

139 FERC ¶ 61,104
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. ER07-956-003

ORDER ON COMPLIANCE FILING

(Issued May 7, 2012)

1. On March 12, 2010, Entergy Services, Inc. (Entergy)¹ filed a compliance filing as required by Opinion No. 505.² Opinion No. 505 addressed rates filed by Entergy on behalf of five Entergy Operating Companies (Operating Companies),³ implementing for the first time the Commission's bandwidth remedy as provided for in Opinion Nos. 480 and 480-A.⁴ That order affirmed in part and reversed in part the Initial Decision⁵ and

¹ The generation and bulk transmission systems of all the Operating Companies are collectively referred to as the Entergy System.

² *Entergy Services, Inc.*, Opinion No. 505, 130 FERC ¶ 61,023 (2010).

³ The five Operating Companies involved in this proceeding are, at the relevant times for filing pursuant to the first bandwidth calculation: Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States, Inc. (Entergy Gulf States), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (Entergy New Orleans). In 2007, Entergy Gulf States was split into Entergy Texas, Inc. and Entergy Gulf States Louisiana, LLC, which subsequently serve load in their respective states, but that reorganization is not relevant to this proceeding, which pertains to the 2006 bandwidth payment.

⁴ *Louisiana Pub. Serv. Comm'n v. Entergy Servs., Inc.*, Opinion No. 480, 111 FERC ¶ 61,311, *order on reh'g*, Opinion No. 480-A, 113 FERC ¶ 61,282 (2005), *order on compliance*, 117 FERC ¶ 61,203 (2006), *order on reh'g and compliance*, 119 FERC ¶ 61,095 (2007), *aff'd in part and remanded in part*, *Louisiana Pub. Serv. Comm'n v. FERC*, 522 F.3d 378 (D.C. Cir. 2008), *order on remand*, 137 FERC ¶ 61,047 (2011) *order dismissing reh'g*, 137 FERC ¶ 61,048 (2011).

⁵ *Entergy Services, Inc.*, 124 FERC ¶ 63,026 (2008) (Initial Decision).

required that Entergy submit a compliance filing. In this order we will accept Entergy's compliance filing, as modified, and direct a further compliance filing, as discussed below.

I. Background

2. In Opinion No. 480, the Commission found that rough production cost equalization had been disrupted on the Entergy system. The Commission concluded that if the addition of resources to the Entergy system did not maintain rough production cost equalization, then an annual bandwidth of +/- 11 percent "is just and reasonable and will help keep the system in rough production cost equalization."⁶ The Commission accepted billing of the bandwidth remedy beginning in June of every year to implement the preceding year's bandwidth payment as in compliance with Opinion Nos. 480 and 480-A.⁷

3. On May 29, 2007, in Docket No. ER07-956-000, Entergy filed its first annual filing required under the bandwidth remedy as provided for in Opinion Nos. 480 and 480-A. In its filing, Entergy calculated the bandwidth payments and receipts under the Service Schedule MSS-3 bandwidth formula using calendar-year 2006 production cost data. Entergy's Filing quantified the disparities in the production costs for each Operating Company, and based upon the calculation, determined the payments and receipts for each Operating Company, consistent with the bandwidth formula.

4. The Commission accepted the proposed rates for filing, to become effective June 1, 2007, subject to refund. The Commission also established hearing and settlement procedures to examine evidence pertaining to the underlying production cost data reflected in Entergy's Filing, and allowed the parties to raise prudence issues.⁸ A hearing was held in June and July 2008 and ultimately resulted in the Initial Decision. After fully evaluating the Initial Decision, the parties' briefs, and the record, the Commission issued Opinion No. 505, which directed Entergy to submit a compliance filing within 60 days to modify various inputs used in the bandwidth calculation and to make certain changes to the previously-filed FERC Form 1s.

