



FEDERAL ENERGY REGULATORY COMMISSION

NEWS

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Docket Nos. ER91-195-000 and EL07-69-000

NEWS MEDIA CONTACT

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FERC Orders Review of Sellers Using WSPP Agreement Rate

The Federal Energy Regulatory Commission (FERC) today determined that the Western Systems Power Pool (WSPP) Agreement's demand charge ceiling rate is no longer just and reasonable for use by public utility sellers in markets in which the sellers do not have market-based rate authority unless such sellers can cost-justify the rate, and ordered certain power sellers to justify their use of it.

Today's order comes in the wake of FERC's investigation, under section 206 of the Federal Power Act, into whether the WSPP Agreement rate for coordination energy sales is just and reasonable. Today's order found that in markets in which a seller has or is presumed to have market power it is unjust and unreasonable to allow that seller to continue to use the WSPP-wide "up to" demand charge as a ceiling rate unless the seller can justify the costs of that charge based on its own costs.

The WSPP Agreement has been in effect since 1991. FERC noted that over the past three years it has reviewed many updated market power analyses filed by sellers with market-based rate authority. Several of those that failed FERC's preliminary market power screens proposed to mitigate their market power by making sales under the WSPP Agreement. That led FERC to order the WSPP Agreement review in June 2007.

"We can no longer conclude that it is just and reasonable for a seller with market power to use WSPP ceiling rates that have no nexus to the seller's own costs," FERC Chairman Joseph T. Kelliher said. "Allowing this to continue would effectively let those sellers sidestep the more rigorous market-based rate test that we have put in place in recent years."

Technically the WSPP Agreement rate has a cost-based ceiling. But it nevertheless has some of the flexibility of a market-based rate so that an individual seller can negotiate a rate above its own cost-justified demand charge, subject to the ceiling. The concern is that a seller may be able to exercise market power with respect to such transactions.

The order gives all sellers under the WSPP Agreement that lack market-based rate authorization in a particular market, including those sellers that have lost or relinquished their market-based rate authority, and that wish to continue using the WSPP Agreement to make sales in that market, 60 days to provide cost-justification for doing so. This includes sellers currently using the WSPP Agreement as mitigation. The order does not require each public utility member of WSPP to cost-justify the use of the Agreement demand charge or to file an individual cost-based rate, but only those without market-based rate authorization.

If a seller provides cost support demonstrating that the "up to" demand charge under the WSPP Agreement does not exceed the demand charge that the seller can cost-justify based on its own fixed costs, it may continue to use the WSPP Agreement. Otherwise, the seller must file a separate stand-alone rate schedule, effective on the date of the compliance filing, that is cost-justified based on the individual seller's own costs.

Notwithstanding the refund effective date established in the June 2007 order initiating the section 206





proceeding, FERC will exercise its discretion and not direct the payment of refunds that might have accrued prior to the date of the seller's compliance filing.

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