UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Bluegrass Generation Company, L.L.C. Docket No. ER06-1382-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE SCHEDULE

(Issued October 17, 2006)

1. On August 18, 2006, Bluegrass Generation Company, L.L.C. (Bluegrass) filed a revised reactive power service rate schedule (August 18 Filing) under which it specifies its cost-based revenue requirement for providing Reactive Supply and Voltage Control from Generation Sources Service (reactive power). As discussed below, we accept the proposed rate schedule for filing and suspend it for a nominal period, to become effective September 1, 2006, subject to refund, and subject to the outcome of the proceeding in Docket No. ER05-522.

Background

2. Bluegrass, a wholly-owned subsidiary of Dynegy Inc., is an exempt wholesale generator[1] authorized by the Commission to make wholesale sales of power at market-based rates.[2] Bluegrass owns a natural gas-fired peaking generating facility located near Oldham, Kentucky (Bluegrass Facility), which is interconnected with the Louisville Gas and Electric Company/Kentucky Utilities Company (LG&E/KU) transmission system. The interconnection arrangement between Bluegrass and LG&E/KU is governed by a

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[1] *See Bluegrass Generation Company, L.L.C.*, 97 FERC ¶ 62,279 (2001).

[2] *See Bluegrass Generation Company, L.L.C.*, Docket No. ER02-506-000 (Feb. 1, 2002) (unpublished letter order).

Generator Interconnection and Operating Agreement (Interconnection Agreement) among the parties.[3] LG&E/KU was, until recently, a transmission-owning member of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). LG&E/KU finalized its withdrawal from the Midwest ISO, effective on September 1, 2006.[4]

3. On March 25, 2005, in Docket No. ER05-522, the Commission conditionally accepted Bluegrass' proposed original reactive power service rate schedule for filing and suspended it for a nominal period, to become effective on March 1, 2005, subject to refund and hearing and settlement procedures.[5] The proposed rate schedule specified that Bluegrass' revenue requirement for the provision of reactive power would be consistent with Schedule 2 of the Midwest ISO Open Access Transmission and Energy Markets Tariff (TEMT). An initial decision has been issued pursuant to the March 25 Order, and is pending Commission review.[6]

<u>August 18 Filing</u>

4. In the August 18 Filing, Bluegrass proposes two revisions to the original reactive power service rate schedule conditionally accepted in Docket No. ER05-522. First, Bluegrass omits all references to the Midwest ISO because the Midwest ISO is no longer responsible for payment after LG&E/KU's withdrawal. The revised rate schedule provides that Bluegrass' revenue requirements for the provision of reactive power to LG&E/KU will be "consistent with Schedule 2 of the LG&E[/KU] FERC Open Access Transmission Tariff."[7]

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[3] *See LG&E Operating Companies*, Docket No. ER01-2579-000 (Aug. 16, 2001) (unpublished letter order).

[4] *See Louisville Gas and Electric Co.*, 114 FERC ¶ 61,282, *order on reh'g sub nom. E.ON U.S. LLC*, 116 FERC ¶ 61,020 (2006).

[5] *Bluegrass Generation Company, L.L.C.*, 110 FERC ¶ 61,349 (2005) (March 25 Order).

[6] *Bluegrass Generation Company, L.L.C.*, 115 FERC ¶ 63,015 (2006) (Initial Decision).

[7] August 18 Filing at Attachment A.

5. Second, Bluegrass has lowered the revenue requirement that was conditionally accepted in the March 25 Order. The revised rate schedule provides that "[t]he annual revenue requirement for the Fixed Capability Component is $762,135. The monthly charge is $63,511.25."[8] Bluegrass states that this calculation is consistent with its testimony filed in Docket No. ER05-522, which the Administrative Law Judge concluded was appropriate in the Initial Decision.

6. Bluegrass requests that its proposed rate schedule be made effective on September 1, 2006, consistent with the date of LG&E/KU's withdrawal from the Midwest ISO.

Notice of Filing, Intervention, Protest and Answer

7. Notice of Bluegrass' filing was published in the *Federal Register*, 71 Fed. Reg. 51,602 (2006), with comments, interventions and protests due on or before September 8, 2006. E.ON U.S. LLC, on behalf of its utility operating companies, LG&E and KU, filed a timely motion to intervene and protest. On September 25, 2006, Bluegrass filed an answer to LG&E/KU's protest.

Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motion to intervene of LG&E/KU serve to make it a party to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Bluegrass' answer because it has provided information that assisted us in our decision-making process.

