

168 FERC ¶ 61,045  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Hoosier Energy Rural Electric Cooperative, Inc.

Docket No. EL19-56-000

ORDER ACCEPTING PROPOSED REVENUE REQUIREMENT AND  
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued July 22, 2019)

1. On March 20, 2019, