to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–24838 Filed 9–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–108]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate

September 24, 2002.

Take notice that on September 20, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Louisville Gas and Electric Company. Tennessee requests that the Commission grant such approval effective November 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–24839 Filed 9–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–1932–004, P–1933–010, and P–1934–010–California]

Southern California Edison; Notice of Availability of Final Environmental Assessment

September 24, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Energy Projects has reviewed the applications for licenses for the Lytle Creek, Santa Ana River 1 & 3, and the Mill Creek 2/3 Hydroelectric Projects, located on the Lytle Creek, Santa Ana River, and Mill Creek, respectively, in San Bernardino County, California, and has prepared a Final Multiple Project Environmental Assessment (FEA) for the projects. The projects are located within the San Bernardino National Forest.

The FEA contains the staff's analysis of the potential environmental impacts of the projects and concludes that licensing the projects, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 502–8659.

For further information, contact Jon Cofrancesco at (202) 502–8951.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–24837 Filed 9–30–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rates

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Secretary acting under sections 301(b), 302(a), 402(e), 641, 642, 643, and 644, of the Department of Energy Organization Act (Pub. L. 95–91), has approved and placed in effect on an interim basis Rate Order No. SWPA–48 which provides for the following Integrated System Rate Schedules:

Rate Schedule P–02, Wholesale Rates for Hydro Peaking Power

Rate Schedule NFTS–02, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service

Rate Schedule EE–02, Wholesale Rate for Excess Energy

The rate schedules supersede the existing rate schedules shown below:

Rate Schedule P–98D, Wholesale Rates for Hydro Peaking Power—(superseded by P–02)

Rate Schedule NFTS–98D, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service—(superseded by NFTS–02)

Rate Schedule EE–98, Wholesale Rate for Excess Energy—(superseded by EE–02)

DATES: The effective period for the rate schedules specified in Rate Order No. SWPA–48 is October 1, 2002, through September 30, 2006.

FOR FURTHER INFORMATION CONTACT: Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *reeves@swpa.gov.*

SUPPLEMENTARY INFORMATION: Southwestern Power Administration's (Southwestern) Administrator has determined, based on the Fiscal Year (FY) 2002 Integrated System Current Power Repayment Study, that existing rates will not satisfy cost recovery criteria specified in Department of Energy Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944. The finalized FY 2002 Integrated System Power Repayment Studies (PRSs), indicate that an increase in annual revenue of $6,138,503, or 5.6 percent, beginning October 1, 2002, will satisfy cost recovery criteria for the Integrated System projects. The proposed Integrated System rate schedules would increase annual revenues from $109,463,500 to $115,006,176, primarily to recover increased expenditures in operations and maintenance (O&M) and investment. In addition, an analysis of the Purchased Power Deferral Account indicates the need for an annual increase of $595,827 to recover the purchased energy costs. This rate proposal also includes a provision to continue the Administrator's Discretionary Purchased Power Adder Adjustment, to adjust the purchased power adder annually, of up to $0.0011 per kilowatthour as necessary, at his/her discretion, under a formula-type rate, with notification to the FERC.

Following review of Southwestern's proposal within the Department of Energy, I approved, Rate Order No. SWPA–48, on an interim basis through September 30, 2006, or until confirmed and approved on a final basis by the FERC.

Dated: September 18, 2002.

Spencer Abraham,

Secretary.

In the Matter of: Southwestern Power Administration Integrated System Rates; Order Confirming, Approving and Placing Increased Power Rate in Effect on an Interim Basis

[Rate Order No. SWPA–48]

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect on an interim basis power and transmission rates, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates to the Under Secretary of Energy rather than the Deputy Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy revised Delegation Order No. 0204–108 to delegate to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, 58 FR 59717, the Secretary of Energy revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating that authority to the Deputy Secretary of Energy. By notice, dated April 15, 1999, the Secretary of Energy rescinded the authority of the Deputy Secretary of Energy under Delegation Order No. 0204–108. By Delegation Order No. 0204–172, effective November 11, 1999, the Secretary of Energy again provided interim rate approval authority to the Deputy Secretary of Energy. Pursuant to Delegation Order No. 00–037–00, effective December 6, 2001, authority is delegated to the Deputy Secretary of Energy for interim rate approval and to the Federal Energy Regulatory Commission for final rate approval. Delegation Order No. 0204–108 is no longer applicable to rates filed by the Power Marketing Administrations. While presently there is no Deputy Secretary; the Secretary of Energy possesses the necessary authority to approve rates.

