

165 FERC ¶ 61,278
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

ALLETE, Inc.

Docket No. ER19-283-000

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

(Issued December 31, 2018)

1. On November 2, 2018, pursuant to section 205 of the Federal Power Act¹ (FPA) and Part 35 of the Commission's regulations,² ALLETE, Inc. (ALLETE) filed a revised, cost-based revenue requirement for its provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) under Schedule 2 (Rate Schedule) of the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). In this order, we accept the Rate Schedule for filing, suspend it for a nominal period, to become effective January 1, 2019, subject to refund, and set it for hearing and settlement judge procedures.

I. Background

2. ALLETE states that it filed the Rate Schedule in anticipation of the expected December 31, 2018 retirement of its coal-fired Boswell Energy Center (Boswell) Units 1 and 2 in Cohasset, Minnesota. According to ALLETE, its current rate schedule used by MISO is based on a black box settlement filed in compliance with the Commission's initial open access orders accepted on November 19, 1997.³ ALLETE states that approximately 82 percent of its current charges for Reactive Service are paid by ALLETE's load.

3. ALLETE details the revenue requirement for Reactive Service on both a system-wide and generation facility-specific basis, which ALLETE states is based on the

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ *Minn. Power & Light Co.*, Docket No. OA96-164-001 (Nov. 19, 1997) (delegated order).

Commission's guidance in *American Electric Power Service Corporation*,⁴ *Dynegy Midwest Generation, Inc.*,⁵ and *Wabash Valley Power Association, Inc.*⁶ ALLETE states that it is seeking Reactive Service compensation for the following generators: Boswell, Units 3- 4; Laskin Energy Center, Units 1-2; Hibbard Renewable Energy Center, Units 3- 4; Thomson Hydroelectric Station, Units 1-6; Fond Du Lac Hydroelectric Station, Unit 1; and Bison Wind Energy Center. ALLETE states that it derived a Reactive Capability Cost Component for each of its generators included in its proposed reactive power revenue requirement, and then converted the facility-specific Reactive Capability Cost Components into ALLETE's proposed Annual and Monthly Revenue Requirement for Reactive Power requirement on a system-wide and generation facility-specific basis. ALLETE notes that the calculations allow a rate of return, including a return on equity of 10.32 percent.⁷

4. ALLETE requests an effective date of January 1, 2019 for its Rate Schedule without hearing, modification, condition, or suspension. ALLETE also requests a limited one-day waiver of the Commission's prior notice requirement. If the Commission decides to suspend this filing, ALLETE asserts that no more than a nominal suspension is warranted.⁸

5. On December 7, 2018, ALLETE submitted a supplemental filing which contains Verification and Data Reporting of Generator Real and Reactive Power Capability and Synchronous Condenser Reactive Power Capability test reports for Boswell, Units 3- 4; Laskin Energy Center, Units 1-2; Hibbard Renewable Energy Center, Units 3-4; and Thomson Hydroelectric Station, Units 1-6.⁹

⁴ 80 FERC ¶ 63,006 (1997), *aff'd in part and rev'd in part*, (Opinion No. 440), 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000).

⁵ Opinion No. 498, 121 FERC ¶ 61,025 (2007), *order on reh'g*, 125 FERC ¶ 61,280 (2008).

⁶ 154 FERC ¶ 61,246 (2016).

⁷ Transmittal at 4-5.

⁸ *Id.* at 6-7.

⁹ ALLETE notes that it did not provide test data for the Fond Du Lac hydroelectric units which are not directly connected to the bulk electric system and therefore do not require testing. Supplemental Transmittal at 1 and n.1.

II. Notice and Responsive Pleadings

6. Notice of ALLETE's filing was published in the *Federal Register*, 83 Fed. Reg. 56,069 (2018), with interventions and protests due on or before November 23, 2018. MISO submitted a timely motion to intervene.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), MISO's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

8. Our preliminary analysis indicates that ALLETE's filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept ALLETE's proposed Rate Schedule for filing, suspend it for a nominal period, to be effective January 1, 2019, as requested, subject to refund, and establish hearing and settlement judge procedures. We find that ALLETE's proposed Rate Schedule raises disputed 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. In particular, information provided in ALLETE's filing raises concerns about the justness and reasonableness of ALLETE's proposed Rate Schedule, including, but not limited to, the degradation of the current MVAR capability of its aging non-wind units. ALLETE bases its proposed Rate Schedule on nameplate data of the non-wind units and reactive power test data for the wind units, which may result in inflated reactive power rates for these non-wind units.¹⁰ Using the reactive power test data results in higher power factors, which would result in lower reactive allocators.

9. While we are setting these matters 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.¹¹ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.

¹⁰ ALLETE Filing at Attachment A, Winter Testimony at 13.

¹¹ 18 C.F.R. § 385.603 (2018).

The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.¹² 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 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) ALLETE's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to be effective January 1, 2019, 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 ALLETE's 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 (2018), 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

¹² 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>).

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. Commissioner McIntyre is not voting on this order.
Commissioner McNamee is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.