



Nevada Power Company, a public utility that serves retail and wholesale customers in Southern Nevada. In 2008, both Sierra Pacific and Nevada Power began doing business as NV Energy. Sierra Power currently provides transmission service under the NV Energy OATT, which contains separate rates for the Sierra Pacific zone (Zone A). The instant filing revises rates for Zone A only.

## II. Instant Filing

3. On October 31, 2012, Sierra Pacific filed to revise the Zone A transmission rates for network and point-to-point service under the OATT.<sup>2</sup> The proposed revisions include an increase in the rate for network and point-to-point services from \$2.84/kWw/month to \$3.74/kW/month, which is an increase of 32 percent. Sierra Pacific also filed rate revisions to several ancillary services provided under the OATT.<sup>3</sup> More specifically, Sierra Pacific proposes to decrease the scheduling and dispatch rates under Schedule 1 from \$246.27/MW/month to \$167.56/MW/month. Additionally, Sierra Pacific proposes to increase the rates under Schedules 2, 3, 5, 6, and 11 of the OATT. Sierra Pacific proposes to increase its rates for reactive power, Schedule 2, from \$100.97/MW/month to \$338.40/MW/month. Sierra Pacific's proposed rates for Schedules 3, 5, and 11, increase from \$6,377.45/MW/month to \$9,600/MW/month. Sierra Pacific's charges for supplemental reserves in Schedule 6 of the OATT increase from \$4,656.27/MW/month to \$7,880/MW/month. Sierra Pacific also proposes to update its Schedule 10 loss factor consistent with the transmission loss analysis it performed in June of 2012, resulting in a reduction in the loss factor from 2.34 percent to 2.28 percent.

4. Sierra Pacific requests that the proposed rates be made effective January 1, 2013, without suspension.

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<sup>2</sup> Sierra Pacific's filing updates the OATT rates for firm point-to-point transmission service (Schedule 7); non-firm point-to-point transmission service (Schedule 8); and annual transmission revenue requirement for network integration transmission service (Attachment H).

<sup>3</sup> Sierra Pacific's filing updates the following OATT rates: scheduling system control and dispatch service (Schedule 1); reactive supply and voltage control from generation sources service (Schedule 2); regulation and frequency response service (Schedule 3); operating reserve-spinning reserve service (Schedule 5); operating reserve-supplemental reserve service (Schedule 6); loss compensation service (Schedule 10); and regulation and frequency response service for generators selling outside of control area (Schedule 11).

5. Sierra Pacific states that it is filing this increase in rates to ensure that it recovers its capital investment in its transmission system and continues that investment to maintain system reliability.<sup>4</sup> In addition, Sierra Pacific states that it also seeks to revise the transmission rates under its OATT so that it may continue to recover the costs of operating its transmission system and earn a reasonable return on its investment.

6. Sierra Pacific notes that it last filed to update its transmission rates in 2007.<sup>5</sup> According to Sierra Pacific, it has increased charges for network integration transmission service and point-to-point rates because it has made significant changes to its transmission system to improve reliability, relieve constraints, provide for increased service needs, and meet changing regulatory requirements as a result of government mandates.

7. Sierra Pacific also maintains that operating costs have increased since 2007 by 53 percent due to increased depreciation expense associated with the new plant additions as well as a change in the manner in which Sierra Pacific will recover certain costs under Schedule 1.<sup>6</sup> Sierra Pacific proposes to recover all general plant and administrative and general (A&G) expenses through its network and point-to-point rates rather than allocate some of these costs to its Schedule 1 charge. Sierra Pacific explains that this change results in a higher point-to-point and network rate and a lower Schedule 1 rate. According to Sierra Pacific, other contributing factors in the operating expense increase include Western Electricity Coordinating Council dues and increased corporate A&G expense allocated to the transmission business.

8. In addition, Sierra Pacific states that its load has decreased since the 2007 filing, causing a decrease in billing determinants.<sup>7</sup>

9. Sierra Pacific states that it last filed to update its ancillary services rates in 2002.<sup>8</sup> According to Sierra Pacific, the increase in the proposed rates for

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<sup>4</sup> Sierra Pacific Transmittal Letter at 1.

<sup>5</sup> *Id.* at 4. See *Sierra Pacific Power Company*, 121 FERC ¶ 61,160 (2007).

<sup>6</sup> Sierra Pacific Transmittal Letter at 5.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 4 (stating Sierra Pacific last updated its ancillary services rates in Docket No. ER03-37).

