124 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Energy LLC Docket No. ER08-1194-000

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

(Issued August 28, 2008)

1. In this order we accept for filing Columbia Energy LLC's (Columbia)[1] proposed rate schedule for providing Reactive Supply and Voltage Control from Generation Sources Service (reactive power) to the South Carolina Electric & Gas Company (South Carolina E&G), suspend it for a nominal period, and make it effective July 1, 2008, as requested, subject to refund. We also establish hearing and settlement judge procedures.

I. Description of the Filing

2. On June 30, 2008, pursuant to section 205 of the Federal Power Act (FPA),[2] Columbia filed a proposed rate schedule specifying its cost-based revenue requirement for providing reactive power from its 540 MW natural gas-fired combined cycle electric generating facility located in Columbia, South Carolina (Columbia Facility). The Columbia Facility's interconnection to South Carolina E&G's transmission system is governed by a Construction and Maintenance Agreement (CMA) and an Operating

[1] Columbia is a Delaware limited liability company and an indirect, wholly-owned subsidiary of Calpine Corp. Columbia is authorized to make wholesale power sales at market-based rates. *Columbia Energy LLC*, Docket No. ER06-751-000 (April 24, 2006) (unpublished letter order).

[2] 16 U.S.C. § 824d (2006).

Agreement for Interconnected Generation (OAIG) (collectively, the Interconnection Agreement).[3]

3. Columbia states that it is submitting its proposed rate schedule pursuant to the Interconnection Agreement and Order No. 2003-A.[4] Columbia states that it is required under the Interconnection Agreement to supply South Carolina E&G with reactive power, and that it is entitled to compensation under section 5.4.3 of the Interconnection Agreement.[5] Specifically, section 5.4.3 provides that:

> Under normal operating conditions there will also be reactive support compensation. If [South Carolina E&G] requests and [Columbia] agrees, [Columbia] will operate the Facility at a higher reactive power output level. [Columbia] will receive incremental payments of [$0.24] per MVAR-hr for the total MVAR's [sic] produced during the period [South Carolina E&G] requests [the Columbia Facility] to operate outside the 0.95 lagging to 1.0 net power factor requirement. *Further arrangements for reactive support compensation may be made by the mutual agreement of [South Carolina E&G and Columbia] or as may be authorized by FERC.*[6]

Columbia also claims that it is entitled to compensation under Order No. 2003's comparability requirement because the Commission found that if a Transmission Provider pays its own or its affiliated generators for reactive power within the deadband, then it must also pay independent interconnection customers. For this reason, Columbia seeks reactive power compensation on a comparable basis to South Carolina E&G pays its own or affiliated generators for reactive power service.

---

[3] The Commission accepted the CMA and OAIG for filing in *South Carolina Electric & Gas Co.*, 106 FERC ¶ 61,262 (2004).

[4] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005).

[5] Columbia's Transmittal Letter at 3.

[6] *Id.* at 3-4 (emphasis added).

4. Columbia states that its proposed annual revenue requirement is $1,105,559.33 ($92,129.94/month) and consists only of a Fixed Capability Component[7] calculated pursuant to the *AEP* methodology.[8] Columbia also states that it has omitted two other components typically found in reactive power rate filings: (1) the Heating Losses Component and (2) Lost Opportunity Costs Component.[9]

5. Columbia asserts that it is a non-utility generator that is not subject to traditional rate regulation, and that it has adopted a return on equity (ROE) and overall rate of return that is based on a proxy derived from the capital structure and ROE of South Carolina E&G, the utility with which the Columbia Facility is interconnected.

6. Columbia requests waiver of the Commission's 60-day prior notice requirement so that the proposed rate schedule may become effective July 1, 2008. Columbia argues that the Commission has regularly granted waivers establishing effective dates less than 60 days after filing for reactive power rate schedules.

