

144 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Bonneville Power Administration

Docket Nos. EF13-7-000
EF13-8-000
EF13-9-000
EF13-10-000
EF13-11-000
EF13-12-000
EF13-13-000
EF13-14-000

ORDER APPROVING RATES ON AN INTERIM BASIS
AND PROVIDING OPPORTUNITY FOR ADDITIONAL COMMENTS

(Issued September 27, 2013)

1. In this order, we approve the Bonneville Power Administration's (Bonneville) proposed 2014 wholesale power and transmission rates on an interim basis, pending our further review. We also provide an additional period of time for the parties to file comments.

I. Background

2. On July 29, 2013, as supplemented on August 1, 2013, and August 14, 2013, Bonneville filed a request for interim and final approval of its wholesale power¹ and

¹ The proposed wholesale power rates for which Bonneville seeks approval for the period October 1, 2013 through September 30, 2015, include: Priority Firm Power Rate (PF-14); New Resource Firm Power Rate (NR-14); Industrial Firm Power Rate (IP-14); Firm Power Products and Services Rate (FPS-14); General Transfer Agreement Service Rate (GTA-14); and Power General Rate Schedule Provisions (GRSPs).

transmission rates² in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act)³ and Part 300 of the Commission's regulations.⁴ Bonneville projects that the filed rates will produce average annual power revenues of \$2.788 billion, and average annual revenues from transmission and ancillary services rates of \$1.014 billion. Bonneville asserts that this level of annual revenues is sufficient to recover its costs for the 2014-2015 rate approval period, while providing cash flow to assure at least a 95 percent probability of making all payments to the United States Treasury in full and on time for each year of the rate period.

II. Notice of Filing

3. Notice of Bonneville's application was published in the *Federal Register*,⁵ with protests and motions to intervene due on or before August 28, 2013. Timely motions to intervene were filed by the Pacific Northwest Generating Cooperative, Public Power Council, Northwest Requirements Utilities, Turlock Irrigation District, Idaho Power Company, Southern California Edison Company, Avista Corporation (Avista), PacifiCorp, Iberdrola Renewables, LLC (Iberdrola), Western Public Agencies Group, Puget Sound Energy, Inc., M-S-R Public Power Agency, Industrial Customers of Northwest Utilities, Public Utility District No. 1 of Benton County, Snohomish County Public Utility District No. 1, Portland General Electric Company, Modesto Irrigation District, and the City of Seattle, raising no substantive issues.

4. In addition, Powerex Corporation (Powerex) filed a motion to intervene and protest. Iberdrola filed a separate timely protest. Powerex and Iberdrola request that the Commission issue an order remanding the proposed transmission rates back to Bonneville for development of a full and complete administrative record to support such

² The proposed transmission rates for which Bonneville seeks approval for the period October 1, 2013, through September 30, 2015, include: Formula Power Transmission Rate (FPT-14.1), Formula Power Transmission Rate (FPT-14.3); Integration of Resources Rate (IR-14); Network Integration Rate (NT-14); Point-to-Point Rate (PTP-14); Southern Intertie Rate (IS-14); Montana Intertie Rate (IM-14); Use-of-Facilities Transmission Rate (UFT-14); Advance Funding Rate (AF-14); Ancillary Services and Control Area Services Rates (ACS-14); Townsend-Garrison Transmission Rate (TGT-14); Eastern Intertie Rate (IE-12); and Transmission General Rate Schedule Provisions (GRSPs).

³ 16 U.S.C. § 839e (2006).

⁴ 18 C.F.R. Part 300 (2013).

⁵ 78 Fed. Reg. 52,190 (2013).

rates. Additionally, Avista, PacifiCorp, Portland General Electric Company, and Puget Sound Energy, Inc., filed joint comments challenging Bonneville's segmentation of its transmission rates. On September 10, 2013, Bonneville filed a Request for Leave to Answer and Answer to Protests and Comments. On September 11, 2013, the Western Public Agencies Group and the Pacific Northwest Generating Cooperative and Northwest Requirements Utilities each filed Motions for Leave to Answer and Answers.

III. Discussion

A. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers submitted and will, therefore, reject them.

