

SUBCHAPTER L—REGULATIONS FOR FEDERAL POWER MARKETING ADMINISTRATIONS

PART 300—CONFIRMATION AND APPROVAL OF THE RATES OF FEDERAL POWER MARKETING ADMINISTRATIONS

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AUTHORITY: 16 U.S.C. 825s, 832–8321, 838–838k, 839–839h; 42 U.S.C. 7101–7352; 43 U.S.C. 485–485k.

SOURCE: Order 382, 49 FR 25235, June 20, 1984, unless otherwise noted.

Subpart A—General Provisions

§ 300.1 Applicability and definitions.

(a) *Applicability.* This part sets forth procedures governing the filing, review and disposition of the rate schedules for the sale or transmission of power and energy established by the Alaska, Bonneville, Southeastern, Southwestern and Western Area Power Administrations. Except as otherwise provided by rule or order, the Commission's general rules of practice and procedure (part 385 of this chapter) will apply to any filings, hearings or other procedures under this part, as applicable.

(b) *Definitions.* For purposes of this part, the following definitions apply:

(1) *Administrator* means the administrator of a power marketing administration.

(2) *Electric service* means any transmission or sale of electric power and energy, including capacity sales, energy sales, firm power sales, transmission services, or any combination of these services, and the utilization, by means of ownership, contractual arrangements, leasing, or other arrangements, of any facility to provide such sales or services.

(3) *Historic period* means the period commencing with the date of first commercial operation of a powerplant or transmission facility and ending on the last day of the latest year for which actual cost data are available, provided that the period does not end more than 18 months before the date on which the Administrator tenders the rate schedule for filing with the Commission, or such longer period requested by the Deputy Secretary of Energy or Administrator and granted by the Commission.

(4) *Initial capital investment* means the cost of acquisition or construction of a power facility or non-power facility which has been assigned to be repaid from the power revenues, including but not limited to any cost of planning, design, land acquisition, construction, interest during construction, and testing incurred before the date on which the facility becomes operational or revenue-producing.

(5) *Power repayment study or PRS* means a study of the annual repayment of production and transmission investments and other costs through the application of revenues during the repayment period.

(6) *Proposed rate approval period* means the period for which confirmation and approval of the rate schedules is requested. This period must not exceed five years.

(7) *Rate schedule* means a statement describing:

- (i) Type of service to which the rate is to be applied;
- (ii) Rates and charges for, or in connection with, electric service; and
- (iii) Classifications and other provisions which directly affect such rates and charges.

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(8) *Rate test or cost evaluation period* means a period, commencing with the end of the historic period, as defined in paragraph (b)(3) of this section, and continuing through the proposed rate approval period as defined in paragraph (b)(6) of this section, during which future estimates of costs and revenues should be modified by the Administrator to reflect changing conditions.

(9) *Replacement* means any substitution of a unit of property with another unit of like character.

[Order 382, 49 FR 25235, June 20, 1984, as amended by Order 323-B, 52 FR 20709, June 3, 1987]

§ 300.2 Informal conference.

The Administrator or a designee may confer with Commission staff prior to submitting an application under subpart B, with respect to the appropriate form and content of such application.

Subpart B—Filing Requirements

§ 300.10 Application for confirmation and approval.

(a) *General provisions*—(1) *Contents of filing*. Any application under this subpart for confirmation and approval of rate schedules must include, as described in this section a letter of request for rate approval, a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in § 385.203(d) of this chapter, the rate schedule, a statement of revenue and related costs, the order, if any, placing the rates into effect on an interim basis, the Administrator's Record of Decision or explanation of the rate development process, supporting documents, a certification, and technical supporting information and analysis. The form of notice shall be on electronic media as specified by the Secretary.

(2) *Incorporation of information by reference*. Any information required under this subpart that has previously been submitted to the Commission in substantially the same form as specified in this section may be incorporated by reference only.

(3) *Time of filing*. (i) Rate schedules put into effect on an interim basis by the Secretary of the Department of Energy, or a designee, and filed for final

Commission approval must be filed not later than five days after interim approval is granted.

