

145 FERC ¶ 61,245
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Arkansas, Inc.	Docket Nos. ER14-124-000
Entergy Gulf States Louisiana, L.L.C.	ER14-129-000
Entergy Louisiana, LLC	ER14-130-000
Entergy Mississippi, Inc.	ER14-131-000
Entergy Texas, Inc.	ER14-132-000
Entergy New Orleans, Inc.	ER14-414-000

ORDER ACCEPTING WHOLESALE DISTRIBUTION SERVICE TARIFF AND
AGREEMENTS

(Issued December 18, 2013)

1. On October 18, 2013, pursuant to section 205 of the Federal Power Act (FPA),¹ five of the six Entergy Operating Companies² (Operating Companies) filed the Operating Companies' General Terms and Conditions for Wholesale Distribution Service from an Entergy Operating Company (Wholesale Distribution Service Tariff), as well as Wholesale Distribution Service Agreements with selected customers.³ On November 15,

¹ 16 U.S.C. § 824d (2012).

² Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States Louisiana, L.L.C. (Entergy Gulf States Louisiana), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), and Entergy Texas, Inc. (Entergy Texas).

³ The Wholesale Distribution Service Agreements include: (1) WDS-1, Entergy Arkansas and Union Electric Company/dba Ameren; (2) WDS-2, Entergy Louisiana and American Electric Power Service Corporation (as agent for Southwestern Electric Power Company); (3) WDS-3, Entergy Arkansas and the City of Benton, Arkansas; (4) WDS-4, Entergy Texas and Brazos Electric Power Cooperative, Inc.; (5) WDS-5, Entergy Louisiana and Cleco Power LLC (Northlake Load); (6) WDS-6, Entergy Louisiana and Cleco Power LLC (Valley Load); (7) WDS-7, Entergy Texas and East Texas Electric Cooperative, Inc. (East Texas Electric), Sam Rayburn G&T Cooperative, Inc.

(continued...)

2013, pursuant to section 205 of the FPA, the sixth Entergy Operating Company, Entergy New Orleans, Inc. (Entergy New Orleans), filed its Wholesale Distribution Service Tariff. In this order we accept Entergy Gulf States Louisiana's, Entergy Louisiana's, Entergy Mississippi's, Entergy New Orleans' and Entergy Texas' Wholesale Distribution Service Tariff and Wholesale Distribution Service Agreements effective December 19, 2013, as requested. We also accept Entergy Arkansas' Wholesale Distribution Service Tariff and its Wholesale Distribution Service Agreements under WDS-1, Entergy Arkansas and Union Electric Company/dba Ameren and WDS-12, Entergy Arkansas and Missouri Joint Municipal Electric Utility Commission. We accept the following agreements subject to the outcome of Docket No. ER13-1195-000 as discussed below: (1) WDS-3, Entergy Arkansas and the City of Benton, Arkansas; (2) WDS-15, Entergy Arkansas and North Little Rock Electric Department; (3) WDS-16, Entergy Arkansas and the City of Osceola, Arkansas; (4) WDS-17, Entergy Arkansas and the City of Prescott, Arkansas; and (5) WDS-20, Entergy Arkansas and the City of West Memphis, Arkansas.

I. Background and Filings

2. The Operating Companies will cease providing transmission service to their existing customers on December 19, 2013 when the Operating Companies integrate into the Midcontinent Independent System Operator, Inc. (MISO). The Operating Companies' existing and new transmission customers will then receive transmission service from MISO pursuant to the MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff (MISO Tariff). Under the MISO Tariff, any transmission customer that needs delivery service over distribution facilities will also need Wholesale Distribution Service from the utility to which they are connected. Distribution system owners provide Wholesale Distribution Service in conjunction with