Background

Federal Energy Regulatory Commission (FERC) confirmation and approval of the following Integrated System (System) rate schedules was provided in FERC Docket No. EF98–4011–000 issued April 29, 1998, for the period January 1, 1998, through September 30, 2001:

Rate Schedule P–98D, Wholesale Rates for Hydro Peaking Power—(superseded by P–02)

Rate Schedule NFTS–98D, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service—(superseded by NFTS–02)

Rate Schedule EE–98, Wholesale Rate for Excess Energy—(superseded by EE–02)

On July 26, 2001, these rate schedules were extended on an interim basis by the Deputy Secretary under Rate Order No. 45 for the period October 1, 2001, through September 30, 2002. During the period that current rates have been in effect, Southwestern has modified the Integrated System rate schedules three times for the purpose of clarifying and revising specific provisions that did not impact revenue requirements. Each modification of the rate schedules was approved by FERC on a final basis, the latest being rate schedules, P–98D and NFTS–98D, which were approved by FERC on July 31, 2001.

Southwestern Power Administration's (Southwestern), Current Power Repayment Study (PRS) indicates that the existing rate would not satisfy present financial criteria regarding repayment of investment within a 50-year period due to increasing operation and maintenance expenditures and investment for both the Corps of Engineers (Corps) and Southwestern. The revised PRS indicates that an increase in annual revenues of $6,138,503 was necessary beginning October 1, 2002, to accomplish repayment in the required number of years. Accordingly, Southwestern has prepared proposed rate schedules based on the FY 2002 Rate Design Study and the additional revenue requirement.

Informal meetings were held in April 2002 with customer representatives to review the repayment and rate design processes and present the basis for the 5.6 percent annual revenue increase. In May 2002, Southwestern prepared a proposed 2002 PRS for the Integrated System.

Title 10, part 903, subpart A of the Code of Federal Regulations, ''Procedures for Public Participation in Power and Transmission Rate Adjustment,'' has been followed in connection with the proposed rate adjustments. More specifically, opportunities for public review and comment on proposed System power rates during a 90-day period were announced by notice published in the **Federal Register** May 21, 2002, (67 FR

35802). A Public Information Forum was held June 6, 2002, in Tulsa, Oklahoma, and a Public Comment Forum was scheduled to be held July 10, 2002, also in Tulsa, but was canceled since no one indicated their intent to attend. Written comments were due by August 19, 2002. Southwestern mailed copies of the proposed May 2002 Power Repayment and Rate Design Studies to customers and interested parties that requested the data, for review and comment during the formal period of public participation.

Following conclusion of the comment period on August 19, 2002, comments presented during the formal public participation process were reviewed. Once all comments were carefully evaluated, the 2002 Power Repayment and Rate Design Studies were completed. No changes were made to the FY 2002 PRS based on comments received. The studies were finalized in August 2002. The Administrator has made the decision to submit the rate proposal for interim approval and implementation. The comments resulting from the public participation process and responses, as developed by Southwestern's staff, are contained in this Rate Order.

Discussion

General

The existing rate schedules developed in the FY 1997 Integrated System Power Repayment Studies were the basis for revenue determination in the August 2002 Integrated System Current Power Repayment Study. The Current Power Repayment Study indicates that existing rates are insufficient to produce the annual revenues necessary to accomplish repayment of the capital investment as required by Section 5 of the Flood Control Act of 1944 and Department of Energy (DOE) Order No. RA 6120.2.

A Revised Power Repayment Study was prepared based on $6,138,503 of additional annual revenue beginning October 1, 2002, to satisfy repayment criteria. This amount is no different than what was proposed in May 2002. No adjustments were made to the May 2002 PRS based on comments received except to finalize the PRS.

During development of the May rate design study, Southwestern recognized that no costs for Non-Federal, non-firm transmission service were being incurred under the current transmission rate schedule. So, Southwestern redesigned the rate for Non-Federal, non-firm transmission service to be a formula rate rather than a specific dollar rate. Currently, all requests for Non-Federal, non-firm transmission on Southwestern's transmission system must use the Southwest Power Pool regional open access transmission tariff rate. Consequently, Southwestern does not have contractual arrangements for Non-Federal, non-firm transmission service at this time; however, should Southwestern need to provide that service in the future, a rate will be available.

In Southwestern's 1988, 1990 and 1997 Rate Proposals, two noteworthy issues, which were previously approved by FERC were described in detail. The issues, which still exist today, were (1) the treatment of a portion of the Truman project investment as not currently repayable, and (2) the purchased power adder and discretionary adjustment.

