129 FERC ¶ 61,220
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wolverine Power Supply Cooperative, Inc. Docket No. ER10-69-000

ORDER ACCEPTING RATE SCHEDULE

(Issued December 14, 2009)

1. On October 15, 2009, Wolverine Power Supply Cooperative, Inc (Wolverine) submitted revisions to its wholesale requirements rates to its distribution cooperative members[1] and a proposal to extend its current Power Supply Development Fund Charge (Power Supply Fund Charge). In this order, we accept for filing the revised rate schedule,[2] to become effective January 1, 2010. We also accept Wolverine's extension of the Power Supply Fund Charge to become effective November 1, 2009.

Background

2. Wolverine is a member of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). Wolverine generates and purchases energy primarily to serve its members and supplements and balances its power supply portfolio with short-term purchases from, and sales to, the Midwest ISO. Wolverine's transmission system consists of approximately 1,200 miles of 69 kV and 138 kV looped transmission lines and associated facilities. These transmission facilities are included in the Michigan Joint Zone (MJZ) under the Midwest ISO's Open Access Transmission, Energy and Operating Reserves Markets Tariff (Tariff), as are 69 kV radial lines and associated facilities whose

[1] Cherryland Electric Cooperative, Great Lakes Energy Cooperative, Presque Isle Electric & Gas Co-Op, and Home Works Tri-County Electric Cooperative. Wolverine also supplies power to Wolverine Power Marketing Cooperative, Inc. and Spartan Renewable Energy, Inc. which are both licensed alternative electric suppliers in the State of Michigan.

[2] Fourth Revised Rate Schedule No. 4.

use by third parties is priced separately under Commission-approved wholesale distribution service agreements entered into pursuant to Schedule 11 of the Midwest ISO Tariff.

3. On June 7, 2004, Wolverine on behalf of itself and on behalf of Michigan Public Service Commission (Michigan Commission) filed an uncontested offer of settlement (2004 Settlement). On November 22, 2004, the Commission accepted the 2004 Settlement, [3] which provided for a Power Supply Fund Charge that could be adjusted up or down not to exceed either a maximum annual revenue of $70 million or a monthly charge of $0.005/kWh, and would expire December 31, 2009.[4]

4. Under Section 2.9 of the 2004 Settlement, Wolverine is required to submit two annual reports pertaining to the use of the Power Supply Fund Charge.[5] The first report, to be submitted biannually (no later than the last day of March and September) each year the charge is assessed will document how much money has been collected through the charge since the last report, the total return earned on unspent funds, the current balance of the fund, and how the fund has been used to date. The second report, which must be submitted by May 15 each year, shall provide a status report on Power Supply Fund Charge projects and contracts and be treated as confidential by Michigan Commission.

Filing

5. Wolverine states that, as a generator and transmission cooperative, it develops its cost of service based on test year expenses plus a margin in order to produce a target discount service coverage (DSC) ratio.[6] In the instant filing, Wolverine states that it aims to increase its wholesale rates in order to meet a DSC ratio of 1.5 to 1.[7] Wolverine states that, accordingly, and consistent with unanimous Board of Director resolutions, it

---

[3] *Wolverine Power Supply Cooperative, Inc.*, 109 FERC ¶ 61,191 (2004) (November 22 Order).

[4] Wolverine Power Supply Cooperative, Inc., Third Revised Rate Schedule FERC No. 4., Original Sheet No. 13.

[5] Wolverine Offer of Settlement submitted June 7, 2004 under Docket Nos. ER04-132-000 and EL04-38-000 at 8.

[6] Exh. No. WPS-2, Smith testimony at 12. The Debt Service Coverage ratio is a statistical measure of a cooperative's ability to make both interest and principal payments.

[7] *Id*. at 11.

proposes an annual increase in its wholesale requirements rates of approximately 2 percent or $3.1 million.[8] Wolverine requests an effective date of January 1, 2010, for its proposed rate adjustment.

6. As part of its increased wholesale rates that would permit a DSC ratio of 1.5 to 1, Wolverine requests an extension of the current $0.005/kWh Power Supply Fund Charge that is applicable to Wolverine's distribution cooperative members. Wolverine states that as a non-profit cooperative, it does not have shareholders and does not issue common stock. The Power Supply Fund Charge is a source of revenue to build equity funds needed to fund long-term power supply projects without having to exclusively rely on debt financing. Wolverine requests an effective date of November 1, 2009 for the extension of the Power Supply Fund Charge.

