

157 FERC ¶ 61,226
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

GenOn Energy Management, LLC

Docket No. ER17-274-000

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

(Issued December 21, 2016)

1. On November 1, 2016, GenOn Energy Management, LLC (GenOn) submitted for filing, on behalf of NRG REMA LLC (NRG REMA), revised FERC Electric Tariff, Original Volume No. 2 (Revised Reactive Rate Schedule),¹ pursuant to section 205 of the Federal Power Act (FPA)² and Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff).³ GenOn seeks to increase its rate for reactive supply and voltage control service (Reactive Service). In this order, we accept the Revised Reactive Rate Schedule for filing, suspend it for five months, to become effective May 30, 2017, subject to refund, and establish hearing and settlement judge procedures.

I. Background

2. Schedule 2 of the PJM Tariff, which covers Reactive Service, provides that PJM will compensate owners of generation and non-generation resources for providing Reactive Service. Specifically, Schedule 2 states that, for each month of Reactive Service provided by generation and non-generation resources in the PJM region, PJM

¹ GenOn Energy Management, LLC, FERC Electric Tariffs, REMA Reactive Rate Sched, FERC Electric Tariff, Original Volume No. 2 (2.0.0).

² 16 U.S.C. § 824d (2012).

³ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

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. GenOn, a wholly-owned indirect subsidiary of NRG Energy, Inc. (NRG), states that it is a power marketer authorized to sell energy, capacity, and certain ancillary services at market-based rates, and that it does not own any generation, transmission, or distribution facilities.⁵ GenOn states that NRG REMA is a wholly-owned indirect subsidiary of NRG that owns or leases, and operates, fossil-fueled generating facilities (the NRG REMA Units), which include the following: Blossburg; Gilbert (Units 4 – 9); Hamilton; Hunterstown (Units 1 – 3); Mountain (Units 1 – 2); Orrtanna; Portland (Units 3 – 5); Sayreville Units (CT 1 – CT 4); Shawnee; Shawville (Units 1 – 7); Titus (Units 4 – 5); Tolna (Units 1 – 2); Warren (Unit CT3).⁶ The NRG REMA Units also include interests in Conemaugh (Units 1 – 2 and Units A – D), and Keystone (Units 1 – 6).⁷ GenOn states that, of the NRG REMA Units, Conemaugh Units A – D; Keystone Units 3 – 6; and Shawville Units 1 – 4 do not currently receive Reactive Service compensation.

4. GenOn states that Gilbert and Sayreville interconnect to the Jersey Central Power & Light Company (JCPL) transmission grid and are located in the PJM market within the JCPL zone. According to GenOn, Hamilton, Hunterstown, Mountain, Orrtanna, Portland, Shawnee, Titus, and Tolna interconnect to the Metropolitan Edison Company (MetEd) transmission grid and are located in the PJM market within the MetEd zone. In addition, GenOn states that Blossburg, Conemaugh, Keystone, Shawville, and Warren interconnect to the Pennsylvania Electric Company (Penelec) transmission grid and are located in the PJM market within the Penelec zone.⁸

⁴ *Id.*

⁵ Transmittal at 3.

⁶ *Id.* at 3-4.

⁷ NRG REMA's ownership interest in the Conemaugh and Keystone Units is approximately 16.5 percent. *Id.* at 3.

⁸ *Id.* at 4.

5. GenOn states that the basis for its existing Reactive Service rate was established in Docket No. ER07-599-000.⁹ GenOn states that, on May 31, 2016, as amended on August 11, 2016, it filed a revised rate for Reactive Service in Docket No. ER16-1827-001 that proposed to reduce the Reactive Service rate due to certain generator retirements. GenOn explains that on October 4, 2016, the Commission issued an order accepting the revised rate effective June 1, 2016, instituting a proceeding pursuant to FPA section 206¹⁰ in Docket No. EL16-118-000, and establishing hearing and settlement judge procedures.¹¹ In that order, the Commission noted that the Reactive Service capability of the units comprising the rate may have degraded since 2007, when the current rate was established.¹² GenOn reports that settlement negotiations have commenced.¹³

6. GenOn states that the proposed revised rate includes a Fixed Capability Component designed to recover the portion of plant costs attributable to the reactive power capability of the NRG REMA Units.¹⁴ GenOn explains that its proposed revised rate reflects units not included in the existing rate and develops a separate revenue requirement for each unit. GenOn asserts that the Fixed Capability Component has been calculated by determining the portion of the facilities' generator/excitation systems, accessory electric equipment, generator step-up transformers, and balance of plant used to produce reactive power consistent with the *AEP* methodology,¹⁵ which GenOn asserts

⁹ *Id.* at 5 & n.13 (citing *Reliant Energy, Inc.*, Docket No. ER07-599-000 (Apr. 24, 2007) (letter order)).

