

168 FERC ¶ 61,015
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

GenOn Power Midwest, LP
GenOn REMA, LLC

Docket Nos. ER19-1842-000
ER19-1843-000

ORDER ACCEPTING RATE SCHEDULE AND NOTICE OF CANCELLATION AND
GRANTING WAIVER

(Issued July 12, 2019)

1. On May 15, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² in anticipation of an internal corporate reorganization, the Filing Parties³ submitted a filing to: (1) revise GenOn Power Midwest, LP's (GenOn Midwest) Rate Schedule FERC No. 2 (GenOn Midwest Revised Rate Schedule) to reduce GenOn Midwest's revenue requirement for Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) under Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (PJM Tariff);⁴ (2) cancel GenOn REMA, LLC's (GenOn REMA) FERC Electric Tariff,

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ The Filing Parties include GenOn Power Midwest, LP (GenOn Midwest), GenOn REMA, LLC (GenOn REMA), GenOn Holdco 1, LLC, GenOn Holdco 2, LLC, GenOn Holdco 3, LLC, GenOn Holdco 4, LLC, GenOn Holdco 5, LLC, GenOn Holdco 6, LLC, GenOn Holdco 7, LLC, GenOn Holdco 8, LLC, Orrtanna Power, LLC, Shawnee Power, LLC, Titus Power, LLC, Hamilton Power, LLC, Blossburg Power, LLC, Hunterstown Power, LLC, and Tolna Power, LLC.

⁴ GenOn Power Midwest, LP, Cost-Based Rate Schedules, [Reactive Rate Schedule, Rate Schedule FERC No. 2 \(8.0.0\)](#).

Volume No. 2⁵ (Notice of Cancellation) pursuant to which GenOn REMA provides Reactive Service under Schedule 2 of the PJM Tariff; (3) request a one-time waiver of the Commission's prior notice requirement and waiver of the 90-day prior notice requirement set forth in Schedule 2 of the PJM Tariff; and (4) propose new rate schedules for Reactive Service for each of the affiliates that are acquiring generating stations from GenOn Midwest and GenOn REMA.

2. On June 14, 2019, pursuant to 18 C.F.R. § 35.17,⁶ certain of the Filing Parties filed a motion to withdraw the new rate schedules because of an error in the submission of these rate schedules in eTariff.⁷

3. As discussed below, we accept the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation, effective as of the date of the consummation of the internal corporate reorganization, as requested. We also grant the waiver requests. Finally, we direct GenOn Midwest and GenOn REMA to submit, within 30 days of the consummation of the internal corporate reorganization, informational filings in eTariff using code 150 to establish the effective date for the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation.

I. Background

4. 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.⁸ Schedule 2 requires that at least 90 days before deactivating or transferring a resource receiving compensation for Reactive Service, the resource owner must either: (1) submit a filing to either terminate or adjust its cost-based rate schedule to account for

⁵ GenOn REMA, LLC, FERC Electric Market-Based Rate Tariff, Reactive Rate Schedule, FERC Electric Tariff, Original Volume No. 2 (3.1.0).

⁶ 18 C.F.R. § 35.17(a) (2018).

⁷ GenOn Midwest and GenOn REMA are the only entities among the Filing Parties that did not file a motion to withdraw.

⁸ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

the deactivated or transferred unit; or (2) submit an informational filing explaining the basis for the decision by the Reactive Service supplier not to terminate or revise its cost-based rate schedule.

II. Filing

5. The Filing Parties state that GenOn Midwest and GenOn REMA are wholly-owned indirect subsidiaries of GenOn Holdings, Inc. The Filing Parties state that, upon consummation of an internal corporate reorganization, GenOn Power Midwest and GenOn REMA will transfer ownership or a lease interest of certain of their generating facilities to their affiliates and neither GenOn Power Midwest nor GenOn REMA will provide, or be compensated for the provision of, Reactive Service from the transferred generating units. The Filing Parties explain that the reactive revenue requirements for the transferred generating units will instead be reflected within the new Reactive Service rate schedules of each of the new owners of the transferred generating units.⁹

6. As to the GenOn Midwest Revised Rate Schedule, the Filing Parties propose to remove the revenue requirements of two of the four generating stations, Brunot Island Generating Station and New Castle Generating Station, decreasing GenOn Midwest's annual revenue requirement by \$390,112.32. The Filing Parties state that Brunot Island Generating Station and New Castle Generating Station will be transferred from GenOn Midwest to its affiliates pursuant to the internal corporate reorganization. The Filing Parties state that they are not proposing any revisions to the revenue requirements for the remaining generating facilities in the GenOn Midwest Revised Rate Schedule.¹⁰

7. With respect to the Notice of Cancellation, the Filing Parties explain that all units associated with the thirteen generating facilities listed in GenOn REMA's Reactive Service rate schedule will be transferred to its affiliates upon consummation of the internal corporate reorganization. Thus, the Filing Parties state, they request that the Commission cancel GenOn REMA's Reactive Service rate schedule, effective on the date of consummation of the internal corporate reorganization.¹¹

8. Concurrently with their filing, the Filing Parties state that they filed an application pursuant to section 203 of the FPA (FPA section 203 application), requesting Commission approval by July 1, 2019 of the internal corporate reorganization, which involves the transfer of 15 generating stations from GenOn Midwest and GenOn REMA

⁹ Transmittal at 4.

