

152 FERC ¶ 61,113
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PSGE Energy Resources & Trade, LLC

Docket No. ER15-1882-001

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

(Issued August 7, 2015)

1. On June 5, 2015, as amended June 10, 2015, PSEG Energy Resources & Trade, LLC (PSEG ER&T) submitted revisions to its Rate Schedule FERC No. 3 (Reactive Power Schedule), which sets forth the cost-based revenue requirement for the provision of Reactive Supply and Voltage Control from Generation Sources Service (Reactive Power Service) by facilities owned by PSEG Fossil LLC (PSEG Fossil) and PSEG Nuclear LLC (PSEG Nuclear). In this order, we deny PSEG ER&T's request for waiver of the Commission's 60-day notice requirement,¹ accept its Reactive Power Schedule for filing, and suspend it for a five-month period, to become effective January 7, 2016, subject to refund. We also establish hearing and settlement judge procedures.

I. PSEG ER&T's Filing

2. Schedule 2 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (PJM Tariff), which covers Reactive Power Service, provides that PJM will compensate owners of generation and non-generation resources for maintaining the capability to provide reactive power to PJM. Specifically, Schedule 2 states that, for each month of Reactive Power Service provided by generation and non-generation resources in the PJM region, PJM shall pay each resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by the Commission.²

3. PSEG ER&T, PSEG Fossil, and PSEG Nuclear are each direct subsidiaries of PSEG Power LLC. PSEG ER&T states that it is responsible for the administration within

¹ 18 C.F.R. § 35.3 (2014).

² PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.0.0).

PJM of the resources covered by this filing, which are owned by PSEG Fossil and PSEG Nuclear, and is recognized by PJM as the entity responsible for providing Reactive Power Service from these resources pursuant to Schedule 2 of the PJM Tariff.³ PSEG ER&T proposes to revise its current fleet-based Reactive Power Schedule⁴ to reflect its revenue requirement for providing Reactive Power Service on a facility-specific basis for seventeen generating facilities.⁵ It states that the revenue requirement for each generating facility is the sum of two components: (1) the fixed costs attributable to reactive power capability; and (2) the increased generator and step-up transformer heating losses that result from the production of reactive power. According to PSEG ER&T, it developed the proposed Reactive Power Schedule consistent with the methodology the Commission approved in *American Electric Power Service Corp. (AEP Methodology)*.⁶

4. PSEG ER&T explains that, since the Commission approved the current Reactive Power Schedule, PSEG Fossil and PSEG Nuclear have constructed new generating units and have made significant capital expenditures to the existing generating fleet within PJM, including significant investments in rebuilding or replacing facilities associated with providing Reactive Power Service (e.g., turbo-generators, generators, accessories, generator step-up transformers).⁷ PSEG ER&T also states that PSEG Fossil has retired certain generating units that were in service in 2008, when the previous revenue

³ PSEG ER&T June 5, 2015 Filing at 1 & n.1.

⁴ *PSEG Energy Res. & Trade, LLC*, Docket No. ER08-951-000, *et al.*, (Nov. 13, 2008) (delegated letter order).

⁵ PSEG ER&T June 5, 2015 Filing at 5. PSEG ER&T states that it is proposing revisions to its Reactive Power Schedule to both reflect additions to generating facilities and to address concerns the Commission expressed in its November 20, 2014 Order to Show Cause directed to PJM. PSEG ER&T explains that disaggregation of its Reactive Power Schedule by specific facilities will allow it to better comply with the Commission's policy that there should be greater transparency as to the possible rate impacts of a retirement where a single company provides Reactive Power Service from multiple units that constitute a generating fleet. In this filing, PSEG ER&T seeks to establish a separate revenue requirement and tariff record for each generating facility. *Id.* at 2 (citing *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,132 (2014)).

⁶ *Id.* at 4 (citing *American Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999)).

⁷ *Id.* PSEG ER&T states that the new generating units are Kearny Nos. 13 and 14, which are owned by PSEG Fossil.

requirement was established, and, as a result, those units are not included in this filing. The workpapers, submitted by PSEG ER&T in its filing, show at least nineteen generators which have been retired.⁸

5. According to PSEG ER&T, it has increased its investment in generating units capable of providing Reactive Power Service since 2008 from \$4,342.7 million to \$7,318.1 million.⁹ PSEG ER&T states that this amount, which is an increase in investment of approximately 69 percent, includes the removal of the costs associated with the retired PSEG Fossil units. As a result, PSEG ER&T contends that the currently authorized Reactive Power Schedule of \$26,626,787 significantly understates PSEG ER&T's actual annual revenue requirement for all of its generation facilities based on updated levels of investment and operating costs. The total annual revenue requirement PSEG ER&T seeks to recover for all of the generating facilities covered by the filing is \$38,671,025,¹⁰ which represent a 45 percent increase. To support its proposed revenue requirement, PSEG ER&T states that it obtained the original investment cost and other financial and operating data from the books and records of PSEG Fossil and PSEG Nuclear, as those companies do not submit a FERC Form No. 1. PSEG ER&T also states that it used information from manufacturers in some cases to allocate the original investment cost or to ascertain generator efficiency data.

