

136 FERC ¶ 61,150
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 31, 2011

In Reply Refer To:
El Paso Electric Company and Tucson
Electric Power Company
Docket Nos. EL06-45-000, *et al.*
EL06-46-000 *et al.*

Mary E. Kipp, Senior Vice President,
General Counsel & Chief Compliance Officer
El Paso Electric Company
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El Paso, TX 79960

Todd Hixon, Vice President and General Counsel
Tucson Electric Power Company
P.O. Box 711, MS UE201
Tucson, AZ 85702

Dear Ms. Kipp and Mr. Hixon:

1. On June 24, 2011, you filed on behalf of El Paso Electric Company (El Paso) and Tucson Electric Power Company (Tucson), a proposed settlement agreement (Settlement) with the Commission in the above-referenced dockets.
2. The Settlement resolves all issues set for hearing in Docket Nos. EL06-45-000, *et al.* and EL06-46-000 *et al.*, which concern the 1982 Tucson-El Paso Power Exchange and Transmission Agreement. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding.
3. El Paso made its baseline electronic tariff filing pursuant to Order No. 714; however, it did not file the Settlement in the eTariff format required by Order No. 714.

Therefore, within 30 days of the date of this order, El Paso is directed to make a compliance filing in eTariff format to reflect the Commission's action in this order.¹

4. Article VII of the Settlement provides that

It is the intent of the Parties that, to the maximum extent permitted by law, the provisions of this Settlement shall not be subject to change under Sections 205 and 206 absent the written agreement of the Parties, and that the standard of review unilaterally proposed by either El Paso or Tucson, or by the Commission acting *sua sponte* or at the request of a third party, shall be the public interest standard of review, sometimes referred to as the *Mobile Sierra* public interest standard

5. Because, as noted above, the rates at issue here stem from a bilateral transmission service agreement that is not under an open access transmission tariff and are not generally applicable, we find that those rates are contract rates. In this situation, we agree that the "public interest" presumption applies as described in Article VII of the Settlement. The Settlement should not be understood as establishing the standard of review for changes to El Paso's open access transmission tariff's rates, terms, and conditions.

6. This order terminates Docket Nos. EL06-45-000 *et al.* and EL06-46-000 *et al.*

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹ See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).