

ATTACHMENT H-2

Transmission Formula Rate Implementation Protocols

I. Annual Update

1. The transmission formula rate template of The Empire District Electric Company (“Empire”) and these Formula Rate Implementation Protocols (“Protocols”) together comprise the filed rate (“Formula Rate”) of Empire for transmission service in the Empire zone of the Southwest Power Pool, Inc. (“SPP”) footprint. Empire must follow the instructions specified in the Formula Rate to calculate its Annual Transmission Revenue Requirements (“ATRR”) and the rates for Network Integration Transmission Service and Point-to-Point Transmission Service in the Empire zone of the SPP footprint, as well as rates for Scheduling, System Control and Dispatch Service under the Empire Open Access Transmission Tariff (“Schedule 1 Service”).
2. The Formula Rate shall be applicable to service on and after July 1 of each calendar year through June 30 of the following calendar year (“Rate Year”), subject to review, challenge and refunds or surcharges with interest, to the extent provided herein.
3. On or before June 1 of each calendar year, Empire shall:
 - (a) recalculate the ATRR and the rates for zonal Network Integration Transmission Service, zonal Point-to-Point Transmission Service, and Schedule 1 Service for the new Rate Year in accordance with the Formula Rate (“Annual Update”);
 - (b) post such Annual Updates, as well as a populated rate formula template in fully functional spreadsheets showing the calculation of such Annual Update with worksheets and documentation supporting such calculation as provided in Section I.4. below, in an accessible location on the SPP’s OASIS website (“Posting Date”);
 - (c) disclose any changes in Empire’s accounting policies, practices or procedures that impact the Formula Rate and calculations under the Formula Rate that have occurred since the initial filing of the Formula Rate or the posting of the most recent Annual Update, as applicable; and
 - (d) notify SPP transmission customers taking Network Integration Transmission Service and/or Point-to-Point Transmission Service on the Empire facilities operated by SPP and affected state public utility commissions (together “Interested Parties”) of the website address of the Annual Update posting via e-mail to the most recent e-mail addresses

provided to Empire, or via United States mail to the most recent address provided to Empire if no e-mail address is available.

4. The Annual Update for the Rate Year shall:
 - (a) to the extent specified in the Formula Rate, be based upon Empire's FERC Form No. 1 for the most recent calendar year, and, to the extent specified in the Formula Rate, upon the books and records of Empire consistent with FERC accounting regulations, policies, and practices;
 - (b) as and to the extent specified in the Formula Rate, provide sufficiently detailed worksheets and supporting documentation for data (and all adjustments thereto or allocations thereof) that are used to develop the Formula Rate and are not otherwise available directly from the FERC Form No. 1; and
 - (c) not seek to modify the Formula Rate and shall not be subject to challenge by a party seeking to modify the Formula Rate (*i.e.*, all such modifications to the structure of the Formula Rate and the stated values specified in Section I.5 herein will require, as applicable, an appropriate filing with the FERC pursuant to Federal Power Act Section 205 or Section 206).
5. A change to the Formula Rate fixed inputs related to rate of return on equity ("ROE"), depreciation rates, amortization periods, the amount of expense for Post-Employment Benefits Other than Pensions, the 55% cap on the share of common equity in the capital structure and ROE incentives for SPP regional projects may not be made absent an appropriate filing with the FERC pursuant to Federal Power Act Section 205 or Section 206; provided, however, that Empire may make a limited Section 205 filing to change depreciation rates, amortization periods, the amount of expense for Post-Employment Benefits Other than Pensions, and/or ROE incentives for SPP regional projects, in which the sole issue for examination shall be whether the proposed change(s) are just and reasonable, and not unduly discriminatory. Any filing to change the ROE, capital structure or the 55% cap on common equity is not considered a limited filing.
6. If Empire files any corrections to correct a Mistake in its FERC Form No. 1 during a Rate Year that would affect the Formula Rate for that Rate Year, such corrections and any resulting refunds or surcharges shall be reflected in the Annual Update for the next effective Rate Year, with interest computed in accordance with 18 C.F.R. § 35.19a. *See* Worksheet 11 of the Formula Rate template. For purposes of these Protocols, "Mistake" shall mean errors or omissions regarding the values inputted into the Formula Rate template, such as, but not limited to, arithmetic and other inadvertent computational errors, erroneous Form No. 1 references or the like. Mistakes shall not include matters involving exercise of judgment or substantive differences of opinion regarding the derivation of an input that is more properly the subject of the annual review process. Corrections to erroneous FERC Form No. 1 references in the Formula Rate template may be

made in the Annual Update without a Section 205 or 206 filing. There is no deadline for any Interested Party or Empire to notify the other party of any mistake in any FERC Form No. 1 data or specific data applied in the Formula Rate template.

