

to Midwest ISO from multiple generation sources under Schedule 2 of Midwest ISO's Transmission and Energy Markets Tariff (TEMT).

3. In particular, WPPI's proposed annual revenue requirements and monthly charges are for reactive power from its twenty percent joint ownership interest in Unit 4 of the Boswell Generating Station (Boswell) (Docket No. EL07-8-000), Units 1 and 4 of the South Fond du Lac Generating Station (South Fond du Lac) (Docket No. EL07-9-000), and the Island Street Peaking Plant (Island Street) (Docket No. EL07-10-000). Boswell is located within Midwest ISO's Minnesota Power Company pricing zone. South Fond du Lac is interconnected with Wisconsin Power & Light Company (Wisconsin Power and Light), which is a subzone located within Midwest ISO's American Transmission Company, LLC pricing zone. Island Street is interconnected with Wisconsin Electric Power Company (Wisconsin Electric), which is a subzone also located within the American Transmission Company, LLC pricing zone.

4. In support of its filings, WPPI states that it used the methodology set forth in *American Electric Power Service Corporation (AEP Methodology)*, which the Commission approved as an appropriate means for generators seeking compensation for reactive power.¹ WPPI calculated the reactive power revenue requirement in each docket using a proxy cost of capital based on a hypothetical 50/50 debt/equity structure. WPPI also used, in each docket, an 11 percent return on equity and a cost of debt reflecting the respective debt costs of Minnesota Power Company, Wisconsin Power & Light, and Wisconsin Electric. WPPI does not seek to include heating losses as a component of its reactive power revenue requirement.

5. WPPI requests that its proposed rate schedules be made effective on December 10, 2006, unless Midwest ISO intervenes and prefers an effective date on the first of a calendar month. In that event, WPPI requests waiver of the notice requirements and an effective date of December 1, 2006.

II. Notice of Filing, Interventions, and Protests

6. Notices of WPPI's filings were published in the *Federal Register*, 71 Fed. Reg. 63,300 (2006), with comments, interventions and protests due on or before November 13, 2006. Midwest ISO filed timely motions to intervene in Docket Nos. EL07-8-000, EL07-9-000, and EL07-10-000. Wisconsin Electric filed a timely motion to intervene in Docket No. EL07-10-000. WPS Resources Corporation filed timely motions to intervene in Docket Nos. EL07-9-000 and EL07-10-000. Alliant Energy Corporate Services, Inc.

¹ *American Electric Power Service Corp.*, 88 FERC ¶ 61,141, at 61,456 n.66 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000); *WPS Westwood Generation, LLC*, 101 FERC ¶ 61,290 at P 14 (2002).

(AECS) filed a timely motion to intervene and protest in Docket No. EL07-9-000. WPPI filed an answer to AECS's motion to intervene and protest in Docket No. EL07-9-000.

7. AECS argues that WPPI violated Commission regulations by not providing detailed support, such as sources of information, for its filing. AECS also contends that WPPI violated the AEP Methodology because it put all of the investment in production plant in the development of its reactive power revenue requirement, which produces an inflated or erroneous revenue requirement.

8. AECS asserts that this proceeding should be dependent on other, pending proceedings at the Commission. In particular, AECS states that the Commission should link this filing to the outcome in Docket No. ER06-1517-000, in which WPPI suggests that Wisconsin Power and Light's return on equity should be 9.69 percent. Additionally, AECS states that the outcome of this proceeding should be conditioned on the outcome in Docket No. AD05-1-000, an inquiry into reactive power compensation methodologies. AECS contends that WPPI did not justify its requests for waiver of the Commission's notice requirements.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept WPPI's answer and will, therefore, reject it.

B. Revenue Requirements

11. We find that WPPI's proposed revenue requirements raise issues of material fact and thus we will institute an investigation under section 206 of the FPA, and establish hearing and settlement judge procedures, as ordered below.²

12. 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

² See, e.g., *Indiana Municipal Power Authority*, 114 FERC ¶ 61,008 (2006) (establishing section 206 procedures to address a proposed revenue requirement for providing reactive power by a non-public utility).

procedures are commenced. 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.³ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.⁴ The settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of this order concerning the status of settlement decisions. 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.

