

124 FERC ¶ 61,193
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.

Calpine Oneta Power, L.P.

Docket No. ER03-765-007

ORDER DENYING REHEARING

(Issued August 28, 2008)

1. This order addresses American Electric Power Service Corporation's (AEP) request for rehearing of the Commission's November 19, 2007 order denying rehearing to East Texas Cooperatives.¹ As discussed below, we will deny AEP's request for rehearing.

I. Background

2. The background of this case is described in detail in previous orders.² Briefly, in the Order on Initial Decision, the Commission upheld an initial decision³ addressing Calpine Oneta Power, L.P.'s (Oneta) proposed rate schedule for reactive power. The Commission found that Oneta should receive compensation under its proposed rate schedule because it provides reactive power capability that is comparable to the reactive power capability supplied by control area operators and affiliates.⁴ Additionally, the Commission directed Oneta to submit a compliance filing to revise its rate schedule, listing AEP instead of the Southwest Power Pool, Inc. (SPP) as the customer. Oneta

¹ See *Calpine Oneta Power, L.P.*, 116 FERC ¶ 61,282 (2006) (Order on Initial Decision), *order on reh'g and compliance*, 119 FERC ¶ 61,177 (2007) (May 21 Order), *order on reh'g*, 121 FERC ¶ 61,189 (2007) (November 19 Order). East Texas Cooperatives are East Texas Cooperative, Inc., Northeast Texas Electric Cooperative, Inc. (NTEC) and Tex-La Electric Cooperative of Texas, Inc.

² See November 19 Order, 121 FERC ¶ 61,189 at P 2-8; May 21 Order, 119 FERC ¶ 61,177.

³ *Calpine Oneta Power, L.P.*, 113 FERC ¶ 63,015 (2005) (Initial Decision).

⁴ We note that AEP filed a request for rehearing of the Order on Initial Decision. That request was denied in the May 21 Order. AEP did not request rehearing of the May 21 Order.

submitted a compliance filing, revising its Rate Schedule FERC No. 2, and in the May 21 Order the Commission accepted Oneta's compliance filing and denied rehearing and granted clarification with respect to the Order on Initial Decision.⁵

3. East Texas Cooperatives filed a request for rehearing of the May 21 Order, alleging three errors by the Commission. First, they argued that the Commission should have granted East Texas Cooperatives' motion to intervene and to respond to requests for rehearing of the Order on Initial Decision. Next, they argued that the Commission should have addressed the comparability arguments that East Texas Cooperatives raised in response to Oneta's compliance filing. Specifically, they asserted that Oneta did not comply with the Order on Initial Decision because it attempted to recover a fixed monthly amount for reactive power in an effort to guarantee that it would recover its entire annual reactive power revenue requirement. East Texas Cooperatives argued that recovery of Oneta's entire revenue requirement violates the principle of comparability because others in SPP do not recover their entire revenue requirement,⁶ and because Oneta will still get paid for reactive power despite others' self-supply arrangements.

4. Finally, East Texas Cooperatives objected to the fact that the Commission required them to pay charges for reactive power based on their full network load. East Texas Cooperatives stated that they do not have to purchase reactive power service from SPP up to the level of their full network load because they self-supply a portion of their reactive power requirement. They argued that under the May 21 Order, East Texas Cooperatives' reactive power self-supply arrangement would apply only to reactive power provided by AEP. For reactive power supplied by Oneta, East Texas Cooperatives argued that they would be required to pay charges for reactive power based on their *full* network load.

5. In the November 19 Order, the Commission denied East Texas Cooperatives' request for rehearing. The Commission determined that in order to ensure that its comparability policy is applied in the SPP region where self-supply arrangements have otherwise impaired comparability, AEP must pay Oneta's reactive power revenue

⁵ May 21 Order, 119 FERC ¶ 61,177.