(ii) Rate schedules of the Bonneville Power Administration for which interim approval by the Commission is requested must be filed not later than 60 days in advance of the proposed effective date.

(iii) Rate schedules for which interim approval is not requested must be filed not later than 180 days in advance of the proposed effective date.

(4) *Electronic filing*. All material must be filed electronically in accordance with the requirements of § 35.7 of this chapter.

(b) *Letter of request for rate approval*. A letter of request for rate approval must contain the following information:

(1) A description of the period for which Commission approval is requested, delineated by an effective date and an expiration date, and, for the Bonneville Power Administration, a request, if any, for interim approval of the rates;

(2) A brief description of the proposed rates and charges under existing and proposed rate schedules and the expected changes, if any, in annual revenues; and

(3) A description of how the filed rate differs in rate level or rate structure from the rate schedule currently effective.

(c) *Notice of filing*. The notice of filing, suitable for publication in the FEDERAL REGISTER, must contain the following information:

(1) The identification number or description of the rate schedule or contract;

(2) If the rate schedule includes changes in rates, the dollar amount and percent increase or decrease in rates;

(3) If the rate schedule includes changes other than rates, a brief description of the changes;

(4) A brief explanation of the reasons for any proposed change in the rate schedule;

(5) A statement whether interim approval of Bonneville Power Administration rates is requested;

(6) The proposed effective date of the rate schedule; and

(7) The proposed rate approval period.

(d) *Rate schedules.* A filed rate schedule, as defined in § 300.1(b)(7), must describe the following, as appropriate:

(1) The class of service to which each rate schedule will apply and service areas or zones which will be affected by the filed rate;

(2) The rate to be applied to capacity and energy services or other services;

(3) Special provisions, such as discounts, penalties, power factor adjustments, service interruptions, unauthorized overruns and other similar provisions which may affect the rate and charges; and

(4) The period during which the rates will be effective.

(e) *Statement of revenue and related costs.* Each filing shall include a statement which includes cost (if available) and revenue data for each class of service as specified in each rate schedule for the proposed period.

(f) *Explanation of rate development process and supporting documents.* (1) The Administrator must file the entire record on which the final decision establishing a rate scheduled is based.

(2) The Administrator must file a Record of Decision, if one is made, or an explanation of the rate development process, if a Record of Decision is not made. The Record of Decision or the explanation of the rate development process must include:

(i) A discussion of issues raised by customers or the public and how such issues were resolved;

(ii) A discussion of all statutory, regulatory, or other requirements which governed the Administrator's decision;

(iii) A description of any methodology used for determining revenue requirements and for developing appropriate rate structures;

(iv) A list identifying all documents submitted for Commission consideration; and

(g) *Certification.* The Administrator must file a statement certifying that the rate is consistent with applicable laws and that it is the lowest possible rate consistent with sound business principles.

(h) *Additional filing requirements.* (1) The Administrator must file with the Commission any other information rel-

evant to the Commission's ratemaking decision.

(2) The Administrator must file any other information requested by the Office of Energy Market Regulation as needed for Commission analysis of the rate filing.

[Order 382, 49 FR 25235, June 20, 1984, as amended by Order 541, 57 FR 21734, May 22, 1992; Order 593, 62 FR 1284, Jan. 9, 1997; Order 647, 69 FR 32439, June 10, 2004; Order 699, 72 FR 45325, Aug. 14, 2007; Order 701, 72 FR 61054, Oct. 29, 2007; Order 714, 73 FR 57536, Oct. 3, 2008]

§ 300.11 Technical support for the rate schedule.

(a) *Filing requirement.* The Administrator must submit, in conjunction with any application under § 300.10, the technical support data described under paragraph (b) of this section and the analysis of data described under § 300.12 of this subpart.

(b) *Data—(1) Statement A—Sales and Revenues.* Statement A must include:

(i) Sales and revenues for each rate schedule for the last five years of the historic period, as defined in section 300.1(b)(3);

(ii) For the rate test period, the estimated annual sales and revenues for the existing and each proposed rate schedule, including a separate aggregation of any revenues from sources not covered by the rate schedule according to general classifications of such revenues; and

(iii) Brief explanations of how sales and revenue estimates are prepared and explanations of any changes in sales or revenues during the last five years of the historic period.

