percent annual fixed rate charge specified in the Principles Agreement, Ameren calculates an annual charge to Farmington of \$511,276 and a monthly charge of \$42,606.⁶ It states that Farmington was consulted throughout the upgrade process, has assented to this charge, and has paid it under prior agreements with AmerenUE.

9. Ameren requests that the Commission grant all necessary waivers of the Commission’s notice requirements to allow an effective date of August 1, 2005. Ameren states that this effective date is permitted by the Principles Agreement. Ameren makes a

⁵Citing *Pub. Utils. Comm’n of Cal. v. FERC*, 254 F.3d 250, 254 (D.C. Cir. 2001) (*CALPUC*).

⁶ Ameren states that the WDS agreement also establishes a customer charge of \$100 per month that allows it to recover the billing and related costs associated with service to Farmington.

number of arguments in support of its request citing the Commission's policy established in *Central Hudson*.⁷ First, Ameren asserts that there has been no change in rates, rather the formula rate is the applicable rate and it has not changed. Further, Ameren notes that Farmington has executed the WDS agreement and agrees to the proposed effective date and the wholesale distribution charges under the formula rate in the Principles Agreement.

10. Ameren also asserts that, even if the WDS agreement reflects a change in rate or is deemed to have a rate impact, allowing the proposed effective date is consistent with Commission policy in that the revised charges are calculated pursuant to the rate formula in the Principles Agreement and the effective date is prescribed by the Principles Agreement.

11. Ameren also contends that a number of other circumstances show that a waiver is justified. AmerenUE states that its initial and reasonable expectation was that, consistent with the Midwest ISO's TEMT Schedule 11 (Wholesale Distribution Service), the Midwest ISO as the transmission provider would file the WDS agreement or reflect the agreement in its Electronic Quarterly Reports (EQR). AmerenUE also states that it was informed by the Midwest ISO that as long as the methodology or actual rate was on file with the Commission the WDS agreement did not need to be filed. AmerenUE adds that the Midwest ISO also told it that, based on discussions with Commission staff, the Midwest ISO understood that it was not obliged to provide, as part of its EQR, the particular rate provisions of the WDS agreements. Ameren states that the Midwest ISO informed AmerenUE of its position only after months of discussion, and the Midwest ISO declined to file the WDS agreement. AmerenUE adds that the issue was compounded when Westar, the transmission customer, would not sign the WDS agreement.

12. Finally, Ameren contends that there are additional equitable reasons that warrant granting the requested waivers: Farmington had previously been a wholesale distribution service customer under the Ameren Open Access Transmission Tariff and had notice as to the revised charges; the underlying Network Integration Transmission Service was submitted to the Commission on a timely basis; Ameren Services has been working with both Westar and the Midwest ISO for months in good faith to try to get the original WDS

⁷ Citing *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338, order on reh'g, 61 FERC ¶ 61,089 (1992) (*Central Hudson*).

attachment signed since April of 2006; and Farmington is taking wholesale distribution service from the new facilities and paying the proposed charge without dispute.⁸

III. Notice and Responsive Filings

13. Notice of Ameren's October 17, 2007 filing was published in the *Federal Register*,⁹ with interventions and protests due on or before November 7, 2007. The Missouri Joint Municipal Electric Utility Commission (the Missouri Municipal Commission), on behalf of itself and its members within the AmerenUE footprint¹⁰ filed a timely motion to intervene and protest. On November 21, 2007, Ameren filed an answer to the Missouri Municipal Commission's protest.

IV. Summary of Comments

14. The Missouri Municipal Commission states that it and its members are parties to the Principles Agreement. It asserts that the Principles Agreement does not establish a rate formula as maintained by Ameren. Instead, the Commission should reject Ameren's attempt to cast the Principles Agreement as a formula rate that obviates any need for filing of revised rates calculated in accordance with the Principles Agreement.

