

UNITED STATES OF AMERICA 134 FERC ¶ 62,233
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy -
Southeastern Power Administration
(Kerr-Philpott System of Projects)

Docket No. EF10-8-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(March 11, 2011)

Summary:

On September 20, 2010, the Deputy Secretary of Energy (Deputy Secretary) requested final confirmation and approval of Southeastern Power Administration's (Southeastern) Rate Schedules VA-1-B, VA-2-B, VA-3-B, VA-4-B, CP&L-1-B, CP&L-2-B, CP&L-3-B, CP&L-4-B, AP-1-B, AP-2-B, AP-3-B, AP-4-B, NC-1-B, and Replacement-2-A, applicable to the sale of power from Southeastern's Kerr-Philpott System of Projects (Kerr-Philpott).¹ The Deputy Secretary placed the revised rate schedules into effect on an interim basis effective October 1, 2010,² and requests final confirmation and approval of the rates for the period October 1, 2010, through September 30, 2015.³ Southeastern states that the July 2010 power repayment study (PRS) shows that the current rates at the present levels are not adequate to meet cost recovery criteria. Under the proposed rates, the total revenue requirement will increase from approximately \$18.7 million per year to \$21.5 million per year.

Southeastern maintains that the proposed rates provide the lowest possible rates required to satisfy repayment criteria.

¹ Kerr-Philpott consists of two multipurpose hydroelectric projects whose power output is sold to preference customers in Virginia, North Carolina, and South Carolina.

² Rate Order No. SEPA-52 was issued on September 16, 2010, under the authority granted to the Deputy Secretary by the Department of Energy Delegation Order Nos. 00-037.00 and 00-001.00C (Delegation Orders).

³ These rate schedules will supersede the present rate schedules, which were approved on a final basis in the *United States Department of Energy-Southeastern Power Administration* (Kerr-Philpott System of Projects), 117 FERC ¶ 62,220 (2006).

Notice of the application was published in the *Federal Register*, 75 Fed. Reg. 62,530 (2010), with comments, protests, or motions to intervene due on or before October 20, 2010. No adverse comments or protests were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely motion to intervene is governed by the provisions of Rule 214.

Standard of Review:

The Secretary of Energy has delegated the authority to confirm and approve Southeastern's rates on a final basis to the Commission,⁴ and established the scope of Commission review. The scope of Commission review is limited to:

- whether the rates are the lowest possible to customers consistent with sound business principals;
- whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and
- the assumptions and projections used in developing the rate components that are subject to Commission review.⁵

The Commission is prohibited from reviewing policy judgments and interpretations of the laws and regulations made by the power generating agencies.⁶ The Commission may reject the rate determinations of Southeastern's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate the Department of Energy regulations (e.g., Order No. RA 6120.2 which prescribes Southeastern's financial reporting policies, procedures, and methodologies), or if they violate agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body which reviews

⁴ Section 3 of the Delegation Orders.

⁵ *Id.*

⁶ The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The power marketing administrations, such as Southeastern, market the output of the projects.

the record developed by the Administrator. In other words, the Commission only affirms or remands the rates submitted to it for final review.⁷

Discussion:

Southeastern explains that the existing hydroelectric power rates for the Kerr-Philpott System are not adequate to meet repayment criteria. Therefore, based on an examination of Southeastern's current PRS, it proposes to increase the revenue requirement by approximately \$2.8 million, from \$18.7 million to \$21.5 million, beginning October 1, 2010, in order to meet repayment criteria. In the instant filing, Southeastern proposes the following: (1) a direct pass-through of the transmission charges to its affected customers; (2) continued recovery of approximately 57 percent of generation costs from capacity and 43 percent from energy; (3) new transmission arrangements that may be negotiated under new Open Access Transmission Tariffs, payment by Southeastern of separate charges for ancillary services that have been previously included in transmission rates; (4) continuation of the Tandem Transmission rate to recover the costs it pays to PJM Interconnection, LLC to transmit power to the border of neighboring utilities; (5) continuation of a true-up mechanism based on the costs that are transferred to plant in service in the preceding fiscal year that will be implemented on April 1 of each year; (6) a true-up of the capacity and energy rates based on the variance between actual net revenue available for repayment and planned net revenue available for repayment on April 1 of each year; and (7) continuation of a pass-through charge for replacement energy.

By statute,⁸ Southeastern must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of Southeastern's PRS indicates that the revenues to be collected under the proposed rates will be sufficient to recover Southeastern's costs, including recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the proposed rates recover no more than Southeastern's annual costs and the remaining federal investment, the rates are the lowest possible to customers. Our review also indicates that the PRS was prepared in a manner consistent with Order No. RA 6120.2 which requires that Southeastern's system financial statements must be

⁷ See, e.g., *United States Department of Energy - Western Area Power Administration (Boulder Canyon Project)*, 61 FERC ¶ 61,229 at 61,844 (1992), *aff'd in relevant respects*, *Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss*, *Overton Power District No. 5 v. O'Leary*, 73 F.3d 253 (9th Cir. 1996); *United States Department of Energy - Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058 at 61,240-41 & nn.17 & 20, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

⁸ 16 U.S.C. § 825s (2006).

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prepared in accordance with generally accepted accounting principals, as appropriate, and that its PRS be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

Because Southeastern's proposed rates are consistent with the standards by which they must be judged, they merit final confirmation and approval.

The Director:

Confirms and approves on a final basis Southeastern's proposed Rate Schedules VA-1-B, VA-2-B, VA-3-B, VA-4-B, CP&L-1-B, CP&L-2-B, CP&L-3-B, CP&L-4-B, AP-1-B, AP-2-B, AP-3-B, AP-4-B, NC-1-B, and Replacement-2-A for the period of October 1, 2010, through September 30, 2015.

Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation -- Central, under 18 C.F.R. § 375.307 of the Commission's Regulations. This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation -- Central