

113 FERC ¶ 61,047
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Calpine Fox LLC

Docket No. ER05-1361-000

ORDER CONDITIONALLY ACCEPTING PROPOSED RATE SCHEDULE
FOR REACTIVE POWER

(Issued October 17, 2005)

1. In this order, we conditionally accept for filing Calpine Fox LLC's (Calpine Fox) proposed rate schedule for supplying Reactive Supply and Voltage Control from Generation Sources (reactive power) effective August 19, 2005, as requested.

I. Background

2. On August 18, 2005, Calpine Fox¹ filed a proposed rate schedule that contains an annual cost-based revenue requirement of \$1,354,080.68 for supplying reactive power to American Transmission Company, LLC (ATC) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) from Calpine Fox's 600 MW gas-fired combined cycle generating facility located in the Town of Kaukauna, Outagamie County, Wisconsin (Fox Facility).

3. Calpine Fox states that the Fox Facility is interconnected to ATC's transmission system and that ATC's transmission system is within the Wisconsin Electric Power Company's (WEPCO) control area. Calpine Fox adds that WEPCO's control area is under the operational control of the Midwest ISO.

4. Calpine Fox states that its Generation-Transmission Interconnection Agreement with ATC requires Calpine Fox to supply reactive power to ATC's transmission system and also establishes its right to receive compensation for such service. Calpine Fox states that Order No. 2003-A further establishes its right to receive compensation for reactive power because,

¹ Calpine Fox, an indirect, wholly-owned subsidiary of Calpine Corporation, is authorized to make wholesale sales of power at market based rates. *See Calpine Fox, LLC*, 109 FERC ¶ 61,058 (2004).

although ATC does not own any generation, WEPCO is receiving compensation for reactive power.²

5. Calpine Fox explains that it is filing its proposed rate schedule pursuant to Midwest ISO's Schedule 2, currently pending in Docket No. ER04-961-002, which permits providers of reactive power to recover their costs of providing reactive power. Calpine Fox proposes that ATC be responsible for payment for the time prior to the date Midwest ISO is responsible for payment.

6. Calpine Fox asserts that its proposed cost-based revenue requirement for reactive power is developed consistent with the *AEP* methodology.³ Calpine Fox states that the proposed revenue requirement consists of a fixed capability component designed to recover the portion of plant costs attributable to the reactive power capability of the Fox Facility. The fixed capability component was calculated by first determining the portion of the Fox Facility's generator/excitation system and the generator step-up transformers used to produce reactive power in accordance with the *AEP* methodology. Calpine Fox states that, since this equipment contributes to the provision of both real and reactive power, an allocator is applied to fairly apportion the cost of this plant between real and reactive power. The annual revenue requirement was then determined by applying a fixed charge rate. A levelized annual carrying cost approach was used to develop the annual revenue requirement.

7. Calpine Fox states it is a non-utility generator and is not subject to traditional rate regulation. Therefore, it adopts a return on equity and overall rate of return that is based on a proxy derived from the capital structure and return on equity of ATC, the utility with which the Fox Facility is interconnected. Calpine Fox further states that the use of this proxy for the Fox Facility's overall rate of return and capital structure is conservative since Calpine Fox, as a merchant generator, faces market risks that are greater than those normally associated with services provided by a transmission provider like ATC.

8. Calpine Fox asks the Commission to waive its 60-day prior notice requirement so that the proposed rate schedule may become effective on August 19, 2005.

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs., ¶ 31,160 at 31,020 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005).

³ *See American Electric Power Service Corp.*, Opinion 440, 88 FERC ¶ 61,141 (1999) (*AEP*).

II. Notice and Responsive Filings

9. Notice of Calpine Fox's filing was published in the *Federal Register*, 70 Fed. Reg. 51,031 (2005), with interventions and protests due on or before September 8, 2005. Midwest ISO, Midwest ISO Transmission Owners (Transmission Owners), and the Wisconsin Public Service Corporation and Upper Peninsula Power Company filed timely motions to intervene. WEPCO filed a timely motion to intervene and protest. ATC filed a timely motion to intervene and comments. Wisconsin Public Power, Inc. (WPPI) filed a motion to intervene out of time. Calpine Fox filed an answer to WEPCO's protest and ATC's comments.