Harry S Truman Project

The Truman issue arose out of the limitations placed on the project's operations by the Corps. The project was designed and constructed to have 160 MW of dependable (marketable) capacity through the use of six reversible pump turbine generating units which could return water to the reservoir following normal generation, to mitigate extreme variations in water available for generation and the lack of storage capacity in the project (only two feet). Pumping ensures project dependable capacity and allows marketing of all six units. A substantial fish kill during testing of the units and considerable opposition to the project's operation, both in the pumping mode and the full six-unit generation mode, led the Corps to significantly restrict the project's operation. In particular, the project's pumps may not be used and only a limited number of units may be utilized simultaneously. Consequently, Southwestern is unable to market full capacity from the project and has declared only two units in commercial operation. Southwestern proposed to the FERC in the 1988 rate filing that, since the entire project was neither revenue-producing, declared in commercial operation, nor expected to be in service within the then-existing cost evaluation period, the total investment allocated to power was not repayable under DOE or FERC regulations. Southwestern further proposed an adjustment to Truman's allocated costs and reduced the repayable investment to an amount equal to approximately 44 percent of then-allocated costs, with the remaining amount to be deferred until the project can be operated as it was designed. The FERC approved this proposal as an acceptable interim measure while the Corps develops a cost allocation for Truman based on actual operating conditions. Southwestern also proposed this concept to the Corps, and the Corps agreed to consider it as an option in developing the cost allocation for the project. Subsequently, the Corps has completed a major revision to the Truman project cost allocation and has utilized Southwestern's proposed concept for determining repayable investment at the project during the interim period until the project becomes fully operational. Although not yet approved on a final basis, the Interim Cost Allocation proposed by the Corps for the Truman project has been utilized in the development of the 1990, 1997 and 2002 PRSs in support of the revenue requirements of Southwestern's Integrated System and the rate proposal, as the most recent cost allocation available which reasonably reflects the level of costs expected to be payable at the Truman project during the cost evaluation period.

During February 1997, the Interagency Committee on Cost Allocations (ICCA) met to review and potentially approve the Truman, Stockton, and Clarence Cannon project cost allocations. The Stockton cost allocation was subsequently approved on a final basis on May 8, 1997. The Clarence Cannon was approved on August 25, 1998. The Truman cost allocation was to be sent back to the Corps' Kansas City District office to make changes in the allocation's assumptions and then be prepared for finalization. However, in June 1997, a meeting of the Southwestern, the Corps and several customer representatives was held to discuss the Truman cost allocation. The customers expressed their concern about the significant level of costs being proposed while the project continued to be limited in its ability to produce hydropower. At this meeting, the Corps agreed to review the issue of assigning hydro-related costs to another project purpose that had contributed to limiting the hydro operation of the project. The allocation of those costs to another purpose would be potentially considered temporary and the costs would be reallocated back to the hydropower purpose in an amount relational to the part of the hydropower purpose functioning as originally designed. Southwestern is continuing to pursue finalization of this cost allocation with the Corps. However, it is not anticipated that the Truman cost allocation will be finalized in the near future; therefore, Southwestern has continued to use the Interim Cost Allocation for the Truman project in development of the 2002 PRS.

Purchased Power Deferral Account (Discretionary Adjustment and Adder)

During the time the purchased power adder and the deferral accounting mechanism have been in place, they have proven to be effective in assuring that purchased power revenues equal purchased power costs over time. The financial interests of the Government have been protected in this endeavor, and the rate component has been adjusted as necessary. In the 1997 Rate Proposal, Southwestern requested approval for the Administrator to have authority to adjust the purchased power rate component up to once annually, based on a formula-type rate included in the rate schedules, by up to $0.0011 per kWh at his or her discretion. The flexibility derived from this authority enables Southwestern to react more quickly to significant changes in water conditions which may have occurred during the preceding year or simply to exercise better control on the amount of revenue in the Account and to better limit the over or under recoveries of revenue. The Administrator utilized this authority in implement adjustments of up to $0.0011 per kWh to help increase revenues collected in the Account during the previous years of less than average water conditions and the corresponding increase in the costs for purchased power. This authority seems to remain appropriate, particularly in light of the fact that the Account has no direct effect on Integrated System repayment requirements and the separate rate component serves to provide revenues to meet expected costs which, if they do not come to pass, are either held to meet future costs or result in a lower purchased power rate for customers. Therefore, Southwestern's Administrator requests continuing authority to adjust the purchased power rate component annually based on a formula-type rate included in the rate schedules.

An element directly related to the Account and accrual of interest thereto is the determination of the purchased power adder itself. Southwestern is proposing, as in all previous proposals beginning with the 1983 implementation of the purchased power rate component, that the adder be set equal to the current average long-term purchased power rate requirement. As shown in the Rate Design Study, the amount is determined by dividing the estimated total average direct purchased power costs by Southwestern's total annual contractual 1200-hour peaking energy commitments to the customers (exclusive of contract support arrangements). In this rate proposal, the resulting Purchased Power Adder (Adder) is $0.0025 per kWh of peaking energy. The total revenue created through application of this Adder would enable Southwestern to cover its average annual purchased power costs.

