

153 FERC ¶ 61,357  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Indiana Municipal Power Agency

Docket No. EL16-14-000

ORDER CONDITIONALLY ACCEPTING PROPOSED REVENUE REQUIREMENT  
AND ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued December 30, 2015)

1. On November 13, 2015, Indiana Municipal Power Agency (Indiana Municipal) submitted a revenue requirement for reactive supply and voltage control service (reactive service) from its 24.95 percent interest in the Gibson Unit No. 5 generator (Gibson 5). In this order, we conditionally accept Indiana Municipal's proposed rate schedule for filing, to become effective January 1, 2016, subject to Indiana Municipal's submitting a compliance filing within 15 days of the date of this order reflecting Indiana Municipal's commitment to provide refunds.<sup>1</sup> We also establish hearing and settlement judge procedures.

**I. Indiana Municipal's Filing**

2. Indiana Municipal states that it is a body corporate and politic and political subdivision of the State of Indiana acting as a non-profit wholesale electric utility.<sup>2</sup> Indiana Municipal explains that as a municipal joint action agency, it is not directly subject to the Commission's rate jurisdiction under sections 205 and 206 of the Federal Power Act (FPA). Indiana Municipal further states that it is submitting for Commission review the reactive service revenue requirement associated with its share of Gibson 5,

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<sup>1</sup> Alternatively, the effective date will be the date the Commission makes Indiana Municipal's proposed revenue requirement effective when it issues an order approving Indiana Municipal's proposed revenue requirement following the hearing and settlement judge procedures ordered below.

<sup>2</sup> Transmittal at 2.

which it seeks to recover through Schedule 2 of Midcontinent Independent System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff.

3. Indiana Municipal states that it is currently being compensated for its share of reactive service revenue from Gibson 5 according to a rate established by Duke Energy Indiana, Inc. (Duke) in a black-box settlement in Docket No. ER07-1383.<sup>3</sup> Indiana Municipal states that in Docket No. ER16-200-000, Duke filed with the Commission to revise its reactive power tariff, which, upon approval, will end the compensation hitherto received by Indiana Municipal.<sup>4</sup> Therefore, Indiana Municipal states that it is seeking approval of its reactive service revenue requirement for its share of Gibson 5. Indiana Municipal attaches to its filing the testimony of Mr. Alan C. Heintz to provide cost support.

4. Indiana Municipal states that the reactive service revenue requirement for Indiana Municipal's share of Gibson 5 has been calculated in accordance with the *AEP* Methodology<sup>5</sup> and consists of a Fixed Capacity Component and a Heating Losses Component.<sup>6</sup> Indiana Municipal explains that the cost calculations performed for its filing are consistent with those performed for Duke's filing in Docket No. ER16-200-000 and that the differences between the two calculations are because Indiana Municipal's filing is for one generating resource while the Duke filing is for a multi-unit fleet.<sup>7</sup> Indiana Municipal also states that Mr. Heintz's testimony references certain VEE curves, granular hourly generation data (MW and MVAR), and generator step-up test data which were filed in Docket No. ER16-200-000.<sup>8</sup> Indiana Municipal requests an effective date of January 1, 2016.

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<sup>3</sup> *Id.* at 3.

<sup>4</sup> In an order issued concurrently with this order, the Commission has set Duke's filing in Docket No. ER16-200-000 for hearing and settlement procedures. *Duke Energy Indiana, Inc.*, 153 FERC ¶ 61,349 (2015).

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

<sup>6</sup> Transmittal at 4-5.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 2 n.3.

5. Indiana Municipal explains that the Fixed Capacity Component was calculated by the following: (1) identifying equipment associated with reactive power production and determining the installed cost of each asset; (2) calculating the reactive allocation factor for each category of reactive power production equipment and multiplying the installed cost of the reactive power production equipment by the reactive allocation factor; and (3) determining a fixed charge rate to apply to the allocated reactive power production equipment and multiplying that fixed charge rate by the reactive power production equipment investment. Indiana Municipal states that it analyzed the reactive portion of investment for the following: (1) the generator and associated exciter equipment; (2) generator step-up transformers; (3) accessory electrical equipment; and (4) the balance of the plant. Indiana Municipal states that, because each of these groups of assets involves both real power and reactive power, the *AEP* methodology includes an allocation factor to separate each of the components between real and reactive power. Indiana Municipal further states that the application of this allocation factor to each of the four groups of investments results in the Fixed Capacity Component of the reactive service revenue requirement.

