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"A GUIDE TO FERC REGULATION AND RATEMAKING OF ELECTRIC UTILITIES AND OTHER POWER SUPPLIERS, THIRD EDITION"

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A GUIDE TO FERC REGULATION AND RATEMAKING OF ELECTRIC UTILITIES AND OTHER POWER SUPPLIERS, THIRD EDITION

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« C. Allocation

After classifying costs to demand, energy, and customer categories, the next step is to allocate these costs to the various classes to determine their respective cost responsibilities. In the past, the most hotly litigated allocation issue involved demand cost allocation. Typically, FERC has allocated demand costs on a coincident peak (CP) method. *Houlton v. Maine Public Service Co.*, 62 FERC ¶63,023, p. 65,092 (1992) ("Maine Public has cited a legion of Commission decisions affirming the use of a coincident peak demand allocator... And, it denies knowledge or '*any* decision, involving an electric utility since the FERC came into existence in 1977, where FERC did not follow a coincident peak method of allocating demand costs' "). In *Lockhart Power Co.*, 4 FERC ¶61,337, p. 61,807 (1978), FERC stated that its "general policy is to allocate demand costs on the basis of peak responsibility as is demonstrated by the overwhelming majority of decided cases." *See also Houlton v. Maine Public Service Co.*, 62 FERC at 65,092. Under a CP method, the demands used in the allocation are the demands of a particular customer or class occurring at the time of the system peak for a particular time period. The basic assumption behind this method is that capacity costs are incurred to serve the peak needs of customers.

1. Coincident Peak Allocation

In most cases, FERC has accepted one of four CP methods–1 CP, 3 CP, 4 CP, and 12 CP, with the largest number of companies using a 12 CP allocation. Under a 1 CP method the allocator for a particular wholesale class will be developed by dividing the wholesale class's CP for the peak month by the total

company system peak. Similarly, for 3, 4, and 12 CP companies the numerator would consist of the average of the wholesale class's coincident peaks for each of the peak months, while the denominator would consist of the average of the total system peaks for each of the peak months. FERC has held that interruptible loads should not be reflected in this demand allocation. [1 137] *See Delmarva Power & Light Co.,* Opinion No. 189, 25 FERC at 61,121; *Delmarva Power & Light Co.*, Opinion No. 185, 24 FERC ¶61,199, p. 61,462 (1983).

While FERC has not established a hard and fast rule for determining which allocation method is appropriate, it has stated that the following factors should be considered:

> [T]he full range of a company's operating realities including, in addition to system demand, scheduled maintenance, unscheduled outages, diversity, reserve requirements, and off-system sales commitments. (footnote omitted).

Carolina Power & Light Co., Opinion No. 19, 4 FERC ¶61,107, p. 61,230 (1978); *Commonwealth Edison Co.*, 15 FERC ¶63,048, p. 65,196 (1981), *aff'd*, Opinion No. 165, 23 FERC ¶61,219 (1983); *Illinois Power Co.*, 11 FERC ¶63,040, pp. 65,247-48 (1980) *aff'd*, 15 FERC ¶61,050 (1981). *See also Houlton v. Maine Public Service Co.,* 62 FERC at 65,092 (applying FERC's various tests in finding that a 12 CP was appropriate).

a. System Demand Tests

If a utility's system demand curve is relatively flat, then that supports the use of a 12 CP method under FERC precedent. Il a utility experiences a pronounced peak during one, three, or four consecutive months, then under FERC precedent the use of another CP method would be supported.

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[1] 137 FERC ordered that the revenues from the interruptible loads be credited to the cost of service. *Delmarva Power & Light Co.*, 28 FERC ¶61,279, p. 61,510 (1984)

In determining whether a utility experiences a pronounced peak during a particular time period, FERC considers a number of tests. First, FERC has compared the average of the system peaks during the purported peak period, as a percentage of the annual peak, to the average of the system peaks during the off-peak months, as a percentage of the annual peak. FERC has held that large differences between these two figures lends support to using something other than a 12 CP method, while a smaller difference supports 12 CP, as shown below.[2] [138]

(1) *Louisiana Power & Light Co.*,
Opinion No. 813,
59 FPC 968 (1977)
(31% difference–4 CP);

(2) *Louisiana Power & Light Co.*,
Opinion No. 110,
14 FERC ¶61,075 (1981)
(26% difference–4 CP);

(3) *Lockhart Power Co.*,
Opinion No. 29,
49 FERC ¶61,337 (1978)
(18% difference–12 CP);

(4) Illinois Power Co.,
11 FERC at 65,248,
(19% difference–12 CP);

[2] 138 *See also Houlton v. Maine Public Service Co.*, 62 FERC ¶63,023, p. 65,092 (1992) (the ALJ stated that "using established Commission test that compare average monthly peaks with the annual peak, lowest monthly peak to the annual peak, average monthly demand peaks of the peak season to the monthly demand peaks of the off-peak service" Maine Public is a 12 CP company).