Rate schedules were designed to recover the additional revenue requirements. The basic monthly demand charge for the sale of Federal hydroelectric power and the base energy charge have increased. The transformation charge, though paid by a few customers having 69 kV and below deliveries, has increased and affects revenues as well. In addition, transmission charges for non-Federal, firm service have increased. The increases to both transformation and transmission charges are due to additions and replacements that have been made to Southwestern's aging transmission facilities since the last rate change.

In accordance with FERC's Order No. 888, Southwestern will continue charging separately for five ancillary services and offering network transmission service. Southwestern's rate design has separated the five ancillary services for all transmission service. Two ancillary services, Scheduling, System Control and Dispatch Service and Reactive and Voltage Support Service, are required for every transmission transaction. These charges are also a part of the capacity rate for Federal power. This is consistent with Southwestern's long-standing practice of charging for the sale and delivery of Federal power in its Federal demand charge. The three remaining ancillary services will be made available to any transmission user within Southwestern's control area, including Federal power customers. The Rate Schedules for Peaking Power and Non-Federal Transmission Service reflect these charges. Network transmission service will be provided to those, also within Southwestern's control area, who request the service, but for non-Federal deliveries only. The rate and application of this service are identified in the Non-Federal Transmission/Interconnection Facilities Service Rate Schedule, NFTS–02.

Comments and Responses

The Southwestern Power Administration (Southwestern) received numerous questions to which responses were provided during the public participation period and which are included in the background information. In addition, Southwestern received comments from five entities during the public participation process. Those comments are summarized into six general areas of concern, and Southwestern's responses to the concerns raised are as follows:

Corps O&M Expenses

Comments

Southwestern should revisit its projections of the Corps of Engineers Operation and Maintenance (O&M) costs with particular attention to projected personnel costs to assure projections are conservative and that all efficiencies consistent with sound business principles have been incorporated into these areas. With respect to personnel costs, commentors take issue with inclusion of expenses for trainees to replace retiring personnel. Commentors state that this reflects poor planning on the part of the Corps and should not be reflected as a part of the ongoing future base costs because such an assumption inflates long term future cost estimates and rates.

Response

Projections for Corps of Engineers (Corps) O&M are developed by the Corps and provided to Southwestern annually. The Corps makes projections of their base O&M costs using historical information and planning documents, and also includes projections for large maintenance items for each of the projects that have been included in their outyear budget estimates. These projections are made in current year dollars and do not include inflation. Southwestern reviews this information, questioning the Corps where inconsistencies seem to occur, clarifying its understanding of the cost estimates, and adjusting the estimates to future year dollars based on the Gross Domestic Product Index to incorporate inflationary expectations. The Corps has advised Southwestern that, among other costs, the addition of trainees and increased project maintenance are two elements in base costs. The Corps informed Southwestern that trainee costs are limited to projects where retirements are imminent but project maintenance will continue to increase until such time as the projects identified for rehabilitation can be completed. Southwestern inquired further and was advised that the Corps is confident that their O&M estimates fairly represent the minimum expenditure level expected for the projects' O&M and that this level of expenditure is expected to continue into the future.

Southwestern does not receive the detail of personnel costs included in the Corps' O&M estimates, nor is it necessary for Southwestern to have this information since the Corps provides total forecasted O&M expenditures by project. Although Southwestern can provide suggestions, proposing changes to the management of the Corps' resources, particularly their personnel processes, is beyond the scope of Southwestern's authorities. Southwestern is tasked with recovering the power costs at Corps of Engineers dams; the Corps is responsible for managing their organization. The Corps believes that its internal controls, accounting system reviews and funding procedures effectively provide the needed level of justification, consistency and control of its O&M expenditures. Southwestern has no oversight authority with regard to Corps expenditures for O&M activities. Southwestern agrees that such costs should be prudently and timely incurred at reasonable levels consistent with sound business principles. The estimates historically provided by the Corps have been reasonably accurate in total, although they fluctuate somewhat from actual expenditures by individual project.

The primary cause for the increase in Corps O&M between the FY 1997 PRS (on which current rates are based) and the FY 2002 PRS is the inclusion, beginning with the FY 1998 PRS, of an estimate for the Unfunded Civil Service Retirement System (CSRS) and Health/Life Insurance Benefits. Without the inclusion of this increased cost element in the FY 2002 PRS (which were not part of the forecast in the FY 1997 filing), the Corps' O&M estimate, including the average year large maintenance items, has increased less than 2% in total over the last five years. Although the Corps has historically been fairly accurate, their projections for O&M costs for the past two years have been less than what was recorded on their financial statements. The Corps has confirmed that the past few years' projections were based on anticipated reductions in funding, but have realized they were underestimating and in the FY 2002 projections have increased their estimates to better reflect their expected expenditures.

