

The Commission will then be in a position to inform the Bankruptcy Court, as necessary, of the impact on the public interest of a potential rejection of the Calpine 2 Contract, or take such other action as may be appropriate under the circumstances.¹²

15. Finally, consistent with the due date established above for intervenors to submit responses to the California State Parties' amended filing, interventions shall be due on or before 15 days after the California State Parties submit their amended filing.¹³

The Commission orders:

(A) The California State Parties are hereby directed to amend their December 19, 2005 filing within 15 days of the date of this order, as discussed in the body of this order.

(B) Interventions and responses to the California State Parties' amended filing will be due within 15 days after the California State Parties submit their amended filing, as discussed in the body of this order.

(C) The California ISO is hereby directed to file a response to the California State Parties' amended filing within 15 days after the California State Parties submit their amended filing, as discussed in the body of this order.

(D) The December 22, 2005 notice of filing in Docket No. EL06-30-000 is hereby superseded by the comment procedures established in Ordering Paragraphs (A)-(C).

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Magalie R. Salas,
Secretary.

[FR Doc. E6-87 Filed 1-9-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert D. Willis Hydropower Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: Pursuant to Delegation Order Nos. 00-037.00, effective December 6,

2001, and 00-001.00B, effective July 28, 2005, the Deputy Secretary has approved and placed into effect on an interim basis Rate Order No. SWPA-55, which increases the power rate for the Robert Douglas Willis Hydropower Project (Willis) pursuant to the following Willis Rate Schedule:

Rate Schedule RDW-05, Wholesale Rates for Hydro Power and Energy Sold to Sam Rayburn Municipal Power Agency (Contract No. DE-PM75-85SW00117).

The effective period for the rate schedule specified in Rate Order No. SWPA-55 is January 1, 2006, through September 30, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595-6696, gene.reeves@swpa.gov.

SUPPLEMENTARY INFORMATION: The existing hydroelectric power rate for the Robert D. Willis project is \$452,952 per year. The Federal Energy Regulatory Commission approved this rate on a final basis on June 24, 2004, for the period November 1, 2003, through September 30, 2007. The 2005 Willis Power Repayment Studies indicate the need for an increase in the annual rate by \$195,144 or 43.1 percent beginning January 1, 2006.

The Administrator, Southwestern Power Administration (Southwestern) has followed Title 10, Part 903 Subpart A, of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions" (Part 903) in connection with the proposed rate schedule. On August 29, 2005, Southwestern published notice in the **Federal Register** (70 FR 51033), of a 60-day comment period, together with a Public Information Forum and a Public Comment Forum, to provide an opportunity for customers and other interested members of the public to review and comment on a proposed rate increase for the Willis project. Both public forums were canceled when no one expressed an intention to participate. Written comments were accepted through October 28, 2005. One comment was received from Gillis & Angley, Counsellors at Law, on behalf of Sam Rayburn Municipal Power Agency and the Vinton Public Power Authority, which stated that they had no objection to the proposed rate adjustment.

Information regarding this rate proposal, including studies and other supporting material, is available for public review and comment in the

offices of Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103.

Following review of Southwestern's proposal within the Department of Energy, I approved Rate Order No. SWPA-55, on an interim basis, which increases the existing Robert D. Willis rate to \$648,096, per year, for the period January 1, 2006, through September 30, 2009.

Dated: December 23, 2005.

Clay Sell,

Deputy Secretary.

In the Matter of Southwestern Power Administration Robert D. Willis Hydropower Project Rate; Order Confirming, Approving and Placing Increased Power Rate Schedule in Effect on an Interim Basis

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983, the Secretary of Energy delegated to the Administrator of Southwestern the authority to develop power and transmission rates, delegated to the Deputy Secretary of the Department of Energy the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. Delegation Order No. 0204-108, as amended, was rescinded and subsequently replaced by Delegation Orders 00-037.00 (December 6, 2001) and 00-001-00B (July 28, 2005). The Deputy Secretary issued this rate order pursuant to said delegations.

Background

Dam B (Town Bluff Dam), located on the Neches River in eastern Texas downstream from the Sam Rayburn Dam, was originally constructed in 1951 by the U.S. Army Corps of Engineers (Corps) and provides streamflow regulation of releases from the Sam Rayburn Dam. The Lower Neches Valley Authority contributed funds toward construction of both projects and makes established annual payments for the right to withdraw up to 2000 cubic feet of water per second from Town Bluff Dam for its own use. Power was

¹² In the *Mirant* case, the 5th Circuit "presume[d] that the district court would * * * welcome FERC's participation" and that "FERC will be able to assist the court in balancing the equities." *Id.*

¹³ On December 22, 2005, the Commission issued a notice of the California State Parties' filing, with interventions and protests due on or before January 19, 2006. However, the January 19 comment date established by that notice is superseded by the comment procedures established in this order.

legislatively authorized at the project, but installation of hydroelectric facilities was deferred until justified by economic conditions. A determination of feasibility was made in a 1982 Corps study. In 1983, the Sam Rayburn Municipal Power Agency (SRMPA) proposed to sponsor and finance the development at Town Bluff Dam in return for the output of the project to be delivered to its member municipalities and participating member cooperatives of the Sam Rayburn Dam Electric Cooperative. Since the hydroelectric facilities at the Town Bluff Dam have been completed, the facilities have been renamed the Robert Douglas Willis Hydropower Project (Willis).

