

156 FERC ¶ 61,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Western Area Power Administration

Docket No. EF15-10-001

ORDER GRANTING CLARIFICATION

(Issued August 10, 2016)

1. On April 21, 2016, the Commission issued an order confirming and approving, on a final basis, Western Area Power Administration's (Western) proposed rate schedules.¹ In response, on May 20, 2016, Western filed a request for clarification, remand or, alternatively, rehearing. As discussed below, we grant clarification.

Request for Rehearing

2. Western objects to a sentence in the April 21 Order that states “[w]hile we approve these rates, we agree with the Arizona Cooperatives that Western has an obligation to update its service agreements before it imposes penalties under the new Rate Schedule SP-UUI.”² Western asserts that this sentence constitutes an interpretation of Western's tariff and exceeds the authority delegated to the Commission by the Department of Energy to confirm and approve Western's rates on a final basis.³ Under the Delegation Order, Western argues, the scope of Commission review is limited to whether the

¹ *Western Area Power Admin.*, 155 FERC ¶ 61,042 (2016) (April 21 Order).

² Western Area Power Administration Request for Clarification, Remand or Rehearing at 2 (May 20, 2016) (citing April 21 Order, 155 FERC ¶ 61,042 at P 14).

³ *Id.* at 8 (citing Delegation Order No. 00-037.00, FERC Stats. & Regs. ¶ 9919 (2001) (Delegation Order)).

proposed rates are sufficient to recover costs and are the “lowest possible consistent with sound business principles.”⁴

3. On June 10, 2016, Arizona Cooperatives filed an answer to Western’s request for rehearing. Subsequently, on June 17, 2016, Western filed an answer to the Arizona Cooperatives’ answer.

Commission Determination

4. Rule 713(d) of the Commission’s Rules of Practice and Procedure prohibits answers to a rehearing request.⁵ Accordingly, we will reject the answer filed by the Arizona Cooperatives, and correspondingly we also will reject the answer filed by Western.

5. We grant Western’s request for clarification to the sentence at issue from the April 21 Order. The sentence was not intended as a substantive finding on the issue of the correct interpretation of Western’s tariff, an issue that is beyond the scope of this proceeding in which the Commission is presented only with the proposed ten rate schedules to address under its delegated authority. We note that at the time that the April 21 Order was issued Western had not challenged the Arizona Cooperatives’ interpretation of the relevant tariff language. As a result, the sentence merely reflected our understanding, based on the limited record available to us at that time of the parties’ common interpretation of the tariff language. The sentence therefore should not be taken as a substantive determination on what we now see to be a contested issue. As this issue was not a factor in the Commission’s decision to approve “on a final basis” Western’s proposed rates, our clarification here does not disturb that finding.

⁴ *Id.* at 8-9.

⁵ 18 C.F.R. § 385.213(a) (2) (2015).

The Commission orders:

Western's request for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.