B. Standard of Review

7. Under the Northwest Power Act, the Commission's review of Bonneville's regional power and transmission rates is limited to determining whether Bonneville's proposed rates meet the three specific requirements of section 7(a)(2) of the Northwest Power Act:⁶

- (A) they must be sufficient to assure repayment of the federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting Bonneville's other costs;
- (B) they must be based upon Bonneville's total system costs; and
- (C) insofar as transmission rates are concerned, they must equitably allocate the costs of the federal transmission system between federal and non-federal power.

8. Commission review of Bonneville's non-regional, non-firm rates also is limited. Review is restricted to determining whether such rates meet the requirements of section

⁶ 16 U.S.C. § 839e(a)(2) (2006). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

7(k) of the Northwest Power Act,⁷ which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act (Transmission System Act). Taken together, those statutes require that Bonneville's non-regional, non-firm rates:

- (A) recover the cost of generation and transmission of such electric energy, including the amortization of investments in the power projects within a reasonable period;
- (B) encourage the most widespread use of Bonneville power; and
- (C) provide the lowest possible rates to consumers consistent with sound business principles.

9. Unlike the Commission's statutory authority under the Federal Power Act, the Commission's authority under sections 7(a) and 7(k) of the Northwest Power Act does not include the power to modify the rates. The responsibility for developing rates in the first instance is vested with Bonneville's Administrator. The rates are then submitted to the Commission for approval or disapproval. In this regard, the Commission's role can be viewed as an appellate one: to affirm or remand the rates submitted to it for review.⁸

10. Moreover, review at this interim stage is further limited. In view of the volume and complexity of a Bonneville rate application, such as the one now before the Commission in this filing, and the limited period in advance of the requested effective date in which to review the application,⁹ the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation. Thus, the proposed rates, if not patently deficient, generally are approved on an interim basis and the parties are afforded an additional opportunity in which to raise issues with regard to Bonneville's filing.¹⁰

⁷ 16 U.S.C. § 839e(k) (2006).

⁸ *E.g., United States Department of Energy - Bonneville Power Administration*, 67 FERC ¶ 61,351, at 62,216-17 (1994); *see also, e.g., Aluminum Co. of America v. Bonneville Power Administration*, 903 F.2d 585, 592-93 (9th Cir. 1989).

⁹ *See* 18 C.F.R. § 300.10(a)(3)(ii) (2013).

¹⁰ *See, e.g., United States Department of Energy – Bonneville Power Administration*, 64 FERC ¶ 61,375 at 63,606 (1993); *United States Department of Energy – Bonneville Power Administration*, 40 FERC ¶ 61,351, at 62,059-60 (1987).

11. The Commission declines at this time to grant final confirmation and approval of Bonneville's proposed wholesale power and transmission rates. The Commission's preliminary review nevertheless indicates that Bonneville's wholesale power and transmission rates filing appears to meet the statutory standards and the minimum threshold filing requirements of Part 300 of the Commission's regulations.¹¹ Moreover, the Commission's preliminary review of Bonneville's submittal indicates that it does not contain any patent deficiencies. The proposed rates therefore will be approved on an interim basis pending our further review. We note, as well, that no one will be harmed by this decision because interim approval allows Bonneville's rates to go into effect subject to refund with interest; the Commission may order refunds with interest if the Commission later determines in its final decision not to approve the rates.¹²

12. In addition, we will provide an additional period of time for parties to file comments and reply comments on issues related to final confirmation and approval of Bonneville's proposed rates. This will ensure that the record in this proceeding is complete and fully developed.

The Commission orders:

(A) Interim approval of Bonneville's proposed wholesale power and transmission rates is hereby granted, to become effective on October 1, 2013, through September 30, 2015, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations, 18 C.F.R. § 300.20(c) (2013), pending final action and either their approval or disapproval.

(B) Within thirty (30) days of the date of this order, parties who wish to do so may file additional comments regarding final confirmation and approval of Bonneville's proposed rates. Parties who wish to do so may file reply comments within twenty (20) days thereafter.

¹¹ See, e.g., *United States Department of Energy – Bonneville Power Administration*, 105 FERC ¶ 61,006 at P13-14 (2003); *United States Department of Energy – Bonneville Power Administration*, 96 FERC ¶ 61,360, at 62,358 (2001).

¹² 18 C.F.R. § 300.20(c) (2013).

(C) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.