



Transmission Owner, and CPV as the Interconnection Customer. The unexecuted LGIA governs the proposed interconnection of CPV's 795 MW natural gas-fired plant, which includes two combustion turbine units and one steam turbine in a combined cycle configuration. The generating facility is located in Oxford, Connecticut and will interconnect to CL&P's transmission system.<sup>5</sup> Filing Parties request waiver of the Commission's 60-day prior notice requirement to permit an effective date of November 1, 2014.<sup>6</sup>

3. The Filing Parties explain that they filed the unexecuted LGIA unexecuted at CPV's request for two reasons.<sup>7</sup> First, according to the Filing Parties, CPV requested the option to build under the terms of Article 5.1.3 (Option to Build) of the unexecuted LGIA, but ISO-NE and CL&P denied CPV's request.<sup>8</sup> Second, Filing Parties explain that CPV disputed the operation, maintenance and capital cost reimbursement charges.

## **II. Notice of Filings and Responsive Pleadings**

4. Notice of the Filing Parties' filing was published in the *Federal Register*, 79 Fed. Reg. 65,388 (2014), with interventions and protests due on or before November 17, 2014. CPV filed a motion to intervene and protest. On December 2, 2014, the Filing Parties filed an answer. On December 8, 2014, CPV filed a reply. On December 11, 2014, the Filing parties filed an answer to CPV's reply. On December 12, 2014, CPV filed a reply to the Filing parties December 11, 2014 answer.

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Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008)).

<sup>5</sup> Filing Parties October 27, 2014 Filing at 3.

<sup>6</sup> 18 C.F.R. § 35.3(a) (2014).

<sup>7</sup> Non-conforming interconnection agreements must be filed with the Commission before going into effect. Non-conforming agreements include unexecuted agreements. Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at PP 914-915.

<sup>8</sup> Filing Parties October 27, 2014 Filing at 3.

### **III. Discussion**

#### **A. Procedural Matters**

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), CPV's timely, unopposed motion to intervene serves to make it a party to this proceeding.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2014), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

#### **B. Substantive Matters**

7. For the reasons set forth below, we accept the unexecuted LGIA, suspend it for a nominal period, effective November 1, 2014, as requested,<sup>9</sup> subject to refund. We also establish hearing and settlement judge procedures.

##### **1. The Option to Build**

###### **a. Filing**

8. The Filing Parties state that CPV believes that it is eligible for and asks that it be permitted to select the option to build the Stand Alone Network Upgrades.<sup>10</sup> The Filing Parties argue that CPV is prohibited from selecting the option to build because the Interconnecting Transmission Owner, CP&L, has agreed to the requested dates. The Filing Parties assert that, pursuant to Article 5.1.3 of the unexecuted LGIA, an

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<sup>9</sup> 18 C.F.R. § 35.11 (2014). *See Central Hudson Gas and Electric Corp.* 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1993).

<sup>10</sup> Filing Parties October 27, 2014 Filing at 4. Stand Alone Network Upgrades are Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the New England Transmission System during their construction. The System Operator, Interconnection Customer, Interconnecting Transmission Owner, and any Affected Party as deemed appropriate by the System Operator in accordance with applicable codes of conduct and confidentiality requirements, must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the Standard Large Generator Interconnection Agreement. ISO-NE, ISO-NE Transmission, Markets, and Services Tariff, Schedule 22 (Large Generator Interconnection Procedures), 6.0.0.

