

Western
Resources

Richard A. Dixon
Director, Federal Rates

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PUBLIC SERVICE COMMISSION

December 21, 1993

Mr. David L. Rauch
Executive Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Dear Mr. Rauch:

Attached hereto is a copy of a filing being mailed to the Federal Energy Regulatory Commission (FERC) on this date. The filing requests acceptance of the Wolf Creek Generating Station Operating Agreement and Memoranda relevant to that Agreement. WRI also requests the FERC disclaim jurisdiction over the Wolf Creek Generating Station Ownership Agreement. This filing ensures the agreements are filed in compliance with FERC regulations.

If you require further information, please contact me.

Sincerely,



Attachment

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Richard A. Dixon
Director, Federal Rates

December 21, 1993

Ms. Lois D. Cashell
Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Dear Ms. Cashell:

On July 30, 1993, the Commission issued its Final Order in Docket No. PL93-2-002¹ regarding prior notice and filing requirements under Part II of the Federal Power Act. That Order established an amnesty period ending December 31, 1993, until which time utility companies could file certain identified categories of documents, which were previously unfiled.

The above-indicated Order requires the filing of Operating and Maintenance Agreements which might affect jurisdictional rates. Western Resources, Inc. (WRI), on behalf of its subsidiary Kansas Gas and Electric Company (KG&E)², has determined that the Operating Agreement for the Wolf Creek Generating Station (WCGS) should be filed in response to the above-referenced Commission order. WRI's determination is based on the authorities designated in paragraph 2.01 of the Operating Agreement, which provides for the Operator to "...be responsible for the operation, maintenance, repair, decontamination and decommissioning of the Station...". The Agreement, dated April 15, 1986, was made among the co-owners and the Operator of the Wolf Creek Generating Station.

WRI has also identified other documents directly associated with the Operating Agreement which are relevant to this filing. The December 28, 1981, Wolf Creek Station Accounting Memorandum cited its own applicability to "...the construction, operation and maintenance of Wolf Creek Station..." and contemplated the development of an Accounting Manual as an addendum. WRI is filing

¹ 64 FERC 61,139

² On March 31, 1992, The Kansas Power and Light Company (KPL) merged with KG&E. WRI became the successor to KPL, and KG&E became a wholly-owned subsidiary of WRI.

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both the Accounting Memorandum and the Operator's procedural Accounting Manual because of the combined importance of those two documents in allocating jurisdictional costs. WRI also provides the Insurance Memorandum, effective January 1, 1987, and amended effective November 15, 1990, which set out the responsibilities of each party as to insurance coverage, premiums, and claims (if any), supplementing the Operating Agreement.

In the Appendix to the Final Order in Docket No. PL93-2-002, the Commission stated that "public utilities need not file agreements for the joint ownership of generation facilities unless those agreements contain provisions affecting or relating to rates for wholesale sales of energy in interstate commerce." WRI also submits, on behalf of KG&E, the Wolf Creek Generating Station Ownership Agreement dated December 28, 1981, with Amendment effective January 1, 1987, and requests the Commission disclaim jurisdiction over it. It is WRI's position that the Ownership Agreement does not contain provisions affecting or relating to rates for wholesale sales in interstate commerce and thus is not within the Commission's jurisdiction.

There are, however, two provisions of the Ownership Agreement which could conceivably be used to argue that the Agreement is jurisdictional. Article 1.1(b) defines Wolf Creek Station to include "...switchyard and substation equipment (excluding transmission line terminations)..." The costs and expenses for such substation facilities and equipment, even though directly associated with a generating facility, are recorded in transmission-related accounts. Conceivably, it could be argued that the Ownership Agreement is jurisdictional because it establishes joint ownership of an asset and then, in other agreements, it directs a portion of that asset's O&M expense to the jurisdiction. Transmission lines are specifically excluded by Article 1.1(b) and so are not at issue here.

The second provision is Article 4.5 which specifies that if one owner uses the capacity entitlement of another owner, it is done so under the applicable service schedules for interchange transactions as may be effective subject to regulatory approval. Conceivably, it could be argued that the Ownership Agreement is jurisdictional because it conditions the use of capacity upon current Commission-approved rates for interchange transactions.

It is WRI's position that the provisions described above are not, by themselves, sufficient to bring the Ownership Agreement into Commission jurisdiction. WRI is unaware of any guidance enunciated by the Commission or by the Courts that is dispositive regarding whether such provisions, by themselves, operate to transform an otherwise non-jurisdictional agreement into one which

is jurisdictional. For that reason, WRI follows the Commission's suggestion that the Ownership Agreement be filed with a request that the Commission disclaim jurisdiction; WRI hereby makes that request. In the event the Commission determines the Ownership Agreement is jurisdictional, WRI provides the required information for filing of an initial rate schedule under 18CFR §35.12.

