

133 FERC ¶ 61,261  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 29, 2010

In Reply Refer To:  
Old Dominion Electric Cooperative  
Docket No. ER11-1986-000

Stinson Morrison Hecker LLP  
Attn: Adrienne E. Clair, Esq.  
Counsel to Old Dominion Electric Cooperative  
1150 18th Street, NW, Suite 800  
Washington, DC 20036

Dear Ms. Clair:

1. On October 29, 2010, Old Dominion Electric Cooperative (ODEC) submitted a proposal to revise ODEC's depreciation rates for its production facilities in compliance with Order No. 618.<sup>1</sup> ODEC notes that Order No. 618 and Commission precedent<sup>2</sup> require that, if a utility wishes to change its depreciation rates for ratemaking purposes, it must make a filing with the Commission under Federal Power Act (FPA) section 205. ODEC proposes to use a remaining-life straight-line depreciation accrual methodology. Additionally, ODEC proposes to adjust the estimated service life of the Clover plant to be consistent with that used by the plant's operator, Dominion Virginia Power Company. ODEC states that these changes will result in a decrease of approximately \$640,000 in its annual depreciation expense, which will cause a corresponding reduction in rates charged to ODEC's member cooperatives.<sup>3</sup>

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<sup>1</sup> *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs. ¶ 31,104 (2000).

<sup>2</sup> *Citing New Dominion Energy Cooperative, et al.*, 122 FERC ¶ 61,174, at P 8 (2008).

<sup>3</sup> ODEC is a not-for-profit electric cooperative that provides generation, transmission and other related services to its eleven member cooperatives serving approximately 1.2 million customers in Virginia, Delaware, Maryland, and West Virginia. The member cooperatives own ODEC and are also its customers.

2. ODEC asserts that the rate schedules that will be affected by its change in depreciation rates are ODEC's Commission-approved Second Amended and Restated Wholesale Power Contracts with each of its member cooperatives. ODEC also asserts that there are no rate schedule changes associated with this filing because charges to its members for services are determined through formula rates that include depreciation expense as a cost to be recovered.<sup>4</sup> Accordingly, ODEC states that no rate schedule change is necessary.
3. Notice of this filing was published in the *Federal Register*, 75 Fed. Reg. 70,733, with protests or interventions due on or before November 19, 2010. None were filed.
4. The Commission conditionally accepts ODEC's proposed changes in depreciation rates effective January 1, 2011, as requested.
5. As noted in Order No. 618, changes in prices charged for power sales to reflect a change in depreciation, whether determined by stated or formula rates, require a filing pursuant to section 205 of the Federal Power Act (FPA).<sup>5</sup> Section 35.1 of the Commission's regulations implements FPA section 205 by requiring that every public utility file complete rate schedules and tariffs clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission.<sup>6</sup> Unlike the variable components of a formula rate, the depreciation rates are fixed components of the rate, and as such, they should be included in tariff or rate schedules for public inspection pursuant to FPA section 205(c).<sup>7</sup> Further, in Order No. 714,<sup>8</sup> the Commission revised section 35.7 of the regulations to require that all revisions to rate schedules be filed electronically. In the Commission's January 21, 2010 order in Docket No. RM01-5-000, the Commission made clear that all section 205

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<sup>4</sup> Exhibit ODC-2 shows Original Sheet No. 11 under Old Dominion Electric Cooperative, FERC Electric Tariff, Second Revised Volume No. 1. Specifically, item 2 identifies FERC Account No. 403, Depreciation expense, which includes depreciation expense on all classes of depreciable electric property. *See* 18 C.F.R. Part 101 (2010). Thus, ODEC's formula provides for all depreciation expenses charged to Account 403 to be recovered through its rate formula.

<sup>5</sup> 16 U.S.C. § 824d (2006).

<sup>6</sup> 18 C.F.R. § 35.1 (2010).

<sup>7</sup> 16 U.S.C. § 824d(c) (2006); *accord* 18 C.F.R. § 35.1(a) (2010) (requiring "full and complete rate schedules"); *Hampshire Gas Co.*, 6 FERC ¶ 61,249, at 61,607 (1979) (discussing fixed components of a formula rate).

<sup>8</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

electronic filings must be made through the eTariff system and must contain a tariff provision (Tariff Record).<sup>9</sup> ODEC failed to include a tariff provision with its filing. Accordingly, we conditionally accept ODEC's proposed depreciation rates subject to ODEC making a compliance electronic (eTariff) filing of its tariff or affected rate schedules that includes its proposed depreciation rates.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>9</sup> *Electronic Tariff Filings*, 130 FERC ¶ 61,047, at P 5-6 & n.8 (2010) (“in order to constitute a statutory tariff filing, the filer, therefore, must both select a statutory Type of Filing code and include a Tariff Record with a Tariff Record Proposed Effective Date”).