(Sam Rayburn G&T), Tex-LA Electric Cooperative of Texas, Inc. (Tex-LA Electric); (8) WDS-8, Entergy Texas and Kirbyville, Texas (City of); (9) WDS-9, Entergy Gulf States Louisiana and Louisiana Energy and Power Authority (LEPA); (10) WDS-10, Entergy Gulf States Louisiana and Louisiana Generating LLC; (11) WDS-11, Entergy Louisiana and Louisiana Generating LLC; (12) WDS-12, Entergy Arkansas and Missouri Joint Municipal Electric Utility Commission; (13) WDS-13, Entergy Mississippi and Municipal Energy Agency Mississippi; (14) WDS-14, Entergy Texas and the City of Newton, Texas; (15) WDS-15, Entergy Arkansas and North Little Rock Electric Department; (16) WDS-16, Entergy Arkansas and the City of Osceola, Arkansas; (17) WDS-17, Entergy Arkansas and the City of Prescott, Arkansas; (18) WDS-18, Entergy Mississippi and South Mississippi Electric Power Association; (19) WDS-19, Entergy Mississippi and the Tennessee Valley Authority; and (20) WDS-20, Entergy Arkansas and the City of West Memphis, Arkansas.

MISO transmission service as defined by Schedule 11 of the MISO Tariff. The Operating Companies state that although Schedule 11 indicates that the agreements for the service are with the Transmission Provider, in practice such agreements are between the distribution owner and the transmission customer.

3. The Operating Companies state that the current rates for Wholesale Distribution Service were determined in a variety of proceedings, and that customers take service under the standardized rates of the Entergy Open Access Transmission Tariff (OATT) and pre-OATT rates, as reflected in Attachment H of the Entergy OATT. They state that they are not proposing to significantly change their approach to setting rates for Wholesale Distribution Service. Therefore, they created a standard set of terms and conditions coupled with a service agreement modeled on MISO's Exhibit WDS that will state the Wholesale Distribution Service rate. The Operating Companies state that this allowed them to create a set of terms and conditions for existing customers and set a clear procedure for any new customers requesting Wholesale Distribution Service.

4. The Operating Companies state that the Wholesale Distribution Service Tariff contains terms and conditions that are similar to the other Wholesale Distribution Service Agreements previously accepted by the Commission. They state that the terms of the agreement include eligibility requirements, the process for obtaining service, charges and losses, billing, and other obligations and requirements. They also state that the Wholesale Distribution Service Tariff includes a *pro forma* Wholesale Distribution Service Agreement.

5. The Operating Companies state that there are generally three categories of existing rates for Wholesale Distribution Service – fixed rates, formula rates with an annual informational update, and rates under the Attachment H methodology. They propose to freeze all formula rates at 2013 levels and convert them to fixed rates for the near term, subject to change by a future section 205 filing. They state that new customers' rates and changes to existing customers' rates will be determined by the same methodology contained in Attachment H of the Entergy OATT. Finally, they state that the tariff includes standard loss factors, but also permits existing customers to retain their existing loss factors.

6. The Operating Companies state that some of the Wholesale Distribution Service Agreements are filed on an unexecuted basis because the relevant customers did not support the ratemaking approach or otherwise objected to the tariff.

7. Entergy New Orleans states that it inadvertently did not submit the Wholesale Distribution Service Tariff on October 18, 2013 along with the other Operating Companies. It states that its tariff mirrors the Wholesale Distribution Service Tariff submitted by the other Operating Companies and that it has no Wholesale Distribution Service Agreements to file at this time. Entergy New Orleans requests waiver of the Commission's 60-day notice period to permit the proposal to take effect on December 19,

2013 to permit the Wholesale Distribution Service Tariff to go into effect on the date the Operating Companies are integrated into MISO. Entergy New Orleans also requests waiver “in light of the fact that its [Wholesale Distribution Service Tariff] currently has no customers and in light of the [other Operating Companies’] October 18, 2013 filing.”⁴

II. Notice of Filing and Responsive Pleadings

8. Notice of Entergy Arkansas’ filing was published in the *Federal Register*, 78 Fed. Reg. 64,488 (2013) with interventions and protests due on or before November 8, 2013.

9. Notice of Entergy Gulf States Louisiana’s, Entergy Louisiana’s, Entergy Mississippi’s, and Entergy Texas’ filings were published in the *Federal Register*, 78 Fed. Reg. 64,486 (2013) with comments, protests, or interventions due on or before November 8, 2013.

10. Ameren Services Company, the Missouri Joint Municipal Electric Utility Commission, and MISO submitted motions to intervene in Docket No. ER14-124-000. The North Little Rock Electric Department, the City of Osceola, Arkansas, and the City of Benton, Arkansas (collectively, Arkansas Cities) filed a pleading in Docket No. ER14-124-000 that is styled as a motion to intervene but actually contains comments that we will treat as a protest. Entergy filed an answer.