(2) *Statement B—Power Resources.* Statement B must contain a list of the capacity and energy resources for the last five years of the historic period and for the rate test period, used to support the sales and revenues figures contained in Statement A. The statement should identify resources according to the powerplant and any purchase or exchange agreement.

(3) *Statement C—Capitalized investments or costs.* (i) Statement C must account for all capitalized investments to be repaid from power revenues.

(ii) The statement shall include a listing, by year, of the following:

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(A) All initial investments and additions to plant, including interest during construction, that produced revenue during the historic period or are expected to produce revenue during the rate test period;

(B) Capitalized deferred expenses; and

(C) Replacements made during the historic period and replacements projected to be made during the balance of the repayment period.

(iii) For each such investment, the statement shall specify:

(A) Whether the investment is an initial investment, an addition, a replacement, or a capitalized deferred annual expense;

(B) The date the investment was made;

(C) The year in which repayment is due to be completed;

(D) Whether the investment was financed through the issuance of revenue bonds, the appropriate interest rate, and the terms and conditions for such bonds; and

(E) The authority or administrative procedure used for the adoption of such interest rate.

(iv) If available, the amount repaid on each investment to date must be stated, except that if repayment on individual investments is not recorded, the amount repaid to date on each group of investments having common interest rates should be stated.

(v) For each year, the sum of unpaid individual investments or the unpaid portion of interest groups shown above must equal the unamortized investment shown in the power repayment study for that year.

(vi) The statement must describe the methods used to forecast replacements and the price level used to estimate replacement costs.

(4) *Statement D—Interest Expenses; Repayment of Investments and Debt Capital.*

(i) For each capitalized investment and cost listed in Statement C, Statement D must describe, by interest group:

(A) The total unpaid balance outstanding at the end of the historic period;

(B) Payments made on principal and interest during each of the last five years of the historic period; and

(C) Annual payments expected to be made through the cost evaluation period.

(ii) The statement must describe how the interest expense was determined for each type of investment and include examples of such computations.

(5) *Statement E—Operation, Maintenance and Other Annual Expenses.* Statement E must contain, for the last five years of the historic period and for the rate test period, as appropriate, a tabulation of actual and projected operation and maintenance, administrative and general, purchased power, wheeling, and any other expenses, other than interest. Statement E must:

(i) List expenses for each individual source, if purchased power and other similar expenses are derived from more than one source;

(ii) Explain any significant deviations from trends in expenses or any extraordinary expenses; and

(iii) Explain the price level used for estimating expenses.

(6) *Statement F—Cost Allocations.* (i) Statement F must contain, for each multiple-purpose reservoir project, unit, division, or system, a table or other summary showing total investment costs, the total annual operation and maintenance costs, and the allocation of all such costs among the various authorized purposes.

(ii) The statement must show the amount of power costs suballocated to irrigation functions, any changes from previous allocations, and the procedure used in allocating such costs. Currently valid allocations previously submitted to the Commission need not be furnished, if referenced.

§ 300.12 Analysis of supporting data.

(a) An analysis of the data provided under § 300.11 must be supported by an appropriate methodology developed by the Administrator.

(b) *Revenue recovery study.* (1) A study must be provided which supports the filed rate and charges, including a narrative statement that explains how the rates and charges meet the objective of recovering the revenue necessary to repay the Federal investment and other costs in a reasonable period of time.

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(2) Any *Power Repayment Study* (PRS) submitted for this purpose must be developed using currently approved rates for estimating future revenues. If the filed rates differ from the current rates, the Administrator must provide a PRS which uses the level of revenues produced by the proposed rates. Unless otherwise required by statute, a PRS must contain only those investments in plant which will be in commercial operation during the proposed rate approval period, except replacements. Forecasts of costs beyond the rate test period must be based on conditions prevailing during the period, unless unusual circumstances warrant otherwise.