II. Notice of Filing and Responsive Pleadings

7. Notice of Columbia's filing was published in the *Federal Register*,[10] with comments and interventions due on or before July 21, 2008. South Carolina E&G and the South Carolina Office of Regulatory Staff (ORS) filed motions to intervene and protests. Columbia filed an answer to South Carolina E&G's protest.

---

[7] The Fixed Capability Component is intended to recover the fixed costs attributable to reactive power production capability.

[8] The *AEP* methodology was developed for American Electric Power Service Corp. (AEP) in *American Electric Power Service Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999) (*AEP*). It is discussed in detail in Opinion No. 498, 121 FERC ¶ 61,025 at P 3-5 (2007).

[9] The Heating Losses Component recovers increased generator and step-up transformer heating losses that result from the production of reactive power. The Lost Opportunity Costs Component recovers lost opportunity costs in the event that a generator is directed to modify its energy output to produce additional reactive power. Columbia states that it reserves the right to amend its rate schedule in a subsequent docket should it elect to seek compensation for these components.

[10] 73 Fed. Reg. 40,564 (2008).

A. Protests

8. South Carolina E&G argues that Columbia has erroneously described its filing as an initial rate for a new service. South Carolina E&G states that there is already a Commission-approved Interconnection Agreement in place between Columbia and South Carolina E&G obligating Columbia to provide South Carolina E&G with reactive power support and establishing compensation for that service. South Carolina E&G claims that Columbia's proposed rate schedule is an attempt to re-write the Interconnection Agreement. South Carolina E&G argues that in order to be considered an initial rate, the proposed rate schedule must provide for new service to a new customer. South Carolina E&G states that the Commission has already applied this rule in the context of generators that previously provided reactive power service under an interconnection agreement, each time finding that their subsequent rate schedules were changed rates, subject to suspension and refund.

9. ORS makes a similar argument, claiming that Columbia should not receive additional compensation for doing what it is already obliged to do by contract. ORS states that this will place unnecessary new costs on ratepayers.

10. South Carolina E&G also contends that section 2.4 of the Interconnection Agreement[11] prohibits Columbia from filing a rate schedule under section 205 of the FPA to change its reactive power compensation and specifies that if Columbia desires to revise its reactive power compensation (or other reactive power provisions of the

[11] Section 2.4 provides that:

> In executing this Agreement and to the extent FERC assumes jurisdiction over this Agreement, [South Carolina E&G and Columbia] acknowledge that: (i) [South Carolina E&G] may, at any time during the term of this Agreement after notice to [Columbia], petition the FERC for changes in the rates, charges, classification, rules, regulations, and practices set forth herein or relating to this Agreement, . . . and (ii) [Columbia] may, at any time during the term of this Agreement after notice to [South Carolina E&G], petition the FERC, in the form of a complaint, for a determination that any such rate, charge, classification, rule, regulation or practice is unjust, unreasonable, unduly discriminatory, or preferential, as more particularly set forth in [s]ection 206 of the [FPA], and no provision of this Agreement shall be construed to limit or abridge those rights, unless agreed to by [South Carolina E&G and Columbia] in writing.

Interconnection Agreement) it must file a complaint under section 206 of the FPA.[12] South Carolina E&G acknowledges that Columbia has accurately cited section 5.4.3 of the Interconnection Agreement—which provides that further arrangements for reactive power compensation may be made by the mutual agreement of the parties or as may be authorized by FERC—but argues that this provision does not authorize Columbia's filing of the rate schedule. South Carolina E&G states that there is no mutual agreement between the parties, and claims that the clause referencing reactive power compensation "as authorized by FERC" requires that Columbia initiate a section 206 proceeding pursuant to section 2.4 of the Interconnection Agreement. South Carolina E&G further claims that Columbia failed to acknowledge that section 5.4.3 requires that any change to the Interconnection Agreement must be through a section 206 proceeding because it establishes conditions for new compensation that have not been met. [13]

11. South Carolina E&G also argues that Order No. 2003 is inapplicable to the Interconnection Agreement and does not support Columbia's rate schedule filing. South Carolina E&G claims that the Interconnection Agreement is not subject to the requirements of Order No. 2003 because it predates Order No. 2003 and is grandfathered under Commission policy. South Carolina E&G further contends that Order No. 2003 did not abrogate existing agreements and did not require amendments to existing interconnection agreements.