15. The Missouri Municipal Commission states that, by taking into account the recent modifications to the wholesale distribution facilities, the agreement more than doubles the WDS charges to Farmington. The Missouri Municipal Commission contends that the Principles Agreement does not establish a formula rate, as maintained by Ameren, in that, while it refers to methodologies for calculating wholesale distribution charges, the basic structure of the agreement differs from a self-implementing formula rate. Further, according to the Missouri Municipal Commission, the operating premise was that the charges set forth in Attachment A to the Principles Agreement would be those that actually were charged to the Missouri Municipal Commission members, and, in order to

⁸ The charges in the WDS agreement were assessed to Farmington in April of 2006 due to a delay in paperwork because Ameren Services crews were sent to help with Hurricane Katrina recovery efforts; however, Farmington was taking service using the new facilities as early as July of 2005 and had agreed that back-billing would be required

⁹ 72 Fed. Reg. 60,837 (2007).

¹⁰ The Missouri Municipal Commission lists its members as the Missouri cities of California, Centralia, Farmington, Fredericktown, Hannibal, Jackson, Kahoka, Kirkwood, Marceline, Owensville, Perry, Rolla, and St. James, and Citizens Electric Corporation.

provide the members with certainty as to those charges, there was a four-year moratorium on any party proposing any changes to the Principles Agreement under the Federal Power Act (FPA) section 205 or 206.

16. The Missouri Municipal Commission adds that an exception to the moratorium was made for cases where the facilities were modified or when relative use of shared facilities changed significantly from the usage as of a baseline date, but nothing in the Principles Agreement indicates that the parties agreed that AmerenUE would be exempt from making a filing to implement these allowed changes. To the contrary, according to the Missouri Municipal Commission, it was not the parties' intent to dispose of the obligation to file the proposed charges as part of a service agreement. The Missouri Municipal Commission states that the Principles Agreement clearly states that resulting charges are to be set forth "[i]n service agreements to be filed for Transmission Customers served through Wholesale Direct Assignment Facilities in connection with service under the Transmission Provider's open access tariff."¹¹ The Missouri Municipal Commission cites an earlier proceeding where the Commission rejected AmerenUE's argument that the charges listed in Attachment A were merely "illustrative" and that all that really mattered was the methodology established in the text of the Principles Agreement.¹² The Missouri Municipal Commission states that both the Commission and the D.C. Circuit Court found Ameren's characterization of the Attachment A charges as merely "illustrative" to be contrary to the express terms of the Principles Agreement. Thus, the Missouri Municipal Commission concludes that any changes to the charges listed in Attachment A must be filed in accordance with section 205 of the FPA and Commission regulations.

17. In its November 21, 2007 answer to the Missouri Municipal Commission's filing, Ameren reiterates the arguments made in its October 17, 2007 filing that the WDS charge is established pursuant to a formula rate contained in the Commission-approved Principles Agreement, that this formula rate is the operative "rate," that it remains unchanged, and that it is not affected by any obligation to file a service agreement. Ameren also reiterates its prior argument that waiver is justified based on extraordinary circumstances, *i.e.*, Midwest ISO's decision to neither file, nor reflect in its EQR, the WDS agreement for service to Farmington and Westar's unwillingness to sign a WDS agreement.

¹¹ *Citing* the Principles Agreement section A.

¹² *Citing Ameren Servs. Co.*, 97 FERC ¶ 61,067, at 61,360, *reh'g denied*, 97 FERC ¶ 61,343 (2001), *aff'd*, *Ameren Servs. Co. v. FERC*, 330 F.3d 494 (D.C. Cir. 2003) (*Ameren v. FERC*).

18. In response to the Missouri Municipal Commission's assertion that the Principles Agreement does not contain a formula rate, Ameren asserts that the Principles Agreement clearly establishes a formula rate and that Attachment A also demonstrates how the charges are to be derived and lists the applicable WDS charges at the time the Principles Agreement was filed. Ameren states that its October 17, 2007 filing demonstrates that all of the criteria set forth in Section A.2 for a change in the WDS charge have been satisfied. Ameren further states that acceptance of the Missouri Municipal Commission's position would not give effect to section A.2 of the Principles Agreement; that there is no purpose for section A.2 other than to establish a formula rate and the criteria to be used to determine the applicable WDS charges. Ameren states that both the courts and the Commission have found that a contract or agreement is to be construed in a way that gives meaning to all of its terms and conditions.¹³ Ameren contends that if the parties did not intend section A.2 to be used to establish a formula rate to set applicable WDS charges, they would not have included this section in the agreement. Ameren adds that the Principles Agreement could have simply reserved the parties' rights to file future changes to the WDS charges under section 205 as appropriate, but it does not.

