

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

LSP-Kendall Energy, LLC

Docket No. ER06-1131-001

ORDER GRANTING REQUEST FOR CLARIFICATION OF ISSUES SET FOR
HEARING AND SETTLEMENT JUDGE PROCEEDINGS

(Issued October 2, 2006)

1. On August 18, 2006, Exelon Corporation (Exelon) filed a request for clarification and rehearing of the Commission's August 11, 2006 Order (August Order) accepting LSP-Kendall Energy, LLC's (Kendall Energy) proposed rate schedule for Reactive Support and Voltage Control from Generation Sources Service (Reactive Power). As discussed below, we grant Exelon's request for clarification concerning the scope of the hearing established by the August Order, and deny Exelon's request for rehearing of the August Order.

Background

2. In the August Order, the Commission accepted for filing Kendall Energy's annual revenue requirement for providing cost-based Reactive Power to PJM under Rate Schedule No. 2 of PJM's Open Access Transmission Tariff (PJM OATT). The August Order also suspended this rate schedule for a nominal period, to become effective August 1, 2006, and set for hearing and settlement judge proceedings Kendall Energy's proposed Reactive Power rates.

3. The August Order included a list of issues set for hearing and settlement judge proceedings, as follows:

Specific issues of material facts have been raised with respect to the following: (i) whether Kendall Energy's use of ComEd's rate of return of 12.5% and the capital structure is appropriate, (ii) whether Kendall Energy has failed to include cost data that is consistent with the Commission's Uniform System of Accounts; (iii) whether Kendall Energy has adequate

support for its proposed A & G expense, depreciation expense and plant in service derivation; and (iv) whether Kendall Energy has miscalculated the power factor used to calculate revenue requirements for heating losses due to reactive power production.¹

The Commission explained in the August Order that “we are setting these matters for a trial-type evidentiary hearing”²

4. Exelon is now seeking clarification that when the Commission accepted Kendall Energy’s proposed rates, the Commission intended that the issues identified in the above-cited passage to be illustrative of the issues Exelon raised in its protest, and not that they were inclusive of all the issues set for hearing and settlement proceedings. Through the instant filing Exelon requests that the Commission clarify that the hearing and settlement proceedings encompass not only these issues, but all issues regarding whether Kendall Energy’s proposed rate is just and reasonable.

5. However, Exelon argues that if the Commission intended to limit the scope of the issues set for hearing and settlement, then Exelon requests rehearing of this issue. Exelon contends that the Commission should not have limited the issues set for hearing and settlement proceedings because such limitation would severely hamper the Commission’s ability to determine whether Kendall Energy’s proposed rates are just and reasonable. Exelon also argues that to limit the parties’ inquiry during discovery and at the evidentiary hearing to these designated issues imposes a limitation that may be fundamentally unfair, especially because Kendall Energy does not follow the Uniform System of Accounts.

6. Furthermore, Exelon requests that if the Commission intended the August Order to limit the issues for set for hearing, then Exelon requests that the Commission also set for hearing Exelon’s concern, raised in its Protest of June 30, 2006, as to whether the 13.8 kV transformer winding connected to the generator connected to the steam turbine is capable of accepting or delivering 85 percent power factor at full load. Exelon argues that this issue affects the Fixed Capability Component of the Revenue Requirement and is closely related to, but distinct from, the heating losses issue set for hearing. Due to this concern, and its possible affect upon the Commission’s consideration of Kendall Energy’s proposed rates, Exelon argues that the Commission should include this issue within the list of allowable issues for hearing and settlement proceedings.

¹ *LSP-Kendall Energy, LLC*, 116 FERC ¶ 61,136 (2006) at P 23.

² *Id.*

Discussion

7. In the August Order, we explained that Kendall Energy's proposal Reactive Power Service revenue requirements raised issues of material fact that we could not resolve on the record before us and, therefore, necessitated an evidentiary hearing. For this reason, we set the development of the appropriate rate for Kendall Energy's Reactive Power revenue requirements, including rate of return and capital structure, for settlement judge and hearing proceedings.

8. We grant Exelon's request for clarification. The parties at the hearing may raise any issues relating to the justness and reasonableness of Kendall Energy's reactive power revenue requirement. The items listed in the August 11, 2006 Order provide guidance to the parties and the ALJ as to issues for which findings are to be made, but do not limit the parties' ability to raise other issues raised by the filing.

The Commission orders:

Exelon's request for clarification is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.