(3) A PRS must include, but need not be limited to, those items listed below:

- (i) Operating revenues;
- (ii) Operating expenses;
- (iii) Interest expense;
- (iv) Investment placed in service (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading), including the initial project, additions, replacements, and the total investment;
- (v) Investment amortized;
- (vi) Remaining unamortized investment;
- (vii) Allowable unamortized investment (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading), including initial project, additions, replacements, and total investment;
- (viii) Irrigation investment assigned to be repaid from power revenues (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading), including irrigation investment assigned to power, investment repaid, remaining unpaid investment, and allowable unpaid investment; and
- (ix) Cumulative status of repayment.

(c) *Cost of service study.* For any project or system which provides more than one class of service for which differing rates are proposed, a cost of service study, if available, must be provided which shows how the costs of providing each service have been determined. If rates and charges have not

been formulated on a cost related basis, the basis for each rate or charge should be explained.

§ 300.13 Waiver of filing requirements.

The Administrator must request waiver of any requirement of this subpart if an application that does not fully comply with that requirement is not to be considered deficient. The request must state the Administrator's reasons for such noncompliance and show good cause for any waiver.

§ 300.14 Filings under section 7(k).

Any application for Commission review and approval of a rate or rate schedules established by the Administrator of the Bonneville Power Administration pursuant to section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act must be filed in compliance with the provisions of §35.13(a)(2) of part 35 of this chapter and with the provisions of this part, and must include the classifications, practices, rules and regulations affecting the rate and charges and all contracts which in any manner affect or relate to such rate, charges, classifications, services, rules, regulations, or practices. However, such classifications, practices, rules, regulations or contracts which may affect or relate to rates will not be subject to Commission approval unless they are determined to be rates or rate schedules.

[Order 323-B, 52 FR 20709, June 3, 1987]

Subpart C—Commission Rate Review and Approval**§ 300.20 Interim acceptance and review of Bonneville Power Administration rates.**

(a) *Opportunity to comment.* The Commission will publish in the FEDERAL REGISTER notice of any filing made under this part, for which interim approval is requested. This notice will give interested persons an opportunity to submit written comments on whether interim approval should be granted.

(b) *Action on request for interim rate acceptance—1) Deficient applications.* Upon receipt of an application that does not comply with the requirements of this part, the Commission may:

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(i) Accept the application and order the rate schedule into effect on an interim basis, effective on the date requested by the Administrator or at such time as the Commission may otherwise order, on the condition that any deficiencies in the filing are corrected by the Administrator to the satisfaction of and within such time specified by the Director of the Office of Energy Market Regulation; or

(ii) Deny the Administrator's interim rate request and reject the application, if the Commission determines that the Administrator's application:

(A) Is patently deficient with respect to the filing requirements of this part; or

(B) Fails to comply with the applicable provisions of the Northwest Power Act or such other Acts as may be applicable.

(2) *Applications that are in compliance.* Upon receipt of an application that complies with the requirements of this part, the Commission may:

(i) Order the rate schedule into effect on an interim basis, effective on the date requested by the Administrator or at such time as the Commission may otherwise order; or

(ii) Deny the Administrator's interim rate request and review the application for final confirmation and approval of the rate schedule pursuant to the provisions of this part.

(c) *Condition of acceptance.* Any rate schedule the Commission allows to become effective on an interim basis under paragraph (b) of this section is subject to refund with interest.

(d) *Notice of action on interim approval.* The Commission will publish in the FEDERAL REGISTER a notice of any action taken under paragraph (b) of this section and will mail notice to any person on the Commission's service list.

[Order 382, 49 FR 25235, June 20, 1984, as amended by Order 699, 72 FR 45326, Aug. 14, 2007; Order 701, 72 FR 61054, Oct. 29, 2007]

§ 300.21 Final confirmation and approval.

(a) *Opportunity to comment and intervene.* (1) The Commission will publish notice in the FEDERAL REGISTER giving interested persons an opportunity:

(i) To submit initial and reply comments on any filing made under subpart B; and

(ii) To intervene in any proceeding held on such filing.

(2) With respect to the Bonneville Power Administration:

(i) Such notice will also give interested persons an opportunity to comment on whether it is necessary to hold a hearing on non-regional rates under section 7(k) of the Northwest Power Act and the issues to be resolved at such hearing.

