

155 FERC ¶ 61,086
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Beaver Dam Energy LLC

Docket Nos. ER16-1032-000
EL16-51-000

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

(Issued April 22, 2016)

1. On February 29, 2016, Beaver Dam Energy LLC (Beaver Dam) filed a Reactive Power Tariff,¹ as an initial rate under section 35.12 of the Commission's regulations establishing the procedures for filing initial baseline rates under section 205(d) of the Federal Power Act (FPA).² The filing sets forth the revenue requirement for the provision of Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service) for its generating facility under construction in Bradford County, Pennsylvania (Facility). In this order, we accept for filing Beaver Dam's proposed Reactive Power Tariff to become effective June 1, 2016. We also institute a proceeding pursuant to section 206 of the FPA,³ to examine the justness and reasonableness of the

¹ Beaver Dam Energy LLC, [Reactive Power, Rate Schedule FERC No. 2, 0.0.0](#).

² 18 C.F.R. § 35.12 (2015); 16 U.S.C. § 824d(d) (2012). Beaver Dam filed this tariff in the Commission's electronic filing system as a compliance filing in the Commission's eTariff system (Type of Filing Code 70) in order to establish a new tariff database for its Reactive Power Tariff. While this filing code may be used for compliance filings, the Commission considers the filing to be an initial baseline rate under section 35.12 of the Commission's regulations. As Beaver Dam's generating facilities are not operational until May 2016, we find that Beaver Dam has not been providing reactive power service to PJM Interconnection, L.L.C. (PJM) prior to the instant filing.

³ 16 U.S.C. § 824e (2012).

reactive power rate schedule, establish a refund effective date, and set the filing for hearing and settlement judge procedures.

I. Beaver Dam's Filing

2. Schedule 2 of the PJM Open Access Transmission Tariff states that PJM will compensate owners of generation and non-generation resources for maintaining the capability to provide reactive power to PJM. Specifically, Schedule 2 provides 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.⁴

3. Beaver Dam states the Facility is interconnected to the Pennsylvania Electric Company (Penelec) system. According to Beaver Dam, the Facility is under construction and commissioning, and is expected to enter into commercial operations on or before May 24, 2016.⁵

4. Beaver Dam proposes to calculate the Facility's revenue requirement in accordance with the *AEP* methodology.⁶ Beaver Dam explains that the revenue requirement consists of a Fixed Capability Component, which represents the fixed cost attributable to the production of reactive power, and a Heating Losses Component.⁷ Beaver Dam proposes an annual revenue requirement of \$447,971 and requests an effective date of June 1, 2016.⁸

5. Beaver Dam proposes to calculate the Fixed Capability Component by calculating the portion of plant costs that are attributable to the production of Reactive Supply Service. This includes analyzing the reactive portion of investment in the generator and associated exciter equipment and GSU transformers. Because this equipment contributes to both real and reactive power, Beaver Dam applies an allocator to apportion plant costs between real and reactive functions. Beaver Dam states that it incorporated costs for accessory electrical equipment supporting the operation of the generator-exciter system

⁴ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁵ Beaver Dam February 29, 2016 Transmittal Letter at 2-3, 6 (Transmittal Letter).

⁶ *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-57 (1999).

⁷ Transmittal Letter at 3-5.

⁸ *Id.* at Attachment A.

and balance of plant by using an allocator to attribute such costs to reactive functions.⁹ Beaver Dam explains that individual allocated amounts attributable to Reactive Supply are then summed and multiplied by a fixed charge consistent with Commission precedent to produce the Fixed Capability Component of Roundtop's annual revenue requirement for Reactive Service.

6. In determining the cost of capital, Beaver Dam states that it used a rate of return on equity of 9.60 percent,¹⁰ the authorized rate of return of Penelec, the utility to which the Facility is interconnected.¹¹

7. With regard to the Heating Losses Component, Beaver Dam explains that it included this component in the revenue requirement in order to recover the costs associated with losses that occur from resistive heating associated with the armature winding and field winding of the generator.¹²

II. Notice of Filing and Responsive Pleadings

8. Notice of Beaver Dam's February 29, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 12,897 (2016), with interventions and protests due on or before March 21, 2016. PJM submitted a timely motion to intervene and comments.