⁶ As noted in the May 21 Order, AEP explains that the Schedule 2 charges were derived from AEP's annual revenue requirement, which was calculated using the AEP methodology for the facilities that provided reactive power capability and which was assessed through stated rates. *Id.* P 55. Additionally, the May 21 Order notes that no party disputes that Oneta has also followed the AEP methodology of calculating the revenue requirement associated with Oneta's reactive power capability.

requirement for this historical locked-in period of time,⁷ even if AEP chose not to recover all of its own revenue requirement under Schedule 2. The Commission reaffirmed that AEP's under-recovery of its revenue requirement under Schedule 2 of the SPP Open Access Transmission Tariff (OATT) was the result of its own choice to self-supply reactive power,⁸ and that AEP cannot use its choice as a basis to deny Oneta's reactive power revenue requirement for comparable reactive power capability. The Commission noted that to the extent any of AEP's under-recovery of Schedule 2 revenues is attributable to third-party self-supply arrangements, AEP should have changed (or requested SPP to change) the billing determinants under Schedule 2 to reflect a partial self-supply of reactive power by third-party transmission customers (i.e., NTEC and Oklahoma Municipal Power Authority). The Commission further noted that allowing Oneta to recover its reactive power revenue requirement would not render the East Texas Cooperatives' self-supply arrangements meaningless. This is because the revised reactive power charge in SPP's Schedule 2, which includes Oneta's revenue requirement for reactive power, will only be assessed on East Texas Cooperatives' load that does not self-supply its reactive power.

II. Rehearing Request

6. AEP argues that the Commission should not have permitted the East Texas Cooperatives to avoid Oneta's revenue requirement for that portion of their reactive power requirements that was self-supplied while disregarding AEP's comparable self-supply arrangements. It argues that it is forced to underwrite the portion of Oneta's reactive power revenue requirement that the East Texas Cooperatives and other transmission customers avoid by virtue of their SPP-approved self-supply arrangements.

7. Specifically, AEP argues that, in return for being permitted to charge for reactive power capability within the deadband, the Commission is requiring it to ensure that unaffiliated generators with the capability to produce reactive power, such as Oneta, get a guaranteed payment. It states that, "as AEP had been accorded no right to any guaranteed level of *funds available*, comparability does demand that Oneta be accorded

⁷ The effective date of Oneta's rate schedule is June 21, 2003. SPP revised its methodology for compensating generators for reactive power production, effective March 1, 2007. Thus, the historical locked-in period of time is from June 21, 2003 through February 28, 2007. See May 21 Order, 119 FERC ¶ 61,177 at P 2; see also *Southwest Power Pool, Inc.*, 119 FERC ¶ 61,199, order on reh'g, 121 FERC ¶ 61,196 (2007) (*Southwest Power Pool*).

⁸ November 19 Order, 121 FERC ¶ 61,189 at P 18.

such a right.”⁹ AEP asserts that the Commission’s basis for allowing a customer to reduce its Schedule 2 charges through self-supply was to reduce transmission customers’ needs. AEP further argues that “although Order No. 888-A contoured AEP’s (and later SPP’s) sales of Schedule 2 service to the *needs* of transmission customers within the AEP zone, the November 19 Order ignores that ruling and applies comparability to ensure that Oneta is compensated on a basis that disregards those same customer *needs*.”¹⁰

8. AEP also states that the Commission erred in ruling that comparability requires that an independent generator, like Oneta, is entitled to recover its reactive power revenue requirement regardless of the amount of reactive power service required by transmission customers. AEP argues that it gets no such entitlement. It further states that an independent generator, like Oneta, should not be guaranteed recovery of its entire reactive power revenue requirement when a transmission owner has only the *opportunity* to recover (through wholesale and retail rates).¹¹

9. Similarly, AEP argues that the Commission should not require that reactive power charges avoided by third-party transmission customers to be shifted to AEP in order to guarantee that Oneta recover its entire reactive power revenue requirement because it exposes consumers to excessive charges and it improperly allocates costs to AEP. AEP argues that the Commission has sanctioned an unduly discriminatory rate treatment that gives effect to third-party transmission customers’ reactive power self-supply arrangements, but ignores comparable arrangements made by AEP.

III. Discussion

10. We deny AEP’s rehearing request. AEP primarily raises issues that the Commission has already addressed in both the Order on Initial Decision and the May 21 Order. For example, the Commission has already held that, if the incumbent utility is paid for reactive power service within the bandwidth, then unaffiliated generators should also be paid for service within the bandwidth.¹² 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

⁹ AEP December 19, 2007 Filing at 7 (emphasis original). We note that AEP’s statement appears to conflict with its general argument that comparability does *not* demand that Oneta be accorded the right to a guaranteed payment for reactive power.

¹⁰ *Id.* at 8 (emphasis in original).

¹¹ Citing *Southwest Power Pool*, 121 FERC ¶ 61,196.

