

142 FERC ¶ 61,010
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 3, 2013

In Reply Refer To:
Entergy Arkansas, Inc.
Entergy Gulf States Louisiana, L.L.C.
Energy Louisiana, LLC
Energy Mississippi, Inc.
Entergy New Orleans, Inc.
Entergy Texas, Inc.
Docket Nos. ER12-1881-000
ER12-1882-000
ER12-1883-000
ER12-1884-000
ER12-1885-000
ER12-1886-000

Entergy Services, Inc.
Attn: Suzanne K. McBride, Esq.
Senior Counsel for Entergy Services, Inc.
101 Constitution Avenue, NW
Suite 200 East
Washington, DC 20001

Dear Ms. McBride:

1. On May 31, 2012, Entergy Services, Inc. (Entergy) on behalf of Entergy Operating Companies,¹ made a filing to comply with the Commission's order issued May 7, 2012 in Docket No. EL07-52-001.² The May 7, 2012 Order granted in part and denied in part rehearing of two issues raised in a complaint brought by the Louisiana Public Service

¹ Entergy Operating Companies are: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy Texas, Inc., and Entergy New Orleans, Inc.

² *Louisiana Public Service Comm'n v. Entergy Corp.*, 139 FERC ¶ 61,100 (2012) (May 7, 2012 Order).

Commission (Louisiana Commission) in Docket No. EL07-52-000. The Louisiana Commission's complaint sought revisions to the Energy System Agreement Service Schedule MSS-3 with respect to interruptible load and the re-pricing of the Vidalia replacement energy. In the May 7, 2012 Order, the Commission granted rehearing on the interruptible load issue and denied rehearing on the Vidalia re-pricing issue.

2. As relevant here, the Commission found that interruptible load should be excluded from the allocation of fixed production costs in section 30.13 of the bandwidth formula, finding that the rationale for excluding the interruptible load from the peak demand used to allocate production capacity costs under Service Schedule MSS-1³ also applies to the allocation of fixed production costs in Service Schedule MSS-3. The Commission directed a 30-day compliance filing to exclude these loads.

3. Entergy proposes a revision to section 30.13 to exclude interruptible load from the demand ratio component of the Bandwidth Formula. It states that because the definitions included in section 2.16 of the System Agreement provide for a definition of Company Load Responsibility that excludes interruptible load (section 2.16(b)), Entergy has changed the reference in the demand ratio component to refer to subsection (b) of section 2.16. Entergy states that it is proposing the Bandwidth Formula change to comply with this finding in the May 7, 2012 Order on an accelerated basis to allow this change to take effect for the 2012 bandwidth calculation filing, being made concurrently with Entergy's compliance filing in this proceeding, and avoid having to make a subsequent recalculation of the 2012 bandwidth calculation to reflect this formula change.

4. Entergy states that it has noted the effective dates of the revised demand ratio component definition to include the refund effective date established by the Commission (April 3, 2007) through the 15-month refund period permitted under the Federal Power Act (June 3, 2008), and the prospective effect of the change from May 7, 2012, the date of the issuance of the order revising the Commission's finding on this issue. For all other periods, Entergy states that the demand ratio variable reverts to the Commission-approved definition citing System Agreement section 2.16(a).

³ The Commission's rationale for the exclusion of interruptible load from peak demand used to allocate production capacity costs under Service Schedule MSS-1 was set forth in Opinion Nos. 468 and 468-A. *Louisiana Public Service Comm'n v. Entergy Services, Inc.*, Opinion No. 468, 106 FERC ¶ 61,228 (2004), *reh'g denied*, Opinion No. 468-A, 111 FERC ¶ 61,080 (2005), *Louisiana Public Service Comm'n v. FERC*, 482 F.3d 510 (D.C. Cir. 2007), *order on remand*, 120 FERC ¶ 61,241 (2007), *order on reh'g*, 124 FERC ¶ 61,275 (2008).