9. PJM states that it determines the monthly revenue requirement by dividing the annual revenue requirement approved by the Commission by 12 and rounding to the second decimal. Therefore, under the proposed Rate Schedule, PJM would provide Beaver Dam \$37,330.92 per month if the filing is approved by the Commission.¹³

⁹ *Id.* at 4.

¹⁰ *Id.* at Exh. No. BD-2 Attachment C at line 16.

¹¹ *Id.* at 4-5.

¹² *Id.* at 5.

¹³ PJM March 16, 2016 Comments at 2.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁴ PJM's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

11. Our preliminary analysis indicates that Beaver Dam'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. We also find that Beaver Dam'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. We will accept Beaver Dam's proposed Reactive Power Schedule for filing, to be effective June 1, 2016. However, because Beaver Dam is a new seller that has not previously provided services and has no prior transactions and no prior customers,¹⁵ we institute a section 206 proceeding in Docket No. EL16-51-000, establish a refund effective date, and set the filing for hearing and settlement judge procedures. Although we are setting the rate for hearing in its entirety, we note that Beaver Dam's use of locational marginal price to calculate the Heating Losses Component of its reactive power revenue requirement is contrary to Commission precedent.¹⁶

12. 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.¹⁷ In such cases, in order to give maximum protection to customers, and

¹⁴ 18 C.F.R. § 385.214 (2015).

¹⁵ See *Chehalis Power Generating, L.P.*, 152 FERC ¶ 61,050, at P 14 (2015) ("In order for a rate to be considered an initial rate, it must provide for a new service to a new customer." (citing *Sw. Elec. Power Co.*, 39 FERC ¶ 61,099, at 61,293 (1987))).

¹⁶ The Commission recently provided guidance on establishing or revising rates for Reactive Service. *Wabash Valley Power Association, Inc.*, 154 FERC ¶ 61,245, at PP 24-29 (2016); *Wabash Valley Power Association, Inc.*, 154 FERC ¶ 61,246, at PP 23-28 (2016).

¹⁷ 16 U.S.C. § 824e (b) (2012).

consistent with our precedent, we have historically tended to establish the section 206 refund effective date at the earliest date allowed by section 206, and we do so here as well.¹⁸ That date is the date of publication of notice of initiation of the section 206 proceeding in Docket No. EL16-51-000 in the Federal Register.

13. 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. EL16-51-000 for hearing and settlement judge procedures, we expect that, if the proceeding does not settle, we would be able to render a decision within eight 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 March 31, 2017, we expect that, if the proceeding does not settle, we would be able to render a decision by December 31, 2017.

14. While we are setting this matter 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.¹⁹ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Acting Chief Judge will select a judge for this purpose.²⁰ The settlement judge shall report to the Acting 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 Acting 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.

¹⁸ See, e.g., *Idaho Power Co.*, 145 FERC ¶ 61,122 (2013); *Canal Electric Co.*, 46 FERC ¶ 61,153, *order on reh'g*, 47 FERC ¶ 61,275 (1989).

¹⁹ 18 C.F.R. § 385.603 (2015).

²⁰ If the parties decide to request a specific judge, they must make their joint request to the Acting 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>).

The Commission orders:

(A) Beaver Dam's proposed Reactive Power Tariff is hereby accepted for filing, to become effective June 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. EL16-51-000, concerning the justness and reasonableness of Beaver Dam'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 Acting 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 Acting Chief Judge designates the settlement judge. If the participants decide to request a specific judge, they must make their request to the Acting 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 Acting Chief Judge on the status of the settlement discussions. Based on this report, the Acting 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 Acting 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 Acting 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. EL16-51-000.

(G) The refund effective date in Docket No. EL16-51-000 established pursuant to section 206 of the FPA shall be the date of publication in the Federal Register of the notice discussed in Ordering Paragraph (F) above.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.