19. Ameren also addresses the Missouri Municipal Commission's assertion that section A of the Principles Agreement requires Ameren to file the WDS agreement. Ameren responds that the establishment of a formula rate is not affected by the first sentence in section A of the Principles Agreement which states "[i]n service agreements to be filed for Transmission customers served through the Wholesale Direct Assignment Facilities in connection with service under the Transmission Provider's open access tariff. . . ." Ameren contends that while the cited language requires that a service agreement reflecting the WDS charge be filed, it does not obligate AmerenUE to independently justify any change in the WDS charge that results from application of the formula rate reflected in the filed and Commission-accepted Principles Agreement. Ameren also states that prior to joining the Midwest ISO on May 1, 2004, it submitted service agreements under the applicable AmerenUE Open Access Transmission Tariff reflecting the appropriate WDS charges, but since joining the Midwest ISO, it has attempted to get the Midwest ISO to submit the WDS agreements. Ameren adds that in view of the Midwest ISO's reluctance to file, Ameren developed and filed the two-party WDS agreement with Farmington included in the October 17, 2007 filing. Ameren maintains that it has no obligation to make a separate filing under FPA section 205 in order for the

¹³ *Citing Southern Co. Servs., Inc. v. FERC*, 353 F.3d 29, 35 (D.C. Cir. 2003) (rejecting interpretation that would render contract provisions superfluous, and stating "[c]ontracts must be read as a whole, with meaning given to every provision."); *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,168, at P 40 (2006).

WDS charge to become effective and that such a filing is required only if it seeks to change the formula rate.

20. In addition, Ameren responds to the Missouri Municipal Commission's contention that the Commission and the court rejected Ameren Services' claims that the Principles Agreement "offered something akin" to a formula rate. Ameren states that neither the Commission nor the court found that the Principles Agreement does not establish a formula rate. To the contrary, according to Ameren, these decisions indicate that the Principles Agreement contains a formula rate that establishes the WDS charge to be used on a going-forward basis. Ameren states that the issue decided by the Commission was whether the moratorium provisions of the Principles Agreement prevented Ameren Services from modifying the charges during the four-year moratorium period and that while the Commission found in the affirmative, it never held that the Principles Agreement did not contain a formula rate to determine the WDS charges once the moratorium expired. Ameren states that on rehearing the Commission recognized that the Principles Agreement allows Ameren Services to revise the WDS charges in accordance with the terms of the formula rate. Moreover, Ameren states, there is nothing in the D.C. Circuit's opinion that holds that the Principles Agreement was not intended to establish a formula rate; to the contrary, the court states that "[t]he Principles document memorialized the agreement among the parties on the methodology for calculating each municipal customer's 'distribution charge'-- *i.e.*, the charge for using the Wholesale Direct Assignment Facilities owned and operated by Ameren's public utility affiliates."¹⁴

21. Ameren also reiterates the claim in its October 17, 2007 filing that extraordinary circumstances present here justify waiver of the Commission's notice requirements. Ameren contends that the obligation to submit WDS agreements to the Commission rests with the relevant Regional Transmission Organization, here, the Midwest ISO. Ameren asserts that the Commission in its original order on the formation of the Midwest ISO, required the Midwest ISO to revise its tariff to include wholesale distribution service, with the intention of accommodating one-stop shopping.¹⁵ Ameren further asserts that Schedule 11 to the TEMT contains the basic provisions for WDS, and states "[t]he transaction-specific information, including all customer-specific rates, charges, and, when applicable, real power losses will be set forth in the Service Agreement between the Transmission Provider and the Transmission customer for the associated service being provided pursuant to the Tariff." Ameren adds that Schedule 11 also requires that "[a]ll

¹⁴ *Citing Ameren v. FERC*, 330 F.3d at 496.

¹⁵ *Citing Midwest Indep. Transmission Sys. Operator Inc.*, 84 FERC ¶ 61,231, at 62,172 (1998).

rates, charges, and, when applicable, real power losses for Wholesale Distribution Service shall be on file with the appropriate agency.” Ameren contends that the formula rate provisions of the Principles Agreement, on file since October 1999, have satisfied this condition. Ameren states that each of the Midwest ISO’s pro forma service agreements for firm, non-firm, and network integration transmission service has specific attachments for the rates, terms, and conditions for WDS and that Order No. 2001¹⁶ requires that *transmission providers* file service agreements or reflect the relevant terms and conditions in their EQRs.