Schedule 2 reflects the fact that it has added generating capacity capable of providing reactive support.<sup>9</sup>

10. Sierra Pacific states that the increase in Schedules 3, 5, 6, and 11 are due to the addition of generation since the 2002 filing.<sup>10</sup>

11. On December 6, 2012, Sierra Pacific filed a Supplemental Filing (December 6 Supplemental Filing) to its October 31 filing containing Exhibit No. SPPC 9.2. Sierra Pacific states that the 2010 Depreciation Study contained in the exhibit was inadvertently omitted from the October 31 filing and furthermore states that it is a public document that was available from the Nevada Commission.<sup>11</sup>

### **III. Notice of Filing and Responsive Pleadings**

12. Notice of Sierra Pacific's October 31, 2012 filing was published in the *Federal Register*, 77 Fed. Reg. 37,357 (2012), with interventions and protests due on or before November 21, 2012. The Nevada Commission filed a notice of intervention. The Office of the Attorney General for the State of Nevada Bureau of Consumer Protection filed a motion to intervene. Ormat Nevada, Inc. (Ormat) and the Bonneville Power Administration (Bonneville) filed motions to intervene with comments. Deseret Generation & Transmission Co-Operative, Inc., (Deseret) filed a motion to intervene and protest. Newmont USA Limited and the City of Fallon, Nevada, Barrick Goldstrike Mines Inc., and Truckee Donner Public Utility District (collectively, Combined Protestors) each filed a motion to intervene and a substantively identical protest. A motion to intervene out-of-time was filed by Plumas Sierra Rural Electric Cooperative (Plumas). On December 6, 2012 Sierra Pacific filed an answer to the protests and comments (December 6 Answer).

13. Notice of Sierra Pacific's December 6 Supplemental Filing was published in the *Federal Register*, 77 Fed. Reg. 74,841 (2012), with interventions and protests due on or before December 18, 2012. Timely supplemental comments were filed by the Combined Protestors. On December 12, 2012 Sierra Pacific filed an answer to address issues raised by protestors (December 12 Answer).

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<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> Sierra Pacific December 6 Transmittal Letter at 1 (stating that the document is available from the Nevada Commission in Docket No. 10-06003).

## **Comments and Responsive Pleadings**

### **A. Supporting Documentation**

14. The Combined Protestors, Bonneville, and Deseret all allege that the entire filing is deficient because the supporting testimony does not provide enough information in order to adequately evaluate or support Sierra Pacific's proposal. The Combined Protestors state that this lack of detail makes it difficult to understand and evaluate the proposal.

15. The Combined Protestors also state that Sierra Pacific has failed to submit work papers, as required by the Commission,<sup>12</sup> which impairs the protestors' ability to assess the filing. Bonneville asserts that the data provided by Sierra Pacific is not sufficient because of its format, which does not allow for evaluation of the rates. Additionally, Bonneville states that the filing is missing Exhibit No. SPPC-9.2, 2010 Depreciation Study, which is required to evaluate the filing. Ormat notes that, apart from its scheduling (Schedule 1) and losses compensation (Schedule 10) rates, all of Sierra Pacific's proposed rates are substantial increases and, for most of the services, nearly triple the existing rates.

16. Sierra Pacific states in its December 6 Answer that its filing is adequately supported and exceeds the Commission's standards for rate filings. Sierra Pacific contends that the direct testimony, exhibits, schedules, and work papers filed with the Commission provide adequate support for the filing. Furthermore, Sierra Pacific contends in its filing that Exhibit No. SPCC-9.2 was inadvertently omitted and was otherwise available.

17. The Combined Protestors contend that the December 6 Supplemental Filing should be treated as an amendment to Sierra Pacific's filing that establishes a new filing date for purposes of the 60 day statutory notice period and that the suspension of rates must begin at the end of that 60 day period, which would occur on February 4, 2013.<sup>13</sup> They assert that the supporting depreciation study contained in the December 6 Supplemental Filing was required under the Commission's filing requirements, that Sierra Pacific's reasons for not including it are immaterial, and that Sierra Pacific took too long to provide the study after it was notified of its absence. The Combined Protestors contend that the policy

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<sup>12</sup> Combined Protest at 1 (citing 18 CFR § 35.13(d)).

<sup>13</sup> *Duke Power Co.*, 57 FERC ¶ 61,215, at 61,713 (1991) (*Duke Power*).

articulated in *Duke Power*<sup>14</sup> is clear and that Sierra Pacific's filing was not complete until it submitted the depreciation study.