The Corps' estimates of O&M are based on what they believe will be their actual expenditures on their financial statements. This process is consistent with the requirements of RA 6120.2. The procedure for the Corps to provide O&M estimates is based on a Memorandum of Agreement with the Corps of Engineers in November 1989, and has been fairly accurate. The projection of Corps O&M in the FY 2002 PRS for the final year of the cost evaluation period (FY 2006) is 3.8 percent higher than the Corps' actual O&M expenditures for historical year FY 2001, primarily reflecting an expected period of relatively stable funding.

Southwestern believes that the estimates provided by the Corps for their O&M are reasonable based on their historical accuracy and accurately reflect what the Corps will ultimately book as actual expenditures on their financial statements.

Corps of Engineers—Estimates for Large Maintenance Items

Comments

Southwestern should revisit its process for determining estimates of future Large Maintenance Items (LMI) for purposes of the PRS. It would appear that the process Southwestern is using is not in compliance with RA 6120.2. Southwestern should modify the process to include a comparison of actual LMI costs in previous years with the forecasted LMI for those years contained in previous PRSs. In addition, Southwestern should closely examine the proposed 5.25 percent one-year LMI factor proposed by the East Texas Cooperatives, a figure premised on a more accurate methodology than used by Southwestern.

Response

Southwestern has reviewed its methodology for mitigating the impact of Large Maintenance Items which are estimated to occur in the final year of the cost evaluation period and has determined that the methodology is sound, produces reasonable estimates and has been reasonably accurate historically when combined as a part of overall total estimates of Corps O&M costs.

The estimates of large maintenance items are provided by the Corps, in detail by project, by year. In an effort to minimize wide swings in the effect of large maintenance items (specifically in the last year) and to add stability to rates, Southwestern developed a procedure over fifteen years ago that removes the large maintenance estimates in the fifth year of the cost evaluation period and replaces that estimate with a ten-year average of large maintenance item estimates. In order to alleviate the impact that one or two years of increased large maintenance items had on the rates, Southwestern has used an average over a ten-year period. This has ''leveled out'' the LMI estimates and has, when added to the routine O&M, reflected a more accurate estimate of what the Corps' expenditures have been in the fifth year. This method of forecasting appears to be very efficient since in comparing the historical fifth year estimate with its corresponding actual expenditure, the Corps' O&M estimates appear to be quite reasonable. In fact, during the past few years, the estimate of total Corps O&M expenditures for the fifth year, which include Southwestern's methodology for estimating the large maintenance item component, has been within three percent of the actual for that year, with the most recent estimate being within 0.1 percent of the actual.

Southwestern has also evaluated the use of an average of the most recent forecasts as suggested by one entity commenting, but found that in years when forecasts for that one year were significantly higher, there was a substantial impact on the rate Southwestern would charge. By using the suggested methodology in the commentor's suggestion, the one-year average factor for eight of the past ten years would have resulted in a factor significantly greater than the recommended 5.25 percent. While the proposal to use one year's average would reflect a decrease in this PRS, use of the recommended methodology in eight of the past ten years would have resulted in an increase in revenue requirements for those years and possible rate increases. Consequently, Southwestern believes the proposed method is less accurate than the existing method and reintroduces yearly variations which are mitigated under the existing method in response to customer concerns expressed some years ago.

The use of actual historical data on large maintenance items and base expenses may be preferable, but with the lack of detailed data available from the Corps and with power being only one of the purposes for which the Corps captures financial data, we believe it is not a practical approach. In addition, it would add very little, if anything, to the accuracy of the Corps' O&M estimates which in total have been very good.

Southwestern has confirmed that the Corps' O&M estimates are based on historical costs and actual project costs in accordance with RA 6120.2. Southwestern reviews the estimates to compare with actuals. However, the Corps also considers in its estimates the RA 6120.2 requirement that, ''forecast shall take into account known factors which are expected to affect the future level of such costs during the cost evaluation period.'' The PRS reflects actual LMI in the Corps' total historical O&M expenses for each year since it is part of the total O&M number. The Corps provides actual O&M expenses based on joint-use and specific-use cost pursuant to their regulations for their financial statement reporting.

As has been noted, Southwestern believes that the estimate in the fifth year of average LMI expenses for Corps O&M expenses is reasonably accurate. Southwestern prepares PRSs each year and will continue to monitor its processes to assure estimates are reasonable and that all efficiencies consistent with sound business principles have been incorporated.

Southwestern's O&M Expenses

Southwestern's O&M expenses have increased by approximately $13 million over the FY 1997 Power Repayment Study. Included in Southwestern's O&M expenses are salaries and wages, maintenance costs on aging transmission facilities, transmission-related services and purchased power costs. The commentors state that Southwestern should reduce its forecasted O&M expenses to reflect more reasonable estimates.

