

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 -
Bonneville Power Administration

Docket No. EF06-2011-000

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

(Issued September 21, 2006)

1. In this order, we approve the Bonneville Power Administration's (Bonneville) proposed wholesale power rates¹ on an interim basis, pending our full review for final approval. We also provide an additional period of time for parties to file comments. The proposed wholesale power rates are intended to allow Bonneville to recover its costs and repay the Federal investment in the Federal Columbia River Power System.

Background

2. On July 28, 2006, Bonneville filed a request for interim and final approval of its wholesale power rates in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act)² and Subpart B of Part 300 of the Commission's regulations.³

¹ The proposed wholesale power rates for which Bonneville seeks approval for the period October 1, 2006 through September 30, 2009, include: PF-07 Priority Firm Power Rate, NR-07 New Resource Firm Power Rate, IP-07 Industrial Firm Power Rate, FPS-07 Firm Power Products and Services Energy Rate, and GTA General Transfer Agreement Delivery Charge in addition to related General Rates Schedule Provisions (GRSPs).

² 16 U.S.C. §§ 839e(a)(2), 839e(i)(6) (2000).

³ 18 C.F.R. Part 300 (2006).

Interventions and Comments

3. Notice of Bonneville's July 28, 2006 wholesale power rates filing was published in the *Federal Register*, 71 Fed. Reg. 45,801 (2006), with protests or interventions due on or before August 28, 2006. Avista Corporation, Portland General Electric Company, Idaho Power Company, PacifiCorp, Puget Sound Energy, Inc., Northwest Requirements Utilities,⁴ and the Industrial Customers of Northwest Utilities filed timely motions to intervene, raising no substantive issues.

4. In addition, the Columbia River Inter-Tribal Fish Commission, the Nez Perce Tribe, and the Yakama Nation (collectively, Tribes), LS Power Associates, LLC (LS Power), and PPM Energy, Inc., Northwest Independent Power Producers Coalition, TransAlta Centralia Generation, LLC, and Calpine Corporation (collectively, Generators) filed timely motions to intervene and protests. Bonneville filed an answer in response to Generators protest. Additionally, Bonneville filed an answer in opposition to LS Power's intervention and protest.

Discussion

Procedural Matters

5. 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. Notwithstanding Bonneville's opposition, we will grant LS Power's motion to intervene given its interest in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

Standard of Review

6. 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:⁵

⁴ They are comprised of various municipalities, public utility districts, cooperatives, etc., and they seek to intervene jointly and also individually.

⁵16 U.S.C. § 839e(a)(2) (2000). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

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

7. 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,⁶ which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act (Transmission System Act). Taken together, those statutes require Bonneville to design its non-regional, non-firm rates:

- (A) to 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) to encourage the most widespread use of Bonneville power; and
- (C) to provide the lowest possible rates to consumers consistent with sound business principles.

8. 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.⁷

9. 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

⁶16 U.S.C. § 839e(k) (2000).

⁷ *E.g.*, *United States Department of Energy - Bonneville Power Administration*, 67 FERC ¶ 61,351 at 62,216-17 (1994); *see also, e.g.*, *Aluminum Co. of America v. Bonneville Power Administration*, 903 F.2d 585, 592-93 (9th Cir. 1989).

date in which to review the application,⁸ the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation. 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.⁹

Interim Approval

10. The Tribes argue that Bonneville's proposed rates are not sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System, particularly given Bonneville's fish and wildlife obligations. Generators and LS Power challenge Bonneville's plan to deny compensation to unaffiliated generators within its control area for generation-supplied reactive power service as unduly discriminatory and in violation of Commission policy.

11. The Commission declines at this time to grant final confirmation and approval of Bonneville's proposed wholesale power rates. The Commission's preliminary review nevertheless indicates that Bonneville's wholesale power rates filing appears to meet the statutory standards and the minimum threshold filing requirements of Part 300 of the Commission's regulations.¹⁰ 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 full review for final approval. 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.¹¹

12. 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.

⁸See 18 C.F.R. § 300.10(a)(3)(ii) (2006).

⁹ 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 Administration*, 40 FERC ¶ 61,351 at 62,059-60 (1987).

¹⁰ See, e.g., *United States Department of Energy – Bonneville Power Administration*, 105 FERC ¶ 61,006 at P13-14 (2003); *United States Department of Energy – Bonneville Power Administration*, 96 FERC ¶ 61,360 at 62,358 (2001).

¹¹ 18 C.F.R. § 300.20(c) (2006).

The Commission orders:

(A) Interim approval of Bonneville's proposed wholesale power rates is hereby granted, to become effective on October 1, 2006, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations, 18 C.F.R. § 300.20(c) (2006), pending final action and either their approval or disapproval.

(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)

Magalie R. Salas,
Secretary.