

151 FERC ¶ 61,178
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Bonneville Power Administration

Docket No. EL15-60-000

v.

Puget Sound Energy, Inc.

ORDER DISMISSING COMPLAINT

(Issued May 29, 2015)

1. On April 20, 2015, pursuant to sections 206 and 306 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rules of Practice and Procedure,² Bonneville Power Administration (Bonneville) filed a complaint (Complaint) against Puget Sound Energy, Inc. (Puget Sound). The Complaint concerns the operation of Puget Sound's transmission formula rate (Formula Rate), including its treatment of reimbursements for prior period adjustments. On May 6, 2015, Puget Sound, together with its answer to the Complaint, also filed a proposed agreement (Agreement) intended to resolve all issues raised by the Complaint. In the Agreement, Puget Sound agrees to modify its open access transmission tariff (Tariff) to incorporate the Formula Rate revisions requested by Bonneville. In this order, we find that Puget Sound's proposed resolution of the matters in dispute satisfies the Complaint, we therefore dismiss the Complaint as moot, and direct Puget Sound to file the Tariff revisions provided for in the Agreement within 30 days of the date of this order.

I. Background

2. Bonneville states that it uses network integration transmission service agreements with Puget Sound to serve certain customers and that these agreements incorporate Puget Sound's transmission rates and charges under the Tariff, including Puget Sound's

¹ 16 U.S.C. §§ 824e and 825e (2012).

² 18 C.F.R. § 385.206 (2014).

Formula Rate. Bonneville explains that the Formula Rate was established by a settlement that was approved by the Commission on May 6, 2013.³

3. Bonneville states that, pursuant to the Formula Rate, Puget Sound files an annual update every June 1 in order to reconcile Puget Sound's actual annual transmission revenue requirement for each rate year with the projected annual transmission revenue requirement that Puget Sound charged its transmission customers during the rate year. The difference between the projected annual transmission revenue requirement and the actual annual transmission revenue requirement is known as the true-up adjustment. Bonneville also notes that the filing of an annual update triggers a review period during which Puget Sound's transmission customers have the opportunity to review the annual update and file information requests to clarify issues in the annual update.⁴ Bonneville asserts that, during these review periods, it has identified errors in the Formula Rate.⁵

II. Complaint

4. In the Complaint, Bonneville alleges that, based on the outcome of the 2013 and 2014 review periods, Puget Sound has over-recovered its transmission cost of service and has recognized its obligation under the Formula Rate protocols to carry forward a prior period adjustment in the 2015 annual update. However, Bonneville asserts that the Formula Rate has no mechanism by which to reflect this prior period adjustment in the 2015 annual update, or to reflect other prior period adjustments that may arise going forward in future annual updates. Bonneville argues that, therefore, the Formula Rate as currently constituted is unjust and unreasonable.⁶ In addition, Bonneville asserts that there are certain non-substantive errors in the Formula Rate.⁷

5. In order to correct the Formula Rate to address the non-substantive issues, and add a mechanism that would allow Puget Sound to reflect prior period adjustments in subsequent annual updates, Bonneville requests that the Commission order Puget Sound to amend its Formula Rate to incorporate the specific revisions set forth by Bonneville in its Complaint.⁸

³ *Puget Sound Energy, Inc.*, 143 FERC ¶ 61,099 (2013).

⁴ Complaint at 5.

⁵ *Id.* at 6-7.

⁶ *Id.* at 7-8.

⁷ *Id.* at 6.

⁸ *Id.* at 8-9.

III. Notice and Responsive Pleadings

6. Notice of Bonneville's Complaint was published in the *Federal Register*, 80 Fed. Reg. 23,269 (2015), with answers, interventions, and protests due on or before May 11, 2015. Industrial Customers of Northwest Utilities, Portland General Electric Company, and Powerex Corp. filed timely motions to intervene.