II. Review of Annual Update

Each Annual Update shall be subject to the following review procedures:

1. Empire shall host a meeting with Interested Parties (collectively), to be held no later than June 15 each year, to explain and answer questions regarding the Annual Update (“Annual Meeting”). Empire shall provide Interested Parties, via e-mail to the most recent e-mail addresses provided to Empire, at least fifteen (15) calendar days advance notice of such meeting. Empire shall modify the Annual Update to reflect any changes that it and the Interested Parties participating in such Annual Meeting all agree upon as a result of the Annual Meeting, and post such modifications in the same manner as the original Annual Update no later than June 30.
2. Interested Parties shall have ninety (90) calendar days from the date of the Annual Meeting to serve reasonable information requests on Empire. Such information requests shall be limited to what is necessary to determine if Empire has properly calculated the Annual Update under review (including, without limitation, whether the costs included in the Annual Update are appropriately recovered under the terms of the Formula Rate and whether the Formula Rate has been applied according to its terms) and may include any documents that are the source for inputs into the Formula Rate.
3. Empire shall make a good faith effort to respond to information requests pertaining to the Annual Update within fifteen (15) business days of receiving such requests. Information requests received after 4 p.m. Central Prevailing Time (“CPT”) shall be considered received the next business day.
4. To the extent Empire and Interested Parties are unable to resolve disputes related to information requests submitted in accordance with these Protocols, Empire or any Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master. The discovery master shall have the power to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with these Protocols and FERC’s discovery rules.
5. Interested Parties shall have until the later of: (i) one hundred and five (105) calendar days from the Annual Meeting date, or (ii) fifteen (15) calendar days after Empire’s last response to reasonable information requests submitted pursuant to Section II.2 above (“Notice Date”), to review the implementation of the Formula Rate and to notify Empire in writing of any specific challenges to the Annual Update (“Issues”).

6. Empire may designate any response to an information request as confidential and subject to a protective agreement if the information conveyed is not publicly available. Interested Parties' representatives shall treat such response as confidential and subject to the terms of any protective agreement adopted in connection with any of the proceedings discussed in this section.
7. All information produced pursuant to these Protocols may be included in any Formal Challenge or in any other proceeding concerning the Formula Rate initiated at FERC pursuant to the Federal Power Act; provided, however, that any confidential information produced pursuant to these Protocols shall be subject to the terms of any protective agreement adopted pursuant to Section II.6 above.
8. Empire shall promptly post written notifications of Issues in an accessible location on the SPP's OASIS website.

III. Resolution of Challenges

For each Annual Update:

1. If Empire and Interested Parties have not resolved all Issues identified pursuant to II.5 above within thirty (30) calendar days from the Notice Date, authorized representatives of Interested Parties and Empire shall make a good faith effort to resolve any outstanding Issues.
2. If Empire and Interested Parties are unable to resolve all Issues within fifty (50) calendar days from the Notice Date, any Interested Party may file an action pursuant to Section 206 or Section 306 of the Federal Power Act challenging the Annual Update ("Formal Challenge"). Any action proposing changes to the Formula Rate template or the Protocols shall not be considered "Formal Challenges" for purposes of these Annual Review Procedures.
3. Nothing in these Protocols shall be construed to limit any Interested Party's right to challenge any of the inputs to the Formula Rate as an Issue. Empire acknowledges that if an Interested Party challenges any such inputs as an Issue and the parties are unable to resolve Issues in accordance with the provisions of these Protocols, an Interested Party may file an action pursuant to Section 206 or Section 306 of the FPA challenging any such inputs and shall bear the threshold statutory burden for any such challenge. If the threshold is met, Empire shall then bear the burden of demonstrating the justness and reasonableness of any input that may be the subject of any such challenge. Empire shall also bear the burden of proving that it has reasonably applied the terms of the Formula Rate, and the applicable procedures in these Protocols, for that year's Annual Update.
4. Any refunds or surcharges resulting from a Formal Challenge shall be calculated, with interest determined in accordance with 18 C.F.R. § 35.19a, from the date of the wrongful billing, and shall be reflected in the Annual Update for the next effective Rate Year.

IV. Miscellaneous

1. Except as specifically provided herein, nothing in these Protocols limits or deprives Empire or any Interested Party of any rights it may otherwise have under Sections 205 or 206 of the Federal Power Act.
2. If the date for making the Annual Update posting should fall on a weekend or a holiday recognized by FERC, then the posting shall be due the next business day.