

Agenda Date: June 6, 2007
Item Number: A3

Docket: UE-071016

Company Name: Pacific Power d/b/a Pacific Power & Light Company

Staff: Thomas Schooley, Regulatory Analyst

Recommendation

Allow Pacific Power & Light Company's Schedule 98 tariff revision to go into effect on June 7, 2007, and grant the Company's request for less than statutory notice.

Background

On May 23, 2007, Pacific Power d/b/a Pacific Power & Light Co. ("Pacific") filed a revision to Schedule 98 of its tariff, which is titled Adjustment Associated with the Pacific Northwest Electric Power Planning and Conservation Act, but more commonly known as the "BPA residential exchange". This schedule passes through to customers the benefits of the federal power system to Pacific's residential and small farm customers.

Pacific receives from the Bonneville Power Administration ("BPA") approximately \$20.1 million annually to distribute to its qualifying customers in Washington. Pacific does so through its Schedule 98 as a credit to customer bills of 0.884 cents per kilowatt-hour. As of May 21, 2007, the payments Pacific receives from BPA will cease.

The practical effect of BPA's suspension of payments is that Pacific is obligated by its tariff to continue the credit on its customers' bills without receiving compensating funds from the BPA until the Commission grants a change to the tariff. Pacific, therefore, requests that the rate credit in Schedule 98 be revised to zero effective on June 7, 2007, with less than statutory notice.

BPA's current level of payments to Pacific is determined pursuant to a series of contracts negotiated beginning in the year 2000 for the 2002 through 2011 period. A revised contract implemented an umbrella settlement agreement negotiated among BPA and the region's six investor-owned utilities and approved by the BPA's Record of Decision dated May 25, 2004.¹

Per the 2004 contract, Pacific should receive an annually determined fixed number of dollars from the BPA for their residential exchange allotment. Because the dollar amount varies from year to year and because the credit to customers is based on KWh sales that may also change from year to year, the residential exchange rate requires periodic adjustments over the next few

¹ *Proposed Contracts or Amendments to Existing Contracts with the Regional Investor-Owned Utilities Regarding the Payment of Residential and Small-Farm Consumer Benefits Under the Residential Exchange Program Settlement Agreements FY 2007-2011, Administrator's Record of Decision (May 25, 2004).*

years to keep the receipts and disbursements in balance.² This balancing account carries the unpaid amount due from the BPA.

However, a May 3, 2007, decision by the Ninth Circuit Court of Appeals stated those contracts are “not in accordance with law.” Federal law requires that a Federal Certifying Officer be personally responsible and accountable for certifying the legality of proposed agency payments. Given the uncertainty of the legality of the Residential Exchange contracts, the BPA has suspended payments to the investor-owned utilities effective May 21, 2007. The BPA hopes the suspension of payments is an interim measure. The BPA and the investor-owned utilities are working together to resolve the situation with the ultimate goal of reaching a regional solution.

The BPA requires Pacific and the other regulated utilities to forward all Residential Exchange funds to the qualifying customers. The utilities do so, but the reimbursements from the BPA are generally not received for 30 to 60 days after the applicable month. Pacific has no assurance of receiving funds from the BPA for the credits already issued to its customers. Staff finds that continuing the Residential Exchange credit on customer bills during the 30 day-notice period is unfair and considers the request to implement the revision to Schedule 98 with less than statutory notice as reasonable.

Pacific proposes to notify customers of the revision through appropriate local media and by direct mail as soon as practicable.

Conclusion

Staff recommends that the commission grant the request to set the residential exchange rate to zero in Pacific’s Schedule 98 and that the tariff revision should go into effect June 7, 2007 and issue an order granting the Company’s request for approval on less than statutory notice.

² Please refer to the Staff memo in Docket UE-061328 dated September 27, 2006, for detailed information on the contracts between the investor-owned utilities and the BPA.