

165 FERC ¶ 61,094
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

Alcoa Power Generating Inc.—Long Sault Division	Docket Nos. EL18-72-000
Alcoa Power Generating Inc.—Tapoco Division	EL18-73-000
Alcoa Power Generating Inc.	ER18-1600-000 ER18-1601-000
Black Hills/Colorado Electric Utility Company, LP	EL18-76-000 ER18-1580-000
Cube Yadkin Transmission LLC	EL18-90-000 ER18-1602-000
Essential Power Rock Springs, LLC	EL18-97-000
PJM Interconnection, L.L.C. Essential Power Rock Springs, LLC	ER18-1566-000
Monongahela Power Company Potomac Edison Company West Penn Power Company	EL18-101-000
PJM Interconnection, L.L.C. Monongahela Power Company Potomac Edison Company West Penn Power Company	ER18-1595-000
Nevada Power Company Sierra Pacific Power Company	EL18-102-000 ER18-1603-000
Nevada Power Company	
New York State Electric & Gas Corporation	EL18-103-000

Rochester Gas and Electric Corporation	EL18-110-000
New York Independent System Operator, Inc.	ER18-1588-000
New York State Electric & Gas Corporation	
Rochester Gas and Electric Corporation	
Ohio Valley Electric Corporation	EL18-105-000
	ER18-1599-000
	ER18-1599-001
The Dayton Power & Light Company	EL18-117-000
PJM Interconnection, L.L.C.	ER18-1547-000
The Dayton Power & Light Company	(not consolidated)

ORDER ACCEPTING REVISIONS TO STATED TRANSMISSION RATES IN
RESPONSE TO THE COMMISSION’S ORDER TO SHOW CAUSE AND
TERMINATING SECTION 206 PROCEEDINGS

(Issued November 15, 2018)

■ In this order, we accept the proposed revisions, filed in “ER” dockets, to the stated transmission rates of the public utilities named as respondents in the above-captioned “EL” dockets (collectively, Respondents) in response to the Commission’s tax rate-related order to show cause,¹ and therefore terminate the proceedings instituted under section 206 of the Federal Power Act (FPA)² in those “EL” dockets.

I. Background

■ On March 15, 2018, the Commission issued several orders to address the effects of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act),³ which, among other things, reduced the federal corporate income tax rate from 35 percent to 21 percent. Of

¹ *Alcoa Power Generating Inc.—Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause). This order does not address all of the proceedings initiated by the Stated Rate Order to Show Cause, and other proceedings will be addressed in other orders.

² 16 U.S.C. § 824e (2012).

³ Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

relevance here, pursuant to section 206 of the FPA, the Commission issued the Stated Rate Order to Show Cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.

■ The Commission stated that the reduced tax rate results in lower income tax expenses for public utilities going forward. The Commission explained that public utilities recover federal corporate income tax expenses in their transmission rates, and that when tax expenses decrease, so does the cost of service. The Commission continued that it has allowed transmission rates to be established through, among other things, stated rates, which include a fixed income tax component.⁴

■ The Commission stated that it identified Respondents as having such arrangements in effect, and that absent a change to Respondents' stated transmission rates, Respondents' stated transmission rates may not accurately reflect their cost of service. Accordingly, the Commission found that Respondents' stated transmission rates appear to be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. As such, the Commission directed each Respondent to either (1) propose revisions to its stated transmission rate under its tariff on file with the Commission to reflect the reduced tax rate and describe the methodology used for making those revisions, or (2) show cause why it should not be required to do so.⁵

■ The Commission noted that it generally does not permit single-issue ratemaking. However, given the limited scope of the revisions needed to reflect the change in the federal corporate income tax rate, the Commission would consider proposals to review Respondents' revisions on a single-issue basis.⁶ The Commission also noted that, under the show cause option, Respondents may explain how the reduced tax rate is being addressed in another proceeding pending before the Commission.⁷ Finally, consistent with providing maximum protection to customers, the Commission set the refund effective date at the earliest date possible, March 21, 2018, which is the publication date of the Commission's notice of its investigation in the *Federal Register*.⁸

⁴ Stated Rate Order to Show Cause, 162 FERC ¶ 61,224 at PP 2-3.

⁵ *Id.* P 4.

⁶ *Id.* P 4 n.6.

⁷ *Id.* P 4 n.7.

⁸ *Id.* P 5.