(ii) This notice may be part of any Commission order granting interim approval under § 300.20 of this part.

(b) *Proceedings under section 7(k).* For the Bonneville Power Administration, the Commission will publish a separate order if it determines that a hearing is necessary under section 7(k) of the Northwest Power Act. This order will, if appropriate, delineate the issues to be resolved at such hearing. Such hearing will be held in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(c) *Standards of review for the Bonneville Power Administration—(1) Rates under section 7(a).* The Commission will review any rate established by the Administrator under section 7(a) of the Northwest Power Act for compliance with the following standards:

(i) The rates must be sufficient to ensure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs.

(ii) The rates must be based upon the Administrator's total system costs.

(iii) With respect to transmission rates, the rates must equitably allocate the costs of the Federal transmission system between Federal and non-federal power utilizing such system.

(2) *Rates under section 7(k).* The Commission will review any rate established by the Administrator under section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act for compliance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944, and the

Federal Columbia River Transmission System Act.

(d) *Standards of review for other power marketing administrations.* The Commission will review the rates of the Alaska, Southeastern, Southwestern, and Western Area Power Marketing Administrations in accordance with the terms of any delegation made by the Secretary of Energy.

(e) *Action on request for final confirmation and approval of rates.* Filed rates will be considered for final confirmation and approval if the relevant filing complies with the filing requirements of subpart B of these regulations. The Commission may take any of the following actions:

(1) Confirm and approve the rate schedules for the period beginning with the date such rates were placed in effect on an interim basis or the effective date requested in the application to the expiration date requested in the application but not to exceed a five-year period, or for such lesser period, as the Commission deems appropriate;

(2) Remand the filing for further development of the record to support the filed rate schedules;

(3) Order an evidentiary hearing if there are questions of fact which can not be resolved from the record or through staff evaluation;

(4) Disapprove the filed rates; or

(5) Take such other action that the Commission considers appropriate.

(f) *Procedures upon disapproval.* If the Commission disapproves the rates, the Administrator will be provided a 120-day period, or other period as the Commission may deem appropriate, to prepare substitute rates that resolve the Commission's concerns. If the filed rates have been approved on an interim basis, the rates will continue in effect on an interim basis until the Commission takes final action.

(g) *Refund and interest—(1) Refund.* If a rate collected by any power marketing administration on an interim basis exceeds the rate which is confirmed and approved by the Commission as a final rate, the Administrator, pursuant to any conditions established by the Commission, must refund with interest any portion of the rate increase collected during the interim period which exceeds the final rate. The

Administrator may make refunds by means of a net energy billing which reflects the value of any overcharge or other appropriate methods.

(2) *Interest.* Except as otherwise provided by the Commission, the Administrator must compute any amount of interest based on the revenues collected subject to refund and required to be refunded under this paragraph by using:

(i) With respect to the rates of the Bonneville Power Administration, the rate of interest or a weighted average of all rates of interest charged to the Bonneville Power Administration by the U.S. Treasury during the period for which the computation is made;

(ii) With respect to the rates of other Power Marketing Administrations, the rates of interest computed in accordance with the formula contained in DOE Order No. RA 6120.2, available from the Department of Energy (Office of Power Marketing Coordination) and the Power Marketing Administrations.

(h) *Notice of action on final approval.* The Commission's Secretary will publish in the FEDERAL REGISTER a notice of any action taken under paragraph (e) of this section and will mail the notice to the persons on the Commission's service list.

[Order 382, 49 FR 25235, June 20, 1984, as amended by Order 323-B, 52 FR 20709, June 3, 1987]

PART 301—AVERAGE SYSTEM COST METHODOLOGY FOR SALES FROM UTILITIES TO BONNEVILLE POWER ADMINISTRATION UNDER NORTHWEST POWER ACT

Sec.

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301.4 Exchange Period Average System Cost determination.

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TABLE 1 TO PART 301—FUNCTIONALIZATION AND ESCALATION CODES

APPENDIX 1 TO PART 301—ASC UTILITY FILING TEMPLATE

AUTHORITY: 16 U.S.C. 839–839h.