¹² AEP December 19, 2007 Filing at 13, Statement of Issues No. 1. *See* Order on Initial Decision at P 26, 27, 35, 68 and May 21 Order at P 25-26, 35-37.

power capability unjust or unreasonable.¹³ Moreover, the Commission has explained that reactive power charges based on capability are not excessive because comparable reactive power capability should be comparably compensated.¹⁴

11. Once again, we note that AEP's under-recovery of its revenue requirement under Schedule 2 of the SPP OATT was the result of its own choice to self-supply reactive power, and this choice could not be used as a basis to deny Oneta its reactive power revenue requirement for comparable reactive power capability. In the November 19 Order,¹⁵ the Commission reiterated that AEP was required to pay Oneta its reactive power revenue requirement because such payment was the only way to ensure comparability between independent power producers in the AEP zone, like Oneta, and the control area operator, AEP, which self-supplies its reactive power requirements.¹⁶

12. Citing *Southwest Power Pool*, AEP argues that it is not comparable for Oneta to be *guaranteed* its revenue requirement while AEP only has an *opportunity* to recover its revenue requirement. The Commission finds AEP's reliance on *Southwest Power Pool* to be misplaced. In *Southwest Power*, the Commission held that comparability was satisfied where neither the transmission owner nor independent power producers (IPPs) was compensated for reactive power within the deadband under Schedule 2. In doing so, the Commission rejected the IPPs' argument that comparability required that the Commission guarantee IPPs' recovery for reactive power costs within the deadband under Schedule 2 because the transmission owner could recover its costs through retail rates (a recovery option that IPPs claimed was not available to them), even though it was not recovering its reactive power costs under Schedule 2. The Commission held that both the transmission owner and the IPPs had the *opportunity* to recover their costs through other means, such as power sales rates, and therefore, they were treated comparably.

¹³ AEP December 19, 2007 Filing at 13, Statement of Issues No. 2. *See* Order on Initial Decision at P 28 and 49; May 21 Order at P 22-23.

¹⁴ AEP December 19, 2007 Filing at 13, Statement of Issues No. 4. *See* Order on Initial Decision at P 68; May 21 Order at P 24.

¹⁵ November 19 Order, 121 FERC ¶ 61,189 at P 16; *see also* May 21 Order, 119 FERC ¶ 61,177 at P 68.

¹⁶ The Commission further explained that by allowing control area operators, like AEP, to self-supply their reactive power requirements, these operators could claim a capacity to self-supply as a means for reducing funds available to unaffiliated generators, like Oneta. Unaffiliated generation capability would be called only to the extent that reactive power was not provided to a transmission customer from the operator's own resources (i.e., a "needs test"). The Commission determined that this practice violated its policy of comparability. *See* November 19 Order at P 17.

13. In this proceeding, reactive power capability was compensated within the deadband under Schedule 2 during the historical locked-in period of time. Accordingly, consistent with our comparability policy, both AEP and Oneta had the opportunity to recover their reactive power revenue requirements based on their capability to produce reactive power. By self-supplying its reactive power requirements, AEP essentially chose not to exercise its opportunity to recover that portion of its revenue requirement under Schedule 2. AEP's decision to self-supply should have no bearing on Oneta's comparable opportunity to recover its own revenue requirement for providing reactive power capability. Unlike AEP, Oneta chose to exercise its opportunity and filed a rate schedule to recover its revenue requirement for self-supplied reactive power capability. Accordingly, Oneta should get paid its full reactive power revenue requirement.

14. Similarly, we reject AEP's rate-design argument that by allowing Oneta to recover one-twelfth of its revenue requirement each month (thus ensuring that Oneta will recover its entire revenue requirement), the Commission has violated its comparability principle because AEP's reactive power rate varies with load, and thus does not ensure full recovery. Indeed, AEP states that it recovers less than one-quarter of its revenue requirement under Schedule 2 of the OATT.¹⁷ If the Commission were to grant AEP's request for rehearing on this point, however, then Oneta would recover less than one-quarter of its revenue requirement simply because AEP chose to self-supply. Moreover, it would ignore the fact that without self-supply arrangements, if AEP had chosen a different rate design that recovered one-twelfth of its revenue requirement per month from all load in its zone on a formula basis using load ratios (with true-ups as necessary), then AEP would have recovered its revenue requirement as well. Thus, AEP's argument that the Commission has violated comparability principles in allowing Oneta to recover its reactive revenue requirement fully when AEP only has an opportunity to recover its reactive revenue requirement is without merit. The nature of AEP's recovery is the result of its chosen rate design and its decision to self-supply. The Commission finds that it would be unfair to limit Oneta's recovery of its revenue requirement because of AEP's actions or inactions.

