

153 FERC ¶ 61,139  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

CPV Shore, LLC

Docket Nos. ER15-2589-000  
EL16-4-000

ORDER ACCEPTING RATE SCHEDULE, INSTITUTING SECTION 206  
PROCEEDING, AND ESTABLISHING HEARING AND SETTLEMENT JUDGE  
PROCEDURES

(Issued November 3, 2015)

1. On September 1, 2015, CPV Shore, LLC (CPV Shore) filed a new baseline Reactive Power Tariff,<sup>1</sup> 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 Woodbridge Township, New Jersey (Facility). In this order, we accept for filing CPV Shore's proposed Reactive Power Tariff, to become effective January 1, 2016, as requested, institute a proceeding pursuant to section 206 of the Federal Power Act (FPA),<sup>2</sup> establish a refund effective date, and set the filing for hearing and settlement judge procedures.

**I. CPV Shore's Filing**

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

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<sup>1</sup> CPV Shore, LLC, FERC Electric Rate Schedule No. 1 (1.0.0).

<sup>2</sup> 16 U.S.C. § 824e (2012).

PJM shall pay each resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by the Commission.<sup>3</sup>

3. CPV Shore states that the Facility is a 725 MW natural gas-fired, combined-cycle electric generation facility consisting of one steam turbine generator with a nameplate rating of 327.25 MW and two combustion turbine generators each with a nameplate rating of 222.7 MW.<sup>4</sup> CPV Shore states that the Facility will be interconnected with transmission facilities owned by Jersey Central Power & Light Company (JCP&L) and operated by PJM. CPV Shore states that the Facility is expected to commence commercial operations on or before January 1, 2016.<sup>5</sup> CPV Shore requests an effective date of January 1, 2016.<sup>6</sup>

4. CPV Shore states that the Facility's revenue requirement has been calculated in accordance with Commission precedent,<sup>7</sup> 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).<sup>8</sup> CPV Shore proposes an annual revenue requirement of \$3,048,439, which includes \$2,151,478 for the Fixed Capability Component and \$896,961 for the Heating Losses Component, which is based on locational marginal price.<sup>9</sup>

5. CPV Shore states that the Fixed Capability Component was calculated by analyzing the reactive portion of investment in the generator and associated exciter equipment and generator set-up transformers and then applying an allocator to apportion

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<sup>3</sup> PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

<sup>4</sup> Ex. CPV-1 at 2.

<sup>5</sup> CPV Shore September 1, 2015 Transmittal Letter (Transmittal Letter) at 3.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 4 (citing *Am. Elec. Power Serv. Corp.*, 80 FERC ¶ 63,006 (1997), *aff'd in part and rev'd in part*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *withdrawal of reh'g granted*, 92 FERC ¶ 61,001 (2000); *Dynegy Midwest Generation, Inc.*, Opinion No. 498, 121 FERC ¶ 61,025 (2007), *order denying reh'g in part and granting reh'g in part*, 125 FERC ¶ 61,280 (2008).

<sup>8</sup> Transmittal Letter at 4.

<sup>9</sup> Ex. CPV-1 at 17.

plant costs between real power and reactive power functions. CPV Shore states that individual allocated amounts attributable to Reactive Power Service were then summed and multiplied by a fixed charge rate consistent with Commission precedent to produce the Fixed Capability Component.<sup>10</sup>

6. CPV Shore states that the Commission allows independent power producers to use the cost of capital of the interconnecting transmission owner which, in this case, is JCP&L.<sup>11</sup> CPV Shore states, however, that JCP&L does not utilize a formula rate to develop its transmission rates under the PJM OATT and instead assesses a rate which resulted from a settlement in which the Commission did not approve a specific cost of capital.<sup>12</sup> CPV Shore states that JCP&L is affiliated with Trans-Allegheny Interstate Line Company (TrAILCo), which owns and operates a transmission line that is located, in part, in the JCP&L transmission zone, and that, accordingly, CPV Shore used TrAILCo's Commission-approved cost of capital as a proxy for its cost of capital.<sup>13</sup>

7. CPV Shore states that, with respect to operations and maintenance, taxes other than income taxes, and administrative and general expenses, the Facility is a new project and does not have historical operating data, and that CPV Shore relied on financial projections, prepared in connection with lender reviews for project financing, which were reviewed by an independent engineer at the time. Finally, CPV Shore states that depreciation is based on a 25 year service life.<sup>14</sup>

8. CPV Shore states that the Heating Losses Component is designed to recover the cost of increased heating losses associated with the armature winding and field winding

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<sup>10</sup> Transmittal Letter at 5.

