

158 FERC ¶ 61,077
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Talen Energy Marketing, LLC

Docket No. ER16-1456-002

ORDER DISMISSING REHEARING

(Issued January 27, 2017)

1. On June 23, 2016, the Commission accepted for filing Talen Energy Marketing, LLC's (Talen Energy) revised revenue requirement for reactive supply and voltage control service (Revised Reactive Rate Schedule), subject to condition, and directed a compliance filing.¹ The Commission also established hearing and settlement judge procedures pursuant to section 206 of the Federal Power Act² to examine the justness and reasonableness of Talen Energy's Revised Reactive Rate Schedule for its fleet in the PPL Zone of PJM Interconnection, L.L.C. (PJM) (PPL Zone Fleet).
2. On July 25, 2016, Talen Energy sought rehearing of the June Order. Talen Energy contends that the Commission erred by relying upon test reports from PJM to surmise that the megavolt-ampere reactive (MVAR) capability of Talen Energy's generation units within the PPL Zone Fleet may have degraded, thereby calling into question the justness and reasonableness of Talen Energy's Revised Reactive Rate Schedule.³ Talen Energy asserts that Commission precedent recognizes that reactive power revenue requirements are set without regard to operational data such as hours of operation or total quantity of MVARs produced. Talen Energy further asserts that PJM test reports do not demonstrate a degradation of MVAR capability in Talen Energy generation units in the PPL Zone Fleet.⁴

¹ *Talen Energy Marketing, LLC*, 155 FERC ¶ 61,297 (2016) (June Order).

² 16 U.S.C. § 824e (2012).

³ Talen Energy Request for Rehearing at 2-3.

⁴ *See, e.g., id.* at 3.

Commission Determination

3. Rule 713(b) of the Commission's Rules of Practice and Procedure permits requests for rehearing "of any final decision or other final order in a proceeding."⁵ A final order is one that imposes an obligation, denies a right, or fixes some legal relationship as a consummation of the administrative process.⁶ The June Order, by contrast, raised concerns about the justness and reasonableness of Talen Energy's Revised Reactive Rate Schedule and commenced hearing and settlement judge procedures to examine that rate.⁷ The June Order made no final determinations.⁸ Instead, the June Order reflects the Commission's "preliminary analysis" that the Revised Reactive Rate Schedule "may yield substantially excessive rates" and thus "may be unjust and unreasonable."⁹

⁵ 18 C.F.R. § 385.713(b) (2016); *see also* 16 U.S.C. § 825l (a) (2012) (parties "aggrieved by an order issued by the Commission in a proceeding ... may apply for a rehearing within thirty days after the issuance of such order").

⁶ *Reliable Automatic Sprinkler Co. v. Consumer Prod. Safety Comm'n*, 324 F.3d 726, 731 (D.C. Cir. 2003) ("Final agency action 'mark[s] the consummation of the agency's decision making process' and is 'one by which rights or obligations have been determined, or from which legal consequences will flow.'") (quoting *Bennett v. Spear*, 520 U.S. 154, 178 (1997)).

⁷ Request for Rehearing at 2-4.

⁸ *See Investigation of Terms & Conditions of Pub. Util. Mkt.-Based Rate Authorizations*, 103 FERC ¶ 61,349, at 62,373 (2003) ("Because the November 20 Order initiated an investigation and thus was not a final order, we will not consider requests for rehearing of the November 20 Order."); *City of Hamilton*, 82 FERC ¶ 61,349, at 62,359 (1998) ("Setting this matter for a trial-type hearing does not impose an obligation, deny a right, or fix some legal relationship as a consummation of the administrative process."); *Fla. Mun. Power Agency vs. Fla. Power & Light Co.*, 65 FERC ¶ 61,372, at 63,012 (1993) ("By not allowing rehearing of findings that were expressly preliminary... the Commission was exercising its discretion to develop workable, efficient procedures....").

⁹ June Order, 155 FERC ¶ 61,297 at P 9.

4. Where Commission action is not final and to be succeeded by further Commission action, a request for rehearing may be dismissed.¹⁰ Accordingly, Talen Energy's instant request for rehearing is dismissed.

The Commission orders:

Talen Energy's request for rehearing is hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁰ See *Internal MISO Generation v Midcontinent Indep. System Operator*, 156 FERC ¶ 61,020, at P 10 (2016) (dismissing requests for rehearing of Commission order that “did not make any final determinations,” but rather “established a paper hearing to assess” the relevant issues); *Entergy Servs., Inc.*, 156 FERC ¶ 61,112, at P 4 (2016) (explaining that an order “establish[ing] procedures to consider the issue of the post-withdrawal settlement benefits ... did not reflect a final decision with respect to that issue”); *Shetek Wind Inc. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,250, at 62,185 (2012) (collecting cases).