

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
101 FERC ¶ 61,238

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

Sierra Pacific Power Company
Nevada Power Company

Docket No. ER03-37-000

Sierra Pacific Power Company
Nevada Power Company

Docket No. ER02-2609-000

ORDER ACCEPTING AND SUSPENDING FILING, ESTABLISHING HEARING
PROCEDURES AND CONSOLIDATING DOCKETS

(Issued November 25, 2002)

1. In this order, we accept for filing Sierra Pacific Power Company (Sierra Pacific) and Nevada Power Company's (Nevada Power) (collectively, Applicants) revised ancillary Service Schedules 1 through 7 under their Joint Open Access Transmission Tariff (Joint OATT), suspend them for a nominal period, and make them effective, subject to refund, January 1, 2003, as requested.¹ We will also consolidate this docket with the proceeding established in Docket No. ER02-2609-000 for purposes of hearing and decision.² This order benefits customers because it provides the parties with a forum to determine just and reasonable rates for ancillary services provided by Applicants.

¹Applicants filed a revised Joint OATT, Third Revised Volume No. 1, on September 27, 2002 in Docket No. ER02-2609-000, in which they proposed modifications to the Joint OATT to implement retail access in Nevada. Applicants requested a November 1, 2002 effective date for those changes. Applicants request that, in the event that the effective date is delayed in that docket, these service schedules not be made effective prior to Third Revised Volume No. 1 becoming effective.

²An order in Docket No. ER02-2609-000 establishing hearing procedures is being issued concurrently with this order. See Sierra Pacific Power Co., et al., __FERC ¶ __ (2002).

Background

2. On October 11, 2002 Applicants filed, pursuant to section 205 of the Federal Power Act,³ revised ancillary Service Schedules 1 through 7 under their Joint OATT, Third Revised Volume No. 1. Applicants state that the purpose of the filing is to update Applicants' ancillary service rates.

The Filing

3. Applicants propose to revise their ancillary services charges. Applicants state that the rates for ancillary service schedules are developed separately for each of the two zones representing the two Sierra Pacific Resources Operating Companies, Sierra Pacific (Zone A) and Nevada Power (Zone B). Applicants also propose to modify certain terms and conditions of the ancillary service schedules. Specifically, Applicants propose: (1) new communication and scheduling requirements for Schedule 1- Scheduling, System Control and Dispatch Service; (2) application of the charges for Schedule 2 - Reactive Supply and Voltage Control from Generation Resources Service to actual reserved transmission capacity (point-to-point service) or monthly network load (network service); (3) an expanded deviation bandwidth for Schedule 4 - Energy Imbalance Service, as well as removal of the option for payment-in-kind and modified imbalance penalty provisions; (4) modifications to the scheduling requirements of Schedule 5 - Spinning Reserve Service and Schedule 6 - Supplemental Reserve Service, as well as inclusion of a penalty provision and clarification of the minimum reserve requirements for these services; and (5) modifications to Schedule 7 - Generation Imbalance Service similar to the rate, terms and conditions modifications under Schedule No. 4.

Notice of Filing and Interventions

4. Notice of the October Filing was published in the Federal Register, 67 Fed. Reg. 65,558 (2002), with comments, protests, or interventions due on or before November 1, 2002. Timely motions to intervene raising no substantive comments were filed by Naniwa Energy LLC and the Southern Nevada Water Authority. Timely motions to intervene and protests were filed by: Truckee Donner Public Utility District (Truckee); Pinnacle West Energy Corporation; APS Energy Services and Mirant Americas Energy Marketing, L.P. (Joint Protesters); Reliant Energy Services, Inc. (Reliant); Morgan Stanley Capitol Group Inc. (Morgan Stanley); and Valley Electric Association, Inc. (Valley). The City of Fallon, Nevada (Fallon) filed a timely motion to intervene, protest

³16 U.S.C. § 824d (2000).

and motion to consolidate. The Colorado River Commission of the State of Nevada (CRC) filed a timely motion to intervene, protest, motion to consolidate and request for hearing. Nevada Energy Buyers Group (NEBG) filed a motion to intervene out of time on November 12, 2002.

Discussion

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedures, 18 C.F.R. § 385.214 (2002), the timely, unopposed motions to intervene serve to make the filing entities parties to this proceeding. We will grant NEBG's motion to intervene out of time given its interest in this proceeding, the early stage of this proceeding and the absence of any undue prejudice or delay.

6. Protesters raise numerous issues regarding the reasonableness of Applicants' proposed rates, terms and conditions for ancillary services. They argue, among other things, that the proposed rates have not been sufficiently supported and are excessive, the energy imbalance provisions provide for imbalances charges that are punitive, the use of a market proxy for energy imbalance charges has not been supported, and that penalty provisions in the proposed spinning and supplemental reserves services have not been justified. We find that protesters have raised issues of material fact regarding Applicants' proposed rates, terms and conditions that we cannot summarily decide based on the evidence before us, and that these issues are best addressed in the evidentiary hearing ordered below.

7. Our preliminary analysis of the revised ancillary service rates, terms and conditions indicate that they have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the proposed ancillary Service Schedules 1 through 7 for filing, suspend them for a nominal period, to become effective January 1, 2003, subject to refund, and set them for hearing.

8. Further, in Docket No. ER02-2609-000, Applicants filed revisions to their Joint OATT to implement retail access in Nevada pursuant to legislation passed by the State of Nevada. An issue in that proceeding concerns transmission customers' rights and obligations with respect to ancillary services under Applicants' Joint OATT. As noted by certain intervenors,⁴ this proceeding raises common issues of law and fact with those

⁴See Protest of Fallon (ancillary services issues in each of the proceedings should
(continued...))

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raised in Docket No. ER02-2609-000. Consequently, we will consolidate these proceeding for purposes of hearing and decision.

9. Finally, we note that although Applicants have requested an effective date of January 1, 2003, the proposed revised tariff sheets state an effective date of January 1, 2002. We require Applicants to submit a compliance filing within 15 days of the date of this order to correct the designations of these tariff sheets to reflect the effective date of January 1, 2003, consistent with this order. Also, consistent with Order No. 614, we remind Applicants that the designations must sequentially identify the revised sheet.⁵ In their compliance filing, Applicants must modify the designations to identify them as "First Revised" sheets.

The Commission orders:

(A) 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 in Docket No. ER03-37-000 concerning the justness and reasonableness of Applicants' Revised Tariff, as discussed in the body of this order.

(B) Docket Nos. ER02-2609-000 and ER03-37-000 are hereby consolidated for purposes of hearing and decision.

⁴(...continued)

not be reviewed in isolation) and Protest of CRC (Applicants' submissions are intertwined).

⁵Designation of Electric Rate Schedule Sheets, Order No. 614, 65 Fed. Reg. 18,221, FERC Stats. & Regs. ¶ 31,096 (2000).

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(C) Applicants are hereby ordered to submit their rate schedule designation(s) in a compliance filing within 15 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.