

157 FERC ¶ 61,015  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Illinois Power Generating Company

Docket Nos. ER16-2422-000  
EL16-119-000

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

(Issued October 7, 2016)

1. On August 15, 2016, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> Illinois Power Generating Company (Illinois Power Generating) submitted revised Rate Schedule FERC No. 6 (Revised Rate Schedule) which sets forth its cost-based revenue requirement for Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service) provided under Schedule 2 for Reactive Supply and Voltage Control from Generation or Other Sources Service (Schedule 2) of the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).<sup>3</sup> In this order, we accept the Revised Rate Schedule for filing, to become effective September 15, 2016, as requested, subject to the outcome of the proceeding in Docket Nos. ER16-2187-000 and EL16-61-000. Further, because Illinois Power Generating is proposing a rate reduction and a further decrease may be warranted, we are instituting a

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2016).

<sup>3</sup> Schedule 2 of the MISO Tariff, which governs the provision and compensation for Reactive Supply and Voltage Control Service, contains eligibility criteria necessary for a generator to receive reactive power compensation.

hearing and settlement judge procedures pursuant to section 206 of the FPA<sup>4</sup> in Docket No. EL16-119-000 to determine whether Illinois Power Generating's rate is just and reasonable, and we establish a refund effective date.

## **I. Background**

2. Illinois Power Generating states that it is an Illinois company and an indirect, wholly-owned subsidiary of Dynegy Inc., a Delaware corporation.<sup>5</sup> Illinois Power Generating states that it is authorized to sell energy, capacity, and certain ancillary services at market-based rates<sup>6</sup> and is an exempt wholesale generator with respect to its ownership and operation of the Coffeen Power Station, and the Newton Power Station, an approximately 1,197 MW (summer rating) coal-fired generating facility located in Jasper County, Illinois.<sup>7</sup> Illinois Power Generating notes that the revenue requirements for Reactive Service from the Coffeen Power Station and the Newton Power Station were among revenue requirements accepted for filing in Docket No. ER10-455-000.<sup>8</sup>

3. Illinois Power Generating states that on March 15, 2016, Illinois Power Marketing Company (Illinois Power Marketing), the MISO market participant designated for Illinois Power Generating, notified MISO of the proposed suspension of operations of Unit 2 of Illinois Power Generating's Newton Power Station (Newton Unit 2) effective September 15, 2016, with the unit resuming operations on September 15, 2019.<sup>9</sup> Illinois Power Generating states that by letter dated May 18, 2016, MISO notified Illinois Power Marketing that the suspension of Newton Unit 2 would not require that it be designated as a System Support Resource (SSR) unit. Illinois Power Generating states that on

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<sup>4</sup> 16 U.S.C. § 824e (2012).

<sup>5</sup> Filing at 2.

<sup>6</sup> *Id.* (citing *Ameren Energy Generating Co.*, 93 FERC ¶ 61,024 (2000); *Illinois Power Generating Co.*, Docket No. ER14-922-000 (Feb. 19, 2014) (delegated letter order accepting notice of succession to reflect change in name)).

<sup>7</sup> Illinois Power Generating states that Newton Power Station is interconnected to the transmission system of Ameren Illinois Company d/b/a Ameren Illinois, an operating company of Ameren Corporation, and located within the MISO footprint. *Id.* at 1.

<sup>8</sup> *Id.* at 3 (citing *Ameren Energy Mktg. Co.*, Docket No. ER10-455-000 (Feb. 19, 2010) (delegated letter order)).

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

May 31, 2016, Illinois Power Marketing notified MISO of the decommissioning and retirement of Newton Unit 2 effective November 29, 2016. Illinois Power Generating states that by letter dated August 5, 2016, MISO notified Illinois Power Marketing that the retirement of Newton Unit 2 would not require that it be designated as a SSR unit. Illinois Power Generating states that it is submitting its Revised Rate Schedule based on the September 15, 2016 suspension of operations.

4. Illinois Power Generating proposes to reduce its annual revenue requirement for Reactive Service from the Newton Power Station effective September 15, 2016 to account for the suspension and subsequent retirement of Newton Unit 2.<sup>10</sup> Illinois Power Generating states that the Revised Rate Schedule remains a cost-based rate schedule that reflects the revised revenue requirement for Reactive Service after adjustment for the retirement of Newton Unit 2. Illinois Power Generating proposes to estimate the unit revenue requirement by pro-rating the Newton Power Station among its two units based on the megavolt-ampere reactive (MVAR) calculated from the megavolt-ampere (MVA) and power factor nameplate ratings of the units and then deducting out the unit revenue requirement for Newton Unit 2 from the total revenue requirement. Illinois Power Generating states that this reduces the total annual revenue requirement for Reactive Service from the Newton Power Station from \$1,642,632 to \$821,316. Further, Illinois Power Generating states that because the proposed effective date falls on a date other than the first of a month, it has added a mechanism to the Revised Rate Schedule to calculate a partial month revenue requirement associated with the retirement of Newton Unit 2.

