

152 FERC ¶ 61,220
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.

Scrubgrass Generating Company, L.P.

Docket No. ER15-2254-000

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

(Issued September 21, 2015)

1. On July 23, 2015, Scrubgrass Generating Company, L.P. (Scrubgrass) submitted a proposed Reactive Power Tariff,¹ which sets forth its revenue requirement for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) by its facility located in Kennerdell, Pennsylvania (Facility). In this order, we accept for filing Scrubgrass's proposed Reactive Power Tariff and suspend it for a nominal period, effective September 1, 2015, as requested, subject to refund,² and also establish hearing and settlement judge procedures. In addition, we grant Scrubgrass's request for waiver of the Commission's 60-day prior notice requirement.

¹ Scrubgrass Generating Company L.P., Reactive Power Tariff (0.0.0).

² Although Scrubgrass cites to section 35.12 of the Commission's regulations establishing procedures for initial rate filings, we conclude that this is a proposed rate change under section 205(d) of the Federal Power Act because Scrubgrass has been providing reactive power service to PJM Interconnection, L.L.C prior to the instant filing. PJM Interconnection, L.L.C., Interconnection Service Agreement, Docket No. ER14-1600-000, at § 4.7.2 (filed Mar. 27, 2014). See *Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11 (2003) ("The Oneta Project has been providing reactive power service to PSO under Section 3.5 of its Interconnection Agreement, albeit without charge. Thus, the proposed rates for Reactive Power Service in the instant proceeding are not initial rates, but are changed rates.").

I. Scrubgrass's Filing

2. Schedule 2 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff, which covers Reactive 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 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.³

3. Scrubgrass states that it owns and operates the Facility, which is a 94.7 MW (nameplate) generating facility located in Kennerdell, Pennsylvania. Scrubgrass states that the Facility is interconnected to the transmission system owned by Pennsylvania Electric Company (Penelec) and operated by PJM. Scrubgrass requested an effective date of September 1, 2015.⁴

4. Scrubgrass states that the Facility's revenue requirement has been calculated in accordance with the *AEP* methodology,⁵ and includes (1) a component related to the fixed cost of that portion of the plant investment in the Facility that is attributed to the production of reactive power (Fixed Capability Component); and (2) a component related to heating losses that result from the production of reactive power (Heating Losses Component).⁶ Scrubgrass proposes an annual revenue requirement of \$652,273, which includes \$561,937 for the Fixed Capability Component and \$90,336 for the Heating Losses Component.

5. Scrubgrass states that the Fixed Capability Component was calculated by determining the portion of plant costs attributable to the production of reactive power and applying a fixed charge rate. Scrubgrass analyzed the reactive portion of investment in: (1) the generator and associated exciter equipment, (2) generator step-up transformers, (3) accessory electrical equipment that supports the operation of the generator-exciter system, and (4) the balance of plant. Scrubgrass states that because, as an independent power producer, it is not subject to cost-of-service accounting, the Commission's Uniform System of Accounts, or a Commission-established rate of return, it used the

³ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁴ Scrubgrass July 23, 2015 Transmittal Letter (Transmittal Letter) at 3.

⁵ *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-57 (1999).

⁶ Transmittal Letter at 4-5.

authorized rate of return and return on equity of the utility to which the Facility is interconnected, i.e., Penelec.⁷

6. Scrubgrass states that the Heating Losses Component is included in the revenue requirement in order to recover costs associated with losses resulting from “ohm heating associated with the armature winding and field winding of the generator and losses in the [generator step-up] transformers.” Scrubgrass states that the “real power that is consumed by ohm heating losses is a cost that is directly attributable to reactive power production.”⁸

7. Scrubgrass requests waiver of the Commission’s 60-day notice requirement⁹ to permit the rate schedule to become effective September 1, 2015.

II. Notice and Responsive Pleadings

8. Notice of Scrubgrass’s July 23, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 45,216 (2015), with interventions and protests due on or before August 13, 2015. PJM submitted a timely motion to intervene.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), PJM’s timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

10. We find that Scrubgrass’s proposed revenue requirement for Reactive Service provided by the Facility raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in hearing and settlement judge procedures ordered below.

11. Our preliminary analysis indicates that Scrubgrass’s proposed Reactive Power Tariff has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept

⁷ *Id.* at 6.

⁸ *Id.*

⁹ 18 C.F.R. § 35.3 (2015).

Scrubgrass's proposed Reactive Power Tariff for filing, suspend it for a nominal period, to be effective September 1, 2015, subject to refund, and establish hearing and settlement judge procedures.

12. 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 commence. 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.¹⁰ 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.¹¹ 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) We accept Scrubgrass's proposed Reactive Tariff, and suspend it for a nominal period, to become effective September 1, 2015, 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 the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Scrubgrass's Reactive Power Tariff, 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.

¹⁰ 18 C.F.R. § 385.603 (2015).

¹¹ 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>).

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), 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 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.