

155 FERC ¶ 61,103
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wolverine Power Supply
Cooperative, Inc.

Docket No. ER16-1036-000

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

(Issued April 27, 2016)

1. On February 29, 2016, Wolverine Power Supply Cooperative, Inc. (Wolverine) submitted proposed rate schedules (Reactive Service Rate Schedules) for Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Supply Service) to recover revenue requirements for the reactive power production capabilities of four generating facilities: (i) Burnips; (ii) Hersey; (iii) Vestaburg; and (iv) Alpine (collectively, the Wolverine Facilities), designated as FERC Rate Schedule Nos. 20, 21, 22, and 23, respectively.¹ In this order, we accept the Reactive Service Rate Schedules for filing, suspend them for a nominal period, to become effective May 1, 2016, for Rate Schedule Nos. 20, 21, and 22, and June 1, 2016, for Rate Schedule No. 23, subject to refund. We also establish hearing and settlement judge procedures.

I. Filing

2. Wolverine states that it is proposing the Reactive Service Rate Schedules for three existing generating facilities, Burnips, Hersey, and Vestaburg, and for Alpine, which is currently under construction with an expected commercial operation date of June 1, 2016. Wolverine explains that, prior to December 1, 2015, the Burnips, Hersey, and Vestaburg facilities operated as behind-the-meter-generation that was not offered into

¹ Wolverine Power Supply Cooperative, Inc., FERC FPA Electric Tariff, Rate Schedules and Tariffs, FERC Rate Schedule No. 20, Burnips Reactive Supply Service, 1.0.0, FERC Rate Schedule No. 21, Hersey Reactive Supply Service, 1.0.0, FERC Rate Schedule No. 22, Vestaburg Reactive Supply Service, 1.0.0, FERC Rate Schedule No. 23, alpine Reactive Supply Service, 1.0.0.

the Midcontinent Independent System Operator, Inc. (MISO) market. On December 1, 2015, MISO redesignated the Burnips, Hersey, and Vestaburg facilities as dispatchable generation to provide localized voltage support to MISO. Wolverine states that, on its commercial operation date, the Alpine facility will also be a MISO-dispatched generation resource.² According to Wolverine, because the Wolverine Facilities are or will be dispatchable, they are eligible for compensation for provision of Reactive Supply Service pursuant to Schedule 2 of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).³

3. Wolverine explains that its proposed Reactive Supply Service revenue requirement for each of the Wolverine Facilities consists of the fixed costs attributable to the facility's reactive production capability (Fixed Capability Component), the purpose of which is to recover the portion of plant fixed costs attributable to the reactive power production capability of each facility. Wolverine notes that the proposed Reactive Service Rate Schedules omit three other components of a reactive power revenue requirement that may be included in reactive power rate schedule filings: (1) start-up costs per generating unit; (2) increased generator and step-up transformer heating losses that result from the production of reactive power; and (3) lost opportunity costs in the event that the generating facility is directed to modify its energy output to produce additional reactive power.⁴

4. Wolverine states that the Wolverine Facilities' Fixed Capability Components were developed in accordance with the two-step methodology set forth in *American Electric Power Service Corporation* to determine the plant investment cost to be reflected in a revenue requirement for Reactive Supply Service.⁵ Wolverine states that in the first step, Wolverine excludes costs that are not related to the turbine generator from the total costs booked to Account No. 344 (Generators) under the Commission's Uniform System of Accounts. Wolverine further states that in the second step, it isolates the combined generator and exciter costs from the generator turbine costs, using an allocation factor

² Wolverine Transmittal Letter, Docket No. ER16-1036-000, at 3 (filed Feb. 29, 2015) (Filing).

³ *Id.* See MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control from Generation or Other (31.0.0).

⁴ *Id.* n.3.