7. On May 6, 2015, Puget Sound filed its answer to the Complaint and, also, the Agreement which is intended to resolve all issues in the Complaint. On May 12, 2015, Bonneville filed comments in support of the Agreement. No other comments were filed. On May 19, 2015, Bonneville and Puget Sound filed a joint motion for expedited action on the Agreement.

A. Answer to the Complaint and Agreement

8. Puget Sound disagrees with Bonneville that the Formula Rate does not contain a mechanism to account for and reimburse Puget Sound's transmission customers for prior period adjustments. Puget Sound argues that the Formula Rate protocols specifically direct Puget Sound to include prior period adjustments in the annual update for the next effective rate year and that Puget Sound has consistently adhered to this protocol. Puget Sound asserts that, therefore, the protocols identify a reconciliation mechanism for prior period adjustments. Accordingly, Puget Sound states that it does not believe Bonneville's requested revisions are necessary to ensure that there is a mechanism to reflect prior period adjustments.⁹

9. Although Puget Sound maintains that Bonneville's proposed revisions are unnecessary and that Bonneville has not met its burden under section 206 of the FPA to demonstrate that Puget Sound's currently-effective Formula Rate is unjust or unreasonable, Puget Sound states that it does not object to Bonneville's specific proposals to revise the Formula Rate. Therefore, Puget Sound submitted the Agreement along with its answer to fully resolve all of the issues raised in the Complaint. The Agreement provides that Puget Sound will modify the Formula Rate template in its Tariff to incorporate specific revisions that address each of the concerns identified in Bonneville's Complaint.¹⁰

10. Puget Sound states that the Tariff revisions required in the Agreement are acceptable to Puget Sound because they have no substantive impact on the way Puget Sound implements its Formula Rate or the numerical determination of Puget Sound's

⁹ Puget Sound Answer at 2-3.

¹⁰ *Id.* at 5, 15-16; Agreement at Article III.

revenue requirement.¹¹ Puget Sound asserts that the revisions required in the Agreement resolve each of the issues identified by Bonneville in its Complaint and requests that the Commission approve the Agreement so that Puget Sound can file conforming tariff changes effective as of June 1, 2015.¹²

B. Subsequent Pleadings

11. On May 12, 2015, Bonneville filed comments supporting the Agreement. Bonneville states that it supports the Agreement, without conceding any of the allegations or arguments made in Puget Sound's answer.¹³ Bonneville explains that the Agreement addresses all of the issues that the Complaint identified in Puget Sound's Formula Rate without the need for further litigation. Bonneville further states that the Agreement's proposed resolution is fair and reasonable and in the public interest.¹⁴

12. In their May 19, 2015 joint motion for expedited action on the Agreement, Bonneville and Puget Sound represent that they are authorized to state that no party to this proceeding opposes the motion requesting expedited approval of the Agreement.

IV. Discussion

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

14. Consistent with the representations in the pleadings filed by Bonneville and Puget Sound, we find that proposed resolution set forth in the Agreement satisfies Bonneville's Complaint and resolves all issues in dispute in this proceeding. Accordingly, the Complaint has been overtaken by events and we will dismiss the Complaint as moot.

15. In accordance with Puget Sound's commitments in the Agreement, Puget Sound must make a filing in eTariff format within 30 days of the date of this order to modify the Formula Rate template in its Tariff to incorporate the Tariff revisions set forth in the Agreement.

16. Puget Sound is also directed to file an executed version of the Agreement with the Commission within 30 days of the date of this order.

¹¹ Puget Sound Answer at 14.

¹² *Id.* at 16.

¹³ Bonneville Comments at 1.

¹⁴ *Id.* at 2.

The Commission orders:

(A) Bonneville's Complaint is hereby dismissed, as discussed in the body of this order.

(B) Puget Sound is hereby directed to make a compliance filing in eTariff format within 30 days to reflect the Commission's action in this order, and to incorporate into the Formula Rate template in its Tariff the revisions set forth in the Agreement, as discussed in the body of this order.

(C) Puget Sound is hereby directed to file an executed version of the Agreement with the Commission 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.