B. Proposed Rate Schedule

1. August 18 Filing

9. Bluegrass submitted the reactive power service rate schedule because it argues that it is authorized to seek compensation for the reactive power service it provides to

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[8] *Id.*

LG&E/KU by the terms of the Interconnection Agreement. The Interconnection Agreement provides, in relevant part, that:

> In the event that FERC, or any other applicable Governmental Authority, issues an order or approves a tariff establishing a specific compensation to be paid to [Bluegrass] for reactive power support service, LG&E/KU shall pay [Bluegrass] pursuant to such order or tariff.[[9]]

10. Bluegrass also argues that Order No. 2003-A provides that if a transmission provider compensates its own or affiliate generators for reactive power within the established range, it must also pay the interconnection customer.[10]

11. Bluegrass states that until LG&E/KU's withdrawal, it was compensated for reactive power under Schedule 2 of the Midwest ISO TEMT. Bluegrass argues that LG&E/KU has acknowledged that, under the Interconnection Agreement, it is obligated to purchase reactive power even after LG&E/KU withdraws from the Midwest ISO.[11] Bluegrass maintains that its proposed tariff revisions are necessary to reflect the fact that LG&E/KU's withdrawal from the Midwest ISO requires LG&E/KU to resume its role as the transmission provider and therefore, is solely responsible for compensating Bluegrass for reactive power service.

2. <u>Protest</u>

12. In its protest, LG&E/KU argues that Bluegrass' filing must be rejected because it is not consistent with the LG&E/KU Open Access Transmission Tariff (Tariff). Under

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[9] Interconnection Agreement at § 8.4.4(i).

[10] August 18 Filing at 3 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 at P 35, 416 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005), *appeal docketed sub nom. National Association of Regulatory Utility Commissioners v. FERC*, Nos. 04-1148, *et al.* (D.C. Cir. Apr. 29, 2004 and later).

[11] *Id.* at 4 (citing *E.ON U.S. LLC*, 116 FERC ¶ 61,020 at P 32).

Schedule 2 of the LG&E/KU Tariff, "Reactive Supply and Voltage Control from Generation Sources Service is to be provided directly by the Transmission Owner or indirectly by the [Independent Transmission Organization (ITO)] making arrangements with the Transmission Owner to perform this service for the Transmission Owner's Transmission System."[12] LG&E/KU argues that, "unlike the Schedule 2 filed by the Midwest ISO, which requires qualified generators to file revenue requirements, Schedule 2 under the LG&E/KU [Tariff] does not provide that generators will be permitted to file proposed revenue requirements to recover for reactive power costs."[13] LG&E/KU asserts that, in contrast to the Midwest ISO TEMT, Schedule 2 of LG&E/KU's Tariff does not provide a mechanism for Bluegrass to collect reactive power compensation from LG&E/KU.

13. Moreover, LG&E/KU maintains that Bluegrass' reactive power rate schedule is inconsistent with the Large Generator Interconnection Agreement (LGIA) provisions applicable to new generators under the LG&E/KU Tariff. Specifically, the LGIA provides that an interconnection customer is compensated for reactive power only when requested to operate outside of the power factor range of 0.95 leading and 0.95 lagging. LG&E/KU argues that Bluegrass' filing is inconsistent with this provision because the proposed reactive power service rate schedule includes compensation on an annual basis regardless of whether Bluegrass was requested to provide reactive power. LG&E/KU further argues that the existing Interconnection Agreement, which pre-dates Order No. 2003, provides sufficient compensation for reactive power service from the Bluegrass Facility because Bluegrass can only be called upon by LG&E/KU in emergency situations when the Bluegrass Facility is already online.

14. LG&E/KU further contends that Bluegrass' proposed reactive power rates are unjust and reasonable. It states that the existing Interconnection Agreement "provides for compensation at $0.50 per [Mega Volt Ampere Reactive (MVAR)] supplied or absorbed, and this compensation is only provided when Bluegrass is requested to supply reactive power when already online and in an emergency or when operating outside the bandwidth due to the actions of others."[14] LG&E/KU states that this is sufficient

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[12] LG&E/KU, FERC Electric Tariff, First Rev. Vol. No. 1, Original Sheet No. 102. The ITO under the LG&E/KU Tariff is the Southwest Power Pool, Inc.

[13] Protest at 6-7 (internal citations omitted).

[14] *Id.* at 8-9.

compensation given the limited amount of time that the Bluegrass Facility is actually online, and the amount of reactive power that Bluegrass is capable of producing.