12. South Carolina E&G argues that even if Order No. 2003's comparability requirement applied to the Interconnection Agreement, it would not require South Carolina E&G to compensate Columbia for reactive power. South Carolina E&G claims that while the Commission's comparability policy does not require a showing of need in order for a generator to receive reactive power compensation, at a minimum, it requires

---

[12] 16 U.S.C. § 824e (2006).

[13] The language South Carolina E&G cites provides that:

> [Columbia] and [South Carolina E&G] agree to the rates, terms and conditions for reactive support set forth in this [s]ection 5.4.3 provided that (i) should [South Carolina E&G] subsequently file a reactive support tariff or method which is accepted by FERC, [South Carolina E&G]shall offer [Columbia] the option of taking reactive support pursuant to such tariff or method on a prospective basis only and (ii) should FERC issue an order applicable to the Agreement which mandates a reactive power support tariff and/or methods for administering reactive support [Columbia] shall take reactive support pursuant to the requirements of such order.

that South Carolina E&G be able to rely on the Columbia Facility when needed. South Carolina E&G asserts that it cannot rely on the Columbia Facility to provide reactive power because it does not control the Columbia Facility, which has the right under the Interconnection Agreement to refuse operating outside the deadband.[14] Moreover, South Carolina E&G states that it does not rely on the Columbia Facility, as it dispatches its own generating units and is able to control the power factor of its units to maintain a reliable transmission system. South Carolina E&G also states that Columbia is demanding a reactive power rate that is significantly higher on a per-unit basis than the rate South Carolina E&G charges under Schedule 2. South Carolina E&G explains that its total revenues in 2007 under Schedule 2 were approximately $1.211 million, which includes compensation for reactive power support provided from its approximately 6,400 MW of generating resources as well as from capacitors and other non-generating equipment, and that Columbia is seeking nearly the same amount (approximately $1.105 million) for the reactive power provided by its approximately 540 MW Columbia Facility.[15] South Carolina E&G argues that nearly identical compensation for less than one-tenth the generating capacity is not comparable. Similarly, South Carolina E&G contends that comparability does not require that the Commission accept the rate schedule because the Columbia Facility's actual reactive power contribution amounts to less than one half of one percent of the total MVAR-hrs on South Carolina E&G's system.[16]

13. ORS makes a similar argument, claiming that Columbia should not receive compensation simply for its reactive power capability.

14. Finally, South Carolina E&G and ORS argue that Columbia has failed to allege, much less demonstrate, that the Interconnection Agreement is unjust and unreasonable. South Carolina E&G and ORS further argue that Columbia has failed to show that its proposed rate schedule is just and reasonable.[17] In addition, South Carolina E&G argues

---

[14] South Carolina E&G also claims that Columbia's request is at odds with Schedule 2 of South Carolina E&G's open access transmission tariff (OATT) because Schedule 2 requires that reactive power is to be provided from facilities that are under the control of the control area operator.

[15] South Carolina E&G Protest at 12 & n.24.

[16] *Id*. at 12.

[17] South Carolina E&G presents this as a failure to satisfy a requirement under section 206 of the FPA rather than section 205. *Id*. at 15.

that Columbia's rate schedule is either deficient or incorrect with respect to its (i) capital structure and rate of return, (ii) treatment of Accumulated Deferred Income Taxes (ADIT), (iii) inclusion of Operation & Maintenance (O&M) and Administrative & General expenses (A&G), (iv) test year, (v) power factor calculation, and (vi) calculation of the generator, exciter, and accessory components of reactive investment.

