

171 FERC ¶ 61,076
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

April 27, 2020

In Reply Refer To:
Electric Energy, Inc.
Docket Nos. EL18-96-000
ER18-1646-000
ER18-1646-001

Electric Energy, Inc.
701 Fifth Avenue
Suite 4200
Seattle, WA 98104

Attention: Eric Todderud

Dear Mr. Todderud:

1. On March 15, 2018, the Commission issued several orders to address the effects of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act),¹ which, among other things, reduced the federal corporate income tax rate from 35% to 21%. Of relevance here, pursuant to section 206 of the Federal Power Act (FPA),² the Commission issued an order to show cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.³

2. The Commission found that the reduced tax rate results in lower income tax expenses for public utilities going forward. The Commission explained that public utilities recover federal corporate income tax expenses in their transmission rates, and

¹ Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

² 16 U.S.C. § 824e (2018).

³ *Alcoa Power Generating, Inc. – Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause).

that when tax expenses decrease, so does the cost of service. The Commission continued that it has allowed transmission rates to be established through, among other things, stated rates, which include a fixed income tax component.⁴

3. The Commission identified Electric Energy, Inc. (Electric Energy), as having such arrangements in effect, and that absent a change to Electric Energy's stated transmission rates, those rates may not accurately reflect Electric Energy's cost of service. Accordingly, the Commission found that Electric Energy's stated transmission rates appear to be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. As such, the Commission directed Electric Energy to either (1) propose revisions to its stated transmission rate under its tariff on file with the Commission to reflect the reduced tax rate and describe the methodology used for making those revisions, or (2) show cause why it should not be required to do so.⁵

4. On May 14, 2018, Electric Energy submitted a response to the Stated Rate Order to Show Cause, explaining that it would submit proposed tariff revisions to reduce its stated transmission rates. On May 16, 2018, in Docket No. ER18-1646-000, Electric Energy submitted proposed revisions to reduce its stated transmission revenue requirement under its Open Access Transmission Tariff (OATT)⁶ in Schedule 2 (Reactive Supply and Voltage Control from Generation or Other Sources Service), Schedule 7 (Long-Term Firm and Short-Term Firm Point-To-Point Transmission Service), and Schedule 8 (Non-Firm Point-To-Point Transmission Service), in response to the Commission's Stated Rate Order to Show Cause.

5. On November 15, 2018, Commission staff issued a deficiency letter requesting that Electric Energy provide the calculations, cost support, and methodology that Electric Energy used to determine its reduced stated transmission rates.

6. On December 20, 2018, in Docket No. ER18-1646-001, Electric Energy submitted a response to the deficiency letter. Electric Energy stated, among other things, that it was submitting the supporting documentation that shows how it determined its reduced stated transmission rates. Electric Energy also asserted that it operates very limited transmission facilities and no non-affiliated transmission customer has taken service on

⁴ *Id.* PP 2-3.

⁵ *Id.* P 4.

⁶ Electric Energy, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff.

its transmission system since it filed its OATT in 1996. Electric Energy also submitted a revised Schedule 7 to correct a typographical error in its initial filing.⁷

7. On November 20, 2019, Commission staff issued a second deficiency letter requesting that Electric Energy provide the cost information from 1996 that it used to determine its reduced stated transmission rates.

8. On March 12, 2020, Electric Energy submitted a deficiency response that included the 1996 OATT that was originally filed with the Commission.⁸ Electric Energy also asserts that it sold its transmission facilities and related assets to GridLiance Heartland LLC in a transaction approved by the Commission in Docket No. EC20-13-000, which was consummated on February 29, 2020.⁹ Electric Energy also states that on March 5, 2020, it filed a notice of termination of its OATT in Docket No. ER20-1170-000.¹⁰

9. Notice of Electric Energy's May 16, 2018 filing was published in the *Federal Register*, 83 Fed. Reg. 23,664 (May 22, 2018), with interventions and protests due on or before June 6, 2018. Ameren Services Company (Ameren) filed a timely motion to intervene. Notice of Electric Energy's response to the November 15, 2018, deficiency letter was published in the *Federal Register*, 83 Fed. Reg. 67,273 (Dec. 28, 2018), with interventions and protests due on or before January 10, 2019. None was filed. Notice of Electric Energy's response to the November 20, 2019, deficiency letter was published in the *Federal Register*, 85 Fed. Reg. 15,772 (Mar. 19, 2020), with interventions and protests due on or before April 2, 2020. None was filed.

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), Ameren's timely, unopposed motion to intervene serves to make it a party to this proceeding.

11. As described above, Electric Energy proposed revisions to its stated transmission rates to reflect the new 21% federal corporate income tax rate, which results in rate reductions to customers. We therefore accept Electric Energy's proposed revisions to its stated transmission rates, effective March 21, 2018, and terminate the FPA section 206 proceeding initiated in Docket No. EL18-96-000. Electric Energy is directed to make refunds of all amounts collected from customers for periods after the requested effective

⁷ Electric Energy December 2018 Deficiency Response at 3. Electric Energy states that the correct rate for Schedule 7 is \$0.05269.

⁸ Electric Energy March 2020 Deficiency Response at 2.

⁹ *Electric Energy, Inc.*, 170 FERC ¶ 61,072 (2020).

¹⁰ Electric Energy March 2020 Deficiency Response at 1.

dates in excess of the revised rates, with interest calculated pursuant to 18 C.F.R. § 35.19a (2019), within 30 days of the date of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.