11. MISO filed motions to intervene in Docket Nos. ER14-129-000, ER14-130-000, and ER14-132-000. The Louisiana Public Service Commission (Louisiana Commission) submitted a notice of intervention in these dockets.⁵

12. In Docket No. ER14-131-000, MISO filed a motion to intervene. The Louisiana Commission filed a notice of intervention. The South Mississippi Electric Power Association (SMEPA) filed a motion to intervene and protest, to which Entergy Services, Inc. (Entergy Services) filed an answer.⁶

⁴ Entergy New Orleans Transmittal Letter at 7, Docket No. ER14-414-000 (Nov. 15, 2013).

⁵ The Louisiana Commission’s notice of intervention was also filed in Docket No. ER14-133-000, which is not at issue in this proceeding.

⁶ Although styled as “comments,” Entergy Services’ responsive filing in Docket Nos. ER14-124-000 and ER14-131-000 is more accurately characterized as an answer to SMEPA’s and Arkansas Cities’ filings.

13. Notice of Entergy New Orleans' filing was published in the *Federal Register*, 78 Fed. Reg. 70,547 (2013) with comments, protests, or interventions due on or before December 6, 2013. The Council of the City of New Orleans (New Orleans) submitted a notice of intervention.

14. SMEPA states that it supports the Wholesale Distribution Service Tariff and its Wholesale Distribution Service Agreement with Entergy Mississippi. SMEPA protests language included in the Operating Companies' transmittal letter that it states does not accurately reflect the Wholesale Distribution Service Tariff and could result in prejudgment of an issue not addressed in the tariff as filed. It states that the filing states that "when and if an [Operating Company] sought to change the [Wholesale Distribution Service] Charge for an Existing [Wholesale Distribution Service] Customer, it would then apply the Attachment H methodology."⁷ But SMEPA explains that neither the Wholesale Distribution Service Tariff nor SMEPA's existing agreement with Entergy Mississippi specify that the Attachment H methodology will apply to existing customers and that any future changes to the charges under the Wholesale Distribution Service Tariff must be filed pursuant to section 205 of the FPA.⁸ SMEPA states that the Operating Companies have not provided any evidence that the Attachment H methodology would be just and reasonable in the future and that the Commission should not prejudice the issue in this filing.⁹ Therefore, it asks that the Commission be clear that any acceptance of the filing be limited to the terms of the Wholesale Distribution Service Tariff and filed Wholesale Distribution Service Agreements.¹⁰

15. Arkansas Cities state that the Operating Companies did not provide adequate information to evaluate the filing. They state that they need the following data to evaluate the filing: (1) Benton needs data regarding the accumulated depreciation associated with the distribution delivery point gross plant; and (2) North Little Rock, Osceola and Benton each need 2012 Coincident Peak demand data.

16. Entergy Services responds that SMEPA is correct that the transmittal letter is inconsistent with the Wholesale Distribution Service Tariff. Entergy Services states that the transmittal letter contains draft language that it did not remove after the Operating Companies revised the Wholesale Distribution Service Tariff to respond to customer

⁷ SMEPA Protest at 4 (quoting Operating Companies Transmittal Letter at 7).

⁸ *Id.* at 5-6.

⁹ *See id.* at 6.

¹⁰ *Id.* at 7.

comments. Entergy Services states the Commission can ignore the statements in the transmittal letter stating that the Attachment H methodology will apply to existing customers if an Operating Company changes its methodology in the future.¹¹

17. Entergy Services also states that the Arkansas Cities have each paid a monthly rate that was 1.5 percent times gross investment in the relevant facilities, and that Entergy Arkansas has pledged to freeze these rates.¹² It asserts that neither the monthly demand data nor the depreciation data that the Arkansas Cities request factor into the rate calculation; rather, the data are irrelevant to the presented rates.¹³

III. Discussion

A. Procedural Matters

18. 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 the proceedings in which they were filed. The Louisiana Commission's timely notice of intervention serves to make it a party to Docket Nos. ER14-129-000, ER14-130-000, ER14-131-000, and ER14-132-000.¹⁴

19. 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 answer unless otherwise ordered by the decisional authority. We will accept Entergy Services' answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

20. We will accept the Operating Companies' filings, effective on December 19, 2013, as described below. The data requested by Arkansas Cities is not relevant to the approval of Entergy's proposal to fix the rates at existing levels. The rates for Arkansas Cities depend only on gross plant balances and the stated fixed charge rate of 1.5 percent per month times gross plant. We note that the most recent annual update to the Arkansas Cities' existing rates is pending in Docket No. ER13-1195-000 and therefore we accept

¹¹ Entergy Services Answer at 1.