II. Responses

A. Alcoa Power

■ On May 14, 2018, in Docket Nos. ER18-1600-000 and ER18-1601-000, Alcoa Power Generating Inc. (Alcoa Power) submitted revisions to the stated transmission rates under the separate open access transmission tariffs (Alcoa Power Tariffs) for its Long Sault Division (Long Sault) and its Tapoco Division (Tapoco). Alcoa Power states that the proposed revisions decrease the Annual Transmission Revenue Requirements (Revenue Requirements) from \$3,301,354 to \$3,231,406 for Long Sault, and from \$2,016,428 to \$1,981,267 for Tapoco.⁹ Alcoa Power states that it followed the Commission's formula set forth in Order No. 475¹⁰ to revise the currently effective stated transmission rates and Revenue Requirements for Long Sault and Tapoco in the Alcoa Power Tariffs.¹¹ Alcoa Power states that following a Commission order accepting the proposed rates, it proposes to refund to its customers the amount of charges recovered by Long Sault and Tapoco beginning on March 21, 2018 that exceed the charges calculated according to the rates accepted by the Commission in this proceeding.

B. Black Hills Colorado

■ On May 11, 2018, in Docket No. ER18-1580-000, Black Hills/Colorado Electric Utility Company, LP (Black Hills Colorado) submitted revisions to its stated transmission rates under Schedules 7 and 8 of its open access transmission tariff. Black Hills Colorado states that the revisions reduce its transmission revenue requirement from \$12,452,172 to \$11,615,863 (a reduction of \$836,309).¹² Black Hills Colorado requests an effective date of March 21, 2018. Black Hills Colorado states that it commits to comply with any refund requirement ordered by the Commission in this proceeding.

⁹ Alcoa Power Responses at 3.

¹⁰ *Rates Changes Relating to Federal Corporate Income Tax Rate for Public Utilities*, Order No. 475, FERC Stats. & Regs. ¶ 30,752, *order on reh'g*, 41 FERC ¶ 61,029 (1987) (allowing public utilities to use a voluntary, abbreviated rate filing procedure to reduce their rates to reflect a reduction in the federal corporate income tax rate on a single-issue basis, and adopting a formula to calculate this rate reduction).

¹¹ Alcoa Power Responses, Attachment E - Matthew J. Fullerton Affidavit at 2-5.

¹² Black Hills Colorado Response at 3.

C. Cube Yadkin

■ On May 14, 2018, in Docket No. ER18-1602-000, Cube Yadkin Transmission LLC (Cube Yadkin) submitted revisions to the stated rates for transmission service in Cube Yadkin's transmission open access transmission tariff. Using the methodology in Order No. 475, along with cost data from its 1996 rate filing, Cube Yadkin states that its rate for point-to-point transmission service would decrease from \$1.91/kW-month to \$1.82/kW-month.¹³ Cube Yadkin states that it has proposed corresponding revisions to its rates for other increments of point-to-point service offered under Schedules 7 and 8 of its tariff, and to the transmission revenue requirement listed in Attachment H that is applicable to network transmission customers. Cube Yadkin requests that the Commission accept the proposed changes to its tariff effective March 21, 2018.¹⁴

D. EPRS

■ On May 10, 2018, in Docket No. ER18-1566-000, Essential Power Rock Springs, LLC (EPRS) filed revisions to reduce its stated transmission rate in Attachment H-23 to the PJM Interconnection, L.L.C. (PJM) open access transmission tariff from \$225,000 to \$224,031.¹⁵ EPRS states that it calculated this reduction using as a guide the methodology the Commission adopted in Order No. 475.¹⁶ EPRS explains that this reduction may seem modest compared to those proposed by other public utilities in this proceeding because the EPRS rate was only designed to recover a modest amount of operating expenses, there was only a very small rate base, and taxes are not paid or recovered in rates for operating expenses.¹⁷ EPRS requests an effective date of June 1, 2018, in order to ease PJM's implementation of this *de minimis* rate reduction.¹⁸

¹³ Cube Yadkin May 14, 2018 Transmittal at 1-2.

¹⁴ *Id.* at 2.

¹⁵ EPRS Response at 4.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 5.

E. Allegheny Power

■ On May 14, 2018, in Docket No. ER18-1595-000, Monongahela Power Company, Potomac Edison Company, and West Penn Power Company (collectively, Allegheny Power) submitted revisions to their stated Network Integration Transmission Service (NITS) rates in Attachment H-11 of the PJM open access transmission tariff.¹⁹ Allegheny Power explains that it calculated its proposed NITS rates reductions using a methodology based on the formula established by the Commission in Order No. 475, with certain adjustments. Allegheny Power states that it has reduced all NITS rates specified in Attachment H-11 by 6.7 percent. Allegheny Power requests an effective date of March 21, 2018. Allegheny Power states that the amounts collected in excess of the new rate that reflects the tax adjustment will be refunded with interest.²⁰

