

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Bluegrass Generation Company, L.L.C.

Docket No. ER05-522-000

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

(Issued March 25, 2005)

1. Bluegrass Generation Company, L.L.C. (Bluegrass)¹ filed a proposed rate schedule under which it specifies its cost-based revenue requirement for providing Reactive Support and Voltage Control (reactive power). As discussed below, we accept the proposed rate schedule for filing and suspend it for a nominal period, to become effective on March 1, 2005, subject to refund, and establish hearing and settlement judge procedures. This order benefits customers by ensuring a timely inquiry into whether the proposed rate schedule is just and reasonable.

¹ Bluegrass is an exempt wholesale generator (EWG) under section 32 of the Public Utility Holding Company Act of 1935, *see Bluegrass Generation Co., L.L.C.*, 97 FERC ¶ 62,279 (2001), and is authorized by the Commission to make wholesale sales of power at market-based rates, *see Bluegrass Generation Co., L.L.C.*, Docket No. ER02-506-000 (February 1, 2002) (unpublished letter order). It is a wholly-owned indirect subsidiary of Dynegy Inc.

Background

2. Bluegrass owns a natural gas-fired peaking generating facility located in Oldham, Kentucky, which is interconnected with the transmission system of Louisville Gas and Electric Company (LG&E). Under section 8.4.4(i) of the Generator Interconnection and Operating Agreement between Bluegrass and LG&E,² Bluegrass will be compensated for providing reactive power as follows:

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

3. LG&E is currently a transmission owning member of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and is a party to the Agreement of Transmission Facilities Owners to Organize the Midwest ISO.³

Filing

4. On January 31, 2005, Bluegrass submitted a proposed rate schedule that specifies its revenue requirement for providing reactive power. Bluegrass explains that on June 25, 2004, in Docket No. ER04-961-000, Midwest ISO filed a proposed Schedule 21, Reactive Supply and Voltage Control from Independent Generation Resources Service to supplement Schedule 2 of Midwest ISO's OATT. Schedule 21 proposed to implement a regional approach to compensate all generators not already being compensated under Schedule 2 in Midwest ISO's footprint for their ability to provide reactive power under Midwest ISO's OATT. However, on October 1, 2004, the Commission rejected Midwest ISO's proposal as unduly discriminatory and directed the Midwest ISO to file an amended Schedule 2 which would compensate transmission owners and independent

² See *Louisville Gas and Electric Company/Kentucky Utilities Company*, Docket No. ER01-2579-000 (August 16, 2000) (unpublished letter order).

³ See *Midwest Independent Transmission System Operator, Inc.*, 84 FERC ¶ 61,231, *order on reh'g*, 85 FERC ¶ 61,250, *order on reh'g*, 85 FERC ¶ 61,372 (1998), *Initial Decision*, 89 FERC ¶ 63,008 (1999), *aff'd and clarified*, Opinion No. 453, 97 FERC ¶ 61,033 (2001), *order on reh'g*, Opinion No. 453-A, 98 FERC ¶ 61,141 (2002).

power producers on the same basis.⁴ On November 1, 2004, as supplemented on December 20, 2004, Midwest ISO submitted a revised Schedule 2.⁵

5. Bluegrass requests that its proposed rate schedule be made effective on March 1, 2005. It requests that if Midwest ISO's revised Schedule 2 is approved by March 1, 2005, its revenue requirement should be approved and collected via Midwest ISO's OATT. Otherwise, Bluegrass requests that it be compensated directly by LG&E until Midwest ISO's Schedule 2 is approved and implemented.