18. In its December 12 Answer Sierra Pacific states that its filing of Exhibit No. SPCC-9.2 does not constitute a material amendment to the October 31 filing and contends that the Commission does not need to change the original filing date or requested effective date. They state that the Combined Protestors incorrectly cite *Duke Power* because the Commission has since revised its policy and that even without those revisions the effective date of the proposed rate changes does not need to be revised.

19. Sierra Pacific asserts that under Order No. 714,<sup>15</sup> only an amendment or modification to a rate schedule, tariff, or service agreement section, as opposed to supporting materials, will toll the period for action on the prior filing and establish a new period for action. Sierra Pacific further asserts that the December 6 Supplemental Filing is a minor change that only adds supplemental materials that were cited in the October 31 filing, which is not significant enough to change the filing date and effective date.<sup>16</sup> Sierra Pacific states that its customers have been given adequate notice of the proposed rates, which were not changed by the December 6 Supplemental Filing.

## **B. Transmission Revenue Requirement and Rates**

### **1. Return on Equity**

20. The Combined Protestors state that Sierra Pacific's Return on Equity (ROE) is overstated and excessive because of errors in Sierra Pacific's methodology. These errors include: (1) use of the mean instead of median in the Discounted Cash Flow methodology; (2) deviation from accepted practice in its calculation of br+sv growth; (3) excluding credible low implied costs of equity from calculations; (4) retaining high implied costs of equity calculations for entities for which Sierra Pacific excluded low implied costs of equity calculations; and (5) failing to blend the high and low implied costs of equity for each proxy in its sample before calculating the proxy group's ROE. The Combined Protestors assert that without these errors ROE would be 9.05 percent.

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<sup>14</sup> *Id.*

<sup>15</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

<sup>16</sup> Sierra Pacific December 12 Answer at 3-4 (citing *Mississippi Power Co.*, 137 FERC ¶ 61,241, at P 23 (2011)).

21. Bonneville states that the ROE is flawed because of the process used to select the proxy group. It asserts that Sierra Pacific's expert did not properly exclude companies with high, unsustainable growth, as required by Commission precedent. Bonneville believes that if these companies were correctly excluded from the calculation the ROE would be lower.

22. The Combined Protestors, Bonneville, and Deseret state that Sierra Pacific's 58 basis-point Risk Premium is unsupported. Bonneville maintains that it is unsupported because of Sierra Pacific's use of beta risk. Deseret claims the Risk Premium is unsupported because Sierra Pacific faces no extraordinary risks. The Combined Protestors state that the Risk Premium is unsupported because Sierra Pacific: (1) incorrectly used the credit rating of its business as a whole instead of its transmission business; (2) only presented risks to its retail sales business and not its wholesale transmission business; (3) incorrectly cited new transmission as a basis for the adder; (4) did not adequately explain why the adder should be 58 points as opposed to another risk premium; and (5) did not adequately support deviation from using the median range of the Discounted Cash Flow results.

23. In response Sierra Pacific asserts in its December 6 Answer that its proposed rate of return is fully justified by the testimony of its witness. Sierra Pacific states that it: (1) correctly constructed its proxy group; (2) properly conducted its Discounted Cash Flow analysis; (3) used an acceptable measure of central tendency; and (4) justified its 58 basis-point Risk Premium.

## **2. Other Deficiencies**

24. The Combined Protestors state that there are other errors that cause transmission rates to be overstated. In particular, they assert that Sierra Pacific inappropriately: (1) assigned several costs to administrative and general expenses that should be excluded; (2) understated its projected Period II transmission system load; (3) included all costs for the Tracy to Silver Lake line in cost of service; (4) overstated its rate base; (5) incorrectly applied a default rule to lead-lag analysis; (6) erred in reductions in Period II Gas Division labor expenses; (7) allocated industry association dues to rates; (8) included payments without justification; (9) included prepaid transmission expenses in the rate base; (10) used incorrect allocators in multiple calculations; (11) allocated accumulated income taxes to transmission functions; and (12) allocated regulatory account assets to the transmission rate.

25. Deseret protests the inclusion of industry association dues in transmission rates, stating that Sierra Pacific should not assess dues in the rates of wholesale customers that already pay dues directly to the association.

26. Sierra Pacific states in its December 6 Answer that its transmission rates are just and reasonable. It states that has not incorrectly included costs assigned to specific consumers in its rate base, and also asserts that it correctly applied the default rule instead of developing lead-lag analysis consistent with Commission precedent.