⁵ *Id.* at 4 (citing *FPL Energy Marcus Hook, L.P.*, 110 FERC ¶ 61,087 (2005) (refers to *American Electric Power Service Corp.*, 80 FERC ¶ 63,006 (1997), *order on initial decision*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (*AEP*))).

provided by the manufacturer. Wolverine explains that it adds to those amounts the costs of specifically identified Accessory Electric Equipment booked to Account No. 345 that support the generator and exciter.⁶

5. Wolverine states that since the generator and exciter contribute to both real and reactive power production, Wolverine utilizes an allocation factor developed consistent with *AEP* to determine the reactive power portion of the generator and exciter costs. Wolverine states that the generator step-up transformer and the remaining production plant similarly use an allocation factor that is consistent with *AEP* to determine the portion of those costs attributable to reactive power production.⁷

6. Wolverine also states that it applies a fixed charge rate⁸ to the plant costs allocable to each generating facility's reactive power functions to develop the Fixed Capability Component annual revenue requirement. Wolverine explains that it uses a levelized annual carrying cost approach to develop the capital cost component of the annual revenue requirement.⁹

7. To determine the cost of capital, Wolverine states that it used the rate of return that it is currently authorized to recover under Attachment O of MISO's Tariff. Wolverine acknowledges that the current Return on Equity (ROE) of 12.38 percent in Attachment O of MISO's Tariff (which excludes the Regional Transmission Organization (RTO) incentive adder for participation in an RTO) is currently under review by the Commission in Docket Nos. EL14-12 and EL15-45 (Complaint Proceeding). Wolverine explains that Docket No. EL15-45 will establish the MISO-wide ROE in effect as of the proposed effective date of each of the Reactive Service Rate Schedules. Wolverine states that, to the extent that the Complaint Proceeding results in a change to the MISO-wide ROE, Wolverine commits to amend the Reactive Service Rate Schedules to reflect this outcome. Wolverine further commits to make appropriate refunds for Reactive Supply Service compensation collected under the Reactive Service Rate Schedules. Wolverine commits to submit such revisions as well as a compliance filing describing any amounts

⁶ *Id.*

⁷ *Id.*

⁸ Wolverine applies a fixed charge rate of 17.65 percent for the Burnips plant, 15.86 percent for the Hersey plant, 15.86 percent for the Vestaburg plant, and 15.02 percent for the Alpine plant. *See* Filing, Attachment G, Ex. Nos. Wolv-2a, Wolv-2b, Wolv-2c, and Wolv-2d.

⁹ Filing at 4.

due to MISO within 30 days of a Commission order in the Complaint Proceeding directing the issuance of refunds.¹⁰

8. In testimony supplied with its filing, Wolverine explains that, because the Alpine generating facility is still under construction, it does not have actual cost data for the plant's provision of Reactive Supply Service. Wolverine states that, for this reason, it used estimated cost projections and proxy data obtained from a similarly-situated generating facility in lieu of actual costs.¹¹

9. Wolverine requests an effective date of May 1, 2016, for Rate Schedule Nos. 20, 21, and 22 for the Burnips, Hersey, and Vestaburg facilities, respectively. Wolverine requests an effective date of June 1, 2016, for Rate Schedule No. 23 for the Alpine facility. Wolverine states that Rate Schedule No. 23 provides that the Monthly Revenue Requirement is subject to a *pro rata* adjustment to reflect the actual date that Alpine begins commercial operation in the event the Alpine plant commercial operation date is unexpectedly delayed beyond June 1, 2016.¹²

II. Notice and Responsive Pleadings

10. Notice of Wolverine's filing was published in the *Federal Register*, 81 Fed. Reg. 12,897 (2016), with interventions and protests due on or before March 21, 2016. Michigan South Central Power Agency filed a timely motion to intervene. Consumers Energy Company (Consumers) filed a timely motion to intervene and protest. On March 28, 2016, Wolverine filed an answer to Consumers' protest.

A. Consumers Protest

11. Consumers argues that all generators seeking to recover a Reactive Supply Service revenue requirement are generally required to use actual cost data to calculate the revenue requirement. Consumers states that, because Alpine is not yet fully constructed, Wolverine used proxy costs, not actual costs, for much of the relevant data in its Reactive Supply Service revenue requirement calculations. It argues that it is impossible to know if the provided proxy costs and estimated costs will ultimately reflect the Alpine facility's actual costs.¹³

¹⁰ *Id.*

¹¹ Filing, Attachment F (Testimony of Janet L. Kass) at 8-9.

¹² Filing at 5.

¹³ Consumers Protest at 3-4.