15. Moreover, LG&E/KU contends that Bluegrass' assertions regarding the applicability of Order No. 2003 is misleading because Order No. 2003 does not "requir[e] retroactive changes to individual interconnection agreements filed with the Commission prior to the effective date of this Final Rule," and Order No. 2003-C confirms that "Order No. 2003 does not abrogate existing agreements . . . ."[15] LG&E/KU maintains, assuming *arguendo* that Order No. 2003 applies to the existing Interconnection Agreement, that Bluegrass should not be compensated for reactive power because it operates within the 0.95 leading and 0.95 lagging requirement.

16. Finally, LG&E/KU argues that Bluegrass' filing lacks supporting data and evidence of the costs associated with its reactive power. In particular, LG&E/KU notes that Bluegrass' proposed revenue requirement was derived based on an overall rate of return of 8.54 percent, which included a rate of return on common equity (ROE) of 12.38 percent, the ROE authorized for LG&E/KU and all transmission owners in the Midwest ISO.[16] LG&E/KU's ROE when it was a transmission owner in Midwest ISO is no longer applicable. LG&E/KU also argues that the proposed rate schedule fails to provide notice of the rates, terms, and conditions of service. LG&E/KU further contends that, if the Commission accepts the proposed rate schedule, it must address issues regarding the nature of the service being provided from the Bluegrass Facility, such as: when service is available under the rate schedule; whether the ITO or the transmission owner is required to purchase service under the rate schedule and what the rate impact is on customers of the ITO or the transmission owner that are required to pay for this service; and whether there are penalties if the Bluegrass Facility fails to provide reactive power. LG&E/KU argues that, absent a rejection of Bluegrass' filing, the Commission should set the proposed rate schedule for hearing.

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[15] *Id.* at 10 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,846 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 at P 911 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160; Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 at P 45).

[16] *See, e.g.*, Initial Decision, 115 FERC ¶ 63,015 at P 39, 51.

3. **Answer**

17. In its answer, Bluegrass argues that the issues raised by LG&E/KU have already been addressed in the Initial Decision, and "LG&E should not be permitted to circumvent the process that is already in place for the Commission to make its determination on what is already a complete record in Docket No. ER05-522."[17] Bluegrass maintains that several issues, including: the justness and reasonableness of Bluegrass' compensation; whether the need for and value of reactive power service from the Bluegrass facility is relevant and/or demonstrated; whether Order No. 2003 is applicable to the Interconnection Agreement; and whether the appropriate rate of return was used in its calculations, have already been determined in the Initial Decision and are pending Commission review.

18. Bluegrass also maintains that LG&E/KU's argument that LG&E/KU's Schedule 2 does not provide for compensation to other generators or passing through costs has already been rejected by the Commission.[18]

19. Bluegrass further responds that its proposed reactive power service rate schedule is not inconsistent with the existing Interconnection Agreement because that agreement specifically provides that Bluegrass has the right to file for reactive power compensation.

20. Finally, Bluegrass argues that it has provided sufficient evidentiary support for its proposed reactive power service rate schedule primarily because "[t]he Bluegrass facility's costs have not changed, save the lowered revenue requirement included in Bluegrass' August 18 filing; nor have the terms and conditions of the tariff, other than the removal of references to the Midwest ISO" and therefore, "it is not necessary to overhaul the tariff, as LG&E[/KU] suggests."[19] Bluegrass states that any additional terms not provided for in the LG&E/KU Tariff can be addressed through amendment to the Tariff.

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[17] Bluegrass Answer at 4.

[18] *Id.* at 6 (citing *Tenaska Virginia Partners*, 107 FERC ¶ 61,207 (2004); *Calpine Oneta Power, LP*, 113 FERC ¶ 63,015, at P 81 (2005)).

[19] *Id.* at 11.

4. Commission Determination

21. The issues raised in this proceeding are identical to those in Docket No. ER05-522. A record has been established in that proceeding and the Administrative Law Judge has already issued her Initial Decision. Because these issues are pending Commission review in that proceeding, we will accept the proposed rate schedule for filing, suspend it for a nominal period, to be effective September 1, 2006, subject to refund and subject to the outcome of the proceeding in Docket No. ER05-522. We direct Bluegrass to make a compliance filing in this docket within 30 days of the date of the issuance of an order on the initial decision in Docket No. ER05-522.

The Commission orders:

(A) Bluegrass' proposed rate schedule is hereby accepted for filing, suspended for a nominal period, made effective September 1, 2006, subject to refund, and subject to the outcome of the proceeding in Docket No. ER05-522, as discussed in the body of this order.

(B) Bluegrass is hereby directed to make a compliance filing consistent with this order within 30 days of the date of the issuance of an order on the initial decision in Docket No. ER05-522, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.