

PUC DOCKET NO. 24418

COMMISSION STAFF'S APPLICATION	§	PUBLIC UTILITY COMMISSION
TO SET 2001 WHOLESAL	§	
TRANSMISSION SERVICE CHARGES	§	OF TEXAS
FOR THE ELECTRIC RELIABILITY	§	
COUNCIL OF TEXAS	§	
	§	
	§	

ORDER

This Order addresses the ERCOT wholesale transmission service charges to be applied in calendar year 2001. For the reasons discussed in this Order, the Public Utility Commission (Commission) adopts the attached matrices indicating the calculation of the 2001 charges determined in accordance with P.U.C. SUBST. R. 25.192.

I. Discussion

Procedural History

On July 25, 2001, Commission Staff (Staff) filed an application in this docket presenting its initial calculation of the 2001 ERCOT wholesale transmission service charges. Staff indicated that its application was based upon information compiled by ERCOT and input from the parties to last year's comparable docket, Docket No. 22055, *Proceeding to Modify ERCOT Transmission Rates for 2000 Pursuant to Substantive Rule 25.192*. Staff's initial calculations attached to its application were served on all long-term wholesale transmission service providers and customers in ERCOT as well as the parties in Docket 22055 and others involved in Project No. 21096, *Names and Address of All Transmission Providers and Transmission Customers for Billing Purpose, Pursuant to Final Order in Docket No. 20381*.

Parties' Comments

Various parties intervened and filed both initial and reply comments in this proceeding in accordance with the Administrative Law Judge's (ALJ) Order No. 1. TXU Electric Company (TXU) filed its initial comments on August 24, 2001, urging the Commission to take steps now to end the time-consuming annual process of having Staff initially calculate wholesale transmission service charges. In reply comments filed September 7, 2001, Brazos Electric Power

Cooperative, Inc. (Brazos Electric) urged the Commission to reject TXU's suggestion. South Texas Electric Cooperative, Inc. (STEC) filed reply comments agreeing in part and disagreeing in part with TXU's suggestion. On October 25, 2001, Reliant Energy, Incorporated (Reliant Energy) filed a motion requesting that the Commission establish an interim 2002 net payment matrix. The issue of how and when to address future wholesale transmission service charges was also briefly discussed at the prehearing conference on October 29, 2001.

On August 24, 2001, Central Power and Light Company and West Texas Utilities (AEP Operating Companies) filed comments questioning the inclusion of 842 kW of Perdenales Electric Cooperative's (PEC) load into the AEP total load as indicated on page 2 of the Staff's matrix. On September 7, 2001, Staff filed its reply comments indicating that the 842 kW of PEC's load was erroneously included with AEP's load. Staff further indicated that this load should have been included as part of LCRA's load. This issue was addressed during the prehearing conference held in this matter on October 29, 2001, wherein LCRA clarified that it was not acting as the load agent for PEC for this load, unlike other PEC load. The modification to the Staff matrix consistent with LCRA's clarification was contained in the revised matrix filed by Staff on October 31, 2001. The Commission approves the matrices with this modification.

The Consumer Owned Transmission Systems (COTS) filed their comments in this proceeding on August 24, 2001 requesting that the matrices be revised to include Fannin County Electric Cooperative, Inc. (Fannin) as a transmission provider. The recommendation of COTS included a specific request that the matrices be revised to include Fannin as a transmission provider with a TCOS of \$78,542. The COTS further stated that it is more reasonable to base Fannin's access charge on the 2000 ERCOT average 4-CP demand of 54,984,968 kW, resulting in a transmission access fee of \$0.0014284 per kW. On September 7, 2001, Staff filed its reply comments on this issue indicating that it does not object, pending Commission approval of Fannin's pending rate application. On September 7, 2001, TXU and Reliant Energy filed reply comments objecting to the COTS proposal. At the October 29, 2001 prehearing conference, Staff indicated that the modification requested by COTS was appropriate given the Commission's October 24, 2001 Order approving Fannin's application in Docket 24312, *Application of Fannin County Electric Cooperative, Inc. for Approval of Transmission Cost of Service and Wholesale Transmission Rates*.