Filing of the Operating Agreement

WRI respectfully requests the Commission accept for filing the enclosed Wolf Creek Generating Station Operating Agreement, the Insurance Memorandum and Amendment, and the Accounting Memorandum and Addendum (the above-described Accounting Manual). WRI further requests the Commission assign a specific rate schedule number to the Operating Agreement, as supplemented by the Insurance Memorandum and the Accounting Memorandum. While unquestionably late-filed, WRI requests waiver of the Commission's regulations regarding such tardiness, pursuant to the amnesty provisions defined in the Final Order in Docket No. PL93-2-000.

18CFR §35.12(a)

(1) WRI hereby provides five copies of this letter and six copies of the following documents:

- (i) Wolf Creek Generating Station Operating Agreement, dated April 15, 1986;
- (ii) The Insurance Memorandum, effective January 1, 1987, and Amendment effective November 15, 1990;
- (iii) The Wolf Creek Station Accounting Memorandum, dated December 28, 1981;
- (iv) The (undated) Accounting Manual Re: Wolf Creek Station;
- (v) A single Certificate of Concurrence executed by Kansas City Power & Light Company³ which addresses

³ Neither Kansas Electric Power Cooperative, Inc. nor the Wolf Creek Nuclear Operating Corporation have operations or activities which fall under the Commission's jurisdiction; therefore, it is unnecessary for those entities to certify their concurrence with this filing. WRI has nevertheless sent a copy of this filing to each party.

WRI's filing proposals regarding both the Operating Agreement and the Ownership Agreement; and

(vi) A Notice suitable for publication in the Federal Register.

(2) WRI requests this rate schedule be made effective on April 15, 1986, the date of the basic Operating Agreement, and further requests the supplements be made effective on their respective effective dates.

(3) The distribution list attached to this letter shows the parties to which this filing has been mailed.

(4) Neither the Operating Agreement nor its Supplements contain any rates or charges for services; rather, they specify the responsibilities delegated to the Wolf Creek Nuclear Operating Corporation and provide for the owners to reimburse, without markup, the Operator's costs of operating and maintaining the plant.

(5) Requisite agreement is shown by the Parties' signatures on the Operating Agreement, on the two Memoranda, and on the enclosed Certificate of Concurrence.

(6) Enclosed is a Notice suitable for publication in the Federal Register.

18CFR §35.12(b)

Not Applicable. Neither the Operating Agreement nor its Supplements contain any rates or charges for services; rather, they provide for the owners to reimburse, without markup, the Operator's costs of operating and maintaining the plant. No rates can be calculated, no income is anticipated, and the Agreement contemplates none; therefore, there are no cost computations, workpapers, or summary statements supporting any rate or charge, nor can there be any summary of revenues or service transactions under this filing.

Disposition of the Ownership Agreement

WRI respectfully requests the Commission review the Wolf Creek Generating Station Ownership Agreement, as amended, and disclaim jurisdiction thereto. In the alternative, if the Commission finds the Ownership Agreement to be jurisdictional, WRI requests the Commission accept it for filing and assign to it a specific rate

schedule number. Such action would unquestionably constitute a late filing; therefore, WRI requests waiver of the Commission's regulations regarding such tardiness pursuant to the amnesty provisions defined in the Final Order in Docket No. PL93-2-000. If the Ownership Agreement is found to be jurisdictional, WRI hereby additionally responds to the Commission's requirements:

18CFR §35.12(a)

(1) WRI hereby provides five copies of this letter and six copies of the following documents:

- (i) Wolf Creek Generating Station Ownership Agreement, dated December 28, 1981;
- (ii) Amendment effective January 1, 1987; and
- (iii) A single Certificate of Concurrence executed by Kansas City Power & Light Company which addresses WRI's filing proposal regarding both the Operating Agreement and the Ownership Agreement.

(2) WRI requests this rate schedule be made effective on December 28, 1981, the date of the basic Ownership Agreement.

(3) The Ownership Agreement does not contain any rates or charges for services; rather, it provides for the owners to reimburse, without markup, the costs of constructing the plant.

(4) Requisite agreement is shown by the Parties' signatures.

(5) A single Notice, suitable for publication in the Federal Register, is provided with this filing and addresses the full range of WRI's request.

18CFR §35.12(b)

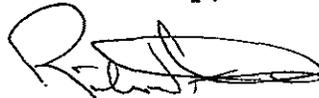
Not Applicable. The Ownership Agreement does not contain any rates or charges for services; rather, it provides for the owners to reimburse, without markup, the costs of constructing the plant. No rates can be calculated and no income was produced; therefore, there are no cost computations, workpapers, or summary statements supporting any rate or charge, nor can there be any summary of revenues or service transactions under this filing.

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A copy of this filing has been mailed to the parties shown on the attached distribution list. Correspondence related to this filing should be directed to the undersigned and to:

Martin J. Bregman
General Attorney, Regulation
Western Resources, Inc.
P.O. Box 889
Topeka, Ks. 66601

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Dixon", written over a horizontal line.

Richard A. Dixon, Director
Federal Rates

Attachments