

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION  
104 FERC ¶ 61,093

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

United States Department of Energy -  
Bonneville Power Administration

Docket Nos. EF00-2012-000  
and EF00-2012-001

ORDER CONFIRMING AND APPROVING RATES  
ON A FINAL BASIS

(Issued July 21, 2003)

1. In this order, we confirm and approve the Bonneville Power Administration's (Bonneville) proposed power rates<sup>1</sup> on a final basis. The governing statute and case law do not provide the Commission latitude to review these rates in the same manner as the Federal Power Act<sup>2</sup> provides for public utilities. If Bonneville has satisfied the standards of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act),<sup>3</sup> the Commission is required to confirm and approve these rates.<sup>4</sup>

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<sup>1</sup>The proposed power rates schedules that Bonneville seeks approval for are for the period of October 1, 2001 to September 30, 2006 and include: PF-02 Priority Firm Power Rate, RL-02 Residential Load Firm Power Rate, NR-02 New Resource Firm Power Rate, IP-02 Industrial Firm Power Rate, NF-02 Nonfirm Energy Rate.

<sup>2</sup>16 U.S.C. §§ 824 et seq. (2000).

<sup>3</sup>Sections 7(a)(2) and 7(I)(6) of the Northwest Power Act, 16 U.S.C. §§ 839e(a)(2) and 839e(I)(6) (2000).

<sup>4</sup>Central Lincoln Peoples' Utility District v. Johnson, 735 F.2d 1101, 1110 (9th Cir. 1984)(holding that the Northwest Power Act "remove[s] FERC from actual ratemaking. . . and limit[s] FERC's role to financial oversight of the regional rates").

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### **Background**

2. On July 6, 2000, Bonneville filed a request for interim and final approval of its power rates in accordance with the Northwest Power Act<sup>5</sup> and Part 300 of the Commission's regulations.<sup>6</sup>
3. On August 4, 2000, Bonneville filed a motion to stay the proceedings citing the unprecedented wholesale power price spikes in the west during the summer of 2000. As a result of the price spikes, Bonneville explained, preference power customers were expected to abandon their plans to seek out power supplies from the market and instead purchase significantly more power from Bonneville than originally anticipated. According to Bonneville, the combination of an unanticipated increase in load coupled with higher and more uncertain market prices greatly diminished the prospect that its original proposed wholesale power rates would recover its costs and repay the Federal investment in the Federal Columbia River Power System.
4. On June 29, 2001, Bonneville filed a supplemental wholesale power rate filing. The supplemental wholesale power rate filing adjusts the General Rate Schedule Provisions by replacing the capped single Cost Recovery Adjustment Clause (CRAC) with a three-component CRAC. In addition, the Dividend Distribution Clause has been modified to trigger starting in the second year of the rate period, rather than in the first year.
5. In the June 29, 2001 filing, Bonneville requested interim and final approval of the wholesale power rates that were originally filed on July 6, 2000, as revised by the supplemental wholesale power rate adjustment. Bonneville seeks approval of its wholesale power rates for the rate period October 1, 2001, through September 30, 2006.
6. On September 28, 2001, the Commission granted interim approval and provided an opportunity for additional comments.<sup>7</sup>

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<sup>5</sup>Sections 7(a)(2) and 7(I)(6) of the Northwest Power Act, 16 U.S.C. §§ 839e(a)(2) and 839e(I)(6) (2000).

<sup>6</sup>18 C.F.R. Part 300 (2003).

<sup>7</sup>United States Department of Energy - Bonneville Power Administration, 96 FERC ¶ 61,360 (2001).