<sup>11</sup> Ex. CPV-2, Schedule 3 at 1 (citing *Bluegrass Generation Co., L.L.C.*, 118 FERC ¶ 61,214 at P 86 (2007); *Monongahela Power Company and Allegheny Energy Supply Company, LLC*, 113 FERC ¶ 61,172 (2005); *Duke Energy Fayette, LLC*, 104 FERC ¶ 61,090 (2003); *Calpine Fox LLC*, 113 FERC ¶ 61,047 (2005); *Tenaska Virginia Partners*, 107 FERC ¶ 61,207 (2004)).

<sup>12</sup> *Id.* (citing PJM, Intra-PJM Tariffs, OATT, Attachment H-4; *GPU Service Corp.*, 85 FERC ¶ 61,348 (1998)).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 2.

of the generator associated with Reactive Power Service, as well as losses associated with real power production in the generator step-up transformer.<sup>15</sup>

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

9. Notice of CPV Shore's filing was published in the *Federal Register*, 80 Fed. Reg. 53,790 (2015), with interventions and protests due on or before September 22, 2015. On September 21, 2015, PJM submitted a motion to intervene and comments.

10. PJM explains in its comments that it determines the monthly revenue requirement for Reactive 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 notes that, if CPV Shore's proposed revenue requirement is approved by the Commission, the application of PJM's methodology would provide CPV Shore an amount \$0.42 lower than its proposed monthly revenue requirement.<sup>16</sup>

## **III. Discussion**

### **A. Procedural Matters**

11. 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**

12. We find that CPV Shore'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. CPV Shore is a new seller with no prior transactions and thus both has no prior customers and has provided no prior services.<sup>17</sup> Accordingly, while we will accept CPV Shore's proposed Reactive Power Tariff for filing to be effective January 1,

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<sup>15</sup> Transmittal Letter at 6.

<sup>16</sup> PJM September 21, 2015 Comments at 2.

<sup>17</sup> An initial rate filing, as distinct from a changed rate filing, is one which provides for a new service to a new customer. *E.g.*, *Southwestern Electric Power Co.*, 39 FERC ¶ 61,099, at 61,293 (1987). An initial rate filing is not subject to suspension. *E.g.*, *Commonwealth Edison Co.*, 44 FERC ¶ 61,038, at 61,112 (1988), *reh'g dismissed*, 49 FERC ¶ 61,308 (1989).

2016, we institute a section 206 proceeding in Docket No. EL16-4-000, establish a refund effective date, and set the filing for hearing and settlement judge procedures.

13. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA requires that the Commission establish a refund effective date that is no earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than five months after the publication date.<sup>18</sup> In such cases, in order to give maximum protection to customers, and consistent with our precedent, we have historically tended to establish the section 206 refund effective date at the earliest date allowed by section 206.<sup>19</sup> In this case, in order to protect consumers, we will set the refund effective date as January 1, 2016, consistent with the effective date of the rate. Section 206(b) of the FPA also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of the section 206 proceeding, the Commission shall state the reason why it has failed to render such a decision and state its best estimate as to when it reasonably expects to make such a decision. As we are setting the section 206 proceeding in Docket No. EL16-4-000 for hearing and settlement judge procedures, we expect that, if the proceeding does not settle, we would be able to render a decision within 8 months of the date of filing of briefs opposing exceptions to the Initial Decision. Thus, if the Presiding Judge were to issue an Initial Decision by August 31, 2016, we expect that, if the proceeding does not settle, we would be able to render a decision by June 30, 2017.

14. 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.<sup>20</sup> 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.<sup>21</sup> The

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<sup>18</sup> 16 U.S.C. § 824e(b) (2012).

<sup>19</sup> See, e.g., *Idaho Power Company*, 145 FERC ¶ 61,122 (2013); *Canal Electric Co.*, 46 FERC ¶ 61,153, *order on reh'g*, 47 FERC ¶ 61,275 (1989).

<sup>20</sup> 18 C.F.R. § 385.603 (2015).

<sup>21</sup> 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>).

settlement judge shall report to the Chief Judge and the Commission within thirty (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) CPV Shore's proposed Reactive Power Tariff is hereby accepted for filing, to become effective January 1, 2016, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly section 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), the Commission hereby institutes a proceeding in Docket No. EL16-4-000, concerning the justness and reasonableness of CPV Shore'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.

(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.

(F) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the FPA in Docket No. EL16-4-000.

(G) The refund effective date in Docket No. EL16-4-000 established pursuant to section 206 of the FPA shall be January 1, 2016.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.