

153 FERC ¶ 61,117
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.

GenOn Energy Management, LLC

Docket Nos. ER15-2571-000
ER15-2572-000
ER15-2573-000

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

((Issued October 30, 2015))

1. On August 31, 2015, GenOn Energy Management, LLC (GenOn) submitted proposed Reactive Power Tariffs, which set forth its revenue requirements for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) by the Chalk Point facility (Chalk Point),¹ the Dickerson facility (Dickerson),² and the Morgantown facility (Morgantown).³ In this order, we accept GenOn's proposed Reactive Power Tariffs for filing, suspend them for a five month period, to become effective March 31, 2016, subject to refund, and subject to

¹ GenOn Energy Management, LLC, [Reactive Rate Schedule, Rate Schedule FERC No. 1, 0.0.0](#). Docket No. ER15-2571-000.

² GenOn Energy Management, LLC, [Reactive Rate Schedule, Rate Schedule FERC No. 2, 0.0.0](#). Docket No. ER15-2572-000.

³ GenOn Energy Management, LLC, [Reactive Rate Schedule, Rate Schedule FERC No. 3, 0.0.0](#). Docket No. ER15-2573-000.

the outcome of the proceeding in Docket No. EL13-48-000.⁴ We deny GenOn's request for waiver of the Commission's 60-day notice requirement.⁵ We also establish hearing and settlement judge procedures.

I. GenOn's Filings

2. Schedule 2 of the 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.⁶

3. GenOn states that NRG Chalk Point LLC (NRG) owns Chalk Point – with the exception of one 94-MW unit that is leased from Southern Maryland Electric Cooperative, Inc. (SMECO Unit) – but that GenOn and NRG are parties to an energy management services agreement under which GenOn is the market participant, and thus GenOn is recognized by PJM as the entity responsible for receiving compensation for providing Reactive Service.⁷ GenOn states that Chalk Point consists of eleven units, four units are steam units and seven units, including the SMECO Unit, are combustion turbines. GenOn states that Chalk Point has a total generator capacity rating of approximately 2,589 MW and is located in Aquasco, Maryland.⁸

4. Pursuant to the requirements of PJM's Schedule 2, on September 1, 2015, GenOn made an informational filing describing the planned transfer of the SMECO Unit at Chalk Point. GenOn states that the SMECO Unit will be acquired by another affiliate of GenOn, NRG Chalk Point CT LLC, and that the existing lease arrangements will

⁴ *Delaware Division of the Public Advocate, et al. v. Baltimore Gas & Electric Co., et al.*, 148 FERC ¶ 61,134 (2014) (setting for hearing Complaint regarding return on equity (ROE) for Baltimore Gas & Electric Co., and Pepco Holdings Inc., and its operating affiliates).

⁵ 18 C.F.R. § 35.3 (2015).

⁶ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁷ GenOn Transmittal Letter, Docket No. ER15-2571-000, at 1 (filed Aug. 31, 2015) (Chalk Point Transmittal).

⁸ *Id.* at 3.

terminate. GenOn states that the transfer is scheduled to occur on December 1, 2015 (i.e., 90 days from the date of the informational filing). GenOn states that, although the existing revenue requirement does not include the SMECO Unit, it is included in the revised revenue requirement for Chalk Point.⁹

5. GenOn states that GenOn Mid-Atlantic, LLC (GMA) owns Dickerson and Morgantown but that GenOn and GMA are parties to an energy management services agreement under which GenOn is the market participant, and thus GenOn is recognized by PJM as the entity responsible for receiving compensation for providing Reactive Service.¹⁰ GenOn states that Dickerson consists of six units, of which three are leased steam units and three are combustion turbines. GenOn states that Dickerson has a total generator capacity rating of approximately 929 MW and is located in Dickerson, Maryland.¹¹ GenOn states that it owns and operates Morgantown, with the exception of the steam units that are under lease to GMA. GenOn states that Morgantown consists of eight units, of which two are the leased steam units and six are combustion turbines. GenOn states that Morgantown has a total generator capacity rating of approximately 1,523 MW and is located in the Town of Newburg, Maryland.¹²

6. GenOn states that it is filing to update its current reactive service revenue requirement from \$4,733,477.04,¹³ which is an aggregate revenue requirement for Chalk Point, Dickerson, Morgantown, and the Potomac River facility (Potomac), to \$7,429,800.81 for Chalk Point, Dickerson, and Morgantown. GenOn states that Potomac retired on October 1, 2012.¹⁴ GenOn further adds that it is updating its reactive service revenue requirement to develop separate revenue requirements for Chalk Point,

⁹ GenOn Informational Filing, Docket No. ER15-2571-000, at 1-2 (filed Sept. 1, 2015).