On August 24, 2001, the Texas Municipal Power Agency (TMPA), the City of Garland and the City of Denton filed comments alleging that the data submitted to the Commission incorrectly states TMPA's load responsibility. On September 7, 2001, Staff filed its reply comments indicating that the Commission has previously considered and rejected the arguments made by TMPA, the City of Garland and the City of Denton in a previous docket.¹ Bryan Texas Utilities (BTU) filed its reply comments to TMPA and the Cities of Garland and Denton pointing out that the Commission has denied the relief sought by TMPA, Denton and Garland in Docket No. 22055 and Docket No. 20381,² the proceedings to set 1999 and 2000 transmission service charges.

Commission Conclusion

The Commission determines that the issue of how and when to address future wholesale transmission service charges should be addressed in Docket No. 25002, the docket established to set the 2002 transmission service charges. The Commission approves the modification of the matrices requested by the AEP Companies to correct the 842 kW erroneously contained in AEP's load, and instead assigns that portion of PEC's load to PEC as its responsibility. The Commission approves of the modification of the matrices to reflect the addition of Fannin in accordance with Docket No. 24312. The Commission concluded that Bryan is entitled to nominate its own load and take unbundled transmission service. The Commission again rejects TMPA's arguments.

II. Findings of Fact and Conclusions of Law

A. Findings of Fact

1. P.U.C. SUBST. R. 25.191 requires utilities that own transmission facilities to provide open-access transmission service. P.U.C. SUBST. R. 25.192 establishes a pricing mechanism for utilities in ERCOT.

¹ Docket No. 22055, *Proceeding to Modify ERCOT Transmission Rates for 2000 Pursuant to Substantive Rule 25.192*, Order at 2-3 (June 15, 2000).

² *Proceeding to Modify ERCOT Transmission Rates for 1999 Pursuant to SUBST. R. 23.67*, Docket No. 20381, Order (Aug. 11, 1999).

2. This proceeding was initiated by an application filed by Staff on July 25, 2001 to establish the transmission charges for 2001. Notice of the proceeding was provided to persons who participated in Docket No. 22055, Docket No. 21906, and was also provided by publication in the *Texas Register*.

3. By an order dated July 26, 2001, a Commission Administrative Law Judge (ALJ) requested interested parties to file comments on the application filed by Staff. Interested parties filed initial comments on August 24, 2001 and reply comments on September 7, 2001.

4. On August 24, 2001, Central Power and Light Company and West Texas Utilities (AEP Companies) filed comments questioning the inclusion of 842 kW of Perdenales Electric Cooperative's (PEC) load into the AEP total load as indicated on page 2 of the Staff's matrix.

5. To correct the error found by AEP Companies, the 842 kW of PEC's load is assigned to PEC, instead of AEP.

6. The Consumer Owned Transmission Systems (COTS) filed comments in this proceeding on August 24, 2001 requesting that the matrices be revised to include Fannin County Electric Cooperative, Inc. (Fannin) as a transmission provider.

7. Based on the Commission's Order in Docket No. 24312, it is reasonable to revise the matrices to include Fannin as a transmission provider with a TCOS of \$78,542, and to base Fannin's access charge on the 2000 ERCOT average 4-CP demand for 54,984,968 kW, resulting in a transmission access fee of \$0.0014284 per kW.

8. TMPA is a joint action-agency created by the Cities of Bryan, Denton, Garland and Greenville (Member Cities). The electric load of these Member Cities' customers is served by the Gibbons Creek generating plant, which is owned by TMPA, and generating facilities owned by the Member Cities.

9. For 2001, Bryan sought to nominate its own generation resources, including a portion of Gibbons Creek, and take unbundled transmission service.

10. ERCOT submitted to the Commission load and impact information based on Bryan taking unbundled transmission service, and TMPA and the Cities of Denton and Garland objected to this treatment.

11. In Docket Nos. 19585 and 20381, and 22055, the Commission concluded that the City of Bryan is entitled to nominate its own load and take unbundled transmission service.