B. Answer

15. Columbia rejects South Carolina E&G's claim that the proposed rate schedule is not an initial rate. Columbia argues that to the extent it provided reactive power within the deadband before filing the instant rate schedule it did so without a filed rate and without having previously filed a rate schedule. Columbia claims that establishing a rate and filing a rate schedule are prerequisites to jurisdictional service under section 205 of the FPA and the Commission's regulations. Columbia claims that uncompensated reactive power service inside the deadband does not meet the standards for jurisdictional service, and that the Interconnection Agreement establishes only an electric service. Columbia claims that the Interconnection Agreement is not a rate schedule as contemplated by section 205 of the FPA or the Commission's regulations, and therefore, that the instant rate schedule is an initial rate.

16. Columbia challenges South Carolina E&G's interpretation of the Interconnection Agreement, claiming that it does not restrict the ability of Columbia to make a section 205 filing seeking reactive power compensation. Columbia states that section 205 is used by public utilities only to establish or revise their own rates, and that section 206 is the correct mechanism for filings by one entity that seek to revise another entity's rates. Columbia argues that it can only surrender its section 205 rights by an explicit waiver. Applying these principles to section 2.4 of the Interconnection Agreement, Columbia claims that section 2.4 applies only to the rates for services that South Carolina E&G provides to Columbia and does not constitute a waiver of Columbia's section 205 rights. Specifically, Columbia argues that section 2.4 merely: (1) reserves South Carolina E&G's rights to petition the Commission with respect to the services it provides Columbia, and (2) reserves Columbia's rights to challenge with respect to the services South Carolina E&G provides to Columbia. Columbia argues that this interpretation is bolstered by section 5.4.3 of the Interconnection Agreement, which Columbia claims specifically reserves its section 205 filing rights by providing that further arrangements for reactive power compensation may be made as may be authorized by the Commission.[18]

[18] Columbia Answer at 8.

17. Columbia contests South Carolina E&G's claim that Order No. 2003 does not apply to the Interconnection Agreement and asserts that it is a collateral attack on the Order No. 2003 and subsequent Commission precedent. While Columbia agrees that Order No. 2003 did not require preexisting interconnection agreements to be amended to reflect the comparability requirement, Columbia argues that Commission precedent requires that the comparability requirement be followed regardless of the terms and conditions of an individual interconnection agreement. Columbia states that the Commission has repeatedly directed transmission providers, including regional transmission organizations and independent system operators, to provide for reactive power compensation for independent power producers where the transmission provider's own or affiliated generation is paid for reactive power.

18. Columbia also argues that South Carolina E&G is attempting to impose a "needs" test on Columbia, which is a collateral attack on Commission precedent. Columbia states that Commission precedent rules out the application of a "needs" test when eligibility for compensation is based on comparability and the independent generator has used the *AEP* methodology to calculate its revenue requirement. Columbia also states that Commission precedent regards a generator as "used and useful" if it is capable of providing reactive power. Similarly, Columbia challenges South Carolina E&G's claim that its lack of control over the Columbia Facility diminishes Columbia's right to compensation. Columbia asserts that Commission has rejected this argument in similar cases.

19. Finally, Columbia asserts that South Carolina E&G has failed to mount any legitimate challenge to its proposed costs or calculations and that there is no basis to suspend the rate. However, Columbia states that its levelized method for recovering capital costs does not allow for ADIT balances, but that if Commission policy requires an alternative treatment to ADIT from that included in its revenue requirement it will submit a compliance filing to conform to the Commission's policy. Similarly, Columbia acknowledges that South Carolina E&G is correct in pointing out a discrepancy with respect to the power factor used to calculate its reactive allocator. Columbia agrees with South Carolina E&G that the power factor in section 5.4.2 of the Interconnection Agreement is 0.90 at the generator terminals and not 0.85. In addition, Columbia states that the nameplate power factor rating for the Toshiba generator is 0.90 and 0.85 for the General Electric generators. Consequently, Columbia rejects South Carolina E&G's assertion that the power factors are assumed values. Columbia states that it will submit a compliance filing to reflect, consistent with the AEP methodology, the capability of the generators to produce VARs as measured at the generator terminals.

