

UNITED STATES OF AMERICA 105 ferc ¶ 61,068  
FEDERAL ENERGY REGULATORY COMMISSION

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

United States Department of Energy -- Docket No. EF00-2012-002  
Bonneville Power Administration

ORDER DENYING REHEARING

(Issued October 17, 2003)

1. In this order, the Commission denies a request for rehearing of the Commission's July 21, 2003 order confirming and approving rates, on a final basis, for Priority Firm Power (PF-02), Residential Load Firm Power (RL-02), New Resource Firm Power (NR-02), Industrial Firm Power (IP-02) and Nonfirm Energy (NF-02) proposed by Bonneville Power Administration (Bonneville).<sup>1</sup>

**Background**

2. On July 6, 2000, Bonneville filed proposed rates for certain wholesale power schedules, to be effective October 1, 2001 through September 30, 2006 (2002 Wholesale Power Rates). Bonneville also requested approval of General Rate Schedule Provisions (GRSPs) for the same time period.

3. The proposed rates were intended to recover the annual revenue requirements of the generation function, including: the Federal investment in hydro generation; fish and wildlife recovery, and conservation; operation and maintenance expenses allocated to power; capitalized contract expenses associated with such Non-Federal power suppliers as Energy Northwest (formerly known as Washington Public Power Supply System); other purchase power expenses, such as short-term power purchases, power marketing and scheduling expenses; the cost of transmission services necessary for the sale and

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<sup>1</sup>United States Department of Energy – Bonneville Power Administration, 104 FERC ¶ 61,093 (2003).

delivery of certain power; and other generation-related costs.

4. According to Bonneville, its average annual projected expenses for the FY 2002-2006 rate test period are \$2,373 million, an annual increase of \$280 million over the annual projection in the 1996 rate proposal, and its average annual revenues from rates for the same period were projected to be \$2,480 million, yielding average net revenues of \$107 million. Bonneville declared that this level of annual net revenues, in conjunction with other risk mitigation tools, was sufficient to recover Bonneville's costs for the rate approval period, while providing cash flows to assure an 88 percent probability of making all payments to the Treasury in full and on time for each year of the rate period.

5. The Commission granted interim approval of Bonneville's 2002 Wholesale Power Rates.<sup>2</sup> The Commission subsequently confirmed and approved the 2002 Wholesale Power Rates on a final basis on July 21, 2003.<sup>3</sup>

6. The Columbia River Inter Tribal Fish Commission, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Reservation, and the Yakama Nation (Tribes) filed a request for rehearing on August 20, 2003. The Tribes argue that the Commission did not apply the appropriate standard in its review of Bonneville's 2002 Wholesale Power Rates, and did not address the factual issues raised by the Tribes in this proceeding. The Tribes assert that the Commission's July 21, 2003 order failed to address the Tribes' argument that the probability standard of meeting all of Bonneville's costs, including Treasury repayment, was too low.

7. According to the Tribes, the repayment study included in Bonneville's proposed rates does not adequately measure Bonneville's ability to meet its total system costs. The Tribes propose that the Commission conduct an independent evaluation to determine whether Bonneville has actually accounted for all of its system costs, particularly including fish and wildlife. The Tribes also state that the Commission's independent evaluation should address the issues raised by the Tribes during the underlying Bonneville proceeding.

8. In this regard, the Tribes continue to assert that Bonneville will be unable to provide adequate funding for fish and wildlife, specifically the salmon restoration

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<sup>2</sup>United States Department of Energy – Bonneville Power Administration, 96 FERC ¶ 61,360 (2001).

<sup>3</sup>United States Department of Energy – Bonneville Power Administration, 104 FERC ¶ 61,093 (2003) (Bonneville).

requirements, as required under the Pacific Northwest Electric Power Planning and Conservation Act.<sup>4</sup> According to the Tribes, Bonneville's failure to provide adequate funding for fish and wildlife will shift those costs and associated risks to the Tribes' treaty-protected resources. The Tribes therefore request the Commission to remand the 2002 Wholesale Power Rates to Bonneville.

### **Discussion**

9. We find that the data provided by Bonneville supports the Commission's conclusion that the Bonneville rates should be sufficient to recover costs and to assure repayment to the Treasury. Additionally, we find that the three-component Cost Recovery Adjustment Clause included in Bonneville's rate proposal further should ensure that Bonneville will have flexibility to adjust the base rates if the likelihood of missing a payment to the Treasury reaches a certain level, in this case, a 50 percent probability, thus further ensuring payment to the Treasury.

10. We will also deny the Tribes' requests that the Commission conduct its own independent evaluation to determine whether Bonneville has adequately accounted for all of its system costs, particularly including fish and wildlife costs, and adequately addressed the Tribes' substantive arguments and the accompanying evidence in the underlying proceeding. Such matters as Bonneville's spending on fish and wildlife are beyond the scope of Commission review.<sup>5</sup> In this regard, the Northwest Power Act provides Bonneville with broad discretion in developing its rates.<sup>6</sup> The Commission is not the appropriate forum in which to challenge these decisions.<sup>7</sup> Rather we have found that "Congress intended to limit Commission review to the specific findings in Section 7(a)(2) of the Northwest Power Act," and that our review is limited to assuring "that Bonneville's overall rates recover its system costs, but no more than its system costs."<sup>8</sup>

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<sup>4</sup>16 U.S.C. §§ 839b(h)(7) and 839b(h)(10) (2000) (Northwest Power Act).

<sup>5</sup>United States Department of Energy – Bonneville Power Administration, 67 FERC ¶ 61,351 at 62,219 (1994); United States Department of Energy – Bonneville Power Administration, 32 FERC ¶ 61,014 at 61,053, 61,057 n.15, reh'g denied, 33 FERC ¶61,049 (1985).

<sup>6</sup>United States Department of Energy – Bonneville Power Administration, 20 FERC ¶ 61,292 at 61,558 (1982) (Bonneville). See also Central Lincoln Peoples' Utility District et al. v. Johnson, 735 F.2d 1101, 1110-11 (9<sup>th</sup> Cir. 1984).

<sup>7</sup>Bonneville, 20 FERC at 61,558.

Therefore, we decline to substitute our evaluation in lieu of Bonneville's evaluation, particularly of the Tribes' arguments and evidence in the underlying proceeding on fish and wildlife issues. These actions are beyond the scope of the Commission's statutory authority to review Bonneville's rates under the Northwest Power Act.<sup>9</sup>

11. Accordingly, we deny the Tribes' request for rehearing.

The Commission orders:

The request for rehearing filed in this proceeding by the Tribes is hereby denied.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

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<sup>8</sup>Id.

<sup>9</sup>The Northwest Power Act grants the Commission limited review over Bonneville rates. See Bonneville, 104 FERC ¶ 61,093 at P11-13.