5. Entergy states that within 45 days of the latter of a final, non-appealable Commission order on rehearing of Opinion Nos. 505, 505-A, 506 (affecting the 2007 and 2008 Bandwidth Calculation filings) and 514 (affecting the 2008 Bandwidth Calculation filing), Entergy will file a comprehensive bandwidth calculation report showing the updated payment/receipt amounts based on the 2007 and 2008 calendar year data, as applicable, in compliance with the Commission orders.

6. Notice of Entergy's compliance filing was published in the *Federal Register*, 77 Fed. Reg. 34,374, with comments and interventions due on or before June 21, 2012. A timely motion to intervene was filed by the Council of the City of New Orleans, Louisiana. A notice of intervention was filed by the Arkansas Public Service Commission. A notice of intervention and provisional protest were filed by the Louisiana Public Service Commission (Louisiana Commission). On July 6, 2012, Entergy submitted an answer to the Louisiana Commission's protest.

7. The Louisiana Commission argues that Entergy's compliance filing misstates the proper procedure for refund because the 15-month period extends from April 3, 2007 to July 3, 2008, rather than the 14-month period described by Entergy in its compliance filing. It also takes issue with Entergy's statement in its compliance filing that Entergy will file a comprehensive bandwidth recalculation report based on the 2007 and 2008 calendar year data to comply with the May 7, 2012 Order. The Louisiana Commission contends that Entergy should amend the *tariff* for the 15-month period, not the calendar year data.⁴ Instead, it argues, the 2007 bandwidth calculation, based on 2006 calendar year data, and the 2008 bandwidth calculation, based on 2007 calendar year data, would be controlled by the filing because the annual filings are required to occur on or about June 1 of each year based on test year data for the previous calendar year.

8. Entergy states in its answer that it agrees with the Louisiana Commission that the time period referenced in its compliance filing is incorrect, and that the correct 15-month refund period is from April 3, 2007 to July 3, 2008. Entergy states that the misstated refund period was the result of administrative error. Additionally, Entergy clarifies that the change to the demand variable, incorporated in the System Agreement tariff, will be used for the annual bandwidth calculations, effective on June 1 of each year. Therefore, Entergy states that whichever variation of the demand ratio component that is in effect in the tariff for the June 1 calculation will determine whether the interruptible loads are included or excluded. Thus, Entergy states that as indicated in the compliance filing, the recalculations for the 2007 bandwidth calculation in Docket No. ER07-956 (using 2006 calendar data) and 2008 bandwidth calculation in Docket No. ER08-1056 (using 2007 calendar year data) will exclude the interruptible loads in the demand ratio component, as

⁴ Louisiana Commission's Protest at 2.

will the 2012 bandwidth calculation (submitted on May 31, 2012 in Docket No. ER12-1920) and future annual bandwidth calculations.

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely unopposed motion to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's answer because it has provided information that assisted us in our decision-making process.

10. The Commission finds that Entergy's proposed revisions to the Entergy System Agreement tariff, as supplemented by its answer, comply with the May 7, 2012 Order. Therefore, we accept the proposed revisions to be effective April 3, 2007. Accordingly, we will require Entergy to file within 45 days of the later of a final Commission order on rehearing of Opinion Nos. 505, 506, 509,⁵ 514, and this proceeding, a comprehensive bandwidth report showing the updated payment/receipt amounts based on the 2007 calendar year data in compliance with the Commission orders. We decline Entergy's proposal to defer this filing until a *non-appealable* final Commission order, as this would unreasonably delay a timely resolution of the recalculation.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁵ While Entergy did not expressly list this proceeding, we note that the Commission recently issued a decision on Entergy's compliance filing in a related docket, which concerns the addition of Spindletop Regulatory Asset costs to the bandwidth calculation. This finding should also be reflected in Entergy's comprehensive recalculation. *See Entergy Services, Inc.*, 139 FERC ¶ 61,106 (2012).