

152 FERC ¶ 61,201  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

Bonneville Power Administration

Docket No. EF15-9-000

ORDER APPROVING RATES ON AN INTERIM BASIS  
AND PROVIDING OPPORTUNITY FOR ADDITIONAL COMMENTS

(Issued September 17, 2015)

1. In this order, we approve the Bonneville Power Administration's (Bonneville) proposed 2016 wholesale power and transmission rates on an interim basis, pending our further review. We also provide an additional period of time for the parties to file comments.

**I. Background**

2. On July 29, 2015, Bonneville filed a request for interim and final approval of its wholesale power<sup>1</sup> and transmission rates<sup>2</sup> in accordance with the Pacific Northwest

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<sup>1</sup> The proposed wholesale power rates for which Bonneville seeks approval for the period October 1, 2015 through September 30, 2017, include: Priority Firm Power Rate (PF-16); New Resource Firm Power Rate (NR-16); Industrial Firm Power Rate (IP-16); Firm Power Products and Services Rate (FPS-16); and Power General Rate Schedule Provisions (GRSPs).

<sup>2</sup> The proposed transmission rates for which Bonneville seeks approval for the period October 1, 2015 through September 30, 2017, include: Formula Power Transmission Rate (FPT-16.1); Formula Power Transmission Rate (FPT-16.3); Integration of Resources Rate (IR-16); Network Integration Rate (NT-16); Point-to-Point Rate (PTP-16); Southern Intertie Rate (IS-16); Montana Intertie Rate (IM-16); Use-of-Facilities Transmission Rate (UFT-16); Advance Funding Rate (AF-16); Ancillary Services and Control Area Services Rates (ACS-16); Townsend-Garrison Transmission Rate (TGT-16); WECC and Peak Service Rate (PW-16); Oversupply Rate (OS-16);

(continued...)

Electric Power Planning and Conservation Act (Northwest Power Act)<sup>3</sup> and Part 300 of the Commission's regulations.<sup>4</sup> Bonneville projects that the filed rates will produce average annual power revenues of \$2.861 billion, and average annual revenues from transmission and ancillary services rates of \$1.085 billion. Bonneville asserts that this level of annual revenues is sufficient to recover its costs for the 2016-2017 rate approval period, while providing cash flow to ensure at least a 95 percent probability of making all payments to the United States Treasury in full and on time for each year of the rate period.

## II. Notice of Filing

3. Notice of Bonneville's application was published in the *Federal Register*,<sup>5</sup> with protests and interventions due on or before August 28, 2015. Timely motions to intervene were filed by the Turlock Irrigation District, Calpine Corporation, Public Power Council, Industrial Customers of Northwest Utilities, Northwest Requirements Utilities, Public Power Council, Idaho Power Company, PacifiCorp, Puget Sound Company, M-S-R Public Power Agency, Caithness Shepherds Flat LLC, Modesto Irrigation District, Pacific Northwest Generating Cooperative, Western Public Agencies Group, Powerex Corporation and Portland General Electric Company.

4. Iberdrola Renewables, LLC (Iberdrola) filed a motion to intervene and protest. Iberdrola asserts that Bonneville's Oversupply Rate, OS-16, violates the Northwest Power Act by incorrectly allocating Bonneville's power costs to Bonneville's transmission customers.<sup>6</sup> Iberdrola quotes Northwest Power Act section 7(g) as saying all costs of fish and wildlife measures, as well as all costs associated with the sale of or inability to sell excess power, must be allocated to power rates.<sup>7</sup> Iberdrola argues Bonneville's oversupply management costs are fish and wildlife costs as well as costs associated with the inability to sell excess electric power, and thus should be allocated to

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Eastern Intertie Rate (IE-16); and Transmission General Rate Schedule Provisions (GRSPs).

<sup>3</sup> 16 U.S.C. § 839e (2012).

<sup>4</sup> 18 C.F.R. Part 300 (2015).

<sup>5</sup> 80 Fed. Reg. 46,983 (Aug. 8, 2015).

<sup>6</sup> Iberdrola Protest at 3.

<sup>7</sup> *Id.* at 4.

power customers, not transmission customers.<sup>8</sup> Iberdrola continues that, although Bonneville states that oversupply costs occur because wind generators have been interconnected to its system, the oversupply costs are actually caused by Bonneville having too much generation and not enough load, and having fish-protection restrictions on spillage that require Bonneville to pay someone to take the excess generation.<sup>9</sup> Finally, Iberdrola argues that if Bonneville wishes to extend the use of the Oversupply Management Proposal (OMP) for the 2016-17 rate period, it should submit those rates to the Commission for review and approval under Federal Power Act section 211A.<sup>10</sup>

5. Avista Corporation, Portland General Electric Company, Puget Sound Energy, Inc, and PacifiCorp (collectively Joint Commenters) filed Joint Comments requesting that the Commission reject Bonneville's proposed allocation of oversupply costs to transmission customers and deny Bonneville's application for confirmation and approval of the OS-16 Rate.<sup>11</sup> The Joint Commenters request that the OS-16 Rate should be rejected as a permanent solution to Bonneville's purported oversupply.<sup>12</sup> The Joint Commenters also request that the Commission not rely on its prior OS-14 rate determinations in reviewing the OS-16 rate,<sup>13</sup> and that Bonneville's proposed allocation of oversupply costs to transmission is based on the flawed premise that interconnection of, or scheduling of transmission for, generation in Bonneville's Balancing Authority Area causes oversupply.<sup>14</sup> The Joint Commenters also assert that it is Bonneville's reliance on OMP and its failure to take all reasonable actions to avoid excess spill that lead to the erroneous conclusion that transmission of displaceable generation interconnected in Bonneville's Balancing Authority Area causes oversupply.<sup>15</sup> The Joint

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 7-8; 16 U.S.C. § 824j-1(f) (2012).