6. On June 10, 2015, PSEG ER&T filed an amendment to its June 5, 2015 filing to correct an error in the proposed effective date and to submit workpapers referenced in the testimony attached to the original filing. PSEG ER&T requests waiver of the Commission's 60-day notice requirement¹¹ and requests that its proposed revisions become effective June 6, 2015.

II. Notice and Responsive Pleadings

7. Notice of PSEG ER&T's June 5, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 33,512 (2015), with interventions and protests due on or before June 26, 2015. Notice of PSEG ER&T's June 10, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 34,630 (2015), with interventions and protests due on or

⁸ PSEG ER&T June 5, 2015 Filing, Workpaper for Exhibit No. PSEG-3, Schedule 3, at 1.

⁹ PSEG ER&T June 5, 2015 Filing at 4.

¹⁰ *Id.* at 5.

¹¹ 18 C.F.R. § 35.3 (2014).

before July 1, 2015. On June 22, 2015, PJM submitted a motion to intervene and comments.

8. PJM explains in its comments that it determines the monthly revenue requirement for each resource that provides Reactive Power Service pursuant to Schedule 2 of the PJM Tariff by dividing the annual revenue requirement approved by the Commission by twelve and rounding to the second decimal. PJM then lists the monthly rates that it would provide to PSEG ER&T for each of the relevant generating units, if approved by the Commission, which differ from what PSEG ER&T proposed in the rounding.¹²

III. Discussion

A. Procedural Matters

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

B. Substantive Matters

10. We find that PSEG ER&T's proposed Reactive Power 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.

11. Our preliminary analysis indicates that PSEG ER&T's proposed Reactive Power Schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. In *West Texas Utilities Co.*, the Commission explained that, when its preliminary analysis indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months).¹⁴ In this proceeding, we find that PSEG ER&T's proposed Reactive Power Schedule may yield substantially excessive rates. Accordingly, although we accept PSEG ER&T's proposed Reactive Power Schedule for filing, we also suspend it for the maximum five-month period. We deny PSEG ER&T's request for waiver of the Commission's 60-day notice requirement and make its Reactive Power Schedule effective January 7, 2016, subject to refund, and set it for hearing and settlement judge procedures.

¹² PJM June 22, 2015 Filing at 4-5.

¹³ 18 C.F.R. § 385.214 (2014).

¹⁴ *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,374-75 (1982).

12. Regarding those generating units recently retired, we note that PSEG ER&T may have continued to receive payments for Reactive Power Service from some of PSEG Fossil's units after it retired those units, and, thus, after "the units were no longer capable of providing that service."¹⁵ We have referred such concern to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.

13. While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures are commenced. To aid the participants 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.¹⁶ If the participants 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.¹⁷ 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 participants 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) PSEG ER&T's request for waiver is hereby denied and its proposed Reactive Power Schedule is hereby accepted for filing, and suspended for a

¹⁵ See *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,132, at P 10 (2014); see also *Duke Energy Conesville, LLC*, 150 FERC ¶ 61,229, at P 8 (2015) (referring to the Commission's Office of Enforcement the matter of the resource owner possibly receiving payments for Reactive Power Service after its units had retired and thus were no longer capable of providing that service); *Desoto Cnty. Generating Co., LLC*, 151 FERC ¶ 61,009, at P 14 (2015) (referring to the Commission's Office of Enforcement the matter of the resource owner possibly receiving payments for Reactive Power Service while its facility was incapable of providing that service).

¹⁶ 18 C.F.R. § 385.603 (2014).

¹⁷ If the participants 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 available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

five-month period, to become effective January 7, 2016, subject to refund and hearing and settlement judge procedures, 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 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 PSEG ER&T's proposed Reactive Power Schedule, as discussed in the body of this order. 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 the Chief 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 participants 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 participants 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 participants' 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

¹⁸ 18 C.F.R. § 385.603 (2014).

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.