

154 FERC ¶ 61,150
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Missouri Joint Municipal Electric Utility Commission

Docket No. EL16-26-000

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

(Issued February 29, 2016)

1. On December 31, 2015, Missouri Joint Municipal Electric Utility Commission (Missouri Municipal) submitted a cost-based revenue requirement for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (reactive service) from its 22.11 percent ownership interest in the Plum Point Energy Station (Plum Point Station). In this order, we conditionally accept Missouri Municipal's proposed revenue requirement for filing, to become effective March 1, 2016, subject to Missouri Municipal submitting a compliance filing within 15 days of the date of this order reflecting Missouri Municipal's commitment to provide refunds.¹ We also establish hearing and settlement judge procedures.

I. Missouri Municipal's Filing

2. Missouri Municipal states that it is a member-owned, non-profit joint action agency and a body public and corporate, organized and existing under Missouri law to construct, operate, and maintain jointly owned transmission and generation facilities for the production and transmission of electric power for its members.² Missouri Municipal

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

² Transmittal at 5.

asserts 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).

3. Missouri Municipal states that Plum Point Station is a 670 MW (net) coal-fired electric generating station that has been in commercial operation since September 2010.³ The plant is located near Osceola, Arkansas, and is interconnected to the transmission system owned by Entergy Arkansas, Inc. (Entergy Arkansas). Missouri Municipal states that its share of Plum Point Station's reactive power production capability is utilized by Midcontinent Independent System Operator, Inc. (MISO) to provide reactive service pursuant to Schedule 2 of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).

4. Missouri Municipal seeks Commission approval to permit it to recover its cost-based revenue requirement for the reactive service production capability associated with its ownership of the Plum Point Station. Missouri Municipal states that the Plum Point Station has been providing reactive power support to the MISO transmission system since Entergy Arkansas placed its transmission facilities under MISO's functional control on December 2013. However, Missouri Municipal has not yet begun recovering its costs of providing reactive support from Plum Point Station.

5. Missouri Municipal states that, under Schedule 2 of the MISO Tariff, a Generation Resource must be determined by MISO to be a Qualified Generator in order to receive compensation for reactive service. Schedule 2 sets forth the technical qualifications required for a Generation Resource to be designated as a Qualified Generator.

6. In support of its filing, Missouri Municipal submitted the testimony of Robert C. Smith. Missouri Municipal states that Mr. Smith developed Missouri Municipal's proposed revenue requirement in accordance with the methodology approved by the Commission in *American Electric Power Service Corp.*⁴ Consistent with the *AEP* methodology, Missouri Municipal is seeking to recover fixed costs attributable to its reactive power production capability (fixed capability component). Missouri Municipal states that it is not seeking to recover costs associated with incremental heating losses or other costs associated with the production of reactive power. Missouri Municipal states that it reserves the right to seek such costs at a later time.

³ *Id.* at 4.

⁴ *Id.* at 2, 6 (citing *American Elec. Power Serv. Corp.*, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (*AEP*)).

7. Missouri Municipal asserts that the *AEP* methodology generally reflects the fixed costs associated with four groups of plant equipment that contribute to the provision of reactive power and voltage control service: (1) the generator and excitation system; (2) the generator step-up transformer; (3) accessory electrical equipment; and (4) the remaining plant investment.⁵ Missouri Municipal states that to identify Missouri Municipal's investment in each of the four relevant categories of plant equipment, Missouri Municipal relied on a cost study of original construction costs that Plum Point Energy Associates, the operator of the Plum Point Station, prepared and provided to the station's other joint owners.⁶ For this purpose, Plum Point Energy Associates collected and reviewed original project construction records (such as plant construction accounting records and manufacturer invoices) and other information provided by major component vendors. From this, Plum Point Energy Associates compiled detailed information that allowed it to attribute the total original cost investment in Plum Point Station to specific systems and items of equipment within the plant, including the four categories of equipment identified in *AEP* as relevant for reactive revenue requirement determinations.