Response

Southwestern's O&M expense estimates increased significantly between the FY 1997 Power Repayment Study (PRS) and the current PRS for a number of reasons. Purchased Power costs increased by approximately $3 million due to greater than expected unit cost increases and reductions in the availability of banking energy arrangements. In addition, costs increased by $4.4 million due to requirements beginning January 1, 1998, for transmission losses to be replaced through purchased energy rather than reduced in kind as done previously. This cost is totally offset by a corresponding increase in revenues collected from transmission customers, but nonetheless appears as a significant cost increase. The rate for Federal power and energy, including the Purchased Power Adder are not affected by this cost.

Southwestern has experienced increased costs for transmission service charges since FY 1997. Due to implementation of a new contract, Southwestern now pays an additional $1.0 million for transmission service. However, the impact of this increase in Southwestern's transmission service costs has been minimized by an increase in transmission revenues.

Southwestern's Transmission and Marketing expense have increased by $4.6 million over the FY 1997 PRS estimates. A significant portion of this increase is related to Southwestern's employee salaries, even though Southwestern has reduced Full-Time Equivalents by approximately 8 percent. This increase in employee salaries and wages is due to cost of living adjustments and other payroll requirements set by the U.S. Congress and regulated wage surveys affecting craft personnel and dispatchers. The remaining portion of Transmission and Marketing costs have increased proportionately to historical trends and are within the rate of inflation for the period.

Southwestern has based its O&M expense estimates in the FY 2002 PRS on historical trends and future budget projections. As evidenced by the increase in historical costs, many of which are outside Southwestern's control, Southwestern believes its estimates are reasonable and will represent what is anticipated to be recorded on Southwestern's financial statements.

Corps and Southwestern's Investment Estimates

Comments

Some commentors have expressed concern regarding the level of added investment during the initial 5-year cost evaluation period (CEP) and that past history shows an over-forecasting of actual plant in service to estimates. Some commentors recommended that Southwestern reduce its forecast for added investment while others expressed a desire for the appropriate level to be achieved to assure rehabilitation of the Corps' aging plants. Also noted in the comments was a lack of decreased O&M expense related to replacing older, typically maintenance-intensive plant.

Response

The estimates in the PRS for future investment (over the 5-year CEP) is an average of $9 million per year for replacements, $18 million in construction work in progress (projects that have been started but not yet complete and on the ''books''), and a conservative estimate of $35.7 million for single unit rehabilitations at four of the Corps' 22 projects. These projections are for only an incremental portion of the total rehabilitation and represents what is expected to take place within the 5-year CEP and has been committed to funding by the Corps. It is anticipated that the remaining costs that fall outside the 5-year CEP in the FY 2002 PRS will be included in future PRSs.

Projections for the Corps Investment (replacements) are developed based on data provided by the Corps to Southwestern every five years and reviewed annually by the Corps. The Corps makes projections of their investments based on planning documents. The Corps determines what projects are in need of repair and makes a request for budget appropriations to fund that replacement. The Corps has based their estimates of future investments for the PRS on anticipated project funding to perform the needed work. The funding has not always materialized during the budgeting process. This has contributed to some historical estimates being higher than actual expenditures.

We believe the FY 2002 PRS estimates are more accurate than previous estimates due to a new customer funding source whereby the Corps has access to a consistent funding level in addition to the appropriation process. The alternative customer funding process will relieve some pressure due to reduced appropriations and allow for projects to be started and completed in a timely manner. Southwestern believes that with the alternative customer funding method in place, more of the projected replacements and maintenance will be accomplished by the Corps, and will result in more closely matching PRS estimates in the future.

In addition, the O&M costs for which the Corps provides Southwestern estimates (as discussed in an earlier comment) are anticipated to remain higher during the 5-year CEP, until such time as all phases of the rehabilitations have been completed, due to having to maintain and upgrade the rest of the aging facilities. Having discussed these issues with Corps representatives, Southwestern believes that the estimates provided by the Corps for O&M are based on their best judgment as to what will be their actual expenditures. Southwestern also believes that their O&M estimates, compared with actuals, are fairly accurate and representative of what will be entered on their financial statements. Southwestern shares the customers' belief that in the future these O&M estimates may well, in fact, be reduced. But with the appropriation reductions and other funding issues that the Corps has encountered in the past, there remains a massive backlog of projects that need to be completed as funding becomes available, which means that it will be many years before a reduction in O&M is recognized by the Corps. Contrary to one commentor's assertion, Corps estimates do not continue to increase throughout the 50 year period. Corps O&M estimates beyond the 5-year CEP are held constant from the 5th year through the 50th year yielding no additional expenses.

As stated in RA6120.2 (paragraph 10), replacements of investment will be ''included in repayment studies by adding the estimated capital cost of (the) replacement to the unpaid Federal investment in the year each replacement is estimated to go into service.'' Southwestern is required to forecast for replacements. Southwestern must forecast replacements for the entire period of the PRS. The Corps provides the best data they have available, together with the service lives of the equipment. Southwestern and the Corps review these estimates annually and update the replacement data with the goal to reflect what will occur on the annual financial statements.