Interconnecting Transmission Owner must first state that it cannot meet the requested key milestone dates before the Interconnection Customer may elect to self-build the Stand Alone Network Upgrades:

**5.1.3 Option to Build.** If the dates designated by Interconnection Customer are not acceptable to Interconnecting Transmission Owner, the Interconnecting Transmission Owner shall so notify the Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of Interconnecting Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades on the dates specified in Article 5.1.2.<sup>11</sup>

9. The Filing Parties argue that, in Order No. 2003, the Commission made clear that the Interconnection Customer's option to build does not materialize unless the Transmission Provider<sup>12</sup> explains that it cannot meet the Interconnection Customer's requested dates.<sup>13</sup> The Filing Parties state that CL&P accepted CPV's proposed milestone dates and therefore, CPV is prohibited from electing the option to build.<sup>14</sup>

10. The Filing Parties argue that the unexecuted LGIA is just and reasonable, as it strictly follows the Commission's *pro forma* LGIA. The Filing Parties assert that there are no factual issues in dispute here, and that CPV proposed the milestone dates and

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<sup>11</sup> LGIA, art. 5.1.3. As relevant here, Article 5.1.3 of the LGIA adopts verbatim ISO-NE's *pro forma* LGIA. See ISO-NE, ISO-NE Transmission, Markets, and Services Tariff, Schedule 22 Large Generator Interconnection Procedures, 6.0.0, app. 6 (Large Generator Interconnection Agreement), art. 5.1.3 (ISO-NE's *pro forma* LGIA). The LGIA and ISO-NE's *pro forma* LGIA are identical to the Commission's *pro forma* LGIA except that in the LGIA and ISO-NE's *pro forma* LGIA the term 'Interconnecting Transmission Owner' replaces 'Transmission Provider.' See Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at app. 6 (Standard Large Generator Interconnection Agreement), art. 5.1.3 (Commission's *pro forma* LGIA). This reflects the fact that, as a three party agreement, the Interconnecting Transmission Owner, in this case, CL&P, (instead of the Transmission Provider, in this case, ISO-NE) is the entity that typically constructs the Network Upgrades.

<sup>12</sup> In this case, the Interconnecting Transmission Owner, CL&P. See *supra* n. 10.

<sup>13</sup> Filing Parties October 27, 2014 Filing at 4 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 353).

<sup>14</sup> *Id.* at 4-5.

CL&P agreed to meet them. The Filing Parties therefore contend that CPV cannot elect the option to build under the terms of the tariff.<sup>15</sup>

**b. Protest**

11. CPV asks that the Commission set the issue of whether CPV can elect the option to build for dispute resolution.<sup>16</sup> CPV states that it requested to elect the option to build, but that, during the interconnection process, the request was denied without any substantive discussion or a specific alternative.<sup>17</sup> CPV states that it indicated to the Filing Parties that CPV intends to exert efforts to bring the facility on line earlier than the schedule provided in Appendix B of the unexecuted LGIA. CPV states that negotiation among parties, which included finalizing milestone dates, was subject to timing pressures and that the milestone dates do not afford CPV sufficient flexibility to bring the facility into commercial operation as early as is practical. CPV also states that revising the dates in Appendix B in formal or paper litigation would consume too much time and could result in less flexibility than the existing unexecuted LGIA Appendix B affords.<sup>18</sup>

12. CPV asserts that in a prior LGIA for the same project, CPV's predecessor was allowed the option to build. CPV posits that although similar circumstances exist here, CPV's request for an option to build in this case was peremptorily rejected.<sup>19</sup> CPV asserts that during the negotiation of the LGIA Appendix B milestone dates, CL&P stated that it is no longer "policy" to permit the exercise of the option to build. CPV contends that the denial of the option to build is not supported by the record before the Commission, and should be set for dispute resolution.<sup>20</sup>

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<sup>15</sup> *Id.* at 5.

<sup>16</sup> CPV defines the term "dispute resolution" as non-public settlement procedures.

<sup>17</sup> CPV November 17, 2014 Protest at 6.

<sup>18</sup> *Id.* at 7-8.

<sup>19</sup> *Id.* at 6 (citing Original Service Agreement No. LGIA-ISONE/NU-10-04, which has since been terminated following the withdrawal of the associated Interconnection request).

