

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Louisiana Public Service Commission
and the Council of the City of New Orleans

Docket No. EL00-66-004

v.

Entergy Corporation

Entergy Services, Inc.

Docket No. ER00-2854-005

Louisiana Public Service Commission

Docket No. EL95-33-006

v.

Entergy Services, Inc.

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING AND DIRECTING
SUBMITTAL OF WORK PAPERS AND CALCULATIONS

(Issued August 17, 2005)

1. In *Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation*, Opinion No. 468, 106 FERC ¶ 61,228 (2004), *reh'g denied*, Opinion No. 468-A, 111 FERC ¶ 61,080 (2005), the Commission directed Entergy Corporation's public utility operating companies (collectively, Entergy) to modify the Entergy System Agreement (System Agreement) prospectively to exclude interruptible load from the calculation of peak load responsibility in computing charges for the Entergy system.¹

2. In Opinion No. 468-A, we affirmed the findings we made in Opinion No. 468, provided guidance on several implementation issues, and directed Entergy to make a compliance filing within thirty days. In response to this directive, Entergy submitted the compliance filing that is the subject of this order.

¹ The Entergy system is comprised of Entergy Services, Inc. and its various public utility operating companies, *i.e.*, Entergy Arkansas, Inc.; Entergy Louisiana, Inc.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Gulf States, Inc.

3. In this order, we conditionally accept Entergy's submittal for filing and direct Entergy to provide the parties in this proceeding with its work papers and calculations detailing the elimination of the interruptible load.

Background

4. As we explained in Opinion No. 468-A, 111 FERC ¶ 61,080 at P 2, Entergy's System Agreement consists of seven Service Schedules, which allocate costs among the Operating Companies. Certain of the system costs are allocated among the Operating Companies in proportion to the load each Operating Company places on the system at the time of the system peak. This proportionate cost responsibility of each Operating Company under the System Agreement is called its "Responsibility Ratio."²

5. In Opinion Nos. 468 and 468-A, the Commission directed Entergy to end its historic practice of including interruptible load when calculating the Responsibility Ratio, if the system was actually serving interruptible load at the time of the system peak. Instead, we ordered Entergy to modify the System Agreement, on a prospective basis, effective April 1, 2004, to exclude interruptible load from the calculation of peak load responsibility under Schedules MSS-1 and MSS-5 of the System Agreement and from joint account purchases. In addition, in Opinion No. 468-A, 111 FERC ¶ 61,080 at P 30, 34, we clarified that we were not requiring Entergy to exclude interruptible load in calculating peak load responsibility for transmission costs under both Schedules MSS-2 (Transmission Equalization) and MSS-6 (Distribution of Operating Expenses of System Operation Center) of the System Agreement.

Compliance Filing

6. On May 18, 2005, Entergy submitted a compliance filing pursuant to Opinion Nos. 468 and 468-A consisting of revisions to the calculation of each Operating Company's peak load responsibility under the System Agreement. Among other matters, the compliance filing made several revisions to the System Agreement. First, Entergy revised the definitions in section 2.16 (Company Load Responsibility) and section 2.17 (System Load Responsibility) to include interruptible load under Service Schedules MSS-2 and MSS-6 and to exclude interruptible load under Service Schedules MSS-1 and MSS-5 and the allocation of joint account purchases under section 4.02. The revisions also note that, to the extent practical, the determination of what loads are interruptible will be based on actual data and if it is not practical, then the determination will be based on reasonable estimates. Second, Entergy made corresponding revisions to sections 4.02 (Purchased Capacity & Energy), 10.03 (Basis of Reserve Equalization) and 50.03

² The methodology for calculating each operating company's Responsibility Ratio is described in Opinion No. 468-A, 111 FERC ¶ 61,080 at P 3.

(Distribution of Net Balance) to ensure the exclusion of loads served under interruptible tariffs or contracts from Schedule MSS-1, Schedule MSS-5, and joint account purchases. Entergy requests an effective date of April 1, 2004.

Notice of Filing and Responsive Pleadings

7. Notice of Entergy's filing was published in the *Federal Register*, with protests and motions to intervene due on or before June 17, 2005.³ The Louisiana Public Service Commission (LPSC) filed a notice of intervention and protest. Entergy filed an answer to LPSC's protest. LPSC filed an answer to Entergy's answer.

Discussion

A. Procedural Matters

8. As LPSC is already a party to this proceeding, LPSC's notice of intervention will be dismissed as moot. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's and LPSC's answers because they provide information that assists us in our decision-making process.