<sup>11</sup> Joint Commenters at 18.

<sup>12</sup> Joint Commenters at 2, citing *Bonneville Power Admin.*, 149 FERC ¶ 61,043 (2014).

<sup>13</sup> *Id.* at 5-6.

<sup>14</sup> *Id.* at 7-11.

<sup>15</sup> *Id.* at 11-14.

Commenters further assert that the Northwest Power Act<sup>16</sup> and Transmission System Act<sup>17</sup> cost allocation standards prohibit the allocation of oversupply costs to transmission rates.<sup>18</sup>

### **III. Discussion**

#### **A. Procedural Matters**

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>19</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure<sup>20</sup> prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority.

#### **B. Standard of Review**

8. Under the Northwest Power Act, the Commission's review of Bonneville's regional power and transmission rates is limited to determining whether Bonneville's proposed rates meet the three specific requirements of section 7(a)(2) of the Northwest Power Act:<sup>21</sup>

(A) they must be sufficient to assure repayment of the federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting Bonneville's other costs;

(B) they must be based upon Bonneville's total system costs; and

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<sup>16</sup> 16 U.S.C. § 839 (2012).

<sup>17</sup> 16 U.S.C. § 838 (2012).

<sup>18</sup> *Id.* at 14-17.

<sup>19</sup> 18 C.F.R. § 385.214 (2015).

<sup>20</sup> 18 C.F.R. § 385.213(a)(2) (2015),

<sup>21</sup> 16 U.S.C. § 839e(a)(2) (2012). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

- (C) insofar as transmission rates are concerned, they must equitably allocate the costs of the federal transmission system between federal and non-federal power.

9. Commission review of Bonneville's non-regional, non-firm rates also is limited. Review is restricted to determining whether such rates meet the requirements of section 7(k) of the Northwest Power Act,<sup>22</sup> which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Taken together, those statutes require that Bonneville's non-regional, non-firm rates:

- (A) recover the cost of generation and transmission of such electric energy, including the amortization of investments in the power projects within a reasonable period;
- (B) encourage the most widespread use of Bonneville power; and
- (C) provide the lowest possible rates to consumers consistent with sound business principles.

10. Unlike the Commission's statutory authority under the Federal Power Act, the Commission's authority under sections 7(a) and 7(k) of the Northwest Power Act does not include the power to modify the rates. The responsibility for developing rates in the first instance is vested with Bonneville's Administrator. The rates are then submitted to the Commission for approval or disapproval. In this regard, the Commission's role can be viewed as an appellate one: to affirm or remand the rates submitted to it for review.<sup>23</sup>

11. Moreover, review at this interim stage is further limited. In view of the volume and complexity of a Bonneville rate application, such as the one now before the Commission in this filing, and the limited period in advance of the requested effective date in which to review the application,<sup>24</sup> the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation.

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<sup>22</sup> 16 U.S.C. § 839e(k) (2012).

<sup>23</sup> See, e.g., *United States Department of Energy - Bonneville Power Admin.*, 67 FERC ¶ 61,351, at 62,216-17 (1994); see also, e.g., *Aluminum Co. of America v. Bonneville Power Admin.*, 903 F.2d 585, 592-93 (9th Cir. 1989).

<sup>24</sup> See 18 C.F.R. § 300.10(a)(3)(ii) (2015).

Thus, the proposed rates, if not patently deficient, generally are approved on an interim basis and the parties are afforded an additional opportunity in which to raise issues with regard to Bonneville's filing.<sup>25</sup>

12. The Commission declines at this time to grant final confirmation and approval of Bonneville's proposed wholesale power and transmission rates. The Commission's preliminary review nevertheless indicates that Bonneville's wholesale power and transmission rates filing appears to meet the statutory standards and the minimum threshold filing requirements of Part 300 of the Commission's regulations.<sup>26</sup> Moreover, the Commission's preliminary review of Bonneville's submittal indicates that it does not contain any patent deficiencies. The proposed rates therefore will be approved on an interim basis pending our further review. We note, as well, that no one will be harmed by this decision because interim approval allows Bonneville's rates to go into effect subject to refund with interest; the Commission may order refunds with interest if the Commission later determines in its final decision not to approve the rates.<sup>27</sup>

13. In addition, we will provide an additional period of time for parties to file comments and reply comments on issues related to final confirmation and approval of Bonneville's proposed rates. This will ensure that the record in this proceeding is complete and fully developed.

The Commission orders:

(A) Interim approval of Bonneville's proposed wholesale power and transmission rates is hereby granted, to become effective on October 1, 2015, through September 30, 2017, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations<sup>28</sup> pending final action and either their approval or disapproval.

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<sup>25</sup> See, e.g., *United States Department of Energy – Bonneville Power Administration*, 64 FERC ¶ 61,375, at 63,606 (1993); *United States Department of Energy – Bonneville Power Admin.*, 40 FERC ¶ 61,351, at 62,059-60 (1987).

<sup>26</sup> See, e.g., *United States Department of Energy – Bonneville Power Admin.*, 105 FERC ¶ 61,006, at PP 13-14 (2003); *United States Department of Energy – Bonneville Power Admin.*, 96 FERC ¶ 61,360, at 62,358 (2001).

<sup>27</sup> See 18 C.F.R. § 300.20(c) (2015).

<sup>28</sup> 18 C.F.R. § 300.20(c) (2015).

(B) Within thirty (30) days of the date of this order, parties who wish to do so may file additional comments regarding final confirmation and approval of Bonneville's proposed rates. Parties who wish to do so may file reply comments within twenty (20) days thereafter.

(C) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.