5. In Opinion No. 505, the Commission affirmed the Presiding Judge's findings that: (1) Entergy did not act imprudently in declining to purchase the Independence Steam Electric Station 2 capacity; (2) the bandwidth formula in Service Schedule MSS-3 is the

⁶ Opinion No. 480, 111 FERC ¶ 61,311 at P 144.

⁷ *Louisiana Pub. Serv. Comm'n v. Entergy Servs., Inc.*, 117 FERC ¶ 61,203, at P 46 (2006).

⁸ *Entergy Services, Inc.*, 120 FERC ¶ 61,094, at P 16, 19 (2007).

lawful rate; (3) tax refunds associated with Net Operating Loss carrybacks are properly recorded in Account 143; (4) Entergy properly excluded certain accumulated deferred income taxes (ADIT) from the bandwidth calculation; and (5) Entergy presented an appropriate method for correcting an error that resulted in excluding certain costs associated with an unregulated portion of the River Bend nuclear facility twice in the bandwidth calculation (River Bend 30).

6. In Opinion No. 505, the Commission reversed the Presiding Judge's findings that: (1) Entergy Arkansas should be allowed to allocate a portion of its bandwidth payment to Union Electric Company; (2) Entergy erroneously calculated its nuclear depreciation and decommissioning expenses; (3) Entergy properly accounted for interim storm damage cost recovery; (4) Entergy properly accounted for the annual amortization expense of the Spindletop Regulatory Asset; and (5) Entergy properly used the FERC Form 1 as the source of data to calculate the Energy Ratio.

7. In a section 205 filing on March 30, 2007 in Docket No. ER07-682-000, Entergy proposed to revise the bandwidth formula in section 30.12 of Service Schedule MSS-3 to provide that labor ratios will be determined based on the direct payroll expense for each Operating Company and the labor charged to each Operating Company by the affiliate companies, Entergy Services, Inc. and Entergy Operations, Inc. This section 205 filing was litigated and resulted in Opinion No. 506 where the Commission found Entergy's proposal to be just and reasonable and not unduly discriminatory.⁹ Both Opinion Nos. 505 and 506 will affect the formula and inputs for the 2006 calendar year bandwidth calculation.

II. Entergy's Filing

8. Entergy notes in its filing that the revisions to the bandwidth calculations ordered by the Commission in Opinion No. 505 and changes to the bandwidth formula ordered in Opinion No. 506 will result in changes to the bandwidth formula payments and receipts based on calendar year 2006 data from those as originally filed and billed in this proceeding. Entergy states that within 45 days of the latter of a final, non-appealable Commission order on rehearing of Opinion Nos. 505 and 506 or the acceptance of the instant compliance filing, Entergy will file a comprehensive bandwidth recalculation report showing the updated payment/receipt amounts based on the 2006 calendar year data as a result of all of the revisions to the bandwidth calculations and formula in those two orders. Moreover, Entergy states that it will include such adjustments in the first Entergy Intra-System Bill issued following the filing of the bandwidth recalculation report.

⁹ *Entergy Services, Inc.*, Opinion No. 506, 130 FERC ¶ 61,026 (2009).

9. In addition to several revisions to the bandwidth formula inputs, Opinion No. 505 required Entergy to make conforming changes to the FERC Form 1s previously filed by some of the Operating Companies. Entergy has included the necessary revised FERC Form 1 pages for 2005 and 2006 in draft form. It states that within thirty days of the latter of the Commission's acceptance of this compliance filing or a final, non-appealable Commission order on rehearing of Opinion No. 505, Entergy will re-file the revised 2005 and 2006 FERC Form 1s.

III. Notice of Filing and Responsive Pleadings

10. Notice of Entergy's Filing was published in the *Federal Register*,¹⁰ with comments, protests, and interventions due on or before April 2, 2010. The Louisiana Public Service Commission (Louisiana Commission) filed a notice of intervention and protest. A notice of intervention was filed by the Arkansas Public Service Commission. Entergy filed an answer to the Louisiana Commission's protest.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notices of intervention serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answer to the protest because it has assisted us in our decision-making process.

