

155 FERC ¶ 61,313
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

BIF III Holtwood LLC

Docket No. ER16-1530-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE SCHEDULE AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued June 27, 2016)

1. On April 29, 2016, BIF III Holtwood LLC (BIF) filed its FERC Rate Schedule No. 2 (Reactive Rate Schedule),¹ pursuant to section 205 of the Federal Power Act (FPA),² as an initial rate under section 35.12 of the Commission's regulations.³ The filing sets forth the revenue requirement for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) by its facilities, the Holtwood and Wallenpaupack hydroelectric generating facilities (Facilities). In this order, we accept for filing BIF's proposed Reactive Rate Schedule and suspend it for a nominal period, to become effective June 1, 2016, subject to refund. We also establish hearing and settlement judge procedures.

¹ BIF III Holtwood LLC, [FERC RATE SCHEDULE NO. 2, REACTIVE SUPPLY SERVICE, 1.0.0](#).

² 16 U.S.C. § 824d (2012).

³ 18 C.F.R. § 35.12 (2015). BIF filed the Reactive Rate Schedule in the Commission's eTariff system as an initial baseline tariff (Type of Filing Code 60). While this filing code may be used for an initial rate, the Commission considers the filing to be a proposed rate change under section 35.13 of the Commission's regulations as BIF has been providing Reactive Service to PJM Interconnection, L.L.C. (PJM) prior to the instant filing. *See, e.g., Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11 (2003).

I. BIF's Filing

2. Schedule 2 of the PJM Open Access Transmission 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 resources in the PJM region, PJM shall pay the resource owner its monthly revenue requirement, as accepted or approved by the Commission.⁴

3. BIF states that it is a limited liability company organized under the laws of the State of Delaware. BIF asserts that it is controlled by its ultimate parent company, Brookfield Asset Management Inc. (BAM), an Ontario corporation with its principal place of business in Toronto, Ontario, Canada. According to BIF, it owns and operates the Facilities, which supply capacity, energy, and ancillary services, including Reactive Service, within the PJM region.⁵

4. BIF states that the Holtwood hydroelectric project is located in Lancaster County, Pennsylvania. BIF notes that the Holtwood project includes 14 hydroelectric generators ranging in capacity from 1.5 megavolt amperes (MVA) to 74.3 MVA. BIF states that Holtwood units 18 and 19 are each rated 64.1 MVA and 74.3 MVA, are installed in a power house that was completed in 2013, and are driven by Kaplan turbines.⁶

5. BIF states that its proposed revenue requirement consists of the Facilities' fixed costs attributable to reactive power production capability (Fixed Capability Component), which BIF explains is designed to recover the portion of plant fixed costs attributable to the Facilities' reactive power production capability.⁷ BIF asserts that its proposed revenue requirement was calculated using the methodology set forth by the Commission in *Am. Elec. Power Serv. Corp.*⁸

⁴ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁵ BIF April 29, 2016 Transmittal Letter at 2 (Transmittal Letter).

⁶ *Id.* Ex. No. B3H-1 at 6-7.

⁷ *Id.* at 3.

⁸ *Id.* at 4 (citing *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-57 (1999) (*AEP*)).

6. BIF states that, in determining the cost of capital, it used the rate of equity of PPL Electric Utilities Corporation, the utility to which the Facilities are interconnected.⁹ BIF proposes an annual revenue requirement of \$2,783,000 and requests an effective date of June 1, 2016.

II. Notice of Filing and Responsive Pleadings

7. Notice of BIF's April 29, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 28,864 (2016), with interventions and protests due on or before May 20, 2016. PJM submitted a timely motion to intervene and comments.

8. PJM states that based on BIF's proposed annual revenue requirement of \$2,783,000, PJM would provide BIF a monthly revenue requirement of \$231,916.67 rather than the \$231,917 set forth in the Reactive Rate Schedule.¹⁰

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹¹ PJM's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

10. Our preliminary analysis indicates that BIF's filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept BIF's proposed Reactive Rate Schedule for filing, suspend it for a nominal period, to be effective June 1, 2016, subject to refund, and establish hearing and settlement judge procedures. We find that BIF's proposed revenue requirement for Reactive Service provided by the Facilities 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. Although we are setting BIF's reactive power rate for hearing in its entirety, we note that the Reactive Service capability of Holtwood units 18 and 19 has

⁹ *Id.* at 5.

¹⁰ PJM May 20, 2016 Comments at 2.

¹¹ 18 C.F.R. § 385.214 (2015).

substantially degraded and that the revenue requirement appears to be based on nameplate capability.¹²

11. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures commence. To aid the parties 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.¹³ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Acting Chief Judge will select a judge for this purpose.¹⁴ The settlement judge shall report to the Acting Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Acting Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) BIF's proposed Reactive Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective June 1, 2016, subject to refund, as discussed in the body of this order.

(B) 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 FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of BIF's Reactive Rate Schedule, as discussed in the body of this order. However, the hearing shall be held in abeyance to

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 18 C.F.R. § 385.603 (2015).

¹⁴ If the parties decide to request a specific judge, they must make their joint request to the Acting Chief Judge by telephone at (202) 502-8500 within five (5) 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>).

provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Acting 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 Acting Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Acting Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Acting Chief Judge on the status of the settlement discussions. Based on this report, the Acting Chief Judge shall provide the parties 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 Acting Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Acting 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.