<sup>20</sup> *Id.* at 11.

c. Answers

13. The Filing Parties answer that the Commission should affirm that CPV cannot elect the option to build, consistent with the *pro forma* LGIA. The Filing Parties explain that, at no point in time did the Filing Parties assert that the option to build may “never” be exercised. Rather, the Filing Parties explain that it is now NUSCO policy, adopted based on several years of experience, to not allow a generator to build if the Interconnecting Transmission Owner can meet the requested dates.<sup>21</sup>

14. The Filing Parties reaffirm that CPV proposed the milestone dates listed in Appendix B to the LGIA and CL&P accepted those dates. In addition, the Filing Parties state that CPV pushed back the key milestone dates that were initially proposed in the Interconnection Request and then failed to finalize and confirm those dates until the very end of the LGIA negotiation process.<sup>22</sup> The Filing Parties claim that they accommodated CPV and promptly accepted this request. The Filing Parties argue that CPV’s desire to have the interconnection facilities and upgrades completed “as early as possible” does not constitute a date for consideration under Article 5.1.3. The Filing Parties conclude that there are no factual issues and no matter to set for hearing, and that therefore the issues CPV protests should be resolved by the Commission.<sup>23</sup>

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<sup>21</sup> Filing Parties December 2, 2014 Answer at 5. Filing Parties explain that NUSCO changed its policy because its employees were required to spend significant resources explaining and educating the generator’s contractors as to the NUSCO design basis. Filing Parties further explain that NUSCO was required to spend extra effort correcting design aspects that did not meet NUSCO’s design basis.

<sup>22</sup> *Id.* at 4. (stating “[t]he Interconnection Request for the [proposed] project, which CPV submitted to ISO-NE on December 29, 2011, requested the following key milestone dates: January 1, 2016 for Initial Synchronization Date and June 1, 2016 for Commercial Operation Date. In April 2014, CPV requested to shift the key milestone dates to January 1, 2018 for Initial Synchronization Date and June 1, 2018 Commercial Operation Date. The Filing Parties promptly accepted this request. The development of the [unexecuted] LGIA commenced in May 2014 following CPV’s election to waive the Interconnection Facilities Study and instead proceed to the development of the [unexecuted] LGIA, followed by the Filing Parties tendering of the draft [unexecuted] LGIA to CPV in June, as further supplemented in July, and further revised during conference calls among the ISO, CL&P and CPV from August to September. CPV waited to confirm the key milestone dates, including providing the In-Service Date, until the last conference call scheduled for review and finalization of the [unexecuted] LGIA.”).

<sup>23</sup> *Id.* at 4-6.

15. In its answer, CPV asserts that there are open and unresolved issues of fact that justify the institution by the Commission of the dispute resolution procedures. Specifically, CPV asserts that the Filing Parties acknowledge in the Joint Answer that the treatment of the option to build, under LGIA Article 5.1.3, has been the subject of an unfiled change in policy such that an “experimental policy”<sup>24</sup> had been in force, pursuant to which an interconnection customer was permitted to elect the option to build even if the transmission owner was in a position to meet the requested milestone dates; and that this “experimental policy” was subsequently “changed.”<sup>25</sup> CPV argues that Article 5.1.3 reflects no prior “experimental” option to build considerations, and at no time relevant to the prior 10-04 LGIA nor the present LGIA has LGIA Article 5.1.3 been proposed by ISO-NE for modification to reflect any such experimentation. CPV contends that at no relevant time has LGIA Article 5.1.3 been modified by virtue of any open access transmission tariff (tariff) filing made by the ISO with the Commission.<sup>26</sup> CPV argues that discrimination can occur by predicating a defined election under a tariff on an unfiled “experimental policy” that can be adopted and revoked at will. CPV contends that it should be entitled to conclude that the ISO’s prior interpretations of the permissive option to build language remains effective unless and until other Article 5.1.3 language is filed and made effective.

