

133 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Entergy Services, Inc.

Docket No. ER10-984-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued November 30, 2010)

1. On March 31, 2010, Entergy Services, Inc. (Entergy Services)¹ submitted a filing proposing to amend Attachment H and Schedule 7 of the Entergy Operating Companies' Open Access Transmission Tariff (OATT) (March 31 Filing). The March 31 Filing stated that its purpose was: (1) to clarify the OATT Formula³ so that it addressed explicitly the treatment of reconstructed transmission plant in service (related to hurricanes Katrina and Rita in 2005) subject to the retail commission financing determinations and the derivation of the costs of capital; and (2) to clarify the procedure that is currently employed to calculate the cost of long-term debt.
2. On April 21, 2010, South Mississippi Electric Power Association, Arkansas Electric Cooperative Corporation, Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, Public Service Commission of Yazoo City, Conway Corporation, West Memphis Utilities Commission, City of Prescott, Arkansas, Louisiana Energy and

¹ Entergy Services is a service company affiliate of the Entergy Operating Companies and acts as their agent with respect to the execution and administration of certain contracts and in proceedings at the Commission.

² The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Texas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., and Entergy New Orleans, Inc. The generation and bulk transmission systems of all of the Entergy Operating Companies are collectively referred to as the "Entergy System."

³ In Docket No. ER95-112, *et al.*, the Entergy Operating Companies, via a settlement agreement, amended their OATT to adopt a formula for use in deriving charges for service on Entergy's bulk transmission facilities (OATT Formula).

Power Authority, Lafayette Utilities System, and the Municipal Energy Agency of Mississippi (collectively, Joint Intervenors) jointly and severally submitted a Motion to Intervene, Motion to Reject, and a Request for Suspension and Protest. The Joint Intervenors stated that the March 31, 2010 Filing constituted unjust and unreasonable proposed changes to the existing OATT Formula and that, if implemented, the proposed amendments would charge Entergy OATT customers substantially more than Entergy's cost of providing service. Also on April 21, 2010, East Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc. and Tex-La Electric Cooperative of Texas (collectively, East Texas Cooperatives) filed an intervention and protest urging the Commission to set for hearing the proper treatment of securitized storm recovery investment in the OATT rate.

3. On May 6, 2010, Entergy Services filed an answer in response to the protests. On May 21, 2010, the Joint Intervenors and East Texas Cooperatives filed answers in response to Entergy Services's answer.
4. On May 28, 2010, the Commission issued an order accepting Entergy Services's, March 31, 2010 Filing, suspending it for a nominal period, to become effective June 1, 2010, subject to refund, and establishing hearing and settlement judge procedures.
5. On June 3, 2010, the Chief Administrative Law Judge appointed the Honorable John P. Dring to serve as Settlement Judge in the proceeding. On June 15, 2010, Entergy Services, the Joint Intervenors, and the East Texas Cooperatives (collectively, the Parties), along with the Commission's Trial Staff, commenced formal settlement discussions. The Parties reached a settlement agreement on August 5, 2010.
6. On September 16, 2010, in accordance with Rule 602(g)(1) of the Commission's Rules of Practice and Procedure,⁴ the Parties filed an Offer of Settlement (Settlement) concerning Entergy Services's proposed changes to Attachment H and Schedule 7 of the Entergy Operating Companies' OATT. On October 6, 2010, Trial Staff filed comments in support of the Settlement. No other comments were filed. On October 8, 2010, the Settlement Judge certified the Settlement to the Commission as uncontested, and thereafter the settlement judge procedures were terminated and the hearing ordered by the Commission was determined not to be necessary.⁵
7. The Settlement provides that the OATT rates contained in Entergy Services's annual rate determination for 2010, which is currently pending in Docket No. ER10-1367, will be re-calculated consistent with the Settlement. The Settlement will have no

⁴ 18 C.F.R. §385.602(g) (1)(2010).

⁵ Order of Chief Judge Terminating Settlement Judge Procedures, October 12, 2010.

impact on the resolution of any other issue concerning Entergy Services's 2010 rate determination.

8. Section 15 of the Settlement provides that the standard of review for any modifications to the Settlement that are not agreed to by all the Parties, including any modifications resulting from the Commission acting *sua sponte*, will be the just and reasonable standard of review. The Settlement provides that for proposed modifications by non-parties to the Settlement, the Parties also accept the just and reasonable standard of review.

9. The Settlement resolves all of the issues in this proceeding. 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 in this proceeding. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824e (2006).

10. If Entergy Services did not file the Settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing in eTariff format to ensure that its electronic tariff provisions reflect the Commission actions in this order.⁶ Such a compliance filing also is necessary for any settlement filing containing *pro forma* tariff sheets, but is not necessary if the settlement was filed in eTariff format with actual tariff records (as opposed to *pro forma* records).

11. This order terminates Docket No. ER10-984-000.

The Commission orders:

The Settlement is hereby approved.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).