

Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635-6711, (706) 213-3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission, by Order issued March 17, 2000, in Docket No. EF99-3021-000 (rehearing denied), confirmed and approved Wholesale Power Rate Schedules CBR-1-D, CSI-1-D, CK-1-D, CM-1-D, CC-1-E, CEK-1-D, CTV-1-D, and SJ-1-A. Rate schedules CBR-1-E, CSI-1-E, CEK-1-E, CM-1-E, CC-1-F, CK-1-E, CTV-1-E, and SJ-1-B replace these schedules.

Dated: September 26, 2003.

Kyle E. McSlarrow,
Deputy Secretary.

Order Confirming and Approving Power Rates on an Interim Basis

[Rate Order; No. SEPA-43]

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 Southeastern Power Administration (Southeastern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00-037.00 (December 6, 2001), the Secretary of Energy delegated to the Administrator of Southeastern the authority to develop power and transmission rates, and 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. This rate order is issued by the Deputy Secretary pursuant to said delegation.

Background

Power from the Cumberland System of Projects is presently sold under Wholesale Power Rate Schedules CBR-1-D, CSI-1-D, CEK-1-D, CM-1-D, CC-1-E, CK-1-D, CTV-1-D, and SJ-1-A. These rate schedules were approved by the FERC on March 17, 2000 (90 FERC 61266).

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in July 2003, for the Cumberland System shows that with an annual revenue increase of \$6,230,000 over the revenues in the current

repayment study using current rates, all system power costs are paid within the 50-year repayment period required by existing law and DOE Procedure RA 6120.2. The Administrator of Southeastern has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Public Notice and Comment

Opportunities for Public Review and Comment on Wholesale Power Rate Schedules CBR-1-E, CSI-1-E, CEK-1-E, CM-1-E, CC-1-F, CK-1-E, CTV-1-E, and SJ-1-B, was announced by notice published in the **Federal Register** on March 25, 2003. A Public Information and Comment Forum was held May 1, 2003, in Nashville, Tennessee, and written comments were invited through June 23, 2003. The notice proposed rates with a revenue increase of \$8,063,000 in Fiscal Year 2004 and all future years. Based on comments received, Southeastern revised the proposed rates. The proposed rate adjustment now shows a revenue increase of \$6,230,000. Transcripts of the Public Information and Comment Forums are included as Exhibit A-4. A review of comments is included as Exhibit A-5. The following is a summary of the comments.

Staff Evaluation of Public Comments

Notice of proposed rate adjustment was published in the **Federal Register** March 25, 2003 (68 FR 14418). The notice advised interested parties of a public information and comment forum that would be held in Nashville, Tennessee on May 1, 2003. Written comments were accepted on or before June 23, 2003. Written comments were received from six sources pursuant to this notice.

A. Comments Regarding Cost Estimates

1. Many comments pertained to the inclusion of a plan of rehabilitation for the Cumberland Projects provided by the Corps of Engineers. The Customers, the Corps of Engineers, and Southeastern are in the process of drafting a Memorandum of Agreement (MOA) that would provide for Customer funding of Renewals and Replacements. Many of the comments stated that the customers did not believe it was appropriate to include costs in the Cumberland System rates until the MOA was executed. These comments include the following:

- The proposed rate over collects funds for the Corps Operations and Maintenance ("O&M") and Renewals and Replacements ("R&R") activities. (SeFPC, SMEPA)

- The members of the SeFPC believe that Southeastern should only include those amounts in rates for O&M and R&R that reflect the amounts that the Corps actually allocates to hydropower activities in the Cumberland System of Projects. (SeFPC)

- Unless and until an MOA is in place, the Customers believe that only those amounts that Corps will receive in appropriations should be included in the rates. (SeFPC)

- The SeFPC submits that the proposed rate increase should only include those amounts where Southeastern can verify that the funds provided to the Corps are actually spent for hydropower purposes. (SeFPC)

- If Congress does not intend to provide Construction General funds in the Fiscal Year 2004 Appropriations for the Corps and there is no MOA to provide funding of renewals, replacements, and rehabilitation work, the Customers contend that Southeastern cannot legally recover the amounts in the rates for these activities. (SeFPC)

- In light of the fact that the President's budget request does not contain any construction general funds for the projects on the Cumberland River Basin, the SeFPC notes that Southeastern should not recover any joint capitalized cost from the hydropower customers. (SeFPC)

- Only in the event that the Customers, Southeastern, and the Corps find consensus for an MOA should Southeastern include amounts in the 20-rates for renewals and replacements. Unless this occurs prior to the implementation of the rate[s] on an interim basis Southeastern should not include these amounts in the proposed rate schedule[s]. (SeFPC)

- Southeastern will be collecting revenue for capital improvements that do not have guaranteed funds available. Southeastern customers may end up paying more for less reliable power. (KU Municipals)

- TVA strongly recommends that Southeastern make the implementation of the Rehabilitation funding components of the proposed rate increase, and the proposed changes in Southeastern's billing of TVA, conditioned upon mutual agreement being reached by the various parties on a funding mechanism that will result in the Corps actually receiving the funding generated by the Rehabilitation funding component of the proposed rate increase for those Rehabilitation work items which have been approved by Southeastern customers. (TVA)

- Southeastern has included in its rates future costs of replacements or