16. The Filing Parties respond that the only question before the Commission is whether the unexecuted LGIA is just and reasonable. They state that they have demonstrated that it is just and reasonable and fully consistent with the Commission-approved *pro forma* LGIA. The Filing Parties assert that the arguments in CPV’s answer constitute a prohibited section 206 complaint as it would require the Filing Parties to amend provisions in the ISO Open Access Transmission Tariff (OATT) that the Filing parties did not propose to change in this proceeding. They also assert that NUSCO’s change of policy does not constitute “open and unresolved issues of fact,” as no one disputes its occurrence.<sup>27</sup> Filing Parties add that they complied with the ISO OATT, and when the ISO and Interconnecting Transmission Owner “act in accordance with requisite Tariff provisions, the Commission will not strike the resultant determinations.”<sup>28</sup> Filing Parties argue that the Commission should not allow CPV to use this proceeding as a

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<sup>24</sup> CPV December 8, 2014 Answer at 2.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Filing Parties December 11, 2014 Answer at 3.

<sup>28</sup> *Id.* (citing *ISO New England, Inc.*, 140 FERC ¶ 61,175, at P 25, n.43 (2012), summarizing *ISO New England, Inc.*, 135 FERC ¶ 61,147 (2011)).

backdoor section 206 complaint without meeting the associated burdens or as an attempt to extend, through dispute resolution, the definite interconnection agreement development and negotiation period set forth in the *pro forma* Large Generator Interconnection Procedures.

17. CPV answers that it has not asked the ISO-NE to file, or the Commission to require, any Tariff modification. CPV argues that the Filing Parties could, instead, simply interpret and apply the terms of the Tariff in a fashion consistent with their prior interpretation and application of the Tariff.

**d. Commission Determination**

18. CPV requests the option to build under the terms of Article 5.1.3 of the proposed LGIA. Article 5.1.3, which conforms to the Commission's *pro forma* LGIA, provides that "[i]f the dates designated by Interconnection Customer are not acceptable to Interconnecting Transmission Owner . . . and unless the Parties agree otherwise, Interconnection Customer shall have the option to [build]." We interpret this provision as triggering an option to build for the Interconnection customer only if the Transmission Owner does not accept the dates proposed by the Interconnection Customer. In this case, it is undisputed that CPV proposed certain milestones and CL&P accepted them, as shown in Appendix B to the proposed LGIA. Thus, we find that the Article 5.1.3 option to build is not triggered under the circumstances presented here. Further, as CL&P never refused any of CPV's proposed milestone dates, it is not clear that CPV exhausted its potential remedies prior to seeking relief from the Commission.

19. In reference to a prior instance where CPV asserts that a predecessor was allowed the option to build for the same project, CPV notes that it was told that it is no longer the Transmission Owner's policy to permit the exercise of the option to build. Filing Parties state that it is now NUSCO policy, based on several years of experience, to not allow a generator to build if the Transmission Owner can meet the requested dates. The Filing Parties state that NUSCO changed its policy because its employees were required to expend significant resources explaining the NUSCO design basis to the generator's contractors. While we agree with the Filing Parties that the option to build is not triggered in this particular instance, we remind the Filing Parties that any changes in policy should be transparent and implemented in a manner that is not unduly discriminatory.

## 2. Operation, Maintenance and Capital Cost Reimbursement

### a. Filing

20. According to CL&P,<sup>29</sup> as set forth in Appendix C of the LGIA, CPV's natural gas-fired plant is a Category C Project under Schedule 11 of the ISO Tariff. Schedule 11(5) of the ISO-NE Tariff states in part that:

Following completion of the construction or modification [of a Generator Interconnection Related Upgrade for a Category C Project], the Generator Owner shall be obligated to pay all of the annual costs (including federal and state income taxes, O&M, and A&G expenses, annual property taxes and other related costs) which are allocable to the Generator Interconnection Related Upgrade, pursuant to the interconnection agreement (or support agreement) with the individual PTO or its designee which is responsible for the construction or modification, and such agreement may be filed with the Commission by the PTO either signed or unsigned, on its own or at the request of the Generator Owner.<sup>30</sup>

21. CL&P states that it used Schedule 11 of ISO-NE's tariff as a guideline in creating the formula set forth in section 5 of Appendix C of the LGIA for calculating the operation, maintenance, and capital cost reimbursement charge. CL&P states that, under this approach, the Interconnection Customer pays a Facilities Charge that equals the sum of: (1) the Base Charge and (2) the property-related taxes for both the Interconnecting Transmission Owner's Interconnection Facilities and Network Upgrades.<sup>31</sup>

22. CL&P states that CL&P has provided to CPV a non-binding, good faith estimate for the construction of a 14-breaker substation and related Network Upgrades as part of

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<sup>29</sup> ISO-NE explains that it takes no position and does not join CL&P on these matters.

