

151 FERC ¶ 61,009
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

DeSoto County Generating Company, LLC

Docket No. ER15-506-001

ORDER ACCEPTING REVISED RATE SCHEDULE,
SUBJECT TO COMPLIANCE FILING

(Issued April 3, 2015)

1. On November 26, 2014, pursuant to section 205 of the Federal Power Act¹ and Part 35 of the Commission's regulations,² DeSoto County Generating Company, LLC (DeSoto) filed a revised rate schedule³ under which it provides reactive power service to Florida Power & Light Company (Florida Power) from its generating facility located near Arcadia, Florida (Facility). The proposed revisions seek to suspend DeSoto's recovery of its reactive power revenue requirement whenever the Facility is in an Inactive State, as defined in the North American Electric Reliability Corporation's (NERC) Generating Availability Data System Data Reporting Instructions Section III (GADS Section III),⁴ and to reinstate its reactive power revenue requirement when the Facility returns to an Active State under GADS Section III.⁵ According to DeSoto, the Facility entered Inactive Reserve status on August 22, 2014.⁶

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2014).

³ Rate Schedule FERC No. 1, Reactive Supply and Voltage Control from Generation Sources Service (Reactive Power Supply Rate Schedule).

⁴ GADS Section III defines three Inactive States: Inactive Reserve, Mothballed and Retired. See http://www.nerc.com/files/Section_3_Event_Reporting.pdf at III-5 through III-6.

⁵ GADS Section III defines three Active States at
(continued ...)

2. DeSoto requests that the Commission waive its 60-day prior notice requirement to make the revisions effective on December 1, 2014. In this order, the Commission accepts DeSoto's revised Rate Schedule, subject to the compliance filing ordered below, effective December 1, 2014, as requested.

I. Background

3. DeSoto is a limited liability company and an indirect, wholly-owned subsidiary of LS Power Development, LLC. DeSoto is an exempt wholesale generator with market-based rate authority that owns and operates a natural gas-fired simple cycle electric generating facility with a total generator rating of approximately 399 MW near Arcadia, Florida. The Facility is interconnected to Florida Power's transmission system.

4. DeSoto provides reactive power service to Florida Power under its Reactive Power Supply Rate Schedule, which sets forth a \$360,000 stated annual revenue requirement and \$30,000 stated monthly charge that DeSoto and Florida Power established by "black box" settlement agreement in Docket No. ER13-332-000, *et al.*⁷

II. DeSoto's Filings

5. On November 26, 2014, DeSoto submitted the instant filing (Initial Filing). DeSoto states that it notified Florida Power that the Facility's operating status had changed to an Inactive State, and that both parties subsequently agreed that DeSoto would file an amended rate schedule that included a provision to suspend DeSoto's collection of its reactive power revenue requirement whenever the Facility is in an Inactive State, and to reinstate it when the Facility returns to an Active State under GADS Section III.⁸

6. Pursuant to this agreement between DeSoto and Florida Power, DeSoto's Initial Filing proposes to "zero out" its revenue requirement while the Facility is in its current Inactive State. DeSoto also proposes to furnish Florida Power 45 days' notice of the date the Facility is to return to an Active State (the Reinstatement Date), and to reinstate the revenue requirement as of the Reinstatement Date. Likewise, DeSoto proposes to furnish

http://www.nerc.com/files/Section_3_Event_Reporting.pdf , III-6 through III-13.

⁶ See DeSoto Amended Filing Transmittal Letter at 2, filed February 4, 2015.

⁷ The Commission approved the settlement agreement in *DeSoto County Generating Co., LLC*, 145 FERC ¶ 61,199 (2013).

⁸ DeSoto Initial Filing Transmittal Letter at 3.

Florida Power 45 days' notice of the date on which the Facility is to re-renter an Inactive State (the Suspension Date), and to re-suspend recovery of its revenue requirement as of the Suspension Date. DeSoto requests a December 1, 2014 effective date, and states that Florida Power does not oppose the filing.⁹

7. On January 6, 2015, Commission staff, acting pursuant to delegated authority, advised DeSoto that its filing was deficient and that it must provide additional information.¹⁰ On February 4, 2015, DeSoto amended its filing as required (Amended Filing). In response to the Deficiency Letter, DeSoto stated that the Facility had entered Inactive Reserve, an Inactive State defined by GADS Section III, on August 22, 2014; that it had notified Florida Power of the Facility's change in operating status on August 26, 2014; and that DeSoto does not currently have an anticipated date by which the Facility will return to service.¹¹

III. Notice of Filings

8. Notice of DeSoto's Initial Filing was published in the *Federal Register*, 79 Fed. Reg. 71,992 (2014), with comments due on or before December 17, 2014. Notice of DeSoto's Amended Filing was published in the *Federal Register*, 80 Fed. Reg. 752 (2015), with comments due on or before February 25, 2015. No parties filed comments on DeSoto's Initial Filing.

