

155 FERC ¶ 61,297
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Talen Energy Marketing, LLC

Docket No. ER16-1456-000

ORDER ACCEPTING, SUBJECT TO CONDITION, AND SUSPENDING PROPOSED
RATE SCHEDULE AND ESTABLISHING HEARING AND SETTLEMENT JUDGE
PROCEDURES

(Issued June 23, 2016)

1. On April 19, 2016, Talen Energy Marketing, LLC (Talen Energy) submitted a revised reactive power rate under a new rate schedule pursuant to section 35 of the Commission's regulations and section 205 of the Federal Power Act (FPA).¹ The filing sets forth a proposed revenue requirement for the provision of Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service) by its facilities in the PPL Zone of the PJM Interconnection, L.L.C. (PJM) system (Revised Reactive Rate Schedule).² In this order, we accept the Revised Reactive Rate Schedule for filing, subject to condition, and suspend it for a five-month period, to become effective December 1, 2016, subject to refund. We also establish hearing and settlement judge procedures and direct a compliance filing.

I. Talen Energy's Filing

2. Schedule 2 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (PJM Tariff), which covers Reactive Service, provides that PJM will compensate owners of generation and non-generation resources for maintaining the capability to provide reactive power to PJM. Specifically, Schedule 2 states that, for each month of Reactive Service provided by generation and non-generation resources in the PJM region,

¹ 18 C.F.R. § 35.13 (2015); 16 U.S.C. § 824(d) (2012).

² Talen Energy, Cost-Based Tariffs, [Reactive Tariff, Reactive Supply & Voltage Control from Generation Sources, 1.0.0.](#)

PJM shall pay each resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by the Commission.³

3. Talen Energy explains that the Reactive Service revenue requirement for the PPL Zone fleet was initially established as part of a black box settlement, made effective on April 1, 1997, and subsequently adjusted to account for other resources added later to the fleet.⁴ On November 6, 2015, Talen Energy filed in Docket Nos. ER16-277-000 and ER16-277-001, revisions to its revenue requirement to reflect the sale of various units from its PPL Zone fleet, proposing to reduce its revenue requirement on a *pro rata* basis from \$9,040,000 to \$8,850,531.63. On March 22, 2016, noting the degradation of the Talen Energy fleet's reactive power capability as compared with the capability that was originally used to calculate the revenue requirement, the Commission accepted, subject to condition, the revised revenue requirement, instituted a proceeding in Docket No. EL16-44-000 pursuant to section 206 of the FPA⁵ regarding the justness and reasonableness of Talen Energy's reactive power rate, and established hearing and settlement judge procedures.⁶

4. Talen Energy states that the instant filing updates its fleet-based PPL Zone Reactive Service revenue requirement based upon the methodology the Commission approved in *Am. Elec. Power Serv.*⁷ It notes that, upon the effective date, this new tariff will replace the rate schedule accepted by the March 22 Order.⁸ Talen Energy states that the proposed revenue requirement for each generating unit is the sum of two components:

³ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁴ Transmittal at 2 (citing *PP&L, Inc.*, 85 FERC ¶ 61,347 (1998)).

⁵ 16 U.S.C. § 824e (2012).

⁶ *Talen Energy Marketing, LLC*, 154 FERC ¶ 61,226 (2016) (March 22 Order).

⁷ Transmittal at 3 (citing *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000)). Talen Energy notes that this filing does not include the Reactive Service revenue requirement for Lower Mount Bethel Energy, LLC. *Id.* at 2 n.8; *see* Lower Mount Bethel Energy, LLC, Reactive Power Tariff (0.1.0).

⁸ Transmittal at 2, n.9. Talen Energy's current fleet-based Reactive Power Service revenue requirement is contained in Talen Energy Marketing, LLC, Cost-Based Tariffs, [Reactive Supply Tariff, Reactive Supply and Voltage Control from Generation Sources, 1.0.0](#).

(1) the fixed costs attributable to reactive power capability; and (2) the increased generator and step-up transformer heating losses that result from the production of reactive power. It also states that the Revised Reactive Rate Schedule contains the revenue requirement attributable to each unit located at each facility within the fleet. Talen Energy proposes an annual revenue requirement for its fleet of \$18,637,804, and requests that the proposed rate be accepted effective July 1, 2016.

II. Notice and Responsive Pleadings

5. Notice of Talen Energy's filing was published in the *Federal Register*, 81 Fed. Reg. 24,085 (2016), with interventions and protests due on or before May 10, 2016. American Municipal Power, Inc. submitted a motion to intervene and PJM submitted a motion to intervene and comments.