F. Nevada Power and Sierra Pacific

■ On May 14, 2018, in Docket No. ER18-1603-000, Nevada Power Company (Nevada Power) and Sierra Pacific Power Company (Sierra Pacific) (collectively, NV Energy) proposed revisions to the stated transmission and ancillary service rates in the Nevada Power open access transmission tariff. Based on the methodology in Order No. 475, NV Energy proposes to lower its settlement-derived energy and ancillary services rates to implement the tax rate change. Specifically, NV Energy proposes to lower its transmission and ancillary services rates as follows: (1) Network Service reduced from \$2.65/kW/month to \$2.47/kW/month; (2) Point-to-Point Service reduced from \$2.65/kW/month to \$2.47/kW/month; (3) Hourly Peak Point-to-Point Service reduced from \$6.25/MW/hour to \$5.94/MW/hour; (4) Hourly off-peak Point-to-Point Service reduced from \$3.75/MW/hour to \$3.33/MW/hour; (5) Scheduling System Control and Dispatch rates remain the same at \$85/MW/month; (6) Reactive and Voltage Control reduced from \$300/MW/month to \$298.62/MW/month; (7) Regulation and Frequency Response reduced from \$7,500/MW/month to \$6,974/MW/month; (8) Spinning Reserves reduced from \$7,500/MW/month to \$6,974/MW/month; and (9) Supplemental Reserves reduced from \$6,600/MW/month to \$6,130/MW/month.²¹ NV Energy requests an effective date of March 21, 2018.²²

¹⁹ Allegheny Power Response at 1.

²⁰ *Id.* at 10-11.

²¹ *Id.* at 4-5.

²² NV Energy Response at 2.

G. NYSEG and RG&E

■ On May 14, 2018, in Docket No. ER18-1588-000, New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) submitted revisions to their respective wholesale transmission service charges under the New York Independent System Operator, Inc. (NYISO) open access transmission tariff.²³ NYSEG proposes reducing its transmission revenue requirement by approximately \$4.0 million, which results in a rate reduction of \$0.2696 per MWh.²⁴ RG&E proposes reducing its transmission revenue requirement by approximately \$1.6 million, which results in a rate reduction of \$0.2229 per MWh.²⁵ NYSEG and RG&E request an effective date of January 1, 2018, which the companies state enables their customers to benefit from the federal income tax rate reduction beginning on the first day the Tax Cuts and Jobs Act went into effect.²⁶

H. OVEC

■ On May 14, 2018, as amended on May 15, 2018, in Docket Nos. ER18-1599-000 and ER18-1599-001, respectively, Ohio Valley Electric Corporation (OVEC) proposed revisions to its stated transmission service rates contained in its open access transmission tariff. OVEC states that the reduced federal corporate income tax rate creates a minor decrease in a few, but not all, of its stated transmission service rates. OVEC requests an effective date of March 21, 2018. OVEC also states that it is presently an affiliate member of PJM and is pursuing full integration into PJM, and that it will conform the rates in the PJM tariff sheet to its proposed updated rates at the time of integration.²⁷

I. Dayton Power

■ On May 8, 2018, in Docket No. ER18-1547-000, The Dayton Power and Light Company (Dayton Power) submitted revisions to Attachment H-15 of the PJM open

²³ NYSEG and RG&E Response at 2 (citing NYISO, Open Access Transmission Tariff, Attachment H § 14.1, Table 1).

²⁴ *Id.* at 3.

²⁵ *Id.*

²⁶ *Id.* at 4.

²⁷ OVEC Response at 1-4 & n.5.

access transmission tariff to reduce the NITS stated rate applicable to transmission service within the Dayton Zone. Dayton Power states that it calculated the revised NITS stated rate using the formula in Order No. 475 and reduced the federal corporate tax rate input from 35 percent to 21 percent. Dayton Power states that the revised tariff sheets reflect a reduction of \$61.19 per megawatt per month (approximately 5.5 percent) to the stated NITS rate, resulting in a new rate of \$1,046.79 per megawatt per month and an annual revenue requirement amount of \$37,885,336.²⁸ Dayton Power requests an effective date of March 21, 2018 for the proposed tariff revisions.

III. Notice and Responsive Pleadings

■ Notice of the Stated Rate Order to Show Cause was published in the *Federal Register*, 83 Fed. Reg. 12,378 (2018), with interventions and protests due on or before April 5, 2018. The following entities filed timely motions to intervene: American Municipal Power, Inc. (AMP), and West Virginia Consumer Advocate in Docket No. EL18-101-000; Truckee Donner Public Utility District (Truckee Utility), Los Angeles Department of Water and Power (LA Water and Power), Utah Associated Municipal Power Systems (Utah Power Systems), Overton Power District No. 5 (Overton), and Southern Nevada Water Authority (NV Water Authority) in Docket No. EL18-102-000; Truckee Utility, LA Water and Power, Utah Power Systems, Overton, and NV Water Authority in Docket No. EL18-102-000; New York Association of Public Power in Docket No. EL18-103-000; AMP in Docket No. EL18-105-000; and AMP and Buckeye Power, Inc. in Docket No. EL18-117-000. The Maryland Public Service Commission and Colorado River Commission of Nevada filed notices of intervention in Docket No. EL18-101-000 and Docket No. EL18-102-000, respectively. The following entities filed out of time motions to intervene: Maryland Office of People's Counsel (MD Counsel) and Old Dominion Electric Cooperative (ODEC) in Docket No. EL18-101-000; and ODEC in Docket Nos. EL18-105-000, EL18-117-000, and EL18-97-000.