7. Wolverine states that the sole purpose of the Power Supply Fund Charge continues to be the accumulation of equity funds and cash flow necessary to attract debt financing required to provide Wolverine with the ability to acquire long-term power supply for its distribution cooperative members.[9] Wolverine further states that all amounts generated from the charge are assigned as patronage capital to its members based on the member's respective contributions to the Power Supply Fund. If all or part of the funds are not used for the specific purpose of acquiring long-term power supply, then the money will be returned to the distribution cooperative member-owners.[10] Finally, Wolverine requests

[8] Otherwise, Wolverine has retained the same rate design with two notable exceptions. Wolverine has created a Network Transmission Rate to recover the costs of Wolverine's transmission facilities included in the MJZ under the Midwest ISO Tariff from its distribution cooperative members and also credit those members with all MJZ revenues Wolverine receives from the Midwest ISO. Previously, Wolverine collected the cost of these network transmission facilities in the demand charge of its General Rate. In the instant filing, Wolverine and its distribution cooperative members propose to recover these costs through unbundled formula rates. Second, Wolverine replaced the existing Distribution Radial Rate with an Excluded Facilities Rate to recover the cost of transmission facilities that are not included in the MJZ. The Network Transmission Rate and the Excluded Facilities Rate are based on fixed carrying charges, 18.31 percent and 17.11 percent, respectively, that are applied to the gross plant of the respective facilities.

[9] *Id.* at 6.

[10] *Id.* at 7.

that the charge remain in effect until Wolverine's Board of Directors determines that sufficient equity funds have been raised to assure a long-term, competitive power supply to its distribution cooperative members.[11]

Notice of Filing and Responsive Pleadings

8. Notice of Wolverine's filing was published in the *Federal Register*, 74 Fed. Reg. 54983 (2009), with protests and interventions due November 5, 2009. The Michigan Commission filed a notice of intervention. Tomas Karas, a member owner of Wolverine and of Cherryland Electric Cooperative, submitted a motion to intervene and complaint to the Commission.[12] On November 13, 2009, Wolverine filed a motion to answer and answer to Mr. Karas' protest.

9. Mr. Karas states that the Power Supply Fund Charge is not being used in the best interest of the member-owners and because of this Wolverine should not be granted any extension of the provisions of the original agreement and should return the unused portion of the fund to the member-owners. Mr. Karas states that Wolverine has failed to establish that the Power Supply Fund Charge meets the "just and reasonable" rate requirements of section 205 of the Federal Power Act.[13] Mr. Karas states that Wolverine has used the vast majority of the Power Supply Fund to pursue the development of a large-scale coal-fired power plant. Among other things, Mr. Karas states that Wolverine has failed to demonstrate a need for 600 MW of new fossil-fuel generating capacity. Finally, Mr. Karas requests that the Commission not grant the extension of the Power Supply Fund Charge, unless and until it also requires Wolverine to fully disclose past and future Power Supply Fund Charge expenditures so that those expenditures can be evidence of a responsible attempt to provide low cost, reliable service that is truly needed by the membership. Mr. Karas also alleges that Wolverine has submitted conflicting power requirements. Mr. Karas further notes that in Wolverine's Electric Generation Alternatives Analysis submitted to state regulators, Wolverine estimated a future demand for power of 641 MW by 2021, whereas in its filing before the Commission, Wolverine estimates a baseload requirement in 2021 of 450 MW.

10. In response to Mr. Karas, Wolverine states that the issue of how Wolverine should meet the long-term power supply needs of its members is not before the Commission. The only matter before the Commission is whether Wolverine has supported its request to

---

[11] *Id.* at 6.

[12] Although Mr. Karas styles his comments as a complaint, based on the content of his comments we review them as a protest to Wolverine's filing.