B. Compliance Filing

12. In its compliance filing Entergy made several changes as a result of Opinion No. 505. These changes included: (1) the source data for the Energy Ratio variable used in the bandwidth formula was changed from the FERC Form 1 to Entergy's Intra-System bill; (2) the accounting ledgers and 2005 FERC Form 1 Filings were corrected to record the expected tax refunds resulting from net operating loss carrybacks in Account No. 143 – because Entergy originally excluded the tax refunds from the bandwidth calculation there were no adjustments necessary to the bandwidth calculation for this issue; (3) the accounting ledgers and 2006 FERC Form 1 Filings were corrected to properly account for Hurricanes Katrina and Rita related storm damage costs and recoveries as a regulatory asset and the bandwidth calculation was revised to reflect amortization of the regulatory asset to operation and maintenance expense accounts included in the bandwidth formula;

¹⁰ 75 Fed. Reg. 13,529 (2010).

(4) the tax effect of Hurricane Rita that gave rise to the Net Operating Loss asset deferred tax balances that existed at year-end 2006 were provided in a chart – Entergy filed for clarification of the Commission’s ruling on this issue and states that it will follow the Commission’s ruling on the requested clarification when it submits its comprehensive bandwidth recalculation report; (5) the bandwidth payments and receipts were recalculated to correct the River Bend 30 error in Entergy Gulf States’ production costs; and (6) the accounting ledgers and 2006 FERC Form 1 for Entergy Gulf States were corrected to properly account for the Spindletop Regulatory Asset and the Spindletop Acquisition costs.

13. As discussed below, the Louisiana Commission’s protest and Entergy’s answer address only two areas of the compliance filing: ADIT associated with Net Operating Losses and the amortization of the Spindletop Regulatory Asset costs. We accept Entergy’s compliance filing with regard to all matters that are not discussed below, and direct Entergy within 45 days of the date of the order on rehearing of Opinion No. 506 to file a comprehensive bandwidth recalculation report showing the updated payment/receipt amounts based on the 2006 calendar year data as a result of all the revisions to the bandwidth calculations and formula for the 2006 calendar year, including Opinion Nos. 505 and 506, 509 and the order on rehearing in Docket No. EL07-52-001.¹¹ Entergy should include such adjustments in the first Entergy Intra-System Bill issued following the filing of the bandwidth recalculation report. Due to the length of time elapsed since June 1, 2007 from the original billings for calendar year 2006 payment/receipt amounts, Entergy is required to calculate interest on the payment/receipt amounts from June 1, 2007 until the date of the Intra-System Bill that will reflect the bandwidth calculation amounts for calendar year 2006.

1. ADIT Associated with Net Operating Losses

14. In Opinion No. 505, the Commission determined that the Net Operating Loss carryforwards are related to storm damage losses from Hurricanes Katrina and Rita and that these storm damage costs are properly recorded in Account 182.3. The Commission found that the storm damage losses must be amortized to the appropriate functional

¹¹ Orders on rehearing of Opinion No. 505, Opinion No. 509, and the order on complaint issued in Docket No. EL07-52-000 are being issued concurrently with this order. See *Entergy Services, Inc.*, Opinion No. 505, 130 FERC ¶ 61,023 (2010), *Louisiana Public Service Commission v. Entergy Corporation, et al.*, Opinion No. 509, 132 FERC ¶ 61,253 (2010) and *Louisiana Public Service Commission v. Entergy Corporation, et al.*, order granting in part and denying in part reh’g, 139 FERC ¶ 61,100 (2012).

operation and maintenance accounts as the costs are recovered in rates.¹² The Commission explained that to the extent storm damage costs are amortized to expense accounts included in the bandwidth calculation (production storm damage expense), such costs are included in a Commission cost-of-service rate.¹³ Therefore, the Commission determined that the ADIT for Net Operating Loss carryforwards associated with production storm damage expenses may not be excluded from the bandwidth calculation.

a. Entergy's Filing

15. Entergy contends that in compliance with the Commission's directive, it has provided a chart showing the tax effect of Hurricane Rita that gave rise to the Net Operating Loss asset deferred tax balances that existed at year-end 2006. Entergy states that the costs associated with Hurricane Katrina that also occurred in 2005 were utilized in a Net Operating Loss carryback and, for this reason, were not included in the chart.