15. In the November 19 Order, the Commission also reminded AEP that, to the extent that AEP's under-recovery of Schedule 2 revenues is attributable to third-party self-supply arrangements, AEP could have changed (or requested SPP to change) the

¹⁷ AEP December 19, 2007 Filing at 9.

Schedule 2 charge to remove from the denominator¹⁸ the loads of third-party customers for which reactive power had been self-supplied.¹⁹ Implicit in the Commission's rationale in the May 21 Order²⁰ and the November 19 Order,²¹ is that it is appropriate to exclude from the denominator the self-supplied load of third parties, such as East Texas Cooperatives, because the cost of the reactive power capability used to self-supply their load is excluded from the numerator of the Schedule 2 charge.

16. AEP contests third-party self-supply arrangements being exempt from reactive power charges related to the Oneta facility and those charges being paid by AEP. However, we note that the self-supply arrangements of third parties could have been structured in such a way as to require them to pay a share of the Oneta revenue requirement. For example, third parties could have been given a financial credit for their self-supplied reactive power instead of allowing them to avoid any Schedule 2 charge. Further, if the third-party self-supplied load were removed from the denominator as suggested in the November 19 Order, then the remaining load in the AEP zone (including but not limited to AEP load) would pay that portion of the Oneta reactive power revenue requirement that is not paid by exempt third-parties with self-supply arrangements. Thus, the portion of the Oneta reactive power revenue requirement that is not paid by the self-supplied load of the East Texas Cooperatives would have been paid by the rest of the load in the AEP zone, including the non-self-supplied load of the East Texas Cooperatives.

17. While it would have been reasonable to exclude the load of third-party self-supplied load from the denominator of the Schedule 2 charge, the bundled retail load associated with AEP's self-supply arrangements should not be excluded from the denominator of the Schedule 2 charge. This is because such load uses the reactive power

¹⁸ According to SPP, the denominator of the charge is the load within the AEP transmission zone. SPP October 26, 2006 Filing, Docket No. ER03-765-000, at Ex. 1. Generally, the numerator of the charge under Schedule 2 of the OATT is the cost of the reactive power capability used to provide reactive power service within the AEP zone for service to AEP's bundled retail load and for service to third party customers who do not self-supply and with Commission acceptance of Oneta's rate schedule, the numerator consists of both the facilities of AEP and Oneta. *See* May 21 Order, 119 FERC ¶ 61,177 at P 67.

¹⁹ November 19 Order, 121 FERC ¶ 61,189 at n.27. To the extent that AEP under recovers its reactive power revenue requirement due to third party self-supply arrangements, such under-recovery started when the third-party self-supply arrangements began rather than at the time the Oneta rate schedule was accepted.

²⁰ *See* May 21 Order, 119 FERC ¶ 61,177 at P 68.

²¹ November 19 Order, 121 FERC ¶ 61,189 at 19.

capability of both AEP's facilities and the Oneta facility, the cost of which is included in the *numerator* of the Schedule 2 charge. As the Commission previously noted, the Oneta facility assists AEP in maintaining proper voltage levels in the AEP control area by supplying reactive power to that area.²² Further, removing AEP's bundled retail load would require all third-party non-self-supplied load to pay the entire reactive power revenue requirement, including the costs associated with AEP's service to its bundled retail load, thus resulting in third-party non-self-supplied load subsidizing service to AEP's bundled retail load.

18. Ultimately, the November 19 Order did not change the results of the May 21 Order, and did not otherwise constitute a modification to the reactive power charges as established in the original May 21 Order. Accordingly, we will deny AEP's rehearing request.

The Commission orders:

AEP's rehearing request is hereby denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²² When the Oneta facility was operating, it produced 155.1 Mvar out of the total 344.1 Mvar that was produced in the Tulsa area, demonstrating that it does contribute to the provision of reliability service in the AEP control area. *See* May 21 Order, 119 FERC ¶ 61,177 at P 67, n. 134; *see also* Initial Decision, 113 FERC ¶ 63,015 at P 88 (citing Exhibit KZ-21 at 6).