¹⁰ GenOn Transmittal Letter, Docket No. ER15-2572-000, at 1 (filed Aug. 31, 2015) (Dickerson Transmittal); GenOn Transmittal Letter, Docket No. ER15-2573-000, at 1 (filed Aug. 31, 2015) (Morgantown Transmittal).

¹¹ Dickerson Transmittal at 3.

¹² Morgantown Transmittal at 3.

¹³ Chalk Point Transmittal at 4 n.16.

¹⁴ *Id.* at 4.

Dickerson, and Morgantown that can be revised or canceled should one or more units at a facility be deactivated in the future.¹⁵

7. GenOn states that that the facilities' revenue requirements have been calculated in accordance with the *AEP* methodology,¹⁶ and consist of the fixed cost attributable to the production of reactive power (Fixed Capability Component).¹⁷ GenOn proposes annual revenue requirements of \$3,659,409.35 for Chalk Point; \$1,463,565.23 for Dickerson; and \$2,306,826.23 for Morgantown. GenOn states that it is not currently seeking to recover costs associated with Heating Losses, and further clarifies that Lost Opportunity Costs are not separately identified. For each of the filings, GenOn requests an effective date of October 1, 2015.

8. For each facility's revenue requirement, GenOn states that the respective 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. GenOn states that it 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. GenOn 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 authorized rate of return and return on equity of the utility to which the facilities are interconnected, i.e., Potomac Electric Power Company.¹⁸

II. Notice and Responsive Pleadings

9. Notice of GenOn's August 31, 2015 filings was published in the *Federal Register*, 80 Fed. Reg. 56,978 (2015), with interventions and protests due on or before September 21, 2015. PJM submitted a timely motion to intervene.

¹⁵ *Id.* Ex. B at 5.

¹⁶ *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-57 (1999) (*AEP*).

¹⁷ Chalk Point Transmittal at 5.

¹⁸ *Id.* at 5-6; *see also id.* Ex. B at 7-8.

III. Discussion

A. Procedural Matters

10. 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

11. We find that GenOn's proposed revenue requirements for Reactive Service provided by the facilities raise 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.

12. Our preliminary analysis indicates that GenOn's proposed Reactive Power Tariffs have 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).¹⁹ In this proceeding, we find that GenOn's proposed Reactive Power Tariffs may yield substantially excessive rates. Accordingly, we accept GenOn's proposed Reactive Power Tariffs for filing, suspend them for the maximum five-month period to be effective March 31, 2016, subject to refund, and subject to the outcome of the proceeding in Docket No. EL13-48-000.²⁰ We also establish hearing and settlement judge procedures.²¹

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 commence. To aid the participants in their settlement efforts, we will hold the

¹⁹ *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,374-75 (1982).

²⁰ Although we are setting the proposed revenue requirements for hearing in their entirety, we note that the ROE of Pepco Holdings, Inc. and its affiliates, including Potomac Electric Power Company, is at issue in Docket No. EL13-48-000, and that the outcome of that proceeding will have an impact on the proposed revenue requirements. *See supra* n.4.

²¹ For lack of good cause shown, we deny GenOn's request for waiver of the Commission's 60-day prior notice requirement. *See MidAmerican Energy Co.*, 107 FERC ¶ 61,136, at P 7 (2004).

hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.²² 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.²³ 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.

14. Furthermore, as discussed in the Commission's November 20, 2014 Order to Show Cause in Docket No. EL15-15-000,²⁴ given that GenOn may have continued to receive payments for Reactive Service for units that were "no longer capable of providing that service," we have referred such concern to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.

The Commission orders:

(A) GenOn's proposed Reactive Tariffs are hereby accepted for filing and suspended for a five-month period, to become effective March 31, 2016, subject to refund, and subject to the outcome of the proceeding in Docket No. EL13-48-000, 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

²² 18 C.F.R. § 385.603 (2015).

²³ 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 (5) 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>).

²⁴ 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); *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).

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 GenOn's Reactive Power Tariffs, 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 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)

Kimberly D. Bose,
Secretary.