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FERC Permits Transmission-Only Public Power Entity to Use Same Formula Rate for Future Transmission Projects in Different PJM Zones Based on Cash-Flow Method.

On March 26, 2019, FERC accepted, subject to condition, AMP Transmission, LLC's ("AMP") proposed formula rate template and implementation protocols (collectively "Formula Rate") to recover a revenue requirement based on a cash-flow method for AMP's integrated transmission facilities located in the PJM Interconnection, L.L.C. ("PJM") region. As a minor condition of acceptance, FERC directed AMP to revise on compliance its Formula Rate to enable AMP to use it in PJM transmission zones that require different rate years, as opposed to only in zones whose rate year is based on the calendar year.

AMP is a non-profit entity that was formed solely to provide transmission-related services in PJM through its ownership of some of the transmission facilities of American Municipal Power, Inc.'s members that require compliance with certain NERC Reliability Standards. On November 1, 2018, AMP submitted to FERC a proposed cost-based, forward-looking formula rate that utilizes a cash-flow method to develop its revenue requirement, which does not include an allowance for depreciation expense or for return on rate base. Rather, the cash-flow method incorporates a provision for the recovery of debt service payments and a margin requirement, which is a percentage of AMP's debt service obligation. AMP stated that, as a start-up entity with no equity, it must debt-finance the facilities it will purchase or build, and because the term of any available loans is expected to be shorter than the service life of transmission facilities, a non-cash flow approach does not ensure that AMP will receive the revenue it needs each month to service its debt. AMP also requested approval of the Formula Rate to be used in any PJM transmission zone for any facilities that AMP Transmission may own or lease in the future.

In its order, FERC accepted AMP's proposed Formula Rate, subject to condition. FERC found that AMP had demonstrated that the cash-flow based formula is more appropriate for its circumstances, allowing it to closely match expected revenue with the time of debt service requirements, than the non-levelized approach, which may not ensure it receives the revenue it needs each month to service its debt. FERC also found just and reasonable: (1) AMP's margin requirement; and (2) AMP's proposal that its Formula Rate apply to transmission facilities that are acquired in yet-to-be determined PJM transmission zones with implementation at some point the future. However, FERC found that AMP's Formula Rate did not allow for use in a PJM transmission zone using a non-calendar based rate year, which was contrary to AMP's stated intent to provide flexibility for use of Formula Rate in zones with different rate years. FERC thus directed AMP to revise on compliance its Formula Rate to enable AMP to use it in PJM transmission zones that require different rate years, as opposed to only in zones whose rate year is based on the calendar year.

A copy of FERC's order is available here.

by Meghan Mandel and Miles Kiger

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