¹⁰ 16 U.S.C. § 824e (2012).

¹¹ Transmittal at 5 (citing *GenOn Energy Management, LLC*, 157 FERC ¶ 61,007 (2016) (Hearing Order)).

¹² *Id.* (citing Hearing Order, 157 FERC ¶ 61,007 at P 10).

¹³ *Id.* at 6.

¹⁴ *Id.* GenOn states that it is not seeking recovery of the costs associated with increased heating losses that result from the production of reactive power, nor is it seeking recovery of lost opportunity costs, to the extent the NRG REMA Units are directed to modify their output to produce additional reactive power. *Id.*

¹⁵ *Id.* (citing *Am. Elec. Power Serv. Corp.*, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (*AEP*)). GenOn explains that the costs associated with Conemaugh Units A through D; Keystone Units 3 through 6; and Shawville Units 5 through 7 are included in balance of plant; separate rates for these units have not been established. *Id.* at 6 n.21.

uses the nameplate ratings of the units.¹⁶ GenOn states that an allocator was then applied to each facility to apportion the cost of each plant's units between the real and reactive power components. GenOn explains that it utilized each of the interconnecting utilities' respective returns on equity and capital structure. GenOn proposes to increase its rate for Reactive Service from \$1,218,212.35 to \$3,864,258.89.¹⁷ GenOn requests any necessary waivers to permit the Revised Reactive Service Schedule to become effective December 1, 2016.¹⁸

II. Notice and Responsive Pleadings

7. Notice of GenOn's November 1, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 78,133 (2016) with interventions and protests due on or before November 22, 2016. PJM submitted a timely motion to intervene.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), PJM's unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

9. Our preliminary analysis indicates that GenOn's proposed Revised Reactive Rate Schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We find that GenOn's revised rate for Reactive Service 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. Accordingly, we accept the Revised Reactive Rate Schedule for filing, suspend it for five months, to become effective May 30, 2017, subject to refund, and establish hearing and settlement judge procedures.

10. Although we are setting the rate for hearing in its entirety, we note that, contrary to Commission precedent, GenOn used the nameplate power factor rating of the NRG REMA Units to determine the reactive power allocator rather than using the NRG REMA Units' tested reactive power capability. In addition, the method GenOn used to

¹⁶ *Id.* at 7.

¹⁷ *Id.*

¹⁸ *Id.* at 8.

determine the Accessory Electrical Equipment allocator does not appear to comport with the method previously accepted by the Commission and appears to result in an excessive allocator.¹⁹

11. In *West Texas Utilities Co.*, the Commission explained that, when its preliminary analysis indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months).²⁰ In this proceeding, we find that GenOn's Revised Reactive Rate Schedule may yield substantially excessive rates. Accordingly, we accept GenOn's Revised Reactive Rate Schedule for filing and suspend it for the maximum five-month period. We make its Revised Reactive Rate Schedule effective May 30, 2017, subject to refund, and set it for hearing and settlement judge procedures.

12. GenOn's filing in this proceeding proposes to revise the rate schedule that the Commission set for hearing and settlement judge procedures in Docket No. ER16-1827-001 and Docket No. EL16-118-000, which are ongoing. We leave it to the discretion of the Chief Judge whether it is appropriate to consolidate this proceeding and the proceeding in Docket No. ER16-1827-001 and Docket No. EL16-118-000.²¹

13. 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.²² If the parties 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 settlement judge

¹⁹ 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). We also note that there appears to be a calculation error in Exhibit GEM-3 with respect to the rate for Sayreville Unit 3, and that the correct calculation of the rate, based on the values provided, should be \$62,085.85 rather than \$145,933.83.

²⁰ *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,374-75 (1982).

²¹ See 18 C.F.R. § 385.503(a) (2016) ("The Chief Administrative Law Judge may, on motion or otherwise, order proceedings pending under this subpart consolidated for hearing on, or settlement of, any or all matters in issue in the proceedings . . .").

²² 18 C.F.R. § 385.603 (2016).

based on workload requirements which determine judges' availability.²³ The settlement judge shall report to the 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 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) GenOn's Revised Reactive Rate Schedule is hereby accepted for filing and suspended for a five-month period, to become effective May 30, 2017, 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 GenOn's Revised Reactive 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 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.

²³ 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>).

(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.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.