The Willis rate is unique in that it excludes the costs associated with the hydropower design and construction performed by the Corps, because all funds for these costs were provided by SRMPA. Under the Southwestern/SRMPA power sales Contract No. DE-PM75-85SW00117, SRMPA will continue to pay all annual operating and marketing costs, as well as expected capital replacement costs, through the rate paid to Southwestern, and will receive all power and energy produced at the project for a period of 50 years.

In the FERC Docket No. EF04-4081-000, issued June 24, 2004, for the period November 1, 2003, through September 30, 2007, the FERC confirmed and approved the current annual Willis rate of \$452,952.

Discussion

Southwestern's 2005 Current Power Repayment Study (PRS) indicates that the existing annual power rate of \$452,952 does not represent the lowest possible rate needed to meet cost recovery criteria. The increased revenue requirement is due to an increase in the U.S. Army Corps of Engineers (Corps) projected future replacement investment and future operations and maintenance expense estimates. The Revised PRS indicates that an increase in annual revenues of \$195,144 beginning January 1, 2006, is sufficient to accomplish repayment of the Federal investment in the required number of years. Accordingly, Southwestern developed a proposed rate schedule based on that increased revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustment," has been followed in connection with the proposed rate adjustment. More specifically, opportunities for public review and comment during a 60-day period on the proposed Willis power rate were

announced by a **Federal Register** (70 FR 51033) notice published on August 29, 2005. A Public Information Forum was scheduled to be held September 13, 2005, and a Public Comment Forum was scheduled for October 13, 2005, both in Tulsa, Oklahoma. Both forums were canceled as no one expressed an intent to participate. Written comments were due by October 28, 2005. Southwestern provided the **Federal Register** notice, together with requested supporting data, to the customer and interested parties for review and comment during the formal period of public participation. In addition, prior to the formal 60-day public participation process, Southwestern discussed with the customer representatives the preliminary information on the proposed rate adjustment. Only one formal comment was received during the public process. That comment, on behalf of SRMPA and the Vinton Public Power Authority, expressed no objection to the final proposed rate. Upon conclusion of the comment period in October 2005, Southwestern finalized the PRS and rate schedule for the proposed annual rate of \$648,096 which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an annual increase of 43.1 percent.

Availability of Information

Information regarding this rate increase, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103.

Comments and Responses

Southwestern received one written comment in which the customer representative expressed no objection to the proposed rate adjustment.

Other Issues

There were no other issues raised during the informal meeting or during the formal public participation period.

Administrator's Certification

The 2005 Revised Willis PRS indicates that the annual power rate of \$648,096 will repay all costs of the project, including amortization of the power investment consistent with provisions of the Department of Energy (DOE) Order No. RA 6120.2. In accordance with Delegation Order Nos. 00-037.00 (December 6, 2001) and 00-001.00A (September 17, 2002), and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Willis power rate is

consistent with applicable law and the lowest possible rate consistent with sound business principles.

Environment

The environmental impact of the rate increase proposal was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act, 10 CFR part 1021, and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me, I hereby confirm, approve and place in effect on an interim basis, for the period January 1, 2006, through September 30, 2009, the annual Robert D. Willis Rate of \$648,096 for the sale of power and energy from Robert D. Willis project to the Sam Rayburn Municipal Power Agency, under Contract No. DE-PM75-85SW00117, as amended. This rate shall remain in effect on an interim basis through September 30, 2009, or until the FERC confirms and approves the rate on a final basis.

Dated: December 23, 2005.

Clay Sell,

Deputy Secretary.

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DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: Pursuant to Delegation Order Nos. 00-037.00, effective December 6, 2001, and 00-001.00B, effective July 28, 2005, the Deputy Secretary has approved and placed into effect on an interim basis Rate Order No. SWPA-54, which increases the power rate for the Sam Rayburn Dam Project (Rayburn) pursuant to the following Sam Rayburn Dam Rate Schedule:

Rate Schedule SRD-05, Wholesale Rates for Hydropower and Energy Sold to Sam Rayburn Dam Electric Cooperative, Inc. (Contract No. DE-PM75-92SW00215)

The effective period for the rate schedule specified in Rate Order No.