12. Consumers asks that the Commission either reject Rate Schedule No. 23, or, in the alternative, require Wolverine to make certain compliance filings after Alpine begins commercial operations and actual costs are certain. Consumers argues that such compliance filings will allow Wolverine to base its revenue requirement on actual cost data for each of the relevant data points used in the *AEP* methodology.¹⁴

13. Specifically, Consumers requests that the Commission direct Wolverine to make a compliance filing after the Alpine facility is fully constructed to replace the proxies for the total cost of production plant and the property tax component with the actual costs of those components. Consumers states that it expects Wolverine to be able to make such a compliance filing in the third quarter of 2016.¹⁵

14. Consumers also states that, given the Alpine facility's expected commercial operation date of June 1, 2016, Consumers expects that it would have a full calendar year of O&M data by December 31, 2017. Consumers requests that the Commission direct Wolverine to make a compliance filing to update Alpine's O&M cost data after its 2017 O&M cost data is finalized, in the first or second quarter of 2018.¹⁶

B. Answer

15. In its answer, Wolverine states that its use of proxy data is justified but that, in the interest of avoiding litigation, it is willing to make compliance filings to verify the cost data after the Alpine generating facility is fully constructed.¹⁷ Wolverine argues that it would not be reasonable for the Commission to require Wolverine to wait until it has actual cost data to set its revenue requirement because that would compel Wolverine to forego rate recovery for a jurisdictional service.¹⁸

16. Wolverine proposes to make a compliance filing 60 days from final invoicing for all plant construction activities, which, according to Wolverine, is expected within 150 days of Alpine's commercial date of operation. Wolverine states that, to the extent Alpine's actual production cost comports with Wolverine's budgeted cost of total production plant, Wolverine's compliance filing will be an informational filing for the

¹⁴ *Id.* at 4.

¹⁵ *Id.*

¹⁶ *Id.* at 4-5.

¹⁷ Wolverine Answer at 1.

¹⁸ *Id.* at 3.

purpose of validating Wolverine's revenue requirement as set forth in Rate Schedule No. 23. If Alpine's total production cost is other than its filed estimate, Wolverine will file a prospective rate adjustment to reflect a decrease or increase in its rate.¹⁹

17. Wolverine proposes to submit another compliance filing to reflect actual costs of O&M and property tax expenses, as reported in Wolverine's FERC Form No. 1, which will be finalized in April of 2018. Wolverine proposes to submit this compliance filing within 30 days of filing the annual FERC Form No. 1 for 2017. Wolverine states that the compliance filing, similar to its compliance filing validating the plant production cost data, will either validate the O&M and property tax components or reflect a prospective increase or decrease in Wolverine's proposed rates.²⁰

III. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answer filed by Wolverine, as it has provided information that assisted us in our decision-making process.

B. Substantive Matters

19. We find that Wolverine's proposed Reactive Service Rate Schedules raise issues of material fact that cannot be resolved based on the record for us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below. For example, we find that several components of Wolverine's revenue requirement are not adequately supported,²¹ including, but not limited to, Wolverine's proposed generator

¹⁹ *Id.*

²⁰ *Id.* at 4.

²¹ The Commission recently provided guidance on establishing or revising rates for Reactive Supply Service. *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,246, at PP 23-28 (2016); *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,245, at PP 24-29 (2016).

and exciter allocator of 29.80 percent for the Burnips facility.²² We also find that the provided spreadsheets and data contain several clerical errors.²³

20. Our preliminary analysis indicates that Wolverine's proposed Reactive Service Rate Schedules have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept Wolverine's proposed Reactive Service Rate Schedules for filing, suspend them for a nominal period to be effective May 1, 2016 for Rate Schedule Nos. 20, 21, and 22, and June 1, 2016, for Rate Schedule No. 23, subject to refund. We will also set the Reactive Service Rate Schedules for hearing and settlement judge procedures.

21. 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.²⁴ 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.²⁵ 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.

²² Filing, Attachment G, Ex. Nos. Wolv-1a, Wolv-7a.

²³ For example, the top-level revenue requirement spreadsheets for each generating plant lists the source for cell A3 (Total Reactive Power Capability) as $\text{SQRT}(A3^2 - A2^2)$. It appears the source should read $\text{SQRT}(A2^2 - A1^2)$. See Filing, Attachment G, Ex. Nos. Wolv-1a, Wolv-1b, Wolv-1c, and Wolv-1d.

²⁴ 18 C.F.R. § 385.603 (2015).

²⁵ 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 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) The Reactive Service Rate Schedules are hereby accepted for filing and suspended for a nominal period, to become effective May 1, 2016 for Rate Schedule Nos. 20, 21, and 22, and June 1, 2016, for Rate Schedule No. 23, subject to refund, 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 the Reactive Service Rate Schedules, 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.