12. More than 15 days have passed since completion of notice in this proceeding. No party requested an evidentiary hearing in this case.

13. The following are admitted in evidence in this proceeding: Staff application and attachments filed July 25, 2001; comments of AEP Operating Companies filed August 24, 2001; initial comments filed August 14, 2001 and reply comments filed September 7, 2001 of STEC; initial comments of TXU filed August 24, 2001; initial comments of TMPA filed August 24, 2001; initial comments of CTOS filed August 24, 2001; initial comments of the City of Garland and the City of Denton filed August 24, 2001; reply comments of BTU filed September 7, 2001; reply comments of TXU filed September 7, 2001; reply comments of Reliant Energy filed September 7, 2001; reply comments of Staff filed September 7, 2001; Staff memoranda, with attachments and the electronic copy of the entire spreadsheet that calculates the 2001 charges filed October 31, 2001.

B. Conclusions of Law

1. The Commission has jurisdiction of this matter under Public Utility Regulatory Act codified at TEX. UTIL. CODE ANN. §§ 11.001-63.063 (Vernon 1998 and Supp. 2001) (PURA) §§ 31.001, 35.001, 35.004-35.007 and 38.022. Notice of this application was provided in compliance with P.U.C. PROC. R. 22.54 and all other all applicable laws and regulations.

2. PURA § 31.001(c) includes a legislative finding that the wholesale electric industry is becoming more competitive and does not lend itself to traditional regulatory rules, policies and principles and that it is in the public interest to formulate and apply new rules, policies and principles to protect the public interest in a more competitive marketplace. The Legislature also concluded that the development of a competitive wholesale marketplace that allows for increased participation by both utilities and certain non-utilities is in the public interest.

3. The definition of electric utility in PURA §35.001 includes municipally owned utilities and electric cooperatives.

4. P.U.C. SUBST. R. 25.191(e) provides as follows:

Obligation to provide transmission service. Each electric utility in ERCOT that owns transmission facilities shall provide wholesale transmission service to other electric utilities, power marketers, exempt wholesale generators, qualifying facilities and other eligible transmission service customers, in accordance with the provisions of Division 1 of this subchapter. Each electric utility that owns transmission facilities shall file a tariff for transmission service and shall take transmission service for all of its uses of its transmission facilities in accordance with the terms of its tariff for transmission service.

5. The transmission rates and charges shown in the attached matrices are consistent with PURA and P.U.C. SUBST. R. 25.192 and 25.194 and are just and reasonable. The charges from each transmission owner to each transmission customer, based on these rates, and the netting of payments from one utility to another, are reasonable charges for transmission service for 2001.

6. Consistent with final orders in Docket Nos. 19585, 20381 and 22055, Bryan is entitled to nominate its own generation resources, including a portion of Gibbons Creek, and take unbundled transmission.

7. This is not a major rate proceeding as defined by P.U.C. PROC. R. 22.2.

8. The requirements for informal disposition under P.U.C. PROC. R. 22.35 have been met in this proceeding.

C. Ordering Paragraphs

For the reasons set forth above, the Commission hereby enters the following orders:

1. The attached matrices (marked Attachment A) are adopted for use in calculating the transmission charges for transmission customers in ERCOT. The charges shown in these matrices are approved for 2001. In the event that the Commission does not establish the transmission charges for 2002 before January 1, 2002, transmission customers shall continue paying the amounts shown in the attached matrices for service in 2002. However, these interim charges for 2002 are subject to possible modification in Docket 25002, *Commission Staff's Application to Set 2002 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*. Payments made in 2002 pursuant to this Order will be subject to refund or surcharge, if the final charges adopted by the Commission for 2002 in Docket No. 25002 are different than the charges established under this Order.

2. This Order does not affect the validity or continuing application of an order or rate schedule approved by the FERC that provides for transmission service on different terms.

3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied for want of merit.

SIGNED AT AUSTIN, TEXAS the 17th day of DECEMBER 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

MAX YZAGUIRRE, CHAIRMAN

BRETT A. PERLMAN, COMMISSIONER

REBECCA KLEIN, COMMISSIONER