22. Ameren also contends that Westar’s reluctance to execute a WDS agreement is an extraordinary circumstance. Ameren states that under Schedule 11’s express terms, the parties to the WDS agreement are the transmission provider (the Midwest ISO), and the transmission customer (Westar); thus by definition, the transmission owner, (AmerenUE) is not a party to the agreement, has no contractual relationship with Westar, and lacks the ability to require Westar to sign a WDS agreement.

V. Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,¹⁷ the Missouri Municipal Commission 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 Procedure¹⁸ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Ameren’s answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

24. We will accept the WDS agreement. The annual fixed charge rate has not

¹⁶ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh’g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh’g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003).

¹⁷ 18 C.F.R. § 385.214 (2007).

¹⁸ 18 C.F.R. § 385.213(a)(2) (2007).

changed from the Commission-accepted Principles Agreement and the change to the directly-assigned facilities has been supported. The rate has not been shown to be unjust, unreasonable or unduly discriminatory; nor does the protestor contend that it is. Accordingly, we accept Ameren's filing effective December 17, 2007, 60 days after the date of filing.

1. The Requirement to File Rate Changes

25. Under section 205 of the FPA, public utilities must file with the Commission all rates and charges for Commission jurisdictional transmission and sales, and the practices and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.¹⁹ Further, the FPA requires that “[u]nless the Commission otherwise orders, no change shall be made by any public utility in any such rates, charges, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days’ notice to the Commission and to the public.”²⁰

26. We note that in the past in order to comply with the Commission's notice requirement, Ameren filed service agreements under the applicable AmerenUE Open Access Transmission Tariff reflecting the appropriate WDS charges, including its initial filing in Docket No. ER01-1136, a service agreement under the same Principles Agreement at issue here.²¹

27. Here, Ameren argues that it is not required to make a section 205 filing, citing *CALPUC*. Ameren argues that the Commission-approved Principles Agreement establishes a formula rate and this formula has not changed, and thus it is not required to make a section 205 filing. The Commission does not agree. *CALPUC* is not dispositive in this instance. In *CALPUC*, the court reviewed the Commission's order allowing the California Independent System Operator (CAL ISO) to enter into “Reliability Must-Run” (RMR) contracts with generators and to pass through the costs of such contracts to the responsible party in the CAL ISO's rates without filing under section 205 of the FPA. In *CALPUC*, the contracts were required for reliability purposes, and the CAL ISO had already been required to select RMR contracts as a result of a solicitation process

¹⁹ 16 U.S.C. § 824d (a) (2000).

²⁰ 16 U.S.C. § 824d (d) (2000).

²¹ Ameren November 21, 2007 Answer at 7.

designed to lower RMR costs.²² The court stated that the Commission's acceptance of formula rates is premised on the rate design's "fixed, predictable nature."²³ Where the possibility existed that the allocation of costs was less predictable, *i.e.*, where the CAL ISO allocated the contract costs among two or more responsible utilities, the CAL ISO was required to file the allocation under section 205 of the FPA.²⁴

28. While we agree that the rate in the Principles Agreement is a formula, we disagree that that fact obviates the need for Ameren to submit a filing when it intends to change the facilities that it intends to directly-assign to the customer. Here, as Ameren states in its filing, the proposed charge is approximately doubling and arises from a change in the Wholesale Direct Assignment Facilities that serve the customer. Yet while the Principles Agreement includes principles for determining Wholesale Direct Assignment Facilities, it does not identify the modifications to the directly-assigned facilities (that are described by Ameren in this filing) nor does it prescribe the effective date for the change in the monthly charges.²⁵ Instead, among other things, the Principles Agreement prescribes that a factor of 16.42 percent is applied to unknown future modifications to Wholesale Direct Assignment Facilities. It stands to reason then that such unknown modifications should be identified and supported in a filing with the Commission. Thus, we find that this formula rate is not self-implementing. Further, the Principles Agreement prescribes that service agreements are to be filed with the Commission. If the parties wished these filings to be informational only, they should have specifically stated so in the Principles Agreement.

29. We believe that this view of the Principles Agreement does not fail to give effect to section A.2 but requires that Ameren ensure that a filing is made to identify and support modifications to the Wholesale Direct Assignment Facilities applicable to a customer and to inform the customer as to the effective date for the resulting monthly

²² *CALPUC*, 254 F.3d at 256–57.