6. PJM explains in its comments that it determines the monthly revenue requirement for each resource that provides Reactive Service pursuant to Schedule 2 of the PJM Tariff by dividing the annual revenue requirement approved by the Commission by twelve and rounding to the second decimal. PJM then lists the monthly rates that it would provide to Talen Energy for each of the relevant generating units, if approved by the Commission, which differ from what Talen Energy proposed in the rounding.⁹

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

8. As further discussed below, we accept Talen Energy's Revised Reactive Rate Schedule, subject to condition,¹⁰ suspend it for a five month period, to become effective

⁹ PJM Comments at 2.

¹⁰ The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

December 1, 2016, subject to refund, and establish hearing and settlement judge procedures. We also direct a compliance filing.

9. Our preliminary analysis indicates that Talen Energy's Revised Reactive Rate Schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Talen Energy's filing raises issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures ordered below. Talen Energy proposes in the current filing to almost double its existing reactive power rate. In *West Texas Utilities Co.*, the Commission explained that, when its preliminary analysis indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months).¹¹ In this proceeding, we find that the Revised Reactive Rate Schedule may yield substantially excessive rates. Based on Talen Energy's work papers, we further note that Talen Energy's generation units' reactive capability test data depicts MVAR output degradation, and Talen Energy's accessory electrical equipment allocator and the balance of plant allocator appear to be incorrectly calculated. Also, Talen Energy has not provided cost support for turbogenerator costs and accessory electrical equipment costs, and has not provided hourly operational data to support its heating losses calculation.¹² Accordingly, although we accept the Revised Reactive Rate Schedule for filing, we also suspend it for the maximum five-month period, to become effective December 1, 2016, subject to refund, and set it for hearing and settlement judge procedures.

10. We further note that Talen Energy states that its new rate schedule (Reactive Tariff, Reactive Supply & Voltage Control from Generation Sources, 1.0.0) will replace, upon its effective date, the rate schedule (Reactive Supply Tariff, Reactive Supply and Voltage Control from Generation Sources, 1.0.0) accepted by the Commission in the March 22 Order. However, Talen Energy did not file to cancel its Reactive Supply Tariff, Reactive Supply and Voltage Control from Generation Sources.¹³ Accordingly,

¹¹ *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,374-75 (1982).

¹² The Commission recently provided guidance on establishing or revising rates for Reactive Service. *Wabash Valley Power Association, Inc.*, 154 FERC ¶ 61,245, at PP 24-29 (2016); *Wabash Valley Power Association, Inc.*, 154 FERC ¶ 61,246, at PP 23-28 (2016).

¹³ Rather than canceling a rate schedule and filing a new rate schedule, utilities should file revisions to the existing rate schedule with a new version number. Utilities need not file new schedules (and cancel existing rate schedules) merely because a prior rate schedule is the subject of a hearing.

we direct Talen Energy to make a compliance filing within 30 days of the date of this order cancelling the previous rate schedule, effective as of the date that the Revised Reactive Rate Schedule will go into effect, December 1, 2016.

11. Talen Energy's filing in this proceeding proposes a different revenue requirement for the same units that the Commission set for hearing and settlement judge procedures in Docket Nos. ER16-277-000, ER16-277-001, and Docket No. EL16-44-000. While these filings might involve the same parties, facilities and issues, we leave it to the discretion of the Chief Judge whether it is appropriate to conduct one trial for this proceeding and the proceeding in Docket Nos. ER16-277-000, ER16-277-001, and Docket No. EL16-44-000.¹⁴

12. While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures are commenced. To aid the participants in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹⁵ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.¹⁶ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

¹⁴ See 18 C.F.R. § 385.503(a) (2015).

¹⁵ 18 C.F.R. § 385.603 (2015).

¹⁶ If the participants decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Commission orders:

(A) Talen Energy's Revised Reactive Rate Schedule is hereby accepted for filing, subject to condition, and suspended for a five-month period, to become effective December 1, 2016, subject to refund and hearing and settlement judge procedures, as discussed in the body of this order.

(B) Talen Energy is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning the justness and reasonableness of Talen Energy's proposed Revised Reactive Rate Schedule, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure,¹⁷ the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the participants decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the participants' progress toward settlement.

¹⁷ 18 C.F.R. § 385.603 (2015).

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.