

167 FERC ¶ 61,255
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Hopewell Power Generation, LLC

Docket No. ER19-1643-000

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

(Issued June 21, 2019)

1. On April 23, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Hopewell Power Generation, LLC (Hopewell) submitted a rate schedule (Rate Schedule)³ to begin receiving payment for 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 (Tariff).⁴ In this order, we accept Hopewell's proposed Rate Schedule for filing and suspend it for a nominal period, to become effective April 24, 2019, as requested, subject to refund, and set the filing for hearing and settlement judge procedures.⁵

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ Hopewell Power Generation, LLC, FERC FPA Electric Tariff, [Reactive Service Tariff, Section 1, Reactive Service Tariff, 0.0.0](#).

⁴ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁵ Although Hopewell has not previously filed for approval of a Reactive Service tariff, we conclude that this is a proposed rate change under section 205(d) of the FPA, rather than an initial rate, because Hopewell 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

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.⁶

II. Filing

3. Hopewell states that it is an exempt wholesale generator that is authorized by the Commission to sell energy, capacity, and certain ancillary services at market-based rates.⁷ Hopewell states that it owns and operates an approximately 400 MW combined cycle cogeneration project located in Hopewell, Virginia (Facility). Hopewell asserts that the Facility is interconnected to the transmission system owned by Virginia Electric and Power Company (VEPC) and operated by PJM.⁸

4. Hopewell states that Hopewell Cogeneration Limited Partnership (Hopewell LP), which previously owned the Facility, was originally owned by Dynegy, Inc. (Dynegy). Hopewell further states that, after Dynegy merged with Vistra Energy Corp. (Vistra) on April 9, 2018, Hopewell LP was converted into a limited liability company and its name was changed to Hopewell Power Generation, LLC. Thus, Hopewell explains, it is now the owner of the Facility, and its ultimate parent is now Vistra.⁹

proposed rates for Reactive Power Service in the instant proceeding are not initial rates, but are changed rates.”).

⁶ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁷ Transmittal at 1-2 (citing *Hopewell Cogeneration Ltd. P'ship*, Docket No. ER07-1040-000 (Aug. 9, 2007) (unpublished letter order issued); *Hopewell Cogeneration LLC*, Docket No. ER18-1531-000 (June 19, 2018) (unpublished letter order)).

⁸ *Id.*

⁹ *Id.* at 2 (citing *Dynegy Inc.*, 163 FERC ¶ 61,013 (2018); Notice of Transaction Consummation of Dynegy Inc. and Vistra Energy Corp., Docket No. EC18-23-000 (filed Apr. 19, 2018)).

5. Hopewell proposes a cost-based revenue requirement to be recovered under Schedule 2 of the PJM Tariff. Hopewell asserts that it derived this revenue requirement using the Commission-approved *American Electric Power Service Corp.* methodology.¹⁰

6. Hopewell states that the proposed reactive power revenue requirement for the Facility consists of two components: (i) the fixed costs of that portion of the plant investment in the Facility that is attributed to the production of reactive power (Fixed Capability Component); and (ii) the increased generator and step-up transformer heating losses that result from the production of reactive power (Heating Losses Component).¹¹

7. Hopewell states that it calculated the Fixed Capability Component by determining the portion of plant costs attributable to the reactive power production and applying a fixed charge rate. Hopewell further states that Fixed Capability Component is calculated by analyzing the reactive portion of investment in: (1) the generator and associated exciter equipment, (2) generator step-up (GSU) transformers, (3) accessory electrical equipment that supports the operation of the generator-exciter system, and (4) the balance of plant.¹² Hopewell explains that these components contribute to both reactive power and real power, and it multiplied these amounts by the allocation factor to determine the reactive power portion of the investments. Hopewell states that it summed the individual allocated amounts and multiplied them by the fixed cost carrying to produce Hopewell's annual revenue requirement for Reactive Service.¹³

8. Hopewell states that the Commission allows independent generators such as Hopewell to use the authorized rate of return and return on equity (ROE) of the utility to which the generator is interconnected and has accordingly relied on the capital structure

¹⁰ *Id.* at 3 (citing *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000); *WPS Westwood Generation, LLC*, 101 FERC ¶ 61,290, at P 14 (2002); *Dynegy Midwest Generation, Inc.*, 121 FERC ¶ 61,025, at PP 68-73 (2007); *order on reh'g*, 125 FERC ¶ 61,280 (2008)).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 3-4.