²³ *Id.* at 254.

²⁴ *Id.* at 253 (citing *Cal. Indep. Sys. Operator Corp.*, 89 FERC ¶ 61,229 at 61,684 (1999)).

²⁵ An example of a prescribed effective date would be the first day of the first month after the new facilities become commercially operational. Thus, the language in the agreement that states that monthly charges will be developed by the Transmission Provider is insufficient to explain when changes to those monthly charges will take effect.

charges. Further, this filing is required for the Commission to meet its statutory duty to determine whether those changes are just and reasonable.

2. Waiver of Prior Notice Requirement

30. Ameren requests waiver of the Commission's prior notice requirement to permit an effective date more than two years prior to the date of filing. In *Central Hudson*, the Commission stated that absent a strong showing of good cause, it would deny requests for waiver of prior notice for an increase in rates when the rate change and the effective date are not prescribed by contract. The Commission generally grants waiver where there is a contractual commitment as to the effective date which the Commission has already accepted.²⁶ As stated previously however, no effective date is prescribed by the Principles Agreement.

31. On rehearing of *Central Hudson*, the Commission stated that when a filing is made after the commencement of service, the filing utility must make a stronger showing of good cause, or extraordinary circumstances, than if the filing had been made sometime prior to the commencement of service.²⁷ The Commission finds that Ameren has not met this requirement. Ameren states that its disagreement with the Midwest ISO over who should file and its efforts to have Westar sign the agreement constitute extraordinary circumstances justifying waiver. As discussed above, the proposed change in monthly charges required identification and support of the directly-assigned facilities as well as notice of the effective date for the changed monthly charges. The fact that Midwest ISO did not submit a filing, does not absolve Ameren, as the transmission and distribution owner, of its obligation to ensure that a timely filing was made (even if unexecuted). The Commission has previously stated that outstanding unresolved disputes do not constitute an extraordinary circumstance as required by *Central Hudson*.²⁸ The Commission has also ruled that a delay awaiting state commission approval,²⁹ ongoing negotiations

²⁶ *Central Hudson*, 60 FERC at 61,338.

²⁷ 61 FERC ¶ 61,089 at 61,355.

²⁸ *Pacific Gas and Electric Co.*, 107 FERC ¶ 61,033 (2004).

²⁹ *Wisc. Public Service Corp.*, 110 FERC ¶ 61,192 (2005).

between parties,³⁰ or a hurricane-related delay in negotiations³¹ did not constitute extraordinary circumstances justifying a failure to file.

32. Accordingly, we will deny Ameren's request for waiver of the 60-day prior notice requirement and an effective date of August 1, 2005. We will accept the WDS agreement effective after 60 days from the October 17, 2007 filing date, *i.e.*, effective on December 17, 2007. Ameren is ordered to refund to Farmington the time value of the revenues collected, calculated pursuant to 18 C.F.R. § 35.19a (2007) of the Commission's regulations for the time period during which any revenue was collected without Commission authorization.³² In its refund report, we note that Ameren may explain why the Commission should limit or reduce the time value of any such refunds under *Carolina Power, Southern California Edison, and Florida Power*.³³

The Commission orders:

(A) Ameren's WDS agreement is hereby accepted to be effective December 17, 2007.

(B) Ameren is hereby directed to make time value of revenues refunds, as discussed in the body of this order, within 30 days of the date of this order, and to file a refund report with the Commission within 15 days thereafter.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³⁰ *Pacific Gas and Electric Co.*, 107 FERC ¶ 61,224 (2004).

³¹ *Florida Power and Light Co.*, 62 FERC ¶ 61,251 (1993).

³² *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,980, *order on reh'g*, 65 FERC ¶ 61,081, at 61,979–80 (1993) (explaining calculation of the time value of revenues collected).

³³ *Carolina Power & Light Co.*, 87 FERC ¶ 61,083 at 61,357 (1999) (*Carolina Power*); *Southern California Edison Co.* 98 FERC ¶ 61,304 at 62,302 (2002) (*Southern California Edison*); *Florida Power & Light Co.*, 98 FERC ¶ 61,276 at 61,151 (2002) (*Florida Power*).