Unfunded Civil Service Retirement System Benefits

Comment

Revenues collected by Southwestern for ''Unfunded'' Civil Service Retirement System (CSRS) and Health and Life Insurance Benefits should be (1) removed from Southwestern's rates because Southwestern has no authority to collect them, (2) properly account for the additional interest effects of the revenues collected, or (3) apply the revenues collected to Southwestern's debt rather than to the CSRS expenses.

Response

Statement of Federal Financial Accounting Standards (SFFAS) No. 5, requires all federal agencies, including Power Marketing Administrations (PMAs), to record the full cost of pension and postretirement benefits in financial statements beginning in fiscal year 1997. SFFAS No. 5 prescribes that the aggregate entry age normal (AEAN) actuarial cost method be used to calculate pension expenses and accrued actuarial liabilities for pension benefits. Under the AEAN method, which is based on dynamic economic assumptions, including future salary increases, the actuarial present value of projected benefits is allocated on a level basis over the earnings or the service of the group between entry age and assumed exit ages and is applied to pensions on the basis of a level percentage of earnings. The portion of this actuarial present value allocated to a valuation year is called the ''normal cost''. The Office of Personnel Management (OPM) applies the AEAN method to estimate the amount by which employer and employee contributions toward future CSRS pension benefits fall short of the normal cost of those benefits.

For CSRS employees, OPM reported that, in 1995, 25.14 percent of gross salaries was the full (normal) cost to the federal government of benefits earned that year by employees and that federal agencies contributed 7 percent and employees contributed 7 percent to OPM for CSRS, leaving a funding deficiency of 11.14 percent of each CSRS employee's annual salary. Such deficiencies are made up by Treasury's funding of OPM retirement costs. Southwestern has included an estimate of the unfunded portion of the CSRS costs in its Power Repayment Studies every year since 1998. Revenues have been returned to the Treasury by Southwestern each year since 1998 to be used by Treasury to fund OPM retirement benefits and health insurance costs.

Even though this is the first Integrated System rate filing that has included unfunded CSRS costs, it is not the first rate filing Southwestern has submitted that includes unfunded CSRS costs. Southwestern has had three previous rate filings since 1998 for two other rate systems that have been submitted through the DOE and ultimately approved by FERC. Southwestern did not receive any comments related to the CSRS issue in any of the public comment periods of those three rate filings. Furthermore, the Southeastern Power Administration (SEPA) included CSRS cost estimates in a rate filing in 1998. The comments on that rate filing included opposition to the inclusion of the CSRS estimates. The FERC confirmed the SEPA filing on a final basis and did not accept the arguments to exclude the CSRS costs. A request for rehearing related to the filing was also denied.

Authority to collect revenues for the unfunded CSRS costs comes primarily from Section 5 of the Flood Control Act of 1944 which, in part, states ''* * *Rate schedules shall be drawn having regard to the recovery''* * * ''of the cost of producing and transmitting such electric energy,* * *'' Unfunded CSRS has been determined to be a cost of ''producing and transmitting electricity.'' Upon disbursement, the Federal government funds the unfunded portion of the CSRS program just as it funds the funded portion of the CSRS program. The difference is that, when retirement payments are issued, OPM and not Southwestern is the agency that the funding of the unfunded portion of CSRS costs is directed to. The authority to collect revenues to repay the CSRS program costs is no different than the authority to collect the funded portion.

Southwestern agrees with the comment that it should properly account for the additional interest effects of the revenues collected and is currently doing so. Southwestern's existing procedure imputes an interest credit at current year interest rates on all revenues received—which would include revenues received to repay CSRS costs. The effect of the interest credit carries throughout the entire repayment period.

Regarding the issue of applying revenues received for CSRS expenses to Southwestern's debt, the application of revenues is guided by DOE Order 6120.2 (paragraph 8c.(3)) which states ''Annual revenues will be first applied to the following recovery of costs during the year in which they occurred: operation and maintenance (O&M), purchased and exchanged power, transmission service and other, and interest expense and any appropriation amortization of revenue bonds. Remaining revenues are available for amortization* * *''. Therefore, Southwestern applies its revenues received to the CSRS expenses before it applies any revenue toward the amortization of the Federal investment.

Isolated Projects and Bundled Rates

Comments

Southwestern should not be charging a pancaked rate for the sale and delivery of Federal power. Those customers that receive Federal power from isolated Corps projects should not be required to pay for transmission and ancillary services that they do not use. In addition, those customers should receive credit for incurring costs that the typical Southwestern customer does not. Even though this issue was raised in Southwestern's 1997 rate proceedings and was rejected by Southwestern, the Secretary of Energy and the FERC, this issue should be reconsidered and not viewed as a binding precedent because the regulatory and market environment has changed considerably.