13. In cases where the Commission institutes an investigation on a filing under section 206 of the FPA such as a complaint to reduce rates or similarly such as the filing at issue here to establish a revenue requirement for rate recovery costs associated with the production of reactive power, section 206(b), as amended by section 1285 of the Energy Policy Act of 2005,⁵ requires that the Commission must establish a refund effective date, and that date must be no earlier than the date the filing was made but no later than five months after the date the filing was made. Consistent with our general practice, we will set a refund effective date at the earliest date possible, i.e., the date of the filing, which is October 11, 2006.⁶

14. Section 206(b) of the FPA also requires that, if no decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon

³ 18 C.F.R. § 385.603 (2006).

⁴ 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 days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov, click on about/offices/oalj/oalj-dj.asp).

⁵ Pub. L. No. 109-58, § 1285, 119 Stat. 594, 980-81 (2005).

⁶ While section 206 of the FPA, as amended, requires the Commission to specify a refund effective date, which we have done above, here, where we are not dealing with a complaint asking that the Commission lower existing rates but rather where we are dealing with a request essentially to adopt new increased rates, WPPI's proposed revenue requirement can be effective no earlier than the date the Commission makes any such revenue requirement effective when it issues an order approving a revenue requirement following the hearing and settlement judge procedures. In this case, consistent with Schedule 2 of Midwest ISO's TEMT, we will make the revenue requirements "effective on the first day of the month immediately following acceptance of the revenue requirement by the Commission or the first day of the month if Commission acceptance of such revenue requirement is on the first day of the month."

initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state the best estimate as to when it reasonably expects to make such a decision. Based on our review of the record, we expect that, if this case does not settle, the presiding judge should be able to render a decision within nine months of the commencement of hearing procedures or, if the case were to go to hearing immediately, we would be able to issue our decision within approximately four months of the filing of briefs on exceptions and briefs opposing exceptions.

15. Because the issues raised in Docket Nos. EL07-8-000, EL07-9-000, and EL07-10-000 involve common issues of law and fact, we will consolidate the proceedings for purposes of hearing and decision.

16. We also reject AECS's unsupported statement that the return on equity in this proceeding should be linked to the return on equity determination in Docket No. ER06-1517-000. That proceeding concerns Wisconsin Power and Light's request to change rates charged to its partial requirements customers. There are no common issues of law or fact that would warrant consolidating the cases or otherwise "linking" them.

17. On February 4, 2005, in Docket No. AD05-1-000, the Commission issued a staff report regarding reactive power supply for the nation's bulk power system. AECS argues that the Commission should condition the decision in this proceeding on the outcome in Docket No. AD05-1-000, and that WPPI should have a refund obligation in the event that the compensation methodology in that docket results in a lower reactive power service revenue requirement for WPPI. Docket No. AD05-1-000 was a wide-ranging discussion by Commission staff of regulatory policies affecting reactive power, and was not intended to be a forum for developing particular regulatory policies on reactive power. As the Commission has previously determined, and we reiterate here, *all* generators seeking to recover a reactive power service revenue requirement based on actual cost data are required to use the AEP Methodology.⁷ Accordingly, we reject AECS's argument.

The Commission orders:

(A) Docket Nos. EL07-8-000, EL07-9-000, and EL07-10-000 are hereby consolidated for purposes of hearing and decision.

(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 by the Federal Power Act (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

⁷ See *WPS Westwood Generation, L.L.C.*, 101 FERC ¶ 61,290 (2002).

hearing shall be held concerning WPPI's proposed revenue requirements for reactive power and voltage control services. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in 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 (2005), 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 sixty (60) days of the date of this order, 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 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, N.E., 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) The refund effective date established pursuant to section 206(b) of the FPA, as amended by section 1285 of the Energy Policy Act of 2005, is October 11, 2006.

By the Commission. Commissioner Moeller not participating.

(S E A L)

Magalie R. Salas,
Secretary.