### C. Ancillary Services Rates

27. The Combined Protestors assert that Sierra Pacific's proposed rates for ancillary services Schedule 1 are overstated and the proposed rates for Schedules 2, 3, 5 and 6 are excessive. Combined Protestors state that the ancillary service rates are overstated because Sierra Pacific: (1) understated its rate divisor in Schedule 1; (2) over recovers costs by shifting midstream to levelized gross plant fixed charges; (3) used flawed methodology to calculate cost of service based on Fixed Charge Rate calculations; and (4) included heating loss costs in Schedule 2 rates. The Combined Protestors state that though the Schedule 1 rate has been reduced, it still appears to be excessive, and therefore, they suggest that the Commission initiate a section 206 investigation.

28. Deseret states that there are errors and inconsistencies between Sierra Pacific's filing for ancillary service rates and witness testimony in support of those rates: (1) a witness presents different numbers for the rate of return in periods I and II than are reported in Statement AV; (2) in several places in its filing Sierra Pacific interchanges the different allocators for wages and salaries; (3) there is inconsistency across line items for items in Statement AQ and the work papers that were submitted in support of it; and (4) there is no explanation for the use of an artificial value for Expected Participation.

29. Deseret protests that Sierra Pacific's proposal to use a different rate of return for the calculation of certain ancillary service rates is unjust and unreasonable. Deseret states that Sierra Pacific does not explain why it uses the Period I rate of return in Schedules 1, 2, 3, 5, 6, and 11, instead of the Period II rate of return.

30. Deseret states that there are other errors in the filing because Sierra Pacific: (1) assigned items to the net plant indicator that should be directly assigned or assigned to production; (2) has not supported the level of Schedule 3 service that is required to be purchased under the OATT; (3) has not justified the Minimum Operating Reserve Requirements applicable to Schedules 5 and 6; and (4) understated the denominator for Schedule 2.

31. Sierra Pacific asserts in its December 6 Answer that its ancillary services rates are just and reasonable for several reasons. First, it states that its Schedule 2 rate is adequately supported as just and reasonable because it included all ancillary

services load in the denominator of the rate. Second, Sierra Pacific asserts that it properly employed a levelized gross plant fixed charge rate because it has always used such a rate.

**D. Transmission Loss Factor**

32. The Combined Protestors assert that the reduction in Sierra Pacific's transmission loss factor contained in Schedule 10 should be set for hearing and that the Commission should initiate a section 206 investigation. They state that the implied distribution loss factor of 0.41 percent is on its face unreasonable because the components of Sierra Pacific's system suggest that there should be greater losses than suggested by Sierra Pacific's 2011 figure.

33. In its December 6 Answer, Sierra Pacific states that the protestors have failed to raise any genuine issues of fact regarding its proposed transmission loss factor. It asserts that the protestors raised no issues of material fact but only vague concerns that the rate decrease was unsupported and therefore should be set for hearing.

**E. Setting the Filing for Hearing and Suspension of Rates for Five Months**

34. The Combined Protestors state that Sierra Pacific's transmission rates and ancillary services rates are at least 50 percent excessive under *West Texas Utilities Co.*<sup>17</sup> Therefore, they state that the Commission should suspend Sierra Pacific's proposed transmission rates and proposed rates for Schedules 2, 3, 5, and 6 for five months, and the rates should be subject to refund with interest because the rates are likely to be found more than ten percent excessive. Bonneville and Deseret state that all the proposed rates are substantially excessive and therefore should be suspended for five months.

35. Sierra Pacific answers that the interveners have failed to establish that a suspension is warranted under *West Texas*. Sierra Pacific states that its proposed rate increases are not more than ten percent excessive, and therefore the rates should not be suspended for five months. However, Sierra Pacific does not oppose setting the filing for hearing in order to resolve factual concerns provided that the Commission suspends the hearing and orders settlement judge procedures.

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<sup>17</sup> *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982) (*West Texas*).

#### IV. Discussion

##### A. Procedural Matters

36. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.214 (2012), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

37. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 CFR § 385.214(d) (2012), the Commission will grant Plumas' motion to intervene out-of-time given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

38. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2) (2012), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept Sierra Pacific's answers to protests because it has provided information that assisted us in our decision-making process.