6. In support of its filing, Bluegrass states that it utilized the methodology in *American Electric Power Service Corporation*⁶ consistent with the Commission's recommendation in *WPS Westwood Generation, L.L.C.*,⁷ for generators seeking compensation for reactive power. Bluegrass states that there is a fixed component to the revenue requirement that is designed to recover the portion of plant costs attributable to the reactive power capability of Bluegrass's generators. It claims that its fixed capability reactive power costs amount to \$1,086,509 per year. Bluegrass states that its approach for this filing diverges slightly from others' in two respects. Rather than utilizing the approach of other reactive power providers that levelize their annual carrying costs, this filing utilizes straight-line depreciation. Also, Bluegrass indicates that it has omitted a heating loss component from its tariff.

Notice of Filing, Interventions and Protests

7. Notice of Bluegrass's filing was published in the *Federal Register*, 70 Fed. Reg. 7099 (2005), with comments, interventions and protests due on or before February 22, 2005. Midwest ISO and Midwest ISO Transmission Owners filed timely motions to

⁴ See *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,005 (2004), *order on reh'g pending*.

⁵ Midwest ISO's compliance filing is pending before the Commission in Docket No. ER04-961-002.

⁶ *American Electric Power Service Corp.*, 88 FERC ¶ 61,141, at 61,456 n.66 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000).

⁷ 101 FERC ¶ 61,290 (2002).

intervene. LG&E filed a timely motion to intervene and protest. Bluegrass filed an answer to LG&E's protest.

8. LG&E argues that Bluegrass should be allowed only to recover reactive power if it is valuable to the transmission grid. It states that there is a limit on the amount of reactive power that can be provided within a certain geographic area because reactive power is inherently localized. LG&E contends that generators like Bluegrass were not sited to optimize reactive power flow and are seldom needed to provide reactive power to the local system. LG&E states that its approach to system support, through reliance on capacitor banks, creates a more stable system than one that relies entirely on reactive power from generating units. LG&E plans to spend \$2.7 million over the next five years to install numerous capacitor banks throughout its system at points closest to the load to minimize the reactive power needed from generating units.

9. In addition, LG&E argues that Bluegrass's filing lacks sufficient evidentiary support. It states that Bluegrass fails to show how much reactive power it actually produces and what such reactive power may be worth. Also, LG&E states that Bluegrass's filing lacks supporting data and evidence of the costs associated with its reactive power. Further, it states that Bluegrass does not supply sufficient justification for the criteria used to develop its rate of return on equity.

Discussion

Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Bluegrass's answer and will, therefore, reject it.

Proposed Rate Schedule

12. The proposed rate schedule submitted by Bluegrass raises issues of material fact that cannot be resolved on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.⁸

13. The Commission's preliminary analysis of Bluegrass's filing indicates that it has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we will accept Bluegrass's proposed rate schedule for filing, suspend it for a nominal period, to become effective on March 1, 2005, subject to refund, and set it for hearing and settlement judge procedures as ordered below.

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.⁹ If the parties desire, they may, by mutual agreement, request a specific judge as a settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.¹⁰ 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 the commencement of a hearing by assigning the case to a presiding judge.

⁸ We note that the Commission is addressing specific issues regarding reactive power supply for the nation's bulk power in Docket No. AD05-1-000.

⁹ 18 C.F.R. § 385.603 (2004).

¹⁰ If the parties decide to request a specific judge, they must make their 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 listing of Commission judges and a summary of their background and experience (www.ferc.gov - click on Office of Administrative Law Judges).

The Commission orders:

(A) Bluegrass's proposed rate schedule is hereby accepted for filing and suspended for a nominal period, to become effective on March 1, 2005, 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 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 public hearing shall be held concerning the justness and reasonableness of Bluegrass's proposed rate schedule. However, the hearing will 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 (2004), 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 by telephone 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 Chief Judge and with the Commission 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 30 days thereafter, informing the Chief Judge and the Commission of the parties' progress toward settlement.

(E) If settlement judge procedures fail, and a trial-type evidentiary hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately fifteen (15) days of the date on which the Chief Judge designates the presiding judge, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426. Such conference shall be

held for the purpose of establishing a procedural schedule. The presiding administrative law 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)

Linda Mitry,
Deputy Secretary.