III. Discussion

A. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

21. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Columbia's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

22. We find that Columbia's proposed rate schedule 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.[19]

23. However, we also find that South Carolina E&G and ORS have raised some issues that the Commission may properly address in this order. Specifically, in this order we resolve whether Columbia's filing is an initial rate, whether Columbia may use an ROE and overall rate of return that is based on a proxy derived from the capital structure and ROE of South Carolina E&G, and whether South Carolina's "needs" test and control arguments are consistent with Commission precedent. We also provide guidance on whether Order No. 2003's comparability requirement applies to the Interconnection Agreement. Additionally, we direct Columbia, as it agreed in its answer, to make a compliance filing adjusting the power factors used to calculate its reactive allocator. Moreover, in accordance with long-established Commission policy, deferred taxes must be reflected in the determination of Columbia's cost-based rates. To the extent Columbia proposes to include the cost of its facilities in rate base, it must likewise reflect any ADIT

[19] As in similar cases, we include the proper interpretation of the Interconnection Agreement, which we find to be ambiguous, as a subject for hearing. *See e.g. Bluegrass Generation Co., L.L.C.*, 110 FERC ¶ 61,349 (2005) (setting the Bluegrass' reactive power rate schedule for filing), *initial decision*, 115 FERC ¶ 63,015 (2006) (Presiding Judge ruling on whether Bluegrass had a contractual right under its interconnection agreement to file a reactive power rate schedule).

associated with its facility in rate base, including any ADIT generated in its test year. We therefore direct Columbia to make a compliance filing to include ADIT in it' rate base.[20]

1. Initial Rate

24. Columbia argues that its rate schedule is an initial rate. We disagree. The Commission has explained that an initial rate schedule must involve a new customer and a new service.[21] Columbia's provision of reactive power under the proposed rate schedule is not a new service. The Columbia Facility has been providing reactive power service to South Carolina E&G under the Interconnection Agreement at a zero charge. Thus, the proposed reactive power rate in the instant proceeding is not an initial rate, but a changed rate.

2. Use of Proxy Based on Capital Structure of Interconnecting Transmission Provider

25. South Carolina E&G argues that it is inappropriate for Columbia to use an ROE and overall rate of return that is based on a proxy derived from the capital structure and ROE of South Carolina E&G. We disagree. The Commission has previously found that merchant generators may use the interconnected utility's authorized rate of return as a proxy.[22] The Commission explained that this approach is just and reasonable because an interconnected utility's return is a conservative estimate of a merchant generator's return.[23]

3. Guidance on Whether Order No. 2003 applies to the Interconnection Agreement

26. South Carolina E&G argues that the Interconnection Agreement is not subject to Order No. 2003's comparability requirement because it predates Order No. 2003, which

---

[20] *See, e.g., Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenue for Ratemaking and Income Tax Purposes*, Order No. 144, 15 FERC ¶ 61,133 (1981).

[21] *Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11(2003); *Chehalis Power Generating, L.P.*, 113 FERC ¶ 61,259 at P 10.

[22] *Bluegrass Generation Company, L.L.C.*, 118 FERC ¶ 61,214, at P 86 (2007) (*Bluegrass I*), *reh'g denied*, 121 FERC ¶ 61,018 (2007).

[23] *Calpine Fox, LLC*, 113 FERC ¶ 61,047, at P 17 (2005).

did not abrogate or require amendments to existing interconnection agreements. While we agree that Order No. 2003 does not abrogate or require amendments to existing interconnection agreements, we disagree with South Carolina E&G's claim that the Commission's comparability requirement cannot apply to Columbia's filing. In *Bluegrass*, for example, the Commission found that Order No. 2003's comparability requirement applied to a rate schedule filed pursuant to an interconnection agreement that pre-dated Order No. 2003. The Commission determined that Bluegrass Generation LLC (Bluegrass) had a contractual right to seek reactive power compensation, and because the transmission provider was being compensated on a capability basis, Bluegrass had to be compensated on a capability basis. Here, if it is determined that Columbia is not barred by the Interconnection Agreement from filing a reactive power rate schedule under section 205, it will have to be compensated by South Carolina E&G on a basis comparable to the way South Carolina E&G compensates itself, even if this means that the amount of Columbia's total revenue requirement will be close to South Carolina E&G's total reactive power compensation.