10. WEPCO argues that Calpine Fox's filing is deficient and should be rejected. Specifically, WEPCO argues that Calpine Fox takes liberties with the development of its cost of service as it is a non-utility generator and not subject to the Commission's cost-of-service rate scheme. WEPCO states that, rather than develop a capital structure, Calpine Fox has elected to adopt ATC's capital structure as a proxy for its own and presents no justification for its assumptions concerning its risks relative to ATC's. WEPCO also argues that given the relatively low interest rates during the period covering the development of the Fox Facility, and because such projects often rely heavily on debt financing, Calpine Fox's proposed proxy capital structure may not accurately reflect Calpine Fox's true cost of capital, notwithstanding its assertion that its rate of return on equity may be higher.

11. WEPCO further contends that Calpine Fox's filing does not demonstrate that its proposed rates are just and reasonable; nor does it contain sufficient information for the Commission to make a determination on the merits. WEPCO argues that the proposed revenue requirement appears on its face to be significantly higher than what has been proposed in recent, similar cases.

12. ATC asserts that because it provides only transmission service over its facilities under the Midwest ISO's Transmission and Energy Markets Tariff, and does not invoice transmission customers, it has no mechanism for paying Calpine Fox the proposed monthly revenue requirement or collecting those amounts from any transmission customer until Midwest ISO's proposed Schedule 2 is approved. ATC states that the control area operator should pay the authorized revenue requirement to Calpine Fox.

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant WPPI's untimely motion to intervene, given its interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Calpine Fox's answer and will, therefore, reject it.

B. Proposed Rate Schedule

15. We disagree with WEPCO's argument that Calpine Fox's filing is deficient. We have stated that all generators seeking to recover a reactive power revenue requirement based on actual cost data are required to use the *AEP* methodology.⁴ Calpine Fox has followed the *AEP* methodology in developing its proposed rate schedule and submitted the level of information, including a proxy for capital structure components, provided by other entities with Commission-accepted reactive power rate schedules.⁵

16. In addition, we disagree with WEPCO's arguments that Calpine Fox's filing fails to demonstrate that its proposed rates are just and reasonable or lacks adequate information for the Commission to make a determination on the merits. We find that Calpine Fox properly applied the *AEP* methodology by calculating (1) the costs associated with the reactive portion of the generator/exciter system and the generator step-up transformers; and (2) the utilization of a levelized annual carrying cost approach to develop its annual revenue requirement, and provides sufficient information for the Commission to evaluate Calpine Fox's proposed rates.

17. Also, we disagree with WEPCO's argument that Calpine Fox has taken liberties with the development of its cost of service by electing to adopt ATC's capital structure as a proxy of its own. The Commission has accepted the use of proxies, by non-utility generators like Calpine Fox.⁶ We agree with the prepared direct testimony of Kris Zadlo, which accompanied Calpine Fox's filing, that the use of ATC's capital structure is conservative since ATC's cost of debt is lower than Calpine Fox's and that, as an independent power producer with no guaranteed customers, Calpine Fox faces greater risk than ATC.⁷ Therefore, we find Calpine Fox's proxy capital structure to develop its cost-of-service revenue requirement is appropriate.

⁴ See *FPL Energy Marcus Hook, L.P.*, 110 FERC ¶ 61,087 at P 16 (2005) (citing *WPS Westwood Generation, L.L.C.*, 101 FERC ¶ 61,290 (2002)).

⁵ See, e.g., *AmerGen Energy Company, LLC*, 112 FERC ¶ 61,082 (2005); *Rockingham Power, L.L.C.*, 112 FERC ¶ 61,198 (2005).

⁶ See, e.g., *City of Vernon*, 93 FERC ¶ 61,103 (2000), *reh'g denied*, 94 FERC ¶ 61,148 (2001); *New England Power Pool*, 92 FERC ¶ 61,020 at 61,041 (2000).

⁷ See Direct Testimony of Kris Zadlo at P 18.

18. We will dismiss as moot the argument regarding who should pay Calpine Fox until Midwest ISO payments commence for reactive power. The Commission accepts below Calpine Fox's proposed rate schedule, to be effective August 19, 2005, and as of that date the Midwest ISO is responsible to pay an independent power producer like Calpine Fox for reactive power.⁸

19. Therefore, we conditionally accept Calpine Fox's proposed rate schedule effective August 19, 2005,⁹ as requested, subject to Calpine Fox filing a revised rate schedule within 30 days of the date of this order deleting ATC as an entity responsible for Calpine Fox's monthly revenue requirement.

The Commission orders:

(A) Calpine Fox's proposed rate schedule is hereby conditionally accepted, effective August 19, 2005.

(B) Calpine Fox is hereby directed to file a revised rate schedule, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁸ See *Midwest Independent Transmission System Operator, Inc.*, 113 FERC ¶ 61,046 (2005).

⁹ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).