■ Notice of Alcoa's responses for Long Sault and Tapoco, in Docket Nos. ER18-1600-000 and ER17-1601-000 respectively, were published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. None was filed.

²⁸ Dayton Power Response at 7. Although Dayton Power states in its Response that it proposes to change the annual revenue requirement to \$37,885,386, the tariff sheet attached to the Response shows that the proposed annual revenue requirement is \$37,885,336.

■ Notice of Black Hills Colorado's response in Docket No. ER18-1580-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. None was filed.

■ Notice of Cube Yadkin's response in Docket No. ER18-1602-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. None was filed.

■ Notice of EPRS' response was published in the *Federal Register*, 83 Fed. Reg. 22,667 (2018), with interventions and protests due on or before May 31, 2018. ODEC filed a timely motion to intervene. FirstEnergy Service Company filed a late motion to intervene.

■ Notice of Allegheny Power's response in Docket No. ER18-1595-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. AMP, MD Counsel, and ODEC each filed timely motions to intervene.

■ Notice of NV Energy's response in Docket No. ER18-1603-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. Truckee Donner Public Utility District, City of Fallon, City of Los Angeles Department of Water and Power, and FirstEnergy Service Company each filed timely motions to intervene.

■ Notice of the joint response of NYSEG and RG&E in Docket No. ER18-1588-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. New York State Public Service Commission filed a notice of intervention. FirstEnergy Service Company filed a timely motion to intervene.

■ Notice of OVEC's response in Docket No. ER18-1599-000 was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. ODEC filed a timely motion to intervene.

■ Notice of Dayton Power's response in Docket No. ER18-1547-000 was published in the *Federal Register*, 83 Fed. Reg. 22,261 (2018), with interventions and protests due on or before May 29, 2018. AMP, Buckeye, and ODEC each filed timely motions to intervene. FirstEnergy Service Company filed a late motion to intervene.

IV. Commission Determination

A. Procedural Matters

■ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the notices of intervention and timely, unopposed motions to

intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

■ Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2018), we grant the late-filed motions to intervene given the interests of MD Counsel, ODEC, and FirstEnergy Service Company in the proceedings, the early stage of the proceedings, and the absence of undue prejudice or delay.

B. Substantive Matters

■ As described above, Respondents propose revisions to their stated transmission rates to reflect the new 21 percent federal corporate income tax rate, which results in rate reductions for customers. Absent a change to Respondents' stated transmission rates, customers would not receive the benefits of the reduced federal corporate income tax rate. We therefore accept Respondents' proposed revisions to their stated transmission rates, effective on the dates requested.²⁹ Because Respondents proposed revisions to their stated rates reflecting the reduced tax rate, we terminate the section 206 proceedings in Docket Nos. EL18-72-00, EL18-73-000, EL18-76-000, EL18-90-000, EL18-97-000, EL18-101-000, EL18-102-000, EL18-103-000, EL18-105-000, EL18-110-000, and EL18-117-000. Respondents are directed to make refunds of all amounts collected from customers for periods after the requested effective dates in excess of the revised rates.

The Commission orders:

(A) Respondents' proposed revisions to their stated transmission rates in Docket Nos. ER18-1547-000, ER18-1566-000, ER18-1580-000, ER18-1588-000, ER18-1595-000, ER18-1599-000, ER18-1599-001, ER18-1600-000, ER18-1601-000, ER18-1602-000, and ER18-1603-000 are hereby accepted, effective March 21, 2018, except for NYSEG and RG&E in Docket No. ER18-1588-000, which is effective January 1, 2018, and for EPRS in Docket No. ER18-1566-000, which is effective June 1, 2018, as discussed in the body of this order.

(B) Respondents are hereby directed to provide refunds, with interest calculated pursuant to 18 C.F.R. § 35.19a (2018), within 30 days of the date of this order, as discussed in the body of this order.

²⁹ We grant waiver of the 60-day prior notice requirement so that the proposed stated rate reductions of NYSEG and RG&E take effect on January 1, 2018, as requested. *See Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

(C) The proceedings in Docket Nos. EL18-72-000, EL18-73-000, EL18-76-000, EL18-90-000, EL18-97-000, EL18-101-000, EL18-102-000, EL18-103-000, EL18-110-000, EL18-105-000, and EL18-117-000 are hereby terminated, as discussed in the body of this order.

By the Commission. Commissioner McIntyre is not voting on this order. (S

E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.