##### B. Substantive Matters

39. We reject the Combined Protestors' argument that the Commission is required set an effective date of February 4, 2013. We note that Order No. 714, issued after *Duke Power*, revised the Commission's regulations and the *Duke Power* policy as applied to amendments.<sup>18</sup> Filings, such as Sierra Power's December 6 Supplemental Filing, that do not revise a rate schedule, tariff, or service agreement, but instead only add or revise supplemental materials submitted as part of the application are considered on an individual basis to determine whether such changes are so significant that they would constitute an amendment that operates to extend the date by which the Commission must act.<sup>19</sup> In the instant case the parties were given notice of the proposed rates in Sierra Pacific's October 31, 2012 filing and the December 6 Supplemental Filing did not change the proposed rates. We find that the December 6 Supplemental Filing does not constitute an amendment, and therefore, no changes to the original filing date and effective date are warranted.

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<sup>18</sup> Order No. 714, FERC Stats. & Regs. ¶ 31,276. *See also* 18 CFR § 35.17(b) (2012).

<sup>19</sup> *Mississippi Power Co.*, 137 FERC ¶ 61,241 at P 23.

40. Sierra Pacific's proposed rates raise issues of material fact which cannot be resolved based on the record before us, and which are more appropriately addressed in the hearing and settlement judge procedures ordered below.

41. Our preliminary analysis indicates that Sierra Pacific's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. In *West Texas*, the Commission explained that when our preliminary analysis indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, the Commission will generally impose a five-month suspension. In the instant proceeding we find that the proposed rates, with the exception of Schedule 1 and Schedule 10, may be substantially excessive. Therefore, we will accept Sierra Pacific's proposed Zone A transmission service rates and ancillary service rates in Schedules 2, 3, 5, 6, 7, 8, 11 and Attachment H to the OATT for filing, suspend them for five months, to become effective June 1, 2013, subject to refund, and set them for hearing and settlement judge procedures.

42. In addition, while Sierra Pacific is proposing a rate decrease in two rate schedules (Schedules 1 and 10), our review indicates that a further decrease may be warranted. Therefore, we will accept the proposed Schedule 1 and Schedule 10 rates for filing, to become effective January 1, 2013, but we will also institute a section 206 investigation in Docket No. EL13-29-000 with respect to the justness and reasonableness of Sierra Pacific's proposed rate decreases.

43. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA, as amended by section 1285 of the Energy Policy Act of 2005,<sup>20</sup> requires that the Commission establish a refund effective date that is no earlier than publication of the notice of the Commission's initiation of its investigation in the *Federal Register*, and no later than five months after the publication date. Consistent with our general policy of providing maximum protection to customers,<sup>21</sup> we will establish the refund effective date to at the earliest date possible, i.e., the date the initiation of the investigation in Docket No. EL13-29-000 is published in the *Federal Register*.

44. Section 206(b) also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding

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<sup>20</sup> Energy Policy Act of 2005, Pub. L. No. 109-58, § 1285, 119 Stat. 594, 980-981 (2005).

<sup>21</sup> See, e.g., *Seminole Elec. Coop., Inc. v. Fla. Power & Light Co.*, 65 FERC ¶ 61,413, at 63,139 (1993); *Canal Elec. Co.*, 46 FERC ¶ 61,153, at 61,539, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

pursuant to section 206, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. Based on our review of the record, we expect that, if this case does not settle, the presiding judge should be able to render a decision within 12 months of the commencement of hearing procedures, or, if the case were to go to hearing immediately, by December 31, 2013. Thus, we estimate that, if the case were to go to hearing immediately, we would be able to issue our decision within approximately nine months of the filing of briefs on and opposing exceptions, or by November 30, 2014.

45. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>22</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>23</sup>

46. The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

47. In light of the common issues of law and fact presented in Docket Nos. ER13-247-000 and EL13-29-000, we will consolidate the two proceedings for purposes of settlement, hearing and decision.

The Commission orders:

(A) Sierra Pacific's proposed transmission service rates and ancillary service rates in Schedules 2, 3, 5, 6, 7, 8, 11, and Attachment H are hereby

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<sup>22</sup> 18 CFR § 385.603 (2012).

<sup>23</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone as (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

accepted for filing and suspended for five months, to become effective June 1, 2013, subject to refund, as discussed in the body of this order.

(B) Sierra Pacific's proposed scheduling and dispatch rate and loss compensation rate in Schedules 1 and 10 are hereby accepted for filing to become effective January 1, 2013, as requested, subject to refund, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Nevada Power's proposed rates. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.603 (2012), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding

judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) Docket Nos. ER13-247-000 and EL13-29-000 are hereby consolidated for the purposes of settlement, hearing, and decision.

(H) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of section 206 proceedings in Docket No. EL13-29-000.

(I) The refund effective date established pursuant to section 206(b) of the Federal Power Act will be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (H) above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.