

137 FERC ¶ 61,129
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Nevada Power Company

Docket No. ER11-4215-000

ORDER ACCEPTING AND SUSPENDING REQUEST FOR CANCELLATION OF
RATE SCHEDULE, ESTABLISHING HEARING AND SETTLEMENT JUDGE
PROCEDURES

(Issued November 17, 2011)

1. In this order, the Commission will accept Nevada Power Company's (Nevada Power) request for cancellation of an Interconnection Agreement between Nevada Power and Utah Associated Municipal Power Systems (UAMPS), suspend it for five months, effective April 19, 2012, and set it for hearing and settlement judge procedures.

I. Background

2. Nevada Power and UAMPS are parties to an Interconnection Agreement dated June 17, 1991, that provides, among other things, for the interchange of economy, emergency and banked energy and other power transactions that might be possible through the parties' interconnected systems or through the systems of third parties.¹ Section 5.1 of the Interconnection Agreement provides for termination of the agreement by either party upon 180-days advance written notice to the other party. On May 23, 2011, Nevada Power provided written notification to UAMPS of its intent to terminate the Interconnection Agreement.

II. Instant Filing

3. On August 3, 2011, Nevada Power filed a request for cancellation of its Interconnection Agreement with UAMPS, and requested an effective date of November 19, 2011.

¹ The Interconnection Agreement was designated as FERC Electric Rate Schedule No. 56.

III. Notice of Filing and Responsive Pleading

4. Notice of Nevada Power's filing was published in the *Federal Register*, 76 Fed. Reg. 54,756 (2011), with interventions, protests, and comments due on or before August 24, 2011. On August 31, 2011, UAMPS filed a motion to intervene out-of-time and protest. On September 2, 2011, UAMPS filed errata to its motion to intervene out-of-time and protest to change an incorrect reference.

5. In its protest, UAMPS raises issues tied in part to pending settlement discussions in Docket No. ER11-3839-000.² UAMPS explains that while it acknowledges receipt of Nevada Power's notice of its intent to terminate the Interconnection Agreement, it was not expecting Nevada Power to file its request at such an early date. Instead, UAMPS anticipated that, before any such request was filed by Nevada Power, the issue of providing emergency service for UAMPS's load from the Harry Allen substation could be addressed in Docket No. ER11-3839-000. UAMPS states that it has sought to obtain an emergency services agreement from Nevada Power to replace the Interconnection Agreement, but its effort has been unsuccessful.³

6. UAMPS contends that the cancellation of the Interconnection Agreement will leave UAMPS without any contractual relationship with Nevada Power, even though it is the entity to which UAMPS must look to serve its loads whenever there is an outage of the Sigurd-Red Butte Line.⁴

7. UAMPS requests that the Commission "stay its hand" in authorizing cancellation of the Interconnection Agreement at least pending the outcome of settlement discussions in ER11-3839-000.⁵

² *Nevada Power Company*, 136 FERC ¶ 61,108 (2011) (The dispute in this case is regarding the cost responsibility for the improvements at the Harry Allen substation, primarily, the addition of a second 345/230 kV transformer, requested by PacifiCorp in part to satisfy its transmission obligations to southwest Utah).

³ UAMPS Protest at 4-5.

⁴ *Id.* at 5.

⁵ *Id.* at 6.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), the Commission will grant UAMPS's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Analysis

9. Our preliminary analysis of the current record evidence indicates that Nevada Power's request for cancellation of the Interconnection Agreement between Nevada Power and UAMPS has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept Nevada Power's request for cancellation of the Interconnection Agreement with UAMPS, suspend it for five months, effective April 19, 2012, and set it for hearing and settlement judge procedures. Additionally, we will also require a status report thirty days after the date of issuance of this order that should indicate whether settlement will be achieved before the end of the suspension period. If that outcome is not likely, the parties will be required to establish an expedited schedule so as to permit the Commission to issue an order on the merits of the issue, prior to the end of the suspension period.

10. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.⁷ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this

⁶ 18 C.F.R. § 385.603 (2011).

⁷ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges).

report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) Nevada Power's request for cancellation of the Interconnection Agreement with UAMPS is hereby accepted for filing and suspended for five months, effective April 19, 2012, as discussed in the body of this order.

(B) The parties are required to file a status report 30 days after the date of the issuance of this order as discussed in the body of the order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning the issues raised in this proceeding, as discussed in the body of this order. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2011), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge in writing or by telephone within five days of the date of this order.

(E) Within 30 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in these proceedings in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.