27. We find that the pleadings are unclear about whether South Carolina E&G is receiving reactive power compensation on a capability basis or on some other basis. Accordingly, we direct this issue to be examined at hearing.

4. Needs Test and Control

28. South Carolina E&G argues that if Order No. 2003's comparability requirement applies to the Interconnection Agreement, it would not require South Carolina E&G to compensate Columbia for reactive power because South Carolina E&G cannot and does not rely on the Columbia Facility when reactive power support is needed. South Carolina E&G also states that Columbia contributes little reactive power to the system. South Carolina E&G also asserts that it cannot rely on the Columbia Facility to provide reactive power because it does not control the Columbia Facility, which has the right under the Interconnection Agreement to refuse operating outside the deadband.

29. We reject these arguments and find that they are substantively indistinguishable from similar arguments that the Commission has previously rejected. The Commission has previously explained that where a transmission provider does not apply a "needs" test to its own and affiliated generation, it is unduly discriminatory to apply a "needs" test to independent generation.[24] The Commission has also explained that the fact that the reactive power that a generator is capable of producing is not used at some particular given time does not render the generator's filed rates based on reactive power capability

[24] *See Bluegrass I*, 118 FERC ¶ 61,214 at P 33-34.

unjust or unreasonable,[25] that the *AEP* methodology does not include a "needs" test, and that a generator is "used and useful" if it is *capable* of providing reactive power.[26]

30. Similarly, the Commission has rejected the claim that lack of operational control over an independent generator dispenses with the transmission provider's obligation to compensate the generator on a comparable basis. In Order No. 2003-C, the Commission stated that:

> Although the Transmission Provider's or its affiliate's generators may be required to operate when others are not, this distinction in availability is not so significant as to eliminate the need to compensate other generators . . . . Order No. 2003-B clarified that while the Transmission Provider cannot demand that the Interconnection Customer operate its Generating Facility solely to provide reactive power, it may require the Interconnection Customer to provide reactive power from time to time when its Generating facility is in operation. The requirement to pay exists only as long as the Generating Facility follows the Transmission Provider's reactive power instructions. This is a sufficient level of control to warrant compensation for providing reactive power as described in Order Nos. 888-A and 888-B.[27]

5. Hearing and Settlement Judge Procedures

31. Our preliminary analysis indicates that, except as discussed above, Columbia'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 Columbia's proposed rate schedule for filing, suspend it for a nominal period, make it effective July 1, 2008,[28] as requested, subject to refund, and set it for hearing and settlement judge procedures.

---

[25] *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,192, at P 19 (2006).

[26] *Calpine Oneta Power, L.P.*, 116 FERC ¶ 61,282, at P 28 (2006), *reh'g denied*, 119 FERC ¶ 61,177, at P 22 (2007).

[27] Order No. 2003-C at P 43 (footnote omitted).

[28] We find good cause to grant Columbia's request for waiver of the Commission's 60-day prior notice requirement. *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,349 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

32. 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.[29] 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.[30] 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 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) Columbia's proposed rate schedule for reactive power is hereby accepted for filing and suspended for a nominal period, to become effective on July 1, 2008, 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 Columbia's proposed rate schedule. However, the hearing shall be held in abeyance to 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 (2008), 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

[29] 18 C.F.R. § 385.603 (2008).

[30] 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 this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges).

and shall convene a settlement conference as soon as practicable after the Chief Judge 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 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 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, D.C. 20426. Such 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.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.