16. Entergy states that on February 10, 2010, it filed a request for rehearing and a motion for clarification on this issue. Entergy states that in its request for clarification, it explained that the Commission's ruling does not address whether these ADIT amounts, once identified, should be functionalized consistent with all other ADIT amounts or should be directly assigned to the production function. Entergy requested that the Commission clarify that the production-related ADIT associated with the Net Operating Losses resulting from the storm damage should be treated the same as all other ADIT, as provided in the Service Schedule MSS-3 tariff. Entergy states that when it submits the comprehensive bandwidth recalculation report, it will use the amounts contained on Attachment D unless such amounts are further modified by the Commission. Moreover, it states that it will follow the Commission's ruling on the requested clarification.

b. Protest

17. The Louisiana Commission argues that Entergy's compliance filing fails to comply with Opinion No. 505 because it directly assigns to production only the Net Operating Loss ADIT that Entergy deems to be related to production, thus assigning other Net Operating Loss ADIT directly to other functions, and then reduces the amount directly assigned to production using the functionalization ratio.¹⁴ The Louisiana Commission claims that Entergy makes no attempt to identify ADIT for Net Operating Loss carryforwards associated with production storm damage expenses because Net

¹² Opinion No. 505, 130 FERC ¶ 61,023 at P 234.

¹³ *Id.*

¹⁴ Louisiana Commission Protest at 3.

Operating Loss ADIT cannot be linked to any particular expenses. The Louisiana Commission asserts that Entergy performs a calculation for the compliance filing that assumes storm damage expense is the only cause of Net Operating Loss ADIT, at least until all storm expenses are used up. It contends that this calculation in turn assumes that no other tax deductible expenses can cause Net Operating Loss ADIT until storm expenses are exhausted, an assumption at odds with the fact that any tax deduction can cause a tax loss and, in turn, Net Operating Loss ADIT.¹⁵ It argues that Opinion No. 505 does not instruct Entergy to depart from the tariff methodology to functionalize costs and does not authorize a new calculation that is designed to “eradicate” the Commission’s prior ruling.

c. Entergy’s Answer

18. Entergy asserts that it has complied with the Commission’s Net Operating Loss ADIT directives. It contends that consistent with Service Schedule MSS-3, the ADIT Account 190 amounts are functionalized, not directly assigned, to production. Entergy argues that contrary to the Louisiana Commission’s assertion, nowhere in the compliance filing has Entergy directly assigned the ADIT for Net Operating Loss carryforwards in violation of Opinion No. 505. Entergy states that in Opinion No. 505, the Commission provided explicit instructions as to how Entergy is to treat ADIT associated with Net Operating Losses, finding specifically:

To the extent storm damage costs are amortized to expense accounts included in the bandwidth calculation (production storm damage expense), such costs are included in a Commission cost of service rate. Therefore, consistent with Service Schedule MSS-3, ADIT for [Net Operating Loss] carryforwards associated with production storm damage expenses may not be excluded from the bandwidth calculation.¹⁶

19. Entergy explains that based on this instruction it used the following process: First, to the extent that an Operating Company recovers previously deferred storm costs, those costs are to be amortized to the appropriate operation and maintenance accounts. It states that to the extent that such costs are amortized to a production account, it is the Net Operating Loss associated with that expense that is to be functionalized. Entergy states that in sum, after making this allocation, any ADIT that is associated with a Net Operating Loss amortized to a production account is then included in the bandwidth calculation. Entergy states that it followed these instructions exactly in the compliance

¹⁵ *Id.* at 4.

