

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Reliant Energy Wholesale Generation, LLC

Docket No. ER07-673-000

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

(Issued May 25, 2007)

1. In this order we accept for filing Reliant Energy Wholesale Generation, LLC's (Reliant) proposed rate schedule for providing Reactive Supply and Voltage Control from Generation Sources Service (Reactive Supply Service) to Midwest Independent Transmission System Operator, Inc. (Midwest ISO), and suspend it for a nominal period, to become effective June 1, 2007, as requested, subject to refund. We also establish hearing and settlement judge procedures.

Background

2. On March 29, 2007, pursuant to section 205 of the Federal Power Act (FPA),¹ Reliant² filed a proposed rate schedule under which it specifies its revenue requirement for providing Reactive Supply Service from a generating facility located in Shelby County, Illinois (Shelby County Facility). The Shelby County Facility is a natural gas-fired simple cycle generating facility with a capacity of 484 MW connected to transmission facilities owned by Central Illinois Public Service Company d/b/a AmerenCIPS (AmerenCIPS), a wholly-owned subsidiary of Ameren Corporation, and operated by Midwest ISO.

¹ 16 U.S.C. § 824d (2000).

² Reliant is authorized to make wholesale sales of power at market-based rates. See *Reliant Energy Wholesale Generation, LLC*, Docket No. ER04-944-000 (Aug. 16, 2004) (unpublished letter order).

3. Reliant states that the proposed rate schedule will allow it to receive compensation for Reactive Supply Service provided by the Shelby County Facility under Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT). According to Reliant, the proposed rate schedule consists of an annual revenue requirement with two components: (1) a fixed component, which includes the fixed plant costs for those facilities needed for reactive power production, and the cost of increased heating losses that result from reactive power production; and (2) a mechanism for recovery of lost opportunity costs in the event that Midwest ISO or the control area operator directs Reliant to reduce the real power output of the Shelby County Facility in order to increase reactive power output.

4. Reliant seeks to recover a fixed annual revenue requirement of \$931,588.14 (\$77,632.34/month), which includes heating losses. Reliant states that it is a non-utility generator that is not subject to traditional cost-of-service rate regulation. Therefore, Reliant proposes an overall rate of return of 8.06 percent, and a return on common equity of 10.08 percent, based on a proxy capital structure and return on equity derived from AmerenCIPS, the utility with which the Shelby County Facility is interconnected.

5. Reliant requests that its proposed rate schedule become effective the first day of the month immediately following acceptance of its filing, as provided by Schedule 2 of the Midwest ISO TEMT.

Notice of Filing and Responsive Pleadings

6. Notice of Reliant's filing was published in the *Federal Register*, 72 Fed. Reg. 17,150 (2007), with interventions and protests due on or before April 19, 2007. Midwest ISO filed a timely motion to intervene raising no substantive issues. On April 23, 2007, AmerenCIPS, Central Illinois Light Company, d/b/a AmerenCILCO, and Illinois Power Company, d/b/a AmerenIP (together, Ameren) filed a motion to intervene out-of-time and protest. On May 7, 2007, Reliant filed an answer to Ameren's protest.

7. Ameren argues that Reliant's filing should be rejected because it is "patently deficient." Ameren alleges that Reliant has failed to satisfy the generator testing requirements in Schedule 2, Pt. II.B.3, of the Midwest ISO TEMT, which requires that a Generation Resource has met the testing requirement for voltage control capability required by the Regional Reliability Council within the past five years. Ameren asserts that this testing requirement is a prerequisite to Reliant's eligibility for reactive power compensation in Midwest ISO. Ameren essentially argues that since Reliant has not met the testing requirement, Reliant is unable to receive compensation under Midwest ISO Schedule 2.

8. Ameren argues that, while Reliant is not obligated to maintain its accounting records in accordance with the Commission's Uniform System of Accounts (USofA),

Reliant has not demonstrated that the accounts and the data in the accounts are in form and substance functionally equivalent to the USofA accounts or will otherwise result in just and reasonable rates consistent with the methodology established in *American Electric Power Service Corporation*.³ Ameren also alleges that Reliant has not demonstrated that the allocator for remaining production plant investment is calculated consistent with the *AEP* methodology. Finally, Ameren argues that the heating loss and opportunity cost components are inconsistent with the *AEP* methodology and that the opportunity cost recovery mechanism is vaguely defined. If the Commission does not reject the filing, Ameren requests that the Commission set the proposal for hearing to address the disputed issues of material fact it has identified.

9. In its answer, Reliant explains that it completed the testing demonstrating compliance with the requirements of Schedule 2 on May 3, 2007 and states that appropriate documentation will be provided to the SERC Reliability Corporation and the Midwest ISO. In addition, Reliant asserts that its balance of plant allocation was performed in accordance with the *AEP* methodology and that its treatment of losses and its accounting methodology are consistent with those used in other proceedings before the Commission. Reliant also argues that its inclusion of lost opportunity costs is reasonable.

Discussion

Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), Midwest ISO's timely, unopposed motion to intervene serves to make it a party to this proceeding. We will grant Ameren's motion to intervene out-of-time, given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Reliant's answer because it has provided information that assisted us in our decision-making process.

Hearing and Settlement Judge Procedures

12. Reliant's proposed rate schedule raises issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

³ Opinion No. 440, 88 FERC ¶ 61,141 (1999) (*AEP*).

13. Our preliminary analysis indicates that Reliant's proposed rate schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, we will accept Reliant's proposed rate schedule for filing, suspend it for a nominal period, make it effective June 1, 2007, as requested, subject to refund, and set it for hearing and settlement judge procedures. We note that Reliant states that the testing requirements set forth in Schedule 2 were successfully completed on May 3, 2007. Therefore, we do not believe that any issues regarding testing remain. However, if there are any disputes regarding the results of the tests, they should be addressed in the hearing.

14. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing 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.⁴ 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.⁵ 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 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) Reliant's proposed rate schedule for Reactive Supply Service is hereby accepted for filing and suspended for a nominal period, to become effective June 1, 2007, as requested, 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 by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a

⁴ 18 C.F.R. § 385.603 (2006).

⁵ 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 the date 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 Office of Administrative Law Judges).

public hearing shall be held concerning Reliant's proposed rate schedule 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 (2006), 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 this proceeding 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.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.