[13] 16 U.S.C. § 824d (2006).

continue the Power Supply Fund Charge. Wolverine further states that lenders are presently unwilling to provide 100 percent debt financing for long-term power supply, the charge is restricted for use only to acquire such long term power supply for Wolverine's distribution cooperative members, and any portion of the funds not used for this purpose will be returned to the distribution cooperative member-owners. Wolverine states that the Power Supply Fund will be used to provide equity financing, not necessarily for a clean-coal plant as Mr. Karas alleges, but for whatever viable long-term power supply Wolverine ultimately selects as the most cost-effective option. In regards to Mr. Karas allegation that Wolverine submitted different estimates of future demand, Wolverine states that its figure of 641 MW for future demand used in filings with its state regulator is not inconsistent with its projection in this proceeding of 450 MW for baseload demand by 2021 since the 641 MW includes baseload, intermediate and peaking needs, and includes other members who are not subject to the rates filed in this proceeding.

11. Lastly, Wolverine denies that is has withheld the full details related to the Power Supply Fund Charge from its membership and states that as part of the 2004 Settlement establishing the current Power Supply Fund Charge, Wolverine is required to submit two reports to the Michigan Commission, detailing how much money has been collected through the charge, the current balance of the fund, how the funds have been spent and the status of the contracts or projects for which Power Supply Fund Charge funds have been spent. Wolverine concludes, "Wolverine has been in full compliance with the settlement agreement reporting requirements. Thus there is no need for the Commission to require any further disclosure."[14]

Discussion

Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motion to intervene and notice of intervention serve to make the entities filing them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Wolverine's answer because it has provided information that has assisted us in our decision-making process.

[14] Wolverine Answer at 4.

Commission Determination

13. As discussed below, we find that Wolverine's proposed revisions to its wholesale requirements rates to its distribution cooperative members and extension of the Power Supply Fund Charge are just and reasonable. Accordingly, we will accept Wolverine's filing to be effective January 1, 2010, for the rate adjustment as requested, and extension of the Power Supply Fund Charge to be effective November 1, 2009, as requested.

14. We recognize Wolverine's explanation that its rates are based solely on a cost of service that will generate sufficient cash to recover current operating expenses, but that without the Power Supply Fund Charge are not enough to raise required equity for long-term power supply. Wolverine is a non-profit cooperative, and the only means to raise enough equity for long-term power supply purchases is by obtaining cash contributions from members (i.e. member fees) or earning net margins.[15] The Power Supply Fund Charge brings Wolverine the required revenue to build the equity needed to fund long-term power supply projects without having to exclusively rely on debt financing. We note that Wolverine asks for the charge to remain in place until Wolverine's Board of Directors determines that sufficient equity funds have been raised to assure a long-term, competitive power supply to its distribution cooperative members. Additionally, Wolverine notes that any funds not used for the purpose of constructing new facilities will be returned to member owners. We will accept the extension of this charge with the understanding that reporting requirements to the Michigan Commission remain in place pursuant to the 2004 Settlement.[16] Finally, we note that Wolverine is owned and governed by its distribution cooperative members and that the members can avail themselves of those governance structures where disputes exist.

15. We find Mr. Karas' arguments do not provide a basis for denial of the proposed extension of the Power Supply Fund Charge. Mr. Karas argues that the fund as extended may be used to build a clean coal plant. However, as Wolverine points out, the fund is earmarked only for equity financing for necessary long-term power supply, and Wolverine states that no decision has yet been made on whether to build a coal plant. Mr. Karas does not dispute Wolverine's contention that lenders are unwilling to provide 100 percent debt financing for new power supply projects, and that equity funds are thus

[15] Exh. No. WPS-1, Baker Testimony at 6. The Power Supply Fund Charge being addressed in this order "…is a much needed source of revenue which contributes to net margins."

[16] We base our understanding on the fact that the dispute involves the continuing use of the Power Supply Fund Charge, that Wolverine refers in its Answer to this reporting requirement to the Commission and that Wolverine concludes "[t]hus, there is no need for the Commission to require any further disclosure." Wolverine Answer at 4.

necessary for Wolverine to meet its long-term needs. Mr. Karas' allegations that Wolverine has failed to meet transparency requirements are unsupported. As mentioned above, we expect that Wolverine will continue to submit reports to the Michigan Commission on the status of the Power Supply Fund Charge as required by the 2004 Settlement.

The Commission orders:

(A) The proposed rate schedule changes are hereby accepted for filing, effective January 1, 2010.

(B) The Power Supply Fund Charge is hereby extended effective November 1, 2009, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.