and rate of return of VEPC.¹⁴ Hopewell further states that it has incorporated in its annual carrying charge the Commission-approved base ROE utilized by VEPC, less the 50 basis point incentive adder for VEPC's participation in a regional transmission organization.¹⁵

9. Hopewell explains that its Heating Losses Component reflects the amount of loss that occurs from ohm heating associated with the armature winding and field winding of the generator and losses in the GSU transformers, and these heating losses are a function of generator current, which in turn is a function of reactive power production. Hopewell states that it used actual data to calculate heating losses for the Facility.¹⁶

10. Hopewell states that reactive portions of its generators, exciters, GSU, and accessory electric equipment total approximately \$3.9 million, and the remaining plant investment used to support reactive power production totals approximately \$0.3 million. Hopewell also states that the total resulting investment attributed to reactive power production equals approximately \$4.2 million.¹⁷ Hopewell explains that its total annual revenue requirement for the Facility is \$1,082,327.72, consisting of a Fixed Capability Component of \$1,048,814.12, and a Heating Loss Component of \$33,513.60.¹⁸

11. Hopewell requests waiver of the Commission's 60-day notice requirement, to permit the Rate Schedule to become effective April 24, 2019.¹⁹ Hopewell states good cause exists to grant the waiver because (1) Hopewell has acted in good faith by providing reactive power capability and support to the PJM system at a zero rate; (2) the waiver is of limited scope because Hopewell is requesting a one-time waiver for the filing of one Reactive Service Tariff; (3) the waiver would address the concrete problem that Hopewell has made investments in its Facility to maintain reactive capability but

¹⁴ *Id.* at 4 (citing *Bluegrass Generation Co., L.L.C.*, 118 FERC ¶ 61,214, at P 86, *reh'g denied*, 121 FERC ¶ 61,018 (2007); *Calpine Fox LLC*, 113 FERC ¶ 61,047, at P 17 (2005); *LSP-Kendall Energy, LLC*, 116 FERC ¶ 61,136, at P 21 (2006); *Calumet Energy Team, LLC*, 116 FERC ¶ 61,181, at P 21 (2006)).

¹⁵ *Id.* (citing *Settlers Trail Wind Farm, LLC*, 162 FERC ¶ 61,211, at P 30 (2018)).

¹⁶ *Id.* at 4.

¹⁷ *Id.*, Attachment B, Prepared Direct Testimony of Adrian Kimbrough, Ex. No. HPG-1 at 16.

¹⁸ *Id.*, Attachment A.

¹⁹ *Id.* at 4.

Hopewell has not received recovery for that performance in return; and (4) the waiver does not have undesirable consequences, such as harming third parties.²⁰

III. Notice and Responsive Pleadings

12. Notice of the filing was published in the *Federal Register*, 84 Fed. Reg. 18,017 (2019), with interventions and protests due on or before May 14, 2019. 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

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

14. Our preliminary analysis indicates that Hopewell'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. Hopewell'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 Hopewell's proposed Rate Schedule for filing and suspend it for a nominal period to become effective April 24, 2019, as requested, subject to refund, and establish hearing and settlement judge procedures.

15. Although we are setting the Rate Schedule for hearing in its entirety, we note that Hopewell has not provided the generator manufacturer's nameplate MVAR and MVA output for the facility nor the reactive power test data to support Hopewell's calculation of the reactive power allocator, which may be excessive. We also note that the calculations do not describe the accessory electrical components and the fixed charge rate may be excessive. We further note that Hopewell has not provided underlying support for the costs claimed.²¹

²⁰ *Id.* at 5.

²¹ *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,245, at PP 28-29 (2016).

16. 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.²² 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.²³ The settlement judge shall report to the Chief Judge and the Commission within thirty (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) Hopewell's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective April 24, 2019, 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 Commission by section 402(a) of the Department of Energy Organization Act and by 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 Hopewell's 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.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2018), the Chief 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

²² 18 C.F.R. § 385.603 (2018).

²³ 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 (5) 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>).

the settlement judge. If the participants 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 thirty (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 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, 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.