

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Reliant Energy Wholesale Generation, LLC

Docket No. ER05-1418-000

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

(Issued October 31, 2005)

1. In this order, we accept for filing Reliant Energy Wholesale Generation, LLC's (Reliant)<sup>1</sup> proposed rate schedule for Reactive Support and Voltage Control from Generation Sources Service (reactive power) and suspend it for a nominal period, to become effective November 1, 2005, as requested, subject to refund. We also establish hearing and settlement judge procedures.

**Background**

2. On August 31, 2005, Reliant filed a proposed rate schedule under which it specifies its revenue requirement for providing cost-based reactive power to Nevada Power Company (Nevada Power) from Reliant's 570 MW combined-cycle generating facility located 35 miles south of Las Vegas, Nevada (Facility). The Facility is interconnected with Nevada Power's transmission system and located within Nevada Power's control area. Reliant seeks an effective date of November 1, 2005.

3. Reliant states that it made this filing pursuant to an Interconnection and Operating Agreement between Nevada Power and Reliant (Interconnection Agreement).

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<sup>1</sup> Reliant, a wholly-owned subsidiary of Reliant Energy, Inc., is an exempt wholesale generator. See *Reliant Energy Wholesale Generation, LLC*, 109 FERC ¶ 62,009 (2004). It is authorized to make wholesale sales of power at market-based rates. See *Reliant Energy Wholesale Generation, LLC*, Docket No. ER04-944-000 (August 16, 2004) (unpublished letter order).

According to Reliant, section 4.1.6 of the Interconnection Agreement authorizes Reliant to seek compensation for reactive power.<sup>2</sup>

4. Reliant states that the proposed rate schedule consists of an annual revenue requirement with two components: (1) a fixed capability component, which includes the fixed plant costs for those facilities needed for reactive power production;<sup>3</sup> and (2) the heating loss component, which includes the increased generator and step-up transformer heating losses that result from the production of reactive power. Also, Reliant proposes to recover a lost opportunity cost charge, which is intended to account for any foregone energy revenues that Reliant incurs as a result of providing reactive power support.

5. Reliant seeks to recover an annual revenue requirement of \$1,740,526 for its fixed capability component and \$288,512 for its heating loss component reflecting its claimed cost of service for providing reactive power for the twelve months ended January 31, 2005. Reliant states that it is an independent generator that is not subject to traditional cost-of-service rate regulation. Therefore, Reliant proposes an overall rate of return of 9.03 percent, and a return on common equity of 10.25 percent based on a proxy derived from the capital structure and return on equity of Nevada Power, the utility with which the Facility is interconnected.

6. Reliant requests that its proposed rate schedule become effective November 1, 2005, after 60-days notice. Reliant also requests waiver of the detailed cost-of-service requirements set forth in Part 35 of the Commission's regulations, 18 C.F.R. Part 35 (2005), many of which it claims are not applicable to a charge for reactive power, and of various other regulations in Part 35.

### **Notice of Filing and Responsive Pleadings**

7. Notice of Reliant's filing was published in the *Federal Register*, 70 Fed. Reg. 54,041 (2005), with interventions and protests due on or before September 21, 2005. Nevada Power filed a timely motion to intervene and protest. Reliant filed an answer to Nevada Power's protest.

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<sup>2</sup> Section 4.1.6 of the Interconnection Agreement states: "Generator [Reliant] may file and obtain FERC approval for a rate reflecting costs or foregone revenues associated with the provision of reactive power. Company [Nevada Power] shall compensate Generator at the rates set forth in the Generator's FERC approved tariff."

<sup>3</sup> Reliant states that it based its calculation of the fixed capability component on the methodology that the Commission approved in *American Electric Power Service Corp.*, 88 FERC ¶ 61,141 (1990), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (*AEP Methodology*).

### Cost Issues

8. Nevada Power argues that Reliant has not established that the proposed rate is just and reasonable and that Reliant's filing is materially deficient in multiple respects. Nevada Power asserts that Reliant's annual revenue requirement of more than \$2 million plus lost opportunity costs is excessive, given the amount of reactive power that Reliant will produce.

9. Nevada Power claims that Reliant's support for its proposed rate of return is deficient. Nevada Power states that Reliant has calculated a rate to recover the portion of its plant investment allocable to the production of reactive power by using a proxy return on equity and an overall rate of return based on the capital structure and cost of capital established by the Public Utilities Commission of Nevada (Nevada Commission) for Nevada Power as a result of a retail rate case that was based upon historical test year ended May 31, 2003. According to Nevada Power, the Nevada Commission authorized capital structure and rate-of-return calculation does not follow Commission-approved methodology.<sup>4</sup>

10. Additionally, Nevada Power alleges that Reliant's filing provides no substantiation or detailed breakdown for its claimed operating and maintenance expenses and administrative and general expenses. According to Nevada Power, Reliant also failed to support the percentages it used to derive the combustion turbine generator/exciter costs.

11. Nevada Power states that the fixed rate charge Reliant used to calculate its revenue requirement does not include a component to reflect the existence of Accumulated Deferred Income Taxes (ADIT).<sup>5</sup> Therefore, Nevada Power asserts, the fixed charge rate used to calculate the revenue requirement is too high.