8. Missouri Municipal explains that because plant components within each of the four relevant categories are involved in the production of both reactive power and real power, the *AEP* methodology calls for the application of appropriate allocation factors to separate the annual revenue requirements associated with these components between real power and reactive power production.⁷ Missouri Municipal states that the allocation factors used to derive Missouri Municipal's revenue requirement are explained in Mr. Smith's testimony.

9. Missouri Municipal states that in calculating its annual fixed charge rate, it adopted and applied Entergy Arkansas's overall weighted cost of capital of 6.65 percent,⁸ as Entergy Arkansas is the transmission owner with which Plum Point Station is interconnected. Missouri Municipal states that the adoption of this proxy rate of return is consistent with Commission precedent.⁹ Missouri Municipal further states that the

⁵ *E.g., id.* at 6 and Ex. MJM-1 at 14.

⁶ Missouri Municipal states that the cost study submitted in the instant proceeding was also submitted to the Commission by Plum Point Energy Associates in Docket No. ER14-2046-000. Transmittal at 6-7 & n.10 and Ex. MJM-1 at 19.

⁷ Transmittal at 7.

⁸ *Id.* at 8 (citing Ex. MJM-7 and Ex. MJM-4).

⁹ *Id.* (citing *Columbia Energy LLC*, 124 FERC ¶ 61,189, at P 25 (2008) (citing *Bluegrass Generation Co., L.L.C.*, 118 FERC ¶ 61,214, at P 86 (2007))).

overall rate of return calculated for Entergy Arkansas incorporates the 10.32 percent return on common equity recently recommended by Commission Administrative Law Judge Coffman in his December 22, 2015 Initial Decision in Docket No. EL14-12-002, which addressed a complaint challenging the reasonableness of the base return on equity used by MISO transmission owners.¹⁰

10. Missouri Municipal calculated its annual fixed charge rate, which includes the cost of capital and other costs, to be 10.72 percent.¹¹ This annual fixed charge rate was applied to Missouri Municipal's aggregate investment in the relevant four categories of equipment at Plum Point Station, resulting in an annual cost-based revenue requirement for Missouri Municipal's provision of reactive service from its ownership interest in Plum Point Station of \$191,282 per year, or \$15,940 monthly.

II. Notice and Responsive Pleadings

11. Notice of Missouri Municipal's filing was published in the *Federal Register*, 81 Fed. Reg. 927 (2016), with interventions and protests due on or before January 21, 2016. None was filed.

III. Discussion

Substantive Matters

12. We find that Missouri Municipal's proposed revenue requirement for reactive service from its 22.11 percent ownership interest in Plum Point Station 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. For example, we find that several components of Missouri Municipal's revenue requirement are not adequately supported, including, but not limited to, Missouri Municipal's proposed overall weighted cost of capital of 6.65 percent and the development of investment costs for the Plum Point Station.

13. Our preliminary analysis indicates that Missouri 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 Missouri Municipal's proposed revenue requirement for filing, to become effective March 1, 2016, subject to Missouri Municipal

¹⁰ *Id.* (citing *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 63,027 (2015)); *see also* Ex. MJM-1 at 28.

¹¹ *Id.* at 7 (citing Ex. MJM-4, line 49 and Ex. MJM-1 at 29).

submitting a compliance filing within 15 days of the date of this order reflecting Missouri Municipal's commitment to provide refunds as of March 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 revenue requirement effective when it issues an order approving the revenue requirement following the hearing and settlement judge procedures ordered below.¹²

14. 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.¹³ 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.¹⁴ 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) Missouri Municipal's proposed revenue requirement for reactive service is hereby conditionally accepted, effective March 1, 2016, subject to Missouri Municipal's submitting a compliance filing within 15 days of the date of this order reflecting Missouri Municipal's commitment to provide refunds as of March 1, 2016, or alternatively, the effective date will be the date the Commission makes the proposed revenue requirement

¹² 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).

¹³ 18 C.F.R. § 385.603 (2015).

¹⁴ 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 (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>).

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.

(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 Missouri 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.