

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

United States Department of Energy-
Western Area Power Administration
(Central Valley Project, California-Oregon Transmission
Project, and Pacific Alternating Current Intertie)

Docket No. EF06-5011-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(Issued January 25, 2007)

1. On July 26, 2006, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Western Area Power Administration's (Western) Rate Schedules CV-F12 for base resource and first preference power from the Central Valley Project (CVP), CV-T2 for firm and non-firm point-to-point transmission service on the CVP transmission system, CV-NWT4 for network integration transmission service on the CVP transmission system, COTP-T2 for firm and non-firm point-to-point transmission service on the California-Oregon Transmission Project (COTP), and PACI-T2 for firm and non-firm point-to-point transmission service on the Pacific Alternating Current Intertie (PACI), effective September 1, 2006, and ending September 30, 2009.

Western's Filing

2. Western explains that the proposed formula rate for base resource and first preference power from CVP is designed to return an annual amount of revenue to meet the repayment of power investment, and the payment of interest, purchased power, operation and maintenance, and replacement expenses as required by law. Further, Western states that the formula rate does not significantly change the rate design or methodology of the existing rates. Western states that the proposed formula rate change for CV-F12 for the base resource and first preference Power Revenue Requirement

(PRR) results in a 0.04 percent decrease when compared to the fiscal year 2006 PRR. It does, however, remove the reactive power and voltage control from CVP and other non-Federal generation sources service (VAR Support Service) revenue requirement from the transmission revenue requirements associated with CVP, PACI, and COTP transmission service. Instead, Western explains that proposed CVP VAR Support Service costs of \$358,374 annually are included in the CVP base resource and first preference power rates.

Notice of Filing and Responsive Pleadings

3. Notice of Western's filing was published in the *Federal Register*, 71 Fed. Reg. 45,811 (2006), with motions to intervene and protests due on or before August 28, 2006. Timely motions to intervene were filed by Calpine Construction Finance Company, L.P. and Calpine Corporation (Calpine), the Cities of Redding, and Santa Clara, California, and the M-S-R Public Power Agency (collectively Cities/M-S-R), Griffith Energy LLC (Griffith Energy), Lassen Municipal Utility District (LMUD), and the Northern California Power Agency (NCPA). Calpine and Griffith Energy also filed protests. On September 7, 2006, Western filed an answer to the protests.

Discussion

A. Procedural Matters

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedures,¹ an answer may not be made to a protest unless otherwise ordered by the decisional authority. In this case, the Commission finds good cause to permit Western's answer in this proceeding because it provides information that has assisted the Commission in its deliberations.

5. Western objects to Griffith Energy's intervention in this proceeding. It contends that Griffith Energy does not have an interest in this proceeding that is not adequately represented by another party. Western further argues that Griffith Energy does not purchase service under the rate schedules at issue in the instant proceeding, nor did it participate in the administrative proceedings at the Department of Energy where the proposed rates were provisionally approved.

¹ 18 C.F.R. § 385.213(a)(2) (2006).

6. Notwithstanding Western's opposition, we will grant Griffith Energy's motion to intervene. While Griffith Energy may not currently take service under the rate schedules at issue here, it may do so in the future. In addition, participation in the Department of Energy's administrative process is not a prerequisite for a party to intervene in Commission proceedings.

B. Standard of Review

7. The Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (1977), grants the Secretary of Energy (Secretary) authority to approve Western's rates on both an interim and final basis.² The Secretary, in turn, delegated the authority to confirm and approve Western's rates on a final basis to the Commission.³ The Delegation establishes the standard and scope for Commission review of Western's rates. The scope of Commission review is limited to: (1) whether the rates are the lowest possible to customers consistent with sound business principles; (2) whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy, including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and (3) the assumptions and projections used in developing the rate components that are subject to Commission review.

8. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.⁴ The Commission may reject the rate determinations of Western's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate Department of Energy regulations (such as Order No. RA 6120.2, which sets forth financial reporting policies, procedures and methodologies), or if they violate agreements between Western's Administrator and the applicable power generating agency.

² 42 U.S.C. § 7152 (2000).

³ Department of Energy Delegation Order No. 00-037, FERC Stats. & Regs. ¶ 9,919 (2001).

⁴ The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers and the International Boundary and Water Commission. These agencies build and operate various projects. The Power Marketing Administrations, such as Western, market the output of the projects.

9. The Commission considers its role as that of an appellate body which reviews the record developed by the Administrator. The Commission thus may only approve or remand the rates submitted to it for final review.⁵

C. Analysis

10. The Commission has evaluated Western's filing for conformance to applicable standards, and finds that it is consistent with those standards. The Commission's review of Western's submittal indicates that, as demonstrated in the Power Repayment Study (PRS) included in Western's filing, Western's rates will generate sufficient revenue to recoup the cost of producing and transmitting power, and providing ancillary services, and to repay the remaining Federal investment, with interest, in a timely manner. Additionally, since the revenues generated by the proposed rates should recover no more than Western's costs and the remaining Federal investment, the proposed rates are the lowest possible to customers, consistent with sound business principles. The Commission's review also indicates that the assumptions and projections used were reasonable and that the PRS was prepared in a manner consistent with Order No. RA 6120.2.

11. Calpine argues that the Commission has held that the availability of compensation for VAR Support Service within the dead band is based on comparability of compensation. It observes that, in Order No. 2003-A,⁶ the Commission held that if the transmission provider pays its own or its affiliated generators for reactive power within the established range, it must also pay the interconnection customer. Calpine objects to Western's proposal to compensate its affiliated generation for VAR Support Service while denying similar payments to unaffiliated generators. Consequently, Calpine requests that the Commission reject Western's proposal to eliminate VAR Support Service compensation to independent producers, while continuing to compensate its own affiliates.

⁵ See, e.g., *United States Department of Energy-Western Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058 at 61,240-41, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

⁶ FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats & Regs. ¶ 31,171 (January 4, 2005), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (June 30, 2005), *aff'd sub nom, NARUC v. FERC*, No. 04-1148 (D.C. Cir. January 12, 2007).

12. Griffith Energy points out that Western intends to refunctionalize VAR Support Service costs from transmission to generation. It observes that this is contrary to the Commission's determination that generator-supplied reactive power should be functionalized to transmission because generator-supplied reactive power is used in transmitting real power. Like Calpine, Griffith Energy argues that, if a transmission provider pays its own generation for reactive power, it must likewise pay non-affiliated interconnection customers.

13. In its answer, Western responds that its decision on how to restructure its rates is within its discretionary authority, and that Griffith Energy does not raise any legal arguments that the Commission is authorized to consider.

14. We find that the issues raised by Calpine and Griffith Energy are beyond the scope of the Commission's review. As explained above, the Commission is limited in its review of Western's rates. Western's decision to recover CVP VAR Support Service costs in its base resource and first preference power rates, rather than in its transmission rates, is the kind of decision that is beyond the Commission's review of Western's rates.⁷ Consequently, we will not remand Western's rates.

The Commission orders:

Western's Rate Schedules CV-F12, CV-T2, CV-NWT4, COTP-T2, and PACI-T2 are hereby confirmed and approved on a final basis for the period September 1, 2006 through September 30, 2009.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁷ E.g., *United States Department of Energy-Southwestern Power Administration (Jim Woodruff Project)*, 116 FERC ¶ 61,044 at P 10-17 (2006); *United States Department of Energy-Western Power Administration (Pacific Northwest-Pacific Southwest Intertie Project)*, 87 FERC ¶ 61,346 at 62,337 (1999); cf. *United States Department of Energy-Bonneville Power Administration*, 107 FERC ¶ 61,138 at P 25-27 (2004).