<sup>30</sup> ISO-NE, ISO-NE Transmission, Markets, and Services Tariff, Schedule 11 Generator Interconnection Related Upgrade Costs, 1.0.0, § (5).

<sup>31</sup> Filing Parties October 27, 2014 Filing at 6. *See also Id.*, Attachment 3 at 115-117.

the Interconnection System Impact Study.<sup>32</sup> CL&P contends that CPV opted to enter negotiations based on the study results, declining the Interconnection Facilities Study.<sup>33</sup>

23. CL&P states that the formula rate relies on clearly-defined inputs that raise no factual issues. In addition, Filing Parties contend that CPV has not explained how the formula itself is flawed. CL&P argues that this approach of not fixing a rate is fully reasonable in that the Commission does not require interconnection service to be provided based on any sort of binding cost estimate. Moreover, the cost information, once known, will be made available. Accordingly, CL&P concludes that its approach to recovery of relevant costs is just and reasonable and fully consistent with similar formula rates the Commission has found acceptable.<sup>34</sup>

**b. Protest**

24. CPV requests that the Commission set the operation, maintenance, and capital cost reimbursement for dispute resolution. CPV states that it does not have an understanding of what its reimbursements will be based on the estimates provided by CL&P. Further, CPV states that it is unaware of what crediting mechanism, if any, would be used if CPV contributes capital towards upgrades that benefit other market participants or projects. CPV contends that dispute resolution could be expected to result in the further explanation of CPV's project responsibilities and resulting reimbursements.

25. CPV claims that during negotiations it was advised that CL&P will only agree to the procurement and installation of materials of certain standard types and sizes, in each case apparently larger than necessary for the purposes of interconnecting the facility. CPV also states that other unrelated projects may negate the need for certain upgrades

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<sup>32</sup> *Id* at 8. Interconnection System Impact Study is an engineering study that evaluates the impact of the proposed interconnection on the safety and reliability of the transmission system and any other affected system. ISO-NE, ISO-NE Transmission, Markets, and Services Tariff, I.2 Rules of Construction; Definitions, (50.0.0), § I.2.2.

<sup>33</sup> The Interconnection Facilities Study is a study conducted by the System Operator, Interconnecting Transmission Owner, or a third party consultant for the Interconnection Customer, to determine a list of facilities (including Interconnecting Transmission Owner's Interconnection Facilities and Network Upgrades as identified in the Interconnection System Impact Study), the cost of those facilities, and the time required to interconnect the Generating Facility with the Administered Transmission System. ISO-NE, ISO-NE Transmission, Markets, and Services Tariff, I.2 Rules of Construction; Definitions, § I.2.2.

<sup>34</sup> Filing Parties October 27, 2014 Filing at 8.

that are presently associated with the current interconnection facility. CPV asserts that it may be held responsible for costs that may have not been defined, and that should not be assigned to CPV. CPV contends that the above mentioned uncertainty can best be resolved in dispute resolution

**c. Answers**

26. In their Answer, the Filing Parties respond that the proposed operation, maintenance, and capital cost reimbursement charge is just and reasonable. The Filing Parties state that they believe that the formula rate is clear, consistent with the directions in ISO OATT Schedule 11(5), and reflect an already-approved approach to implementing that schedule. The Filing Parties argue that altering ISO Schedule 11(5) can only be done in a section 206 proceeding, to the extent that CPV simply disagrees with the current rate on file in that schedule. The Filing Parties argue that, to the extent that CPV disagrees with the inputs to the formula, and believes that the formula rate will produce an excessive O&M charge, these are not factual issues that warrant setting the matter for hearing or settlement discussions.

