

§ 300.21

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by the Administrator to the satisfaction of and within such time specified by the Director of the Office of Electric Power 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.

§ 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

AUTHORITY: Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839—839h.

§ 301.1 Average system cost methodology.

(a) *Applicability.* This section applies to the sales of electric power by any public utility to the Bonneville Power Administration pursuant to section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839—839h.

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

(1) *Average system cost* (ASC) means for each jurisdiction and each exchange period the quotient obtained by dividing Contract Systems Costs by Contract System Load.

(2) *Contract system costs* means the Utility's Costs for production and transmission resources, including power purchases and conservation measures, which Costs are includable in, jurisdictionally allocated by, and subject to the provisions of Appendix 1.