¹² *See id.* at 2.

¹³ *Id.*

¹⁴ We make no finding in this order with regard to the Louisiana Commission's notice of intervention in Docket No. ER14-133-000.

the proposed rates for Arkansas Cities subject to the outcome of that proceeding.¹⁵ We find that Entergy Services' statements regarding the future applicability of the Attachment H methodology adequately address SMEPA's concerns.

21. The Commission has the discretion to grant a waiver of the 60-day prior notice requirement for good cause shown.¹⁶ Entergy New Orleans filed its Wholesale Distribution Service Tariff before the proposed effective date and the rates will go into effect on the same date as the Operating Companies' integration into MISO. We will therefore grant Entergy New Orleans' request for waiver of the 60-day notice requirement, and accept its filing to become effective December 19, 2013.

22. The following Wholesale Distribution Service Agreements were filed on an unexecuted basis: (1) WDS-3, Entergy Arkansas and the City of Benton, Arkansas; (2) WDS-7, Entergy Texas and East Texas Electric, Sam Rayburn G&T and Tex-La Electric; (3) WDS-9, Entergy Gulf States Louisiana and LEPA; (4) WDS-15, Entergy Arkansas and North Little Rock Electric Department; and (5) WDS-16, Entergy Arkansas and the City of Osceola, Arkansas. Because we have summarily ruled on the protests, and find that the proposal is just and reasonable, we accept the filings and require a compliance filing and direct the Operating Companies to refile the unexecuted Wholesale Distribution Service Agreements on an executed basis within 30 days of the date of this order.

The Commission orders:

(A) The Wholesale Distribution Service Tariff and Wholesale Distribution Service Agreements of Entergy Gulf States Louisiana, Entergy Louisiana, Entergy Mississippi, and Entergy Texas are hereby accepted, to become effective December 19, 2013 as discussed in the body of this order.

¹⁵ The Wholesale Distribution Agreements subject to the outcome of Docket No. ER13-1195-000 include: (1) WDS-3, Entergy Arkansas and the City of Benton, Arkansas; (2) WDS-15, Entergy Arkansas and North Little Rock Electric Department; (3) WDS-16, Entergy Arkansas and the City of Osceola, Arkansas; (4) WDS-17, Entergy Arkansas and the City of Prescott, Arkansas; and (5) WDS-20, Entergy Arkansas and the City of West Memphis, Arkansas.

¹⁶ *Central Hudson Gas & Electric Corp., et al.*, 60 FERC ¶ 61,106, at 61,339 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992) (finding that the Commission will grant waiver of the 60-day prior notice requirement if good cause is shown and the agreement is filed prior to the commencement of service).

(B) The Wholesale Distribution Service Tariff of Entergy New Orleans is hereby accepted to become effective December 19, 2013, as discussed in the body of this order.

(C) We accept to become effective December 19, 2013, as discussed in the body of this order, the following agreements: (1) WDS-1, Entergy Arkansas and Union Electric Company/dba Ameren; and (2) WDS-12, Entergy Arkansas and Missouri Joint Municipal Electric Utility Commission.

(D) We accept to become effective December 19, 2013, as discussed in the body of this order, the following agreements subject to the outcome of Docket No. ER13-1195-000: (1) WDS-3, Entergy Arkansas and the City of Benton, Arkansas; (2) WDS-15, Entergy Arkansas and North Little Rock Electric Department; (3) WDS-16, Entergy Arkansas and the City of Osceola, Arkansas; (4) WDS-17, Entergy Arkansas and the City of Prescott, Arkansas; and (5) WDS-20, Entergy Arkansas and the City of West Memphis, Arkansas.

(E) The Operating Companies should refile the unexecuted Wholesale Distribution Agreements on an executed basis within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.