27. The Filing Parties argue that CPV confusingly argues that the O&M charge is excessive, while simultaneously maintaining that it is not clear what the actual charge would be. The Filing Parties respond that no one can know what the actual monthly O&M charge will be and that CPV did receive from CL&P on October 6, 2014, a sample estimated calculation using a \$77.7 million estimated costs and 2013 Form 1 data. A better estimate would require an Interconnection Facilities Study, which, the Filing Parties note, CPV chose not to have prepared.

28. The Filing Parties also respond to CPV's argument that there are factual issues created by the preliminary nature of some cost estimates, such as the upgrade costs, by noting that such estimates are not inputs to the formula rate and therefore cannot raise factual issues for the O&M Charge, which will be based on actual cost data. The Filing Parties note that the O&M charge is assessed based on actual cost data only after construction is complete and the facilities are in service, and not calculated based on any preliminary estimates.

29. In response to CPV's allegation that it does not have any indication of what, if any, crediting mechanism would apply if CPV contributes capital toward upgrades and payment of Reimbursements that would benefit other market participants, the Filing Parties state that any such crediting mechanisms that exist are detailed in public documents, including the unexecuted LGIA, ISO OATT Schedule 11(5), and ISO Tariff (Market Rule 1) Section III, Appendix C, Section 8. The Filing Parties state that it is not clear to them whether CPV knows that such mechanisms exist or whether CPV believes that special crediting rules should be developed just for CPV. But in any event, the Filing Parties contend, there is no need to discuss such crediting mechanisms at this time.

30. Finally, the Filing Parties maintain that the few claims that CPV does raise are only “tangentially” related to the rate itself, but rather appear to relate more to cost inputs used to calculate the rate, such as the use of standard types and sizes of equipment. The Filing Parties maintain that the use of standard equipment reduces CL&P’s procurement costs and better ensures reliability. In response to CPV’s claim that it may be held responsible for costs that have not been defined, the Filing Parties state that CPV will be responsible for the costs of facilities identified in Appendix A of the unexecuted LGIA and has audit rights if it believes that it has been allocated “undefined” costs.

31. In its answer, CPV states that it does not dispute that the establishment of the operation, maintenance, and capital cost reimbursement charge is governed by a formula, but CPV asserts that it has not been provided with any information as to what the factual ingredients of the formula may be.<sup>35</sup>

**d. Commission Determination**

32. The Commission finds that the proposed operation, maintenance, and capital cost reimbursement charges raise disputed 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. The scope of the hearing may include inputs to the formula rate, operation and maintenance charges, cost estimates, crediting mechanisms, equipment and materials, and adjustment factors, as well as the allegations that the current formula appears to lack necessary detail and support. For example, references are made to operation and maintenance costs and administrative and general expenses, but there is detail lacking as to the calculation of such costs or whether they refer to FERC Form 1 accounts or other source documents. Also, the formula has an adjustment factor that uses two Bureau of Labor Statistics indices, but there is no support provided for the appropriateness of using such indices. These matters should be further explored in the hearing.

33. The Commission’s preliminary analysis indicates that the proposed operation, maintenance, and capital cost reimbursement charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, the Commission will accept the unexecuted LGIA for filing, suspend it for a nominal period, effective November 1, 2014, as requested, subject to refund, and set these issues for hearing and settlement judge procedures.

34. While we are setting the proposed operation, maintenance, and capital cost reimbursement charges for trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To

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<sup>35</sup> CPV December 8, 2014 Answer at 4.

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>36</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>37</sup> 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) The unexecuted LGIA is hereby accepted for filing and suspended for a nominal period, to become effective November 1, 2014, 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 the justness and reasonableness of the LGIA, as discussed in the body of this order. However, the hearing will 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 (2014), 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 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.

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<sup>36</sup> 18 C.F.R. § 385.603 (2014).

<sup>37</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 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).

(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 these proceedings in a hearing room of the Commission, 888 First Street, NE, 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 )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.