¹⁶ Entergy Answer at 2-3 (quoting Opinion No. 505, 130 FERC ¶ 61,023 at P 234).

filing and included the ADIT associated with production storm damage expenses in the calculation through the functionalization formula set forth in Service Schedule MSS-3.¹⁷

20. Entergy argues that the Louisiana Commission also accuses Entergy of improperly assuming that the only cause of the Net Operating Loss ADIT is storm damage.¹⁸ Entergy contends that there was no assumption on the part of Entergy and clearly the Commission found that the ADIT for Net Operating Loss carryforwards resulted from the storm damage losses. Entergy explains that the Louisiana Commission ignores the finding in Opinion No. 505, that “[t]he NOL carryforwards are related to storm damage losses....”¹⁹ Entergy asserts that the Commission instructed Entergy to reflect in the bandwidth calculation only “storm damage costs that are amortized to expense accounts included in the bandwidth calculation (production storm damage expense).” Entergy contends that this is exactly what it has done in its compliance filing.

d. Commission Determination

21. Consistent with our order on rehearing in this proceeding, being issued concurrently with this order,²⁰ we provide clarification on this issue and direct Entergy to make a subsequent compliance filing, within 30 days of the date of this order, consistent with the directives below. In Opinion No. 505, the Commission did not authorize an amendment to Service Schedule MSS-3 to provide for a direct assignment of ADIT associated with Net Operating Losses to the production function. Further, the language in Opinion No. 505 stating that the NOL carryforwards are related to storm damage losses²¹ could have been interpreted incorrectly to mean that the only cause of the Net Operating Loss ADIT was storm damage. Accordingly, we are providing further guidance and clarifying how the ADIT associated with Net Operating Losses should be functionalized. The Net Operating Loss carryforwards are the result of a calculation that combines all the revenues and expenses of Entergy. The Net Operating Loss is made up of many expenses, none of which, in isolation, can be considered the singular cause of the Net Operating Loss. Therefore, attributing ADIT related to the Net Operating Loss to a particular expense or function in isolation is arbitrary because the Net Operating Loss is not created by any single category of expenses.

¹⁷ *Id.*

¹⁸ *Id.* (citing Louisiana Commission Protest at 4).

¹⁹ Opinion No. 505, 130 FERC ¶ 61,023 at P 234.

²⁰ Opinion No. 505-A, 139 FERC ¶ 61,103.

²¹ Opinion No. 505, 130 FERC ¶ 61,023 at P 234.

22. Accordingly, in this situation, the Net Operating Loss ADIT amounts should be functionalized to production using plant ratios as prescribed by Service Schedule MSS-3, without first attempting to identify Net Operating Loss ADIT amounts related to production expenses incurred. In accordance with the requirements of Service Schedule MSS-3, Entergy must exclude ADIT amounts related to expenses not includable for Commission cost-of-service purposes and it must allocate the remaining ADIT balances to production using plant ratios. To properly include Net Operating Loss ADIT amounts in the bandwidth calculations, Entergy must multiply its Net Operating Loss carryforward balance by the ratio of incurred expenses includable for Commission cost-of-service purposes to total expenses incurred during the period the Net Operating Loss was recognized. Also, ADIT related to the calculated Net Operating Loss carryforward balance to be included in the bandwidth calculations must then be allocated to the production function in the bandwidth formula using the plant ratios as prescribed by Service Schedule MSS-3.

2. Accounting for the Spindletop Gas Storage Facility

23. In Opinion No. 505, the Commission addressed whether Entergy properly accounted for the annual amortization expense of the Spindletop Regulatory Asset, and whether Entergy should have amortized the Spindletop Regulatory Asset to Account 501 (Fuel), rather than Account 407.3 (Regulatory Debits).²² With respect to the accounting for the Spindletop Regulatory Asset, the Commission concluded that Entergy “should have amortized the Spindletop Regulatory Asset to Account 501 rather than Account 407.3.”²³ The Commission stated that its finding was for accounting purposes only and was not dispositive of whether the amounts of the regulatory asset amortized to expense during 2006 are production expenses properly included in the bandwidth calculation. The Commission found that the issue of whether or not the investment in the Spindletop Regulatory Asset should be included in Entergy Gulf States’ production costs, and reflected in the 2006 bandwidth calculation, will be decided in Docket No. EL08-51-000.²⁴

