

170 FERC ¶ 61,163
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Eastern Shore Solar, LLC

Docket No. ER20-707-000

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

(Issued February 27, 2020)

1. On December 30, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Eastern Shore Solar, LLC (Eastern Shore) submitted a proposed rate schedule (Rate Schedule)³ setting forth the revenue requirement of Eastern Shore's solar electric generation facility (Facility) to provide Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service), as defined in Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (PJM Tariff). In this order, we accept Eastern Shore's proposed Rate Schedule for filing and suspend it for a nominal period, to become effective January 1, 2020, subject to refund, and set the filing for hearing and settlement judge procedures.⁴

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. pt. 35 (2019).

³ Eastern Shore Solar LLC, Rate Schedules and Tariffs, [Tariff, Reactive Supply and Voltage Control from Generation Sources \(1.0.0\)](#).

⁴ Although Eastern Shore has not previously filed for approval of a rate schedule, we conclude that this is a proposed rate change under section 205(d) of the FPA, rather than an initial rate, because Eastern Shore has been providing reactive power service to PJM prior to the instant filing. *See Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11 (2003) (stating that, as the Oneta Project has been providing reactive power service under section 3.5 of its Interconnection Agreement, albeit, without charge, "the proposed rates for Reactive Power Service in the instant proceeding are not initial rates, but are

I. Background

2. Schedule 2 of the PJM Tariff provides that PJM will compensate owners of generation and non-generation resources for the capability to provide reactive power to PJM to maintain transmission voltages. Specifically, Schedule 2 states that, for each month of Reactive Service provided by generation and non-generation resources in the PJM region, PJM shall pay each resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by the Commission.⁵

II. Filing

3. Eastern Shore states that it is an exempt wholesale generator authorized by the Commission to engage in wholesale sales at market-based rates. Eastern Shore states that the Facility is an 80 MW solar electric generation facility located in Accomack County, Virginia that achieved commercial operation in late 2016. Eastern Shore states that it has not previously requested a revenue requirement for the Facility for the provision of Reactive Service. Eastern Shore states that the Facility is interconnected to the transmission system owned by Delmarva Power and Light Company (DPL) and operated by PJM.⁶

4. Eastern Shore states that the proposed Rate Schedule includes a cost-based revenue requirement for the Facility's provision of Reactive Service. Eastern Shore asserts that the revenue requirement for Reactive Service consists of the fixed costs attributable to reactive power production (Fixed Capability Component).⁷ Eastern Shore states that it calculated the Fixed Capability Component using the methodology the Commission approved in *American Electric Power Service Corp.*⁸ Eastern Shore further states that it analyzed the costs associated with four components of a generation plant related to the production of reactive power: (1) the generator/exciter; (2) generator step-up transformers; (3) accessory electrical equipment that supports the operation of the

changed rates.”), *order on initial decision*, 116 FERC ¶ 61,282 (2006), *order on reh'g*, 119 FERC ¶ 61,177, *order on reh'g*, 121 FERC ¶ 61,189 (2007), *order on reh'g*, 124 FERC ¶ 61,193 (2008).

⁵ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁶ Transmittal at 2-3.

⁷ *Id.* at 3. Eastern Shore states that it is not seeking recovery of heating losses in the revenue requirement at this time.

⁸ *Id.* at 1, 3 (citing *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000)).

generator/exciter; and (4) the remaining total production investment required to provide real power and operate the exciter. Eastern Shore explains that it multiplied the total investment attributable to reactive power production facilities by an annual carrying cost percentage to produce the annual revenue requirement for Reactive Service for the Facility.⁹

5. Eastern Shore states that, with respect to the cost of capital component of the carrying cost percentage, consistent with Commission precedent, it used a proxy capital structure to establish a reasonable rate of return. Eastern Shore explains that, for the Facility, it used the rate of return and capital structure for DPL, the transmission owner with which the Facility is interconnected.¹⁰

6. Eastern Shore states that it calculated a \$857,040.67 total annual revenue requirement for Reactive Service from the Facility, which is \$71,420.06 per month.¹¹

7. Eastern Shore requests waiver of the Commission's 60-day prior notice period to permit the Rate Schedule to become effective December 31, 2019. Eastern Shore states that the requested effective date is consistent with PJM's practice of incorporating new revenue requirements into Schedule 2 of the PJM Tariff on the first day of the month in which the Commission accepts or approves the proposed Rate Schedule.¹² Eastern Shore argues that it has been "the Commission's practice [] to grant requests for waiver of the 60-day notice period when the utility is filing to establish a reactive power rate."¹³ Eastern Shore requests, in the alternative, an effective date for the Rate Schedule no later than the first day of the month immediately following expiration of the 60-day notice period.¹⁴

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 4.

¹¹ *Id.*

¹² *Id.* at 2 (citing *Ameren Energy Generating Co.*, Docket No. ER09-337-000 (Mar. 30, 2009) (delegated order); *York Generation Co. LLC*, Docket No. ER07-1351-000 (Oct. 26, 2007) (delegated order)).

¹³ *Id.* at 6 (quoting *Panda Stonewall, LLC*, 160 FERC ¶ 62,096 (2017) (delegated order), *order on reh'g*, 162 FERC ¶ 61,261, at P 12 (2018)).

¹⁴ *Id.*

III. Notice and Responsive Pleadings

8. Notice of Eastern Shore's filing was published in the *Federal Register*, 85 Fed. Reg. 500 (2020), with interventions and protests due on or before January 21, 2020.¹⁵ Enbridge (U.S.) Inc., PJM, and Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM, filed timely motions to intervene.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

10. Our preliminary analysis indicates that Eastern Shore's proposed Rate Schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Eastern Shore's filing raises 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. Accordingly, we accept Eastern Shore's proposed Rate Schedule for filing, suspend it for a nominal period to become effective January 1, 2020, subject to refund, and establish hearing and settlement judge procedures.

11. Eastern Shore requests an effective date for the proposed Rate Schedule of December 31, 2019 or, alternatively, no later than the first day of the month immediately following expiration of the 60-day notice period. We will waive the 60-day prior notice requirement and allow Eastern Shore's proposed Rate Schedule to take effect on January 1, 2020, the earliest date falling on the first of the month after the date of filing.¹⁶

12. While we are setting the Rate Schedule for hearing in its entirety, we note that Eastern Shore's costs are not sufficiently supported and explained. For example, support for inverter losses used in the balance of plant allocator, estimated plant life used for depreciation, as well as costs related to grading, seeding, and landscaping for the entire project, which Eastern Shore claims are directly related to the production of reactive

¹⁵ An errata notice issued on January 9, 2020 clarified that the deadline was January 21, 2020, not January 20, 2020, as stated in the notice issued on December 30, 2019.

¹⁶ See *Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *order on reh'g*, 61 FERC ¶ 61,089 (1992).

power, was not provided. Further, Eastern Shore did not provide test data demonstrating reactive power output to support its reactive power allocator. In addition, administrative and general costs, operation and maintenance costs, and accessory electric equipment costs may be excessive.

13. While we are setting this matter 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.¹⁷ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.¹⁸ 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) Eastern Shore's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective January 1, 2020, 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 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 Eastern Shore's proposed 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.

¹⁷ 18 C.F.R. § 385.603 (2019).

¹⁸ 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 available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603, the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within 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 days of the date of this order.

(D) Within 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 settlement discussions continue, the settlement judge shall file a report at least every 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 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.

(S E A L)

Kimberly D. Bose,
Secretary.