B. Entergy's Compliance Filing

LPSC's Protest

9. LPSC objects to Entergy's compliance filing to the extent that it provides that the calculation of each operating company's Responsibility Ratio will phase-out the inclusion of interruptible load over twelve months, beginning April 1, 2004, rather than modifying the System Agreement to exclude all interruptible load from the calculation of peak load responsibility effective April 1, 2004. LPSC states that Opinion Nos. 468 and 468-A clearly state that Entergy must adjust its peaks and rates beginning April 1, 2004 and that the opinions do not permit interruptible load to be phased-out over the next twelve months. LPSC argues that Entergy's proposed tariff language is vague and fails to clarify whether it plans to immediately implement the requirements of Opinion Nos. 468 and 468-A or phase these changes in over twelve months. LPSC requests that the Commission require Entergy to provide the parties with documents that reflect the procedure it intends to follow in implementing its tariff changes, including all data, work papers, documents, and calculations reflecting the removal of interruptible load from MSS-1.

Entergy's Answer

³ 70 Fed. Reg. 32,318 (2005).

10. Entergy states that LPSC confuses the effective date of a rate change and the timing of when the rate changes appear in a customer's bill. Entergy acknowledges that the effective date for eliminating interruptible load from the formula rate is April 1, 2004. However, Entergy argues that LPSC fails to understand that the operation of the formula rate creates a billing lag, because it uses a 12-month rolling average calculation, such that the full effect of the change will be phased-in over a 12-month period. Entergy states that this is a separate concept than the effective date of the rates, and that LPSC fails to appreciate this distinction. Entergy states that it will eliminate all of the interruptible load from the formula rate on April 1, 2004, as mandated by Opinion Nos. 468 and 468-A. Entergy argues that the Commission did not require Entergy to retroactively adjust the system peaks for the months prior to April 1, 2004, nor did it require Entergy to revise the formula rate to alter the 12-month rolling average calculation. Consequently, although all of the interruptible load will be eliminated effective April 1, 2004, the effect of the elimination will be phased in prospectively over the ensuing 12 months due to this billing lag.⁴

11. Further, Entergy argues that LPSC's request for its work papers and calculations relating to the removal of the interruptible load is beyond the scope of consideration of its compliance filing, which raises the sole issue of whether Entergy complied with the Commission's directives.

12. LPSC responds that, on the date the new rates became effective, Entergy was obliged to use cost data that excluded interruptible load from the computation of the peak, consistent with the approved formula. Consequently, LPSC argues, all of the data for the months prior to the effective date, should have been revised to exclude interruptible load, as this is what would be needed to conform to the formula and to the Commission's directives in Opinion Nos. 468 and 468-A.

Commission Conclusion

13. LPSC is mistaken in its argument that Entergy seeks to phase-in the removal of interruptible load over twelve months, beginning April 1, 2004. As Entergy states in its answer, Entergy will eliminate its entire interruptible load on April 1, 2004, which is the

⁴For example, if Entergy eliminated 500 MW of interruptible load on April 1, 2004, the formula rate would reflect only one month of the 500 MW reduction (April 2004) and eleven months at the higher load (May 2003–March 2004).

date mandated in our Opinions.⁵ However, since the formula rate is calculated based on a twelve-month rolling average, the effect of the elimination will be phased in over the ensuing twelve months. This is the natural result of the billing lag built into the formula rate. In Opinion Nos. 468 and 468-A, we did not require Entergy to alter the components of the formula rate. Nor did we require Entergy to retroactively adjust the system peaks for the months prior to April 1, 2004. Consequently, we will conditionally accept Entergy's compliance filing with its April 1, 2004 date for the elimination of interruptible load as being in compliance with the requirements of Opinion Nos. 468 and 468-A.

14. Notwithstanding this finding, we disagree with Entergy's contention that work papers showing that it properly calculated the revised rate are beyond the scope of the compliance filing. Accordingly, we will condition our acceptance of Entergy's filing upon its providing to all parties in these proceedings⁶ the work papers and calculations detailing the elimination of the interruptible load from the calculation of peak load responsibility in computing its charges, within thirty days of the date of issuance of this order.

The Commission orders:

(A) Entergy's compliance filing is hereby conditionally accepted for filing.

(B) Entergy is hereby directed to provide to the parties in this case its work papers and calculations detailing the elimination of the interruptible load, within 30 days of the date of issuance of this order, consistent with the findings in this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁵ See Opinion No. 468, 106 FERC ¶ 61,228 at P 77; Opinion No. 468-A, 111 FERC ¶ 61,080 at P 31.

⁶ We are referring here not only to LPSC, but also to the other intervenors in these proceedings.