Response

Southwestern's sales of Federal power and energy are based on a ''postage-stamp'' type rate, which is based on the financial integration of all the projects marketed under the Integrated System, as well as various components of Southwestern's transmission system. The capacity rate for all Federal power customers includes a transmission component and the two required ancillary services. This rate has been set to assure that Southwestern charges itself the same rates it charges for the use of the transmission system for wheeling non-Federal power. The customers which receive the output of Corps of Engineers projects that are presently electrically isolated from Southwestern's primary interconnected system requested integration of such projects into the Integrated System to receive that system's benefits, including lower costs. In addition, such customers receive a number of benefits from their project sales which other Federal customers do not, such as overload capacity, condensing, greater scheduling flexibility, and an exclusion from paying the Purchased Power Adder. Such projects also include components of Southwestern's transmission system and switchyard facilities used to deliver power and energy from the dams. Revenues from all sales within the Integrated System are applied toward repayment of all Federal investment for all projects, regardless of their electrical integration status.

Southwestern is not required by FERC Order No. 888 or Order No. 2000 to offer unbundled services to its customers. Section 5 of the Flood Control Act of 1944 sets forth the statutory requirements for the sale and delivery of Federal power and energy. Furthermore, based on DOE policy, ''each of the PMAs that own transmission facilities will publish generally applicable open access wholesale transmission tariffs and will take service itself under such tariffs. The tariffs will include rates, terms, and conditions, and will offer transmission services, including ancillary services, to all entities eligible to seek a transmission order under section 211 of the Federal Power Act * * *'' Southwestern has complied with this policy in separating its non-Federal transmission service and to provide for ancillary services.

Even though Southwestern agrees that the electric industry has changed considerably since 1997, the conditions and points raised related to this issue are the same as were espoused in 1997. Upon review, there does not appear to be any overriding factor that compels Southwestern to change its previous determination that those customers do benefit from the treatment of the transmission system and related facilities and the power rate charged to the customers reflects such benefits. The parties expressing these concerns voluntarily and knowingly entered into long-term contractual arrangements to receive the benefits of these projects at integrated system rates. We find it disingenuous to now seek through the rate development process to overturn what was done for their benefit through mutually agreeable bi-lateral contracts.

Operational Efficiencies

Comments

Southwestern management should commit to incorporate any operational efficiencies that would reduce the magnitude of the rate increase. Such efficiencies should be fully discussed as part of the Power Repayment Study. Overstatement of revenue requirements can tempt management to operate less efficiently than might otherwise have been possible.

Response

Southwestern agrees that it should incorporate all efficiencies available into its day-to-day operations to accomplish the requirements of Section 5 of the Flood Control Act of 1944 for Southwestern to maintain ''the lowest possible rates to consumers consistent with sound business principles.'' Southwestern's Power Repayment Studies are developed annually to recover its costs to help accomplish that requirement and not to specifically identify efficiencies that have been instituted by the agency throughout the year. Southwestern continually strives to incorporate efficiencies in its operational activities. One example of such efficiencies can be illustrated by the number of full-time employees (FTE) employed by Southwestern. Even with the same number of customers and a significantly changing industry, the FTE for 1997 was 193 while the FTE in 2001 was 178. Another example of Southwestern's attention to efficient operation may be reflected in the rates themselves. The average rates charged by Southwestern for energy or transmission are the lowest in the region and will continue to be so even if this proposed rate increase is implemented. Furthermore, most of the increase in this proposed rate increase comes from costs outside of Southwestern's direct control. Those costs include Corps of Engineers costs, salary increases determined by Congress and charges for unfunded civil service retirement system costs.

Unlike many other utilities, Southwestern's management has no incentive to raise rates to allow them to operate less efficiently. Revenues received from sales of power and other services are deposited directly into the U.S. Treasury and are credited toward the repayment of the hydropower system costs. There are no additional revenues for Southwestern's management to use from higher rates because operating costs are obtained through a separate Congressional appropriation process which is not directly related to higher or lower rates.

Other Issues

Other issues are discussed in the Administrator's Record of Decision.

Availability of Information

Information regarding this rate proposal including studies, comments and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, OK 74101.

Administrator's Certification

The August 2002 Revised Power Repayment Study indicates that the increased power rates will repay all costs of the Integrated System including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Delegation Order No. 00–037.00, December 6, 2001, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed System rates are consistent with applicable law and the lowest possible rates consistent with sound business principles.

Environment

The environmental impact of the proposed System rates was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective October 1, 2002, the following Southwestern System Rate Schedules which shall remain in effect on an interim basis through September 30, 2006, or until the FERC confirms and approves the rates on a final basis.

Dated: September 18, 2002.

Spencer Abraham,

Secretary.

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BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Rate Order.