12. Nevada Power also argues that Reliant did not follow the Commission's Uniform System of Accounts and, therefore, its calculations are inconsistent with the *AEP* Methodology. Nevada Power alleges that Reliant's allocator for remaining production plant investment also is inconsistent with the *AEP* Methodology.<sup>6</sup>

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<sup>4</sup> Citing *City of Vernon, California* 109 FERC ¶ 63,057 at 65,153 (2004) and *Boston Edison Co.*, 77 FERC ¶ 62,171 (1996), in which the Commission expressed its preference for the use of a discount cash flow (DCF) methodology.

<sup>5</sup> Citing *AEP*, 88 FERC ¶ 61,141 (1999).

<sup>6</sup> According to Nevada Power, the *AEP* Methodology derives the allocator as the product of the ratio of the field/stator losses to generator losses times the ratio of maximum Vars (at system peak) to nameplate Vars. Nevada Power asserts that Reliant's allocator omits the second ratio.

13. In its answer, Reliant states that using Nevada Power's equity return and total cost of capital is conservative and is consistent with Commission practice.<sup>7</sup> Additionally, according to Reliant, it has filed the level of detail for its operation and maintenance expenses and administrative and general expenses deemed appropriate by the Commission. Reliant provided, as an attachment to its answer, additional information regarding the cost categories that formed the basis for these expenses.<sup>8</sup> Reliant also included in its answer additional documentation that shows the percentages that were used to derive the combustion turbine generator/exciter costs.

14. Reliant argues that its fixed rate charge is proper and that the exclusion of ADIT is consistent with reactive service tariff filings previously filed by other generators and accepted by this Commission.

### **Contract Language**

15. Nevada Power states that, contrary to Reliant's assertion, the proposed rate filing is not consistent with the Interconnection Agreement. Nevada Power adds that Reliant's filing seeks compensation not for a specific service requested by or required by Nevada Power, but merely for complying with its obligation to operate the Facility in accordance with Good Utility Practice.<sup>9</sup> Nevada Power claims that the Interconnection Agreement does not provide for compensation for reactive power unless Nevada Power asks Reliant to provide such service. Nevada Power adds that when the Facility is operating, Nevada Power may require the Facility to provide reactive power or to absorb reactive power at Nevada Power's discretion. According to Nevada Power, when Nevada Power asks

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<sup>7</sup> Citing *New England Power Pool*, 92 FERC ¶ 61,020 (2001), where the Commission found that the use of transmission-owner regulated rates of return as proxies for merchant plants is a conservative measure of such entities' actual rates of return on equity.

<sup>8</sup> We note that Reliant should have included this cost information in its initial rate application.

<sup>9</sup> In addition to Section 4.1.6 of the Interconnection Agreement, Reliant cites to 4.1.5 of the Interconnection Agreement which states in part that "unless otherwise agreed to by the Parties, Generator shall operate the Facility with automatic voltage regulators in service consistent with Good Utility Practice. When the Facility is operating, the voltage regulators shall control voltage at the Interconnection Point or some other mutually agreed upon point consistent with the voltage range schedule provided by Company to Generator."

Reliant to do so, Reliant may recover the costs or foregone revenues associated with provision or absorption of reactive power in the amount requested.

16. In its answer, Reliant asserts that Nevada Power does request and require Reliant to provide reactive power service, because the Facility follows Nevada Power's required/posted voltage schedule. That is, the Facility is continually providing or absorbing reactive power on Nevada Power's system.

17. Nevada Power requests the Commission to either reject Reliant's filing or suspend Reliant's proposed rate and set it for an evidentiary hearing. Nevada Power further asks that, if the Commission does not reject the filing, it suspend Reliant's proposed reactive power rate schedule for five months.

## **Discussion**

### **Procedural Matters**

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R § 385.214 (2005), Nevada Power's timely, unopposed motion to intervene serves to make it a party to this proceeding.

19. 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 will accept Reliant's answer because it has provided information that assisted us in our decision-making process.

20. For good cause, we will grant Reliant's request for waiver of the detailed cost of service requirements of Part 35 of the Commission's Regulations. Reliant is a non-utility generator not generally subject to traditional rate regulation. However, Reliant is on notice that it bears the burden of proving that its proposed charges are just and reasonable based on the materials included in this filing.

### **Proposed Rate Schedule**

21. Reliant's proposed rate schedule raises issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

22. Our preliminary analysis indicates that Reliant's proposed rate schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, we will accept Reliant's proposed rate schedule for filing, suspend it for a nominal period, make it effective November 1, 2005, as requested, subject to refund, and set it for hearing and settlement judge procedures.

23. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. 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.<sup>10</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>11</sup> The settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of this order concerning the status of settlement discussions. Based on this report, the 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) Reliant's proposed rate schedule for reactive power and voltage control service is hereby accepted for filing and suspended for a nominal period, to become effective November 1, 2005, as requested, 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 by 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 Reliant's proposed rate schedule for reactive power and voltage control services. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in 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 (2005), the Chief Administrative Law 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

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<sup>10</sup> 18 C.F.R. § 385.603 (2005).

<sup>11</sup> If the parties 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 the date of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience ([www.ferc.gov](http://www.ferc.gov) – click on Office of Administrative Law Judges).

designates the settlement judge. If the parties 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.

(D) Within sixty (60) days of the date of this order, 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 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 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 Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in this proceeding in a hearing room of the Commission, 888 First Street, N.E., 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 )

Magalie R. Salas,  
Secretary.