

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

AH
10/10/78
FERC
Hearing

ELECTRIC RATES: Suspension,
Intervention, Hearing

Before Commissioners: Charles B. Curtis, Chairman;
Don S. Smith, Georgiana Sheldon,
Matthew Holden, Jr., and George R. Hall.

✓ Pennsylvania Electric Company) Docket No. ER78-494

ORDER ACCEPTING RATES FOR FILING, SUSPENDING
PROPOSED RATE INCREASE, ALLOWING INTERVENTIONS,
DENYING MOTION AND ESTABLISHING PROCEDURES

(Issued September 29, 1978)

On July 18, 1978, Pennsylvania Electric Company (Penelec) submitted for filing revised rates applicable to one partial and eleven full requirement customers. ^{1/} The filing was declared deficient in a letter dated August 14, 1978, and was completed on September 1, 1978. The proposed rate revision would increase revenues by approximately \$7,587,000 based on the twelve-month test period ending June 30, 1979. This would constitute approximately a 27% increase of the rates currently in effect.

The original July 18th submittal requested an effective date of August 16, 1978. The September 1st transmittal letter accompanying the curing documents indicated that Penelec continues to propose an August 16th effective date. In neither case would the date proposed satisfy the Commission's 30 day notice requirement; in neither case did Penelec request a waiver of 18 CFR 35.3 notice requirements. However, considering the intention evidenced in the September 1st letter, the Commission will view the submittal as containing

^{1/} See Attachment A.

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an implicit request for waiver of the notice requirements. Notice of the filing was issued on July 26, 1978, with protests or petitions to intervene due on or before August 4, 1978.

On August 4, 1978, Allegheny Electric Cooperative, Inc., Borough of Berlin and Borough of Smethport (Petitioners) tendered for filing a Protest and Petition to Intervene. In support of their petition, Petitioners state that they are customers of Penelec and that their interests will be directly affected by the instant filing and can not be represented adequately by existing parties.

Petitioners contend that the proposed rates are unjust, unreasonable and unduly discriminatory, and that the filing should be rejected. They allege error in Penelec's cost-of-service calculations, asserting in particular that Penelec has functionalized general plant contrary to "appropriate ratemaking practices and Commission precedent" by applying gross plant ratios; that Commission precedent requires the use of labor ratios; and that Penelec's filing should be revised accordingly.

On August 8, 1978, Penelec submitted an Answer to Petition to Intervene and Motion to Reject and Suspend. Penelec argues that the cost of service is not excessive and that the motion to reject should be denied. In particular, Penelec asserts that the proper method for functionalizing general plant is an open question and that the Commission has approved both plant ratios and wage ratios.

In Minnesota Power & Light Company, Opinion No. 20, issued August 3, 1978, in Docket Nos. E-9499 et al., we held that "General Plant as covered by Accounts 389-399 in the Commission's Uniform System of Accounts for Public Utilities and Licenses, should be properly allocated on the basis of labor costs", and that "the company's plant allocation method is not reasonable." We also "requir[ed] that labor ratios be used in allocating general plant. . . in succeeding cases", supra at 16-17. In a subsequent order 2/, we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to

2/ "Order Accepting Rates For Filing, Rejecting Rate For Filing, Waiving Notice, Suspending Rate Increases, Grant Summary Disposition and Granting Interventions", issued on August 25, 1978, in Docket No. ER78-513, Public Service Company of Indiana.

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show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable". Penelec -- like all other future applicants -- bears this same burden in the instant case.

Our review indicates that the rates filed by Penelec have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. In light of this review and (1) the fact that both the Petitioners' motion and Penelec's answer were filed prior to Staff's finding of deficiency and the subsequent submission of curing documents and (2) the determination that Petitioners' allegations present questions of law and fact more appropriately considered at hearing, the Commission will deny the Petitioners' motion to reject the filing, accept the submittal for filing and suspend the proposed rates for two months. Accordingly, the rates will go into effect as of December 1, 1978, subject to refund.

The Commission finds that participation in this proceeding by the Petitioners may be in the public interest.

The Commission orders:

(A) The rates proposed by Pennsylvania Electric Company are hereby accepted for filing and suspended for two months, to become effective as of December 1, 1978, subject to refund.

(B) Pennsylvania Electric Company is hereby directed to file within 30 days of the issuance of this order a schedule of adjustments to its filed cost of service study, such adjustments being designed to show in detail the effects of utilizing labor ratios to functionalize general plant in the determination of the allocated wholesale costs of service.

(C) Waiver of the Commission's notice requirements is hereby denied.

(D) The Petitioners, Allegheny Electric Cooperative, Inc., Borough of Berlin and Borough of Smethport are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, that participation by such intervenors shall be limited to matters set forth in their petition to intervene; Provided further, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

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(E) Petitioners' motion for rejection of the filing is hereby denied.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(A) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Pennsylvania Electric Company in this proceeding.

(G) The Staff shall prepare and serve top sheets on all parties on or before January 30, 1978.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 3.6(d)) shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

(S E A L)

Lois D. Cashell,
Acting Secretary.

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Attachment A

Pennsylvania Electric Company
Docket No. ER78-494

Designation

Description

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| (1) Third Revised Sheet No. 2 and 4th Revised Sheet Nos. 13 and 14 under FPC Electric Tariff, Orig. Vol. No. 1 (Supersedes 2nd Revised Sheet No. 2 and 3rd Revised Sheet Nos. 13 and 14) | Table of Contents and Revised Rate - RP |
| (2) Supplement No. 14 to Rate Schedule FPC No. 70 (Supersedes Supplement No. 10) | Exhibit B - Rate for Supplemental Power and Energy |
| (3) Supplement No. 15 to Rate Schedule FPC No. 70 (Supersedes Supplement No. 11) | Exhibit C - Rate For Wheeling |

Customers

Allegheny Electric Cooperative,
Inc. (partial requirements)

West Penn Power Company

Berlin Borough

Windber Electric Corpora-
tion

East Conemaugh Borough

Wellsborough Electric
Company

Elkland Electric Company

Girard Borough

Hooversville Borough

Rockingham Light, Heat &
Power Company

Smethport Borough

Summerhill Borough