9. On February 25, 2015, Florida Power filed a timely motion to intervene and comments on DeSoto's Amended Filing. Florida Power concurs with DeSoto's representations in its filings, but states that even before the Facility entered Inactive Reserve, Florida Power had become concerned that it was paying DeSoto for reactive power service that DeSoto was not capable of providing. According to Florida Power, it had attempted to call upon DeSoto to provide additional capacity or energy during several peak situations in July 2014, and learned the Facility was offline, no longer staffed and would require two weeks to come back online. Florida Power states that after it received DeSoto's notice that it had changed the Facility's operating status, Florida Power requested that DeSoto suspend its monthly charges for reactive power service as of August 22, 2014, when the Facility entered Inactive Reserve. According to Florida

⁹ *Id.*

¹⁰ *DeSoto County Generating Co., LLC*, Docket No. ER15-506-000, Deficiency Letter (Jan. 6, 2015) (Deficiency Letter).

¹¹ DeSoto Amended Filing Transmittal Letter at 2.

Power, DeSoto agreed to suspend the charges, but not retroactively, and the parties then agreed to a prospective effective date of December 1, 2014 instead.¹²

IV. Commission Determination

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹³ Florida Power's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

11. Subject to the compliance filing and refund requirements ordered below, the Commission accepts DeSoto's proposals to: (1) suspend its stated annual revenue requirement and monthly charge as of December 1, 2014, as requested; (2) reinstate its stated annual revenue requirement and monthly charge whenever it restores the Facility to an Active State; and (3) re-suspend its stated revenue requirement and monthly charge whenever it returns the Facility to an Inactive State.

12. Under its revised Reactive Power Supply Rate Schedule, DeSoto proposes to provide 45 days' notice, to Florida Power alone, before DeSoto: (1) restores the Facility to Active status and reinstates the \$360,000 stated annual revenue requirement and \$30,000 monthly charge; and (2) returns the Facility to Inactive status and "zeroes" out the stated annual revenue requirement and monthly charge. The Commission will accept these proposals, provided that DeSoto furnish the Commission and all affected wholesale customers the same 45 days' notice of the change in Facility status and rate for reactive power service that DeSoto provides to Florida Power.

13. Specifically, the Commission directs DeSoto to submit an informational filing to the Commission and all affected customers 45 days before changing: (1) the Facility's status from Inactive to Active (or vice versa); and (2) its stated annual revenue requirement and monthly charge from "zero" to \$360,000 per year and \$30,000 per month, or vice versa. DeSoto's informational filing must state: (1) the date the Facility's status will change; (2) the reason(s) the Facility's status will change, including the sequence of events that precipitated or required the change in status; and

¹² Florida Power's February 25, 2015 Intervention at 2-4.

¹³ 18 C.F.R. § 385.214 (2014).

(3) how long DeSoto anticipates that the change in the Facility's status will last.¹⁴ Further, DeSoto must provide in its informational filing copies of its GADS Section III filing and all other materials it has furnished NERC regarding the Facility's change in status. DeSoto must submit a compliance filing within 30 days of the date of this order that reflects these modifications to the notice provisions contained in its Reactive Power Supply Rate Schedule. Subject to these modifications on compliance, the Commission accepts DeSoto's revised Reactive Power Supply Rate Schedule, effective December 1, 2014, as requested.¹⁵

14. Given that DeSoto may have continued to receive payments for reactive power service while its Facility was unstaffed, offline or otherwise incapable of providing service, we have referred the matter to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.¹⁶

15. We will waive the Commission's prior notice requirement,¹⁷ as requested, to allow DeSoto's revised Reactive Power Supply Rate Schedule to take effect on December 1, 2014, subject to the compliance filing ordered herein. Further, we direct DeSoto to submit its compliance filing within 30 days of the date of this order. In addition, to the extent that DeSoto billed Florida Power for reactive power service since December 1, 2014, we direct DeSoto to refund those amounts, with interest, in accordance with the Commission's regulations.¹⁸

The Commission orders:

(A) DeSoto's revised Rate Schedule is hereby accepted, subject to the

¹⁴ This filing will be for informational purposes only. The Commission will neither notice the filing nor accept comment on it, and the filing will not require Commission action.

¹⁵ Should DeSoto seek to implement a rate other than the \$360,000 stated annual revenue requirement and \$30,000 monthly charge, or a zero annual revenue requirement and monthly charge, or to make any other changes in its Reactive Power Supply Rate Schedule, it must make a section 205 filing.

¹⁶ See *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,132, at P 10 (2014).

¹⁷ 18 C.F.R. § 35.3 (2014). See *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,338, *order on reh'g*, 61 FERC ¶ 61,089 (1992) (permitting waiver of the 60-day prior notice requirement where filings reduce rates and charges).

¹⁸ 18 C.F.R. § 35.19a (2014).

compliance filing ordered herein, effective December 1, 2014, as discussed in the body of this order.

(B) DeSoto shall make a compliance filing within 30 days, as discussed in the body of this order.

(C) Within 30 days, DeSoto shall refund to Florida Power, with interest in accordance with the Commission's regulations, any charges that Florida Power has paid DeSoto since December 1, 2014.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.