

125 FERC ¶ 61,158
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wisconsin Electric Power Company	Docket Nos.	ER08-1214-000 ER08-1214-001
Wisconsin Electric Power Company		ER08-1215-000 ER08-1215-001
Wisconsin Electric Power Company		ER08-1216-000 ER08-1216-001
Wisconsin Electric Power Company		ER08-1217-000 ER08-1217-001
Wisconsin Electric Power Company		ER08-1218-000 ER08-1218-001

ORDER ACCEPTING PROPOSED TARIFF REVISIONS, AS AMENDED

(Issued November 10, 2008)

1. In this order, the Commission accepts Wisconsin Electric Power Company's (Wisconsin Electric) proposed revisions to four Restated Power Service Agreements to be effective September 1, 2008, as requested, as discussed further below. In addition, the Commission accepts Wisconsin Electric's proposed revisions to its Formula Rate Wholesale Sales Tariff to be effective September 1, 2008, as requested, as discussed further below.

Background

2. On July 2, 2008, Wisconsin Electric filed revisions to the Restated Power Service Agreements between Wisconsin Electric and Ontonagon County Rural Electrification Association (Ontonagon) (Docket No. ER08-1214-000), the City of Crystal Falls, Michigan (Crystal Falls) (Docket No. ER08-1215-000), Alger Delta Cooperative Electric

Association (Delta) (Docket No. ER08-1217-000) and Wisconsin Public Power Inc. (Wisconsin Public Power) (Docket No. ER08-1218-000). Additionally, on July 2, 2008, Wisconsin Electric filed revisions to its Formula Rate Wholesale Sales Tariff in Docket No. ER08-1216-000.

3. With respect to its proposed revisions to its Formula Rate Wholesale Sales Tariff, Wisconsin Electric explains that most of the changes are ministerial changes to the formula template to reflect revisions required as a result in changes to the FERC Form No. 1.¹ For the most part, it explains, these changes are due to page reference changes or new footnotes in the FERC Form No. 1, corrections to the references to line numbers within the formula itself and other corrections to the formula. Further, Wisconsin Electric states that it is also revising the on-peak and off-peak multipliers in the formula to calculate the Monthly Energy Charge. It explains that this is based on a revised fuel run that reflects the sale of a nuclear plant, the addition of a purchase power agreement and updated natural gas, coal and purchased power costs.

4. With respect to the proposed revisions to the four Restated Power Service Agreements, Wisconsin Electric explains that it is making revisions to the formula in each of these agreements that are identical to the revisions discussed above with respect to the Formula Rate Wholesale Sales Tariff.

Notices of Filing, Responsive Pleadings and Subsequent Filing

5. Notices of Wisconsin Electric's filings were published in the *Federal Register*, 73 Fed. Reg. 41,056 (2008), with comments due on or before July 23, 2008.

6. Wisconsin Public Power filed in Docket Nos. ER08-1216-000, ER08-1217-000 and ER08-1218-000 a motion to intervene and protest. Wisconsin Public Power states that Wisconsin Electric has agreed to an informal exchange of information concerning the multipliers and, thus, Wisconsin Public Power needs additional time to determine whether a protest is necessary. Accordingly, Wisconsin Public Power requests that the Commission abstain from any action prior to reviewing comments that may be submitted on or before August 13, 2008.

7. Great Lakes Utilities (Great Lakes) filed a timely motion to intervene in Docket No. ER08-1216-000.

¹ The existing Formula Rate Wholesale Sales Tariff was accepted by the Commission in December 27, 2007. *See* Unpublished Letter Order, Docket Nos. ER08-145-000 and ER08-146-000.

8. On July 31, 2008, in Docket Nos. ER08-1216-000, ER08-1217-000 and ER08-1218-000, Wisconsin Electric filed a motion requesting the Commission to defer action until September 12, 2008, to permit Wisconsin Electric to provide additional information to Wisconsin Public Power and to provide the Commission time to act on its application.

9. On August 13, 2008, Wisconsin Electric and Wisconsin Public Power filed comments stating that the parties have engaged in discussions that have resulted in settlement of Wisconsin Public Power's potential issues in these proceedings. They explain that Wisconsin Public Power will not file a protest and that they will file with the Commission, no later than September 12, 2008, a document reflecting this agreement. Wisconsin Electric and Wisconsin Public Power add that Great Lakes supports this resolution.

10. On September 12, 2008, Wisconsin Electric submitted three amendments to its original filings (Docket Nos. ER08-1216-000 and ER08-1214-000; Docket Nos. ER08-1216-000 and ER08-1215-000; and Docket Nos. ER08-1216-000, ER08-1217-000 and ER08-1218-000) to resolve all remaining disputes concerning the on-peak and off-peak multipliers at issue in these proceedings.²

11. Notices of Wisconsin Electric's amendments were published in the *Federal Register*, 73 Fed. Reg. 59,618 (2008), with comments due on or before October 7, 2008. None was filed.

Commission Determination

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding or proceedings in which they intervened.

13. We will accept Wisconsin Electric's proposed revisions, as amended, to its Formula Rate Wholesale Sales Tariff as just and reasonable and not unduly discriminatory or preferential to be effective September 1, 2008, as requested. Further, we will accept the proposed revisions, as amended, to the four Restated Power Service

² While Wisconsin Electric filed these amendments as settlement agreements pursuant to Rule 602(b)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(b)(2) (2008), it should have filed them as, and we are treating them as, filings under section 205 of the Federal Power Act. *See Stowers Oil and Gas Co. and Northern Natural Gas Co.*, 27 FERC ¶ 61,001, at 61,002 n.3 (1984) (the style in which a petitioner frames a document does not dictate how the Commission must treat it).

Agreements as just and reasonable and not unduly discriminatory or preferential to be effective September 1, 2008, as requested.

14. In addition, Wisconsin Electric's proposed tariff designations do not comply with Order No. 614.³ Each of the proposed revised tariff sheets revising the multiplier includes improper tariff sheet designations. Applicants are directed to file revised tariff sheets in compliance with Order No. 614 within 30 days of the date of this order.

The Commission orders:

(A) Wisconsin Electric's proposed tariff revisions, as amended, to its Formula Rate Wholesale Sales Tariff are hereby accepted, to be effective September 1, 2008, as discussed in the body of this order.

(B) Wisconsin Electric's proposed revisions, as amended, to the four Restated Power Service Agreements are hereby accepted, to be effective September 1, 2008, as discussed in the body of this order.

(C) Wisconsin Electric is hereby directed, within 30 days of the date of this order, to submit an Order No. 614 compliance filing, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³ *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000).