(5) Commonwealth Edison Co.,
15 FERC at 65,196
(16.4-24.9% differences–4 CP);

(6) Southwestern Public Service Co.,
18 FERC at 65,034
(average difference of 22.9%; high of 28.3%–3 CP).

FERC also has used a second test involving the lowest monthly peak as a percentage of the annual peak. The higher the percentage, the greater the support for 12 CP. This test has been used in the following cases:

(1) *Louisiana Power & Light Co.,*
Opinion No. 813,
59 FPC 968 (1977)
(56%–4 CP);

(2) *Idaho Power Co.,*
Opinion No. 13,
3 FERC ¶61,108 (1978)
(58%–3 CP);

(3) Southwestern Electric Power Co.,
Opinion No. 28,
4 FERC ¶61,330 (1978)
(55.8%–4 CP);

(4) *Lockhart Power Co.,*
Opinion No. 29,
4 FERC ¶61,337 (1978)
(73%–12 CP);

(5) *Southern California Edison Co.*,
Opinion No. 821,
59 FPC 2167 (1977)
(79%–12 CP);

(6) *Alabama Power Co.*,
Opinion No. 54,
8 FERC ¶61,083 (1979)
(75%–12 CP);

(7) *Illinois Power Co.*,
11 FERC at 65,248
(66%–12 CP);

(8) *Commonwealth Edison Co.*,
15 FERC at 65,198
(64.6-67.8%–4 CP);

(9) *Louisiana Power & Light Co.*,
Opinion No. 110,
14 FERC ¶61,075 (1981)
(61.9%–4 CP);

(10) *El Paso Electric Co.*,
Opinion No. 109,
14 FERC ¶61,082 (1981)
(71%–12 CP);

(11) *Carolina Power & Light Co.*,
Opinion No. 19,

4 FERC ¶61,107 (1978)
(72%–12 CP);

(12) *New England Power Co.*,
Opinion No. 803,
58 FPC 2322 (1977)
(80%–12 CP);

(13) *Southwestern Public Service Co.*,
18 FERC at 65,034
(on average, almost 67 percent–3 CP); and

(14) *Delmarva Power & Light Co.*,
17 FERC at 65,201
(71.4%–12 CP).

Another test that has been utilized by FERC is the extent to which peak demands in non-peak months exceed the peak demands in the alleged peak months. In *Carolina Power & Light Co.* Opinion No. 19, 4 FERC at 61,230 FERC adopted a 12 CP approach where the monthly peaks in three non-peak months exceeded the peaks in two of the alleged peak months. In *Commonwealth Edison Co.*, 15 FERC at 65,198, FERC adopted a 4 CP method where over a four year period, a peak in one of the 4 peak months was exceeded only once by a peak from a non-peak month. *See also Southwestern Public Service Co.*, 18 FERC at 65,034 (monthly peak in any non-peaking month exceeded the monthly peak in peak month only once and 3 CP adopted).

A last test involves the average of the twelve monthly peaks as a percentage of the highest monthly peak and has been used in the following cases:

(1) *Illinois Power Co.*,

11 FERC at 65,248-49
(81%–12 CP);

(2) *El Paso Electric Co.*,
Opinion No. 109,
14 FERC ¶61,082 (1981)
(84%–12 CP);

(3) *Lockhart Power Co.*,
Opinion No. 29,
4 FERC ¶61,337 (1978)
(84%–12 CP);

(4) *Southern California Edison Co.*,
Opinion No. 821,
59 FPC 2167 (1977)
(87.8%–12 CP);

(5) *Louisiana Power & Light Co.*,
Opinion No. 110,
14 FERC ¶61,075 (1981)
(81.2%–4 CP);

(6) *Commonwealth Edison Co.*,
15 FERC at 65,198
(79.4-79.5%–4 CP);

(7) *Southwestern Public Service Co.*,
18 FERC at 65,035
(80.1%–3 CP); and

(8) *Delmarva Power & Light Co.*, 17 FERC at 65,202 (83.3%–12 CP). »