24. Also in Opinion No. 505, the Commission addressed the accounting treatment for the acquisition costs of Spindletop. The Commission found that the Spindletop facility is an operating unit or system, and the costs of operations and construction have been included as a component of retail rates. Consequently, the Spindletop facility was previously devoted to public service, and the accounting for the transaction should follow

²² *Id.* P 246.

²³ *Id.* P 261.

²⁴ *Id.*

the Commission's original cost rules.²⁵ The Commission found that the Spindletop facility should be recorded in Account 101 at its original cost and the related accumulated depreciation should be recorded in Account 108. The difference between the purchase price and the depreciated original cost of the facility must be recorded in Account 114, Electric Plant Acquisition Adjustments.²⁶ The Commission stated that this finding was for accounting purposes only and was not dispositive of whether the acquisition costs of Spindletop are production expenses properly included in the 2006 bandwidth calculation.²⁷

a. Entergy's Filing

25. Entergy states that consistent with the accounting directive relating to Account 501, Entergy has included the correcting journal entries and a draft of the revised FERC Form 1 pages for 2006 for Entergy Gulf States. Entergy states that in these revised pages, it has recorded the amortization of the Spindletop Regulatory Asset to Account 501 and removed amounts from Account 407.3. Entergy notes that in its request for rehearing, it requests clarification that the Commission did not intend to alter the bandwidth formula tariff provisions of Service Schedule MSS-3 with its Spindletop accounting rulings. Entergy states that while the Commission modified the Spindletop Regulatory Asset accounting to include such amortization in Account 501, a bandwidth formula eligible account, Opinion No. 505 did not address any ratemaking implications. Therefore, Entergy explains that it has not proposed any adjustment to the bandwidth calculation or formula for the Spindletop Regulatory Asset in its compliance filing. It states that to the extent a future Commission order requires a modification to the ratemaking treatment for the Spindletop Regulatory Asset different from that utilized in the May 29, 2007 Filing, Entergy will make such adjustment to the bandwidth calculation or formula at that time in a subsequent filing.

26. With respect to the Spindletop acquisition costs, Entergy states that consistent with the accounting directives of Opinion No. 505, it has included the correcting journal entries and a draft of the revised FERC Form 1 pages for 2006 for Entergy Gulf States. Entergy states that because the Commission did not address the ratemaking treatment for the Spindletop acquisition costs, it has not proposed any adjustment to the bandwidth

²⁵ *Id.* P 265.

²⁶ *Id.*

²⁷ *Id.* Although the issue of whether the Spindletop acquisition costs would be included in the 2006 bandwidth formula was set for hearing in the Docket No. EL08-51-000 proceeding, it was never raised nor litigated in that docket and thus not decided in Opinion No. 509.

calculation or formula for the Spindletop acquisition costs. It states that to the extent a future Commission order requires a modification to the ratemaking treatment for the Spindletop acquisition costs different from that utilized in the May 29, 2007 Filing, Entergy will make such adjustment to the bandwidth calculation or formula at that time in a subsequent filing.²⁸

b. Protest

27. The Louisiana Commission states that Opinion No. 505 requires that the deferred capital costs comprising the Spindletop Regulatory Asset be amortized to Account 501. It explains that this ruling necessarily means that the costs should be included in production costs, because the Service Schedule MSS-3 formula includes all costs recorded in Account 501.²⁹ The Louisiana Commission argues that the Commission has ruled that the Spindletop costs belong in an account included in the bandwidth formula and Entergy now has excluded the costs on its own initiative. It argues that the Commission did not intend to authorize an exclusion that is not provided for in the formula.