5. Illinois Power Generating requests expedited treatment and any necessary waivers of the Commission's regulations to permit an effective date of September 15, 2016, to coincide with the suspension and subsequent retirement of Newton Unit 2.<sup>11</sup> Illinois Power Generating notes that the Commission has granted waiver of its notice requirements where a filing reflects a rate decrease.<sup>12</sup> Illinois Power Generating states that if the requested effective date is granted, and to the extent MISO has paid revenue to Illinois Power Marketing associated with Reactive Service from Newton Unit 2 on or after September 15, 2016, Illinois Power Generating will refund to MISO the revenue

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<sup>10</sup> *Id.* at 1, 4.

<sup>11</sup> *Id.* at 5.

<sup>12</sup> *Id.* (citing *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (where the Commission explained its policy towards waiver of the 60-day prior notice requirement and stated that it would generally grant waiver of the 60-day prior notice requirement for filings that reduce the rate)).

amount associated with Newton Unit 2 including interest calculated in accordance with section 35.19a of the Commission's regulations or adopt MISO's preferred refund method to account for any overpayment.

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

6. Notice of Illinois Power Generating's filing was published in the *Federal Register*, 81 Fed. Reg. 56,629 (2016), with interventions and protests due on or before September 6, 2016. None was filed.

## **III. Discussion**

7. We find that Illinois Power Generating's proposed Revised Rate Schedule 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. Our preliminary analysis indicates that Illinois Power Generating's proposed Revised Rate Schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. For example, Illinois Power Generating has not supported its revised annual revenue requirement for Reactive Service, as it has not provided cost information for the equipment at the units that will continue to be used to produce reactive power, including the turbogenerators, generators, exciters, and step-up transformers, nor has it provided information about the Reactive Service capability of those units including MISO test reports supporting such Reactive Service capability figures.<sup>13</sup> Accordingly, we accept Illinois Power Generating's Revised Rate Schedule for filing, to be effective September 15, 2016, as requested, subject to the outcome of the proceeding in Docket Nos. ER16-2187-000 and EL16-61-000, in which the Commission has directed MISO to submit a further compliance filing, revising Schedule 2 of its Tariff to ensure that the generation or non-generation resource owner will no longer receive compensation for Reactive Service after

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<sup>13</sup> See 18 C.F.R. § 35.12(b)(2)(ii) (2016). The Commission recently provided guidance on establishing or revising rates for Reactive Service. See, e.g., *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). See also *Midwest Generation, LLC*, 156 FERC ¶ 61,136, at P 10 and n.17 (2016).

it has deactivated its unit(s) or transferred its unit(s) to another owner and to clarify the treatment of Reactive Service revenue requirements for said unit(s).<sup>14</sup>

8. In addition, because Illinois Power Generating is proposing a rate reduction, but a further rate decrease may be warranted, we are instituting a hearing and settlement judge procedures pursuant to section 206 of the FPA in Docket No. EL16-119-000 with respect to the justness and reasonableness of Illinois Power Generating's rate.<sup>15</sup>

9. 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 publication of the notice of the Commission's initiation of its investigation in the *Federal Register*, and no later than five months after the publication date.<sup>16</sup> We will establish a refund effective date of the earliest date possible in order to give maximum protection to customers, i.e., the date the notice of initiation of the section 206 proceeding in Docket No. EL16-119-000 is published in the *Federal Register*.

10. 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. Since we are setting the section 206 proceeding in Docket No. EL16-119-000 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.

11. 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 are commenced. 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

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<sup>14</sup> See *Midcontinent Indep. Sys. Operator, Inc.*, 157 FERC ¶ 61,014, at P 16 (2016). We also note that Illinois Power Generating has committed to provide refunds, with interest, to the extent MISO has paid revenue to Illinois Power Marketing associated with Reactive Service from Newton Unit 2 on or after September 15, 2016. See *supra* P 5.

<sup>15</sup> See, e.g., *RC Cape May Holdings, LLC*, 152 FERC ¶ 61,224, at P 19 (2015).

<sup>16</sup> 16 U.S.C. § 824e(b).

Rule 603 of the Commission's Rules of Practice and Procedure.<sup>17</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.<sup>18</sup> The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability. 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) Illinois Power Generating's proposed Revised Rate Schedule is hereby accepted for filing, to become effective September 15, 2016, subject to the outcome of the proceeding in Docket Nos. ER16-2187-000 and EL16-61-000, 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 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), a public hearing shall be held in Docket No. EL16-119-000 concerning the justness and reasonableness of Illinois Power Generating's Revised Rate Schedule, 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 (2016), 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

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<sup>17</sup> 18 C.F.R. § 385.603 (2016).

<sup>18</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>).

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, 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.

(F) Any interested person desiring to be heard in Docket No. EL16-119-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), within 21 days of the date of issuance of this order.

(G) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of section 206 proceedings in Docket No. EL16-119-000.

(H) The refund effective date established pursuant to section 206(b) of the FPA will be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (G) above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.