

166 FERC ¶ 61,125
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

February 21, 2019

In Reply Refer To:
Tucson Electric Power Company
Docket Nos. ER19-550-000
EL18-119-000

Mr. V. Michael Nitido
Tucson Electric Power Company
88 East Broadway Boulevard
Mail Stop HQE910
Tucson, AZ 85701

Attention: V. Michael Nitido

Dear Mr. Nitido:

1. On December 13, 2018, Tucson Electric Power Company (Tucson Electric) submitted revisions to its open access transmission tariff (OATT), in Docket No. ER19-550-000, in compliance with the Commission's November 15, 2018 order¹ regarding Tucson Electric's response to the Commission's March 15, 2018 tax rate-related order to show cause.² In this order, we find that Tucson Electric's proposed OATT revisions comply with the Commission's directives in the November 15 Order, and terminate the section 206 of the Federal Power Act (FPA)³ proceeding established in Docket No. EL18-119-000.

¹ *Tucson Elec. Power Co.*, 165 FERC ¶ 61,103 (2018) (November 15 Order).

² *Alcoa Power Generating Inc.—Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause).

³ 16 U.S.C. 824e (2012).

2. 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),⁴ which, among other things, reduced the federal corporate income tax rate from 35 percent to 21 percent.⁵ Of relevance here, pursuant to FPA section 206, the Commission issued the Stated Rate Order to Show Cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.

3. The Commission stated 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 that when tax expenses decrease, so does the cost of service.⁶ 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.⁷ The Commission identified Tucson Electric as having such an arrangement in effect, and that absent a change to Tucson Electric's stated transmission rates, Tucson Electric's stated transmission rates may not accurately reflect its cost of service. Accordingly, the Commission found that Tucson Electric's stated transmission rates appear to be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful, and directed Tucson Electric to either (1) propose revisions to its stated transmission rate under its tariff, or (2) show cause why it should not be required to do so.⁸ The Commission also noted that, under the show cause option, Tucson Electric may explain how the reduced tax rate is being addressed in another proceeding pending before the Commission.⁹

4. On May 14, 2018, and May 15, 2018, Tucson Electric submitted an analysis to support recalculations of its stated transmission rate found in Schedules 7 and 8 of its OATT, and to the transmission revenue requirement in Attachment H of its OATT. Tucson Electric stated that it would submit an eTariff compliance filing to implement the tax rate reduction effective March 21, 2018, if the Commission found that the analysis to support the recalculations of its stated transmission rates satisfied the Stated Rate Order

⁴ Tax Cuts & Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

⁵ Stated Rate Order to Show Cause, 162 FERC ¶ 61,224.

⁶ *Id.* PP 2-4.

⁷ *Id.* P 3.

⁸ *Id.* P 4.

⁹ *Id.* P 4 n.7.

to Show Cause.¹⁰ In the November 15 Order, the Commission found that Tucson Electric's proposed recalculations of its stated transmission rates to implement the tax rate reduction would satisfy the Stated Rate Order to Show Cause, and directed Tucson Electric to submit a compliance filing with revised tariff records to implement the tax rate reduction.¹¹ The Commission also directed Tucson Electric to provide refunds, with interest calculated pursuant to 18 C.F.R. § 35.19a (2018), within 30 days of the date of the order.¹²

5. On December 13, 2018, Tucson Electric submitted its compliance filing in response to the November 15 Order with revised tariff records reflecting the stated transmission rate reductions in Schedules 7 and 8 and in Attachment H of its OATT resulting from the tax rate reduction.

6. Notice of Tucson Electric's filing was published in the *Federal Register*, 83 Fed. Reg. 65,656 (2018) with interventions and protests due on or before January 3, 2019. None was filed.

7. We find that Tucson Electric's December 13, 2018 filing of revised OATT records is consistent with the previously proposed recalculations of its stated transmission rates to implement the tax rate reduction. We therefore accept Tucson Electric's revisions to its OATT, effective March 21, 2018, and terminate the FPA section 206 proceeding initiated in Docket No. EL18-119-000. As indicated above, Tucson Electric shall provide refunds, with interest calculated pursuant to 18 C.F.R. § 35.19a (2018).

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁰ *Tucson Elec. Power Co.*, Response to Inquiry, Docket No. EL18-119-000 (filed May 14, 2018); *Tucson Elec. Power Co.*, Errata, Docket No. EL18-119-000 (filed May 15, 2018).

¹¹ November 15 Order, 165 FERC ¶ 61,103 at P 9 & ordering para. (A).

¹² *Id.* P 9 & ordering para. (B).