c. Entergy's Answer

28. Entergy states that it has complied with the Commission's Spindletop Regulatory Asset amortization directives. It states that, consistent with the Commission's directive, it submitted revised proposed accounting entries showing the amortization to Account 501 rather than Account 407.3. Entergy also explains that, consistent with the Commission's holding that "this finding is for accounting purposes only,"³⁰ it did not make any change in the 2006 bandwidth calculation. Entergy explains that because the Commission held that "the issue of whether or not the investment in the Spindletop Regulatory Asset should be included in Entergy Gulf States' production costs, and reflected in the 2006 bandwidth will be decided in Docket No. EL08-51-000," Entergy stated in its compliance filing that it would make any changes in the future, to the extent required by the Commission's decision in Docket No. EL08-51-000.³¹ Entergy contends that the Louisiana Commission's protest of Entergy's failure to change the bandwidth calculation to include the amortization of the Spindletop Regulatory Asset ignores the clear language in Opinion No. 505 in which the Commission stated that its ruling is for

²⁸ Entergy Compliance Filing at 8.

²⁹ Louisiana Commission Protest at 4.

³⁰ Opinion No. 505, 130 FERC ¶ 61,023 at P 261.

³¹ Entergy Compliance Filing at 8.

accounting purposes only and is not dispositive of the question of how the amortization should be treated for bandwidth calculation purposes.³²

d. Commission Determination

29. We accept Entergy's accounting change for the Spindletop Regulatory Asset as being in compliance with Opinion No. 505. Consistent with Opinion No. 505, Entergy has recorded the amortization of the Spindletop Regulatory Asset to Account 501 and removed such amounts from Account 407.3.

30. However, consistent with our finding in Opinion No. 505-A,³³ which is being issued concurrently with this order, we find that Entergy must flow amortization costs associated with the Spindletop Regulatory Asset through the bandwidth formula effective for the 2006 calendar year. This is consistent with our finding in Opinion No. 505 that the appropriate account to record amortization of the Spindletop Regulatory Asset is Account 501, which is included in the bandwidth formula as provided for in Service Schedule MSS-3.³⁴ Accordingly, we direct Entergy to reflect the revised amounts in Account 501 in the bandwidth payments and receipts for the 2006 calendar year, as required under the Service Schedule MSS-3 tariff provisions in effect for this period, in a compliance filing within 30 days of the date of this order.

31. We also accept Entergy's accounting change for the Spindletop acquisition costs. Also, consistent with our finding in Opinion No. 505-A,³⁵ we direct Entergy to make the appropriate changes to the bandwidth payments and receipts for the 2006 calendar year to reflect the revised amounts in accounts included in the bandwidth formula, in a compliance filing within 30 days of the date of this order.

The Commission orders:

(A) Entergy's compliance filing, as modified, is hereby accepted, to be effective June 1, 2007, as discussed in the body of this order.

(B) Within 30 days of the date of this order, Entergy is directed to make a compliance filing, as discussed in the body of this order.

³² Opinion No. 505, 130 FERC ¶ 61,023 at P 261.

³³ Opinion No. 505-A, 139 FERC ¶ 61,103.

³⁴ Opinion No. 505, 130 FERC ¶ 61,023 at P 261.

³⁵ Opinion No. 505-A, 139 FERC ¶ 61,103 at P 67.

(C) Within 45 days of the order on rehearing of Opinion No. 506, Entergy is directed to file a comprehensive bandwidth recalculation report showing the updated payment/receipt amounts based on the 2006 calendar year data as a result of all the revisions to the bandwidth calculations and formula in Opinion Nos. 505 and 506, 509 and the order on rehearing in Docket No. EL07-52-001. Entergy should include such adjustments in the first Entergy Intra-System Bill issued following the filing of the bandwidth recalculation report. Entergy is required to calculate interest on the payment/receipt amounts from June 1, 2007 until the date of the Intra-System Bill that will reflect the bandwidth recalculation amounts for calendar year 2006.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.