

156 FERC ¶ 61,130  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Mt. Carmel Cogen, Inc.

Docket No. ER16-2025-000

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

(Issued August 25, 2016)

1. On June 27, 2016, Mt. Carmel Cogen, Inc. (Mt. Carmel) submitted a proposed 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 near Mount Carmel, Pennsylvania (Facility). In this order, we accept for filing Mt. Carmel's proposed Reactive Power Tariff and suspend it for a nominal period, to be effective August 1, 2016, as requested, subject to refund,<sup>2</sup>

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<sup>1</sup> Mt. Carmel Cogen, Reactive Power Tariff (0.0.0).

<sup>2</sup> Although Mt. Carmel cites to section 35.12 of the Commission's regulations establishing procedures for initial rate filings, we conclude that this is a proposed rate change under section 205(d) of the Federal Power Act (FPA) because Mt. Carmel has been providing reactive power service to PJM Interconnection, L.L.C prior to the instant filing. PPL Electric Utilities Corporation, Interconnection Agreement and Service Agreement No. 646, Docket No. ER02-1288-000, at Exhibit B (filed Mar. 8, 2002). *See Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11 (2003) ("The Oneta Project has been providing reactive power service to PSO under Section 3.5 of its Interconnection Agreement, albeit without charge. Thus, the proposed rates for Reactive Power Service in the instant proceeding are not initial rates, but are changed rates."); *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))).

and also establish hearing and settlement judge procedures. In addition, we grant Mt. Carmel's request for waiver of the Commission's 60-day prior notice requirement.

### **I. Mt. Carmel's Filing**

2. Schedule 2 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (OATT), 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, 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. Mt. Carmel states that it owns and operates the Facility, which is a 47.3 MW (nameplate) generating facility located near Mount Carmel, Pennsylvania. Mt. Carmel states that the Facility is interconnected to the transmission system owned by PPL Electric Utilities Corporation (PPL) and operated by PJM. Mt. Carmel requested an effective date of August 1, 2016.<sup>4</sup>

4. Mt. Carmel states that the Facility's revenue requirement has been calculated in accordance with the *AEP* methodology,<sup>5</sup> and consists of 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). Mt. Carmel states that it has not included a component related to heating losses or lost opportunity costs that result from the production of reactive power.<sup>6</sup> Mt. Carmel proposes an annual revenue requirement of \$272,828.

5. Mt. Carmel states that the Fixed Capability Component was calculated by determining the portion of plant costs attributable to the production of reactive power and

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

<sup>4</sup> Mt. Carmel June 27, 2016 Transmittal Letter (Transmittal Letter) at 3.

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

<sup>6</sup> Transmittal Letter at 4-5. Mt. Carmel states that it reserves the right to amend the revenue requirement at a future date to recover heating losses and lost opportunity costs, to the extent that the PJM OATT does not provide adequate compensation for lost opportunity costs incurred in the event that the Facility is directed to decrease real power output to produce additional reactive power.

applying a fixed charge rate. Mt. Carmel analyzed the reactive portion of investment in: (1) the generator and associated exciter equipment, (2) generator step-up transformers, (3) accessory electrical equipment that supports the operation of the generator-exciter system, and (4) the balance of plant.

6. Mt. Carmel states that, because all of the original project construction records and cost data for the Facility are not available to the current owner, it used a proxy to determine the levels of investment in the Facility's turbo generator, generator and exciter, and accessory equipment. Mt. Carmel states that it selected a proxy facility, the Northeastern Power Company facility (NEPCO Facility), that is the most similar to the Facility in terms of size, vintage, and plant design, configuration, and operating characteristics. The NEPCO Facility is a 62 MW (nameplate) waste coal-fired generation facility located 20 miles away in McAdoo, Pennsylvania.<sup>7</sup>

7. Mt. Carmel states that because, as an independent power producer, it is not subject to cost-of-service accounting, the Commission's Uniform System of Accounts, or a Commission-established rate of return, it used the authorized rate of return and return on equity of the utility to which the Facility is interconnected, i.e., PPL.<sup>8</sup>

8. Mt. Carmel states that, because the Facility is not required by PJM to conduct reactive capability testing, Mt. Carmel included the Facility's 2016 Generator Capacity Verification Test result from PJM's Generator Availability Data Systems program and D-Curve Unit Acknowledgement Form from PJM's Dispatcher Application and Reporting Tool system, in order to support the data used to calculate the reactive power allocator.

9. Mt. Carmel requests waiver of the Commission's 60-day notice requirement<sup>9</sup> to permit the rate schedule to become effective August 1, 2016.

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

10. Notice of Mt. Carmel's June 27, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 44,015 (2016), with interventions and protests due on or before July 18, 2016. PJM submitted a timely motion to intervene.

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<sup>7</sup> *Id.* at 5; Missal Testimony at 10 (citing *WPS Westwood Generation, LLC*, 101 FERC ¶ 61,290, at P 15 (2002)). The NEPCO Facility's Reactive Power Tariff was accepted by delegated letter order in Docket No. ER12-1587-000.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> 18 C.F.R. § 35.3 (2015).

### 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 Mt. Carmel'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 ordered below.

13. Our preliminary analysis indicates that Mt. Carmel'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. Accordingly, we accept Mt. Carmel's proposed Reactive Power Tariff for filing, suspend it for a nominal period, to be effective August 1, 2016, subject to refund, and establish hearing and settlement judge procedures. Although we are setting Mt. Carmel's reactive power rate for hearing in its entirety, we note that Mt. Carmel has not adequately supported its reliance on proxy data from NEPCO's 62 MW (nameplate) facility, which is over 31 percent larger in rated MW output than Mt. Carmel's Facility. Mt. Carmel's use of the NEPCO proxy unit data calls into question the reasonableness of the estimates for production plant and the associated generator and exciter costs included in its proposed revenue requirement.<sup>10</sup>

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>11</sup> If the participants desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested

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<sup>10</sup> The Commission recently provided guidance on establishing or revising rates for Reactive Service. *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,245, at PP 24-29 (2016); *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,246, at PP 23-28 (2016).

<sup>11</sup> 18 C.F.R. § 385.603 (2015).

settlement judge based on workload requirements which determine judges' availability.<sup>12</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 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) We accept Mt. Carmel's proposed Reactive Power Tariff, and suspend it for a nominal period, to become effective August 1, 2016, as requested, 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 Mt. Carmel'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,

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<sup>12</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 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>).

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.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.