6. Indiana Municipal states that in calculating the fixed charge rate it used a 7.87 percent return.<sup>9</sup> Indiana Municipal explains that the debt service and margin obtained from Indiana Municipal's MISO Attachment O transmission formula rate is equal to a 7.87 percent overall return.<sup>10</sup>

7. Indiana Municipal states that the Heating Losses Component recovers the cost of the increased generator and step-up transformer heating losses that result from the production of reactive power.<sup>11</sup> Indiana Municipal explains that the creation of reactive power results in an incremental current that flows inside the generator armature windings, the generator field winding, and the generator step-up transformer windings.<sup>12</sup> Indiana Municipal states that, "[d]ue to the electrical resistance in the generator and [generator step-up transformer] windings, this incremental current causes Real Power to be consumed or 'lost' in the form of heat."<sup>13</sup>

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<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.* Ex. IMP-1 at 9.

<sup>11</sup> Transmittal at 9.

<sup>12</sup> *Id.* Ex. IMP-1 at 9.

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

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

8. Notice of Indiana Municipal's filing was published in the *Federal Register*, 80 Fed. Reg. 72,964-965 (2015) with interventions and protests due on or before December 4, 2015. Wabash Valley Power Association, Inc. (Wabash Valley) filed a timely motion to intervene. Duke filed a motion to intervene out-of-time and comments. Duke states that it has reviewed Indiana Municipal's filing and has no objections.

## **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), Wabash Valley's timely, unopposed motion to intervene serves to make it a party to this proceeding.

10. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant Duke's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

### **B. Substantive Matters**

11. We find that Indiana Municipal's proposed revenue requirement for reactive service from its 24.95 percent interest in Gibson 5 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. For example, we find that several components of Indiana Municipal's revenue requirement are not adequately supported, including, but not limited to, Indiana Municipal's proposed return of 7.87 percent, heating losses and its operations and maintenance costs for Gibson 5.

12. Our preliminary analysis indicates that Indiana Municipal's proposed revenue requirement for reactive service has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will conditionally accept Indiana Municipal's proposed revenue requirement for filing, to become effective January 1, 2016, subject to Indiana Municipal's submitting a compliance filing within 15 days of the date of this order reflecting Indiana Municipal's commitment to provide refunds as of January 1, 2016 to the extent it receives revenues for the reactive service that exceed the amount ultimately found to be just and reasonable, and set the proposed revenue requirement for hearing and settlement judge procedures. Alternatively, if such a compliance filing is not

submitted, the effective date will be the date the Commission makes the proposed revenue requirement effective when it issues an order approving the proposed revenue requirement following the hearing and settlement judge procedures ordered below.<sup>14</sup>

13. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures commence. To aid the parties 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>15</sup> If the parties 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>16</sup> 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 parties 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) Indiana Municipal's proposed revenue requirement for reactive service is hereby conditionally accepted, effective January 1, 2016, subject to Indiana Municipal's submitting a compliance filing within 15 days of the date of this order reflecting Indiana Municipal's commitment to provide refunds as of January 1, 2016, or alternatively, the effective date will be the date the Commission makes the proposed revenue requirement effective when it issues an order approving the proposed revenue requirement following hearing and settlement judge procedures, as discussed in the body of this order.

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<sup>14</sup> We note that in other instances the Commission has established a prospective effective date when non-public utilities have submitted their proposals for cost recovery for Commission review without committing to provide refunds. *See Lively Grove Energy Partners, LLC*, 140 FERC ¶ 61,252, at P 2 (2012).

<sup>15</sup> 18 C.F.R. § 385.603 (2015).

<sup>16</sup> If the parties 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>).

(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 Indiana Municipal's proposed revenue requirement for reactive service, 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 Administrative Law 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 parties 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 parties 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 parties' 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.