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### **Interventions and Comments**

7. Avista Energy, Inc., Avista Corporation, Industrial Customers of Northwest Utilities, Vanalco, Inc., Idaho Consumer-Owned Utilities Association, Public Power Council, Goldendale Aluminum Company, Northwest Aluminum Company, Reynolds Metals Company, Kaiser Aluminum & Chemical Corporation, Columbia Falls Aluminum Company, Atofina Chemicals, Inc., (collectively, the DSIs), Alcoa Inc., Market Access Coalition, Blue Ridge Environmental Defense League, Columbia River Inter-Tribal Fish Commission, Confederated Tribes of the Umatilla Indian Reservation, Yakama Nation, Enron Power Marketing, Inc., Portland General Electric Company, Idaho Power Company filed timely motions to intervene, raising no substantive issues. The Oregon Public Utility Commission and Washington Utilities and Transportation Commission filed notices of intervention. PPL Montana, Upper Columbia United Tribes, Central Montana Electric Power Cooperative, Inc., Oregon Utility Resource Coordination Association, Shoshone-Bannock Tribes, Springfield Utility Board, and Northwest Requirements Utilities filed motions to intervene out of time. In the order granting interim approval, the Commission granted the out-of-time motions to intervene.<sup>8</sup>

8. In addition, Industrial Customers of Northwest Utilities, Northwest Energy Coalition, Save Our Wild Salmon Coalition, City of Burbank, Puget Sound Energy, Inc., PacifiCorp, and Public Generating Pool (PGP) and the PNGC Group filed timely motions to intervene and protests. The DSIs filed an answer to PGP's and PNGC Group's protest.

9. The Public Power Council and the Northwest Requirements Utilities filed comments in support of final approval of Bonneville's power rates.

10. The following parties filed additional comments in response to the Commission's September 28, 2001 interim order: Northwest Requirements Utilities, PGP and PNGC Group, DSIs, Columbia River Inter-Tribal Fish Commission, and the Public Power Council. On November 18, 2001, Alcoa, Inc., PNGC Group, DSIs, Public Power Council and Bonneville filed reply comments to the additional comments.

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<sup>8</sup>Id.

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### **Standard of Review**

11. 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):

- (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.<sup>9</sup>

12. Commission review of Bonneville's non-regional, nonfirm 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>10</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 (Transmission System Act). Taken together, those statutes require Bonneville to design its non-regional, nonfirm 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.

13. 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

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<sup>9</sup>16 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.

<sup>10</sup>16 U.S.C. § 839e(k) (2000).

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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>11</sup>

## **Discussion**

### Regional Rates

14. While Section 7(a) of the Northwest Power Act requires only that the Federal investment be repaid sometime within a reasonable number of years, traditionally we have considered the repayment period as 50 years. In addition, we have required that some reasonable intermediate level of repayment should exist to ensure that repayment will occur by the end of the fiftieth year.

15. The traditional measure of the adequacy of Bonneville's revenues has been the power repayment study. Bonneville's power repayment study indicates that the revenues expected to be collected under the proposed rates will be sufficient to recover Bonneville's total system costs, including the recovery of the remaining Federal investment, with interest, over the repayment period.

16. In sum, our review of Bonneville's power repayment study indicates that its proposed rates are consistent with Sections 7(a)(2)(A) and (B) of the Northwest Power Act.<sup>12</sup>

### Out of Region Rates

17. Bonneville maintains that the rates it filed for nonfirm sales outside the Pacific Northwest region meet the requirements of Section 7(k) of the Northwest Power Act, because the rates are cost-based and are widely available to all potential customers. Our

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<sup>11</sup>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), and cases cited therein.

<sup>12</sup>We also find that the repayment study was prepared in a manner consistent with Order No. RA 6120.2, using generally accepted accounting principles, as appropriate, and sound forecasting techniques designed to approximate as closely as possible actual results.

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review indicates that Bonneville is correct, and the proposed rates are consistent with the applicable statutory standards.

#### Rate Design Issues

18. A number of rate design issues were raised by the intervenors,<sup>13</sup> including how costs were assigned to Bonneville's Residential Exchange Program and to Bonneville's Direct Service Industrial Power Sales Customers. However, rate design issues are outside the scope of the Commission's review.<sup>14</sup> Accordingly, the Commission need not address these rate design issues.

#### **The Commission orders:**

Bonneville's proposed power rates are hereby confirmed and approved on a final basis for the periods requested by Bonneville.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

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<sup>13</sup>The Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, and the Columbia River Inter-Tribal Fish Commission (collectively, Yakama), PGP and PNGC Group, and DSIs.

<sup>14</sup>United States Department of Energy - Bonneville Power Administration, 95 FERC ¶ 61,082 at 61,244-45 & n.12 (2001).