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 5.

to their affiliates.¹² The Filing Parties further state that they currently expect consummation of the internal corporate reorganization to occur within approximately 90 days, upon receipt of all required regulatory approvals. The Filing Parties state that, consistent with the Commission's eTariff requirements, they submitted the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation with a proposed effective date of December 31, 9998.¹³ The Filing Parties state that they commit to make a compliance filing within 30 days of consummation of the internal corporate reorganization to reflect an effective date that matches the consummation date.¹⁴

9. The Filing Parties request waiver of any Commission regulations necessary to permit the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation to take effect as of the date the internal corporate reorganization is consummated, including waiver of the Commission's prior notice requirement.¹⁵ The Filing Parties state that good cause exists for granting waiver because no party will be harmed by the revisions to the GenOn Midwest Revised Rate Schedule or the Notice of Cancellation.¹⁶

10. The Filing Parties also request a one-time waiver of the 90-day notice requirement in Schedule 2 of the PJM Tariff for the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation. The Filing Parties state that the exact date of consummation of the internal corporate reorganization is not yet known, and may occur in less than 90 days from the date of their filing. The Filing Parties argue that good cause for waiver exists. The Filing Parties maintain that they acted in good faith by submitting their filing as soon as possible after determining the proposed structure of the internal corporate reorganization and submitted their filing concurrently with the FPA

¹² *Id.* at 2; see *GenOn Power Midwest, LP, et al.*, Application for Authorization under Section 203 of the Federal Power Act, Docket No. EC19-91-000 (filed May 15, 2019).

¹³ See FERC Office of the Secretary, *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings* 10 (Nov. 14, 2016), ("If the effective date is not known at the time of the filing, such as the effective date is contingent on FERC approval, the closing of a plant sale, etc., the date of 12/31/9998 must be used."), <https://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.

¹⁴ Transmittal at 3.

¹⁵ *Id.* at 10 (citing 18 C.F.R. § 35.3 (2018) (notice requirements); 18 C.F.R. § 35.11 (2018) (waiver of notice requirement)).

¹⁶ *Id.*

section 203 application. The Filing Parties also state that the waiver is limited in scope, as it is a one-time waiver of a procedural deadline, and does not affect any of the substantive requirements under Schedule 2 of the PJM Tariff. The Filing Parties also allege that the waiver addresses a concrete problem because, absent the requested waiver, the internal corporate reorganization could be delayed. Lastly, the Filing Parties state that the waiver does not have undesirable consequences, and that the waiver advances the public interest by ensuring that the internal corporate reorganization may be promptly effectuated and the transferred generating units can continue supplying Reactive Service in the PJM market uninterrupted.¹⁷

III. Notice and Responsive Pleadings

11. Notice of the filing in the above-captioned dockets was published in the *Federal Register*, 84 Fed. Reg. 23,045 (2019), with interventions and protests due on or before June 5, 2019. PJM and Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (IMM), each filed timely motions to intervene. No protests were filed.

IV. Discussion

A. Procedural Matters

12. 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 PJM and the IMM parties to the proceeding.

B. Substantive Matters

13. We accept the filed tariff records for the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation, effective as of the date of the consummation of the internal corporate reorganization, as requested. We direct GenOn Midwest and GenOn REMA to submit, within 30 days of the consummation of the internal corporate reorganization, informational filings in eTariff using code 150 to establish the effective date for the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation.

¹⁷ *Id.* at 6.

14. We also find good cause to grant the Filing Parties' request for waiver of the Commission's prior notice requirements.¹⁸ The GenOn Midwest Revised Rate Schedule decreases the total Reactive Service annual revenue requirement for GenOn Midwest.¹⁹ And, in granting waiver, we note that no parties contest the filing.

15. Regarding waiver of the 90-day notice requirement under Schedule 2 of the PJM Tariff, the Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.²⁰

16. We find that the circumstances of the instant case satisfy the foregoing criteria. First, we find the Filing Parties acted in good faith by submitting their filing to the Commission concurrently with the filing of the FPA section 203 application. Second, we find that the waiver request is limited in scope as the Filing Parties seek a one-time, limited waiver of the 90-day notice requirement in Schedule 2 of the PJM Tariff, and the request does not relate to any other requirements under Schedule 2. Third, we find that the waiver request addresses a concrete problem because, absent the requested waiver, the internal corporate reorganization could be delayed. Finally, we find that the waiver request does not result in undesirable consequences, such as harm to third parties.

The Commission orders:

(A) The GenOn Midwest Revised Rate Schedule is hereby accepted, effective as of the date of the consummation of the internal corporate reorganization, as requested, as discussed in the body of this order.

(B) The Notice of Cancellation is hereby accepted, effective as of the date of the consummation of the internal corporate reorganization, as requested, as discussed in the body of this order.

(C) GenOn Midwest and GenOn REMA are directed to submit, within 30 days of the consummation of the internal corporate reorganization, informational filings in eTariff using code 150 to establish the effective date for the GenOn Midwest Revised Rate Schedule and the Notice of Cancellation.

¹⁸ See *supra* P 9 and note 16.

¹⁹ See *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338, *order on reh'g*, 61 FERC ¶ 61,089 (1992).

²⁰ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

(D) The waiver requests are hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.