
The costs that public utilities incur relating to special assessments under the Atomic Energy Act of 1954, as amended by the Energy Policy Act of 1992, are costs that may be reflected in jurisdictional rates. Public utilities seeking to recover the costs incurred relating to special assessments shall comply with the following procedures.

(a) Fuel adjustment clauses. In computing the Account 518 cost of nuclear fuel pursuant to §35.14(a)(6), utilities seeking to recover the costs of special assessments through their fuel adjustment clauses shall:

(1) Deduct any expenses associated with special assessments included in Account 518;

(2) Add to Account 518 one-twelfth of any payments made for special assessments within the 12-month period ending with the current month; and

(3) Deduct from Account 518 one-twelfth of any refunds of payments made for special assessments received within the 12-month period ending with the current month that is received from the Federal government because the public utility has contested a special assessment or overpaid a special assessment.

(b) Cost of service data requirements. Public utilities filing rate applications under §§35.12 or 35.13 (regardless of whether the utility elects the abbreviated, unadjusted Period I, adjusted Period I, or Period II cost support requirements) must submit cost data that is computed in accordance with the requirements specified in paragraphs (a) (1), (2) and (3) of this section.

(c) Formula rates. Public utilities with formula rates on file that provide for the automatic recovery of nuclear fuel costs must reflect the costs of special assessments in accordance with the requirements specified in paragraphs (a) (1), (2) and (3) of this section.

§ 35.30 General provisions.

(a) Applicability. This subpart applies to any sales of electric power subject to the Commission’s jurisdiction under Part II of the Federal Power Act from public utilities to the Administrator of the Bonneville Power Administration (BPA) at the average system cost (ASC) of that utility’s resources (electric power generation by the utility) pursuant to section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839h. The ASC is determined by BPA in accordance with 18 CFR part 301.

(b) Effectiveness of rates. (1) During the period between the date of BPA’s determination of ASC and the date of the final order issued by the Commission, the utility may charge the rate based on the ASC determined by BPA, subject to §35.31(c) of this part.

(2) Except as otherwise provided under this section, the ASC ordered by the Commission will be deemed in effect from the beginning of the relevant exchange period, as defined in §301.1(b)(95) of this chapter. For any initial exchange period after the Commission approves a new ASC methodology, the ASC will be effective retroactively under this paragraph only if the utility files its new ASC within the time allowed under BPA procedures.

Any utility that files a revised ASC...
with BPA in accordance with this para-
graph must promptly file with the
Commission a notice of timely filing of
the new ASC.

(c) Filing requirements. Within 15 busi-
ness days of the date of issuance of the
BPA report on a utility’s ASC, the utility
must file with the Commission the
ASC determined by BPA, the BPA
written report, the utility’s ASC sched-
ules, material necessary to comply
with 18 CFR 35.13(c), and any other ma-
terial requested by the Commission or
its staff.

[Order 337, 48 FR 46976, Oct. 17, 1983, as
amended by Order 400, 49 FR 39300, Oct. 5,
1984]

§ 35.31 Commission review.

(a) Procedures. Filings under this sub-
part are subject to the procedures ap-
licable to other filings under section
205 of the Federal Power Act, as the
Commission deems appropriate.

(b) Commission standard. With respect
to any filing under this subpart, the
Commission will determine whether
the ASC set by BPA for the applicable
exchange period was determined in ac-
cordance with the ASC methodology
set forth at 18 CFR 301.1. If the ASC is
not in accord with the methodology,
the Commission will order that BPA
amend the ASC to conform with the
methodology. If the ASC is in accord
with the methodology, the rate is
deemed just and reasonable.

(c) Refunds and adjustments. (1) Any
ASC-based rate charged by a public
utility under this subpart pending
Commission order is subject to refund
or to adjustment that increases the
ASC-based rate.

(2) Any interest on refunds ordered
by the Commission under this subpart
is computed in accordance with 18 CFR
35.19a. Interest on any increase ordered
by the Commission will be at the rate
charged to BPA by the U.S. Treasury
during that period, unless the Commissi-
on orders another interest rate.

(Approved by the Office of Management and
Budget under control number 1902–0096)

[Order 337, 48 FR 46976, Oct. 17, 1983, as
amended at 49 FR 1177, Jan. 10, 1984]

Subpart E—Regulations Governing
Nuclear Plant Decommissioning Trust Funds

§ 35.32 General provisions.

(a) If a public utility has elected to
provide for the decommissioning of a
nuclear power plant through a nuclear
plant decommissioning trust fund
(Fund), the Fund must meet the fol-
lowing criteria:

(1) The Fund must be an external
trust fund in the United States, estab-
lished pursuant to a written trust
agreement, that is independent of the
utility, its subsidiaries, affiliates or as-
associates. If the trust fund includes
monies collected both in Commission-
jurisdictional rates and in non-Com-
mision-jurisdictional rates, then a
separate account of the Commission-
jurisdictional monies shall be main-
tained.

(2) The utility may provide overall
investment policy to the Trustee or In-
vestment Manager, but it may do so
only in writing, and neither the utility
nor its subsidiaries, affiliates or associ-
ates may serve as Investment Manager
or otherwise engage in day-to-day man-
agement of the Fund or mandate indi-
vidual investment decisions.

(3) The Fund’s Investment Manager
must exercise the standard of care,
whether in investing or otherwise, that
a prudent investor would use in the
same circumstances. The term “pru-
dent investor” means a prudent inves-
tor as described in Restatement of the
Law (Third), Trusts §227, including
general comments and reporter’s notes,
0–314–84246–2. This Incorporation by ref-
terence was approved by the Director of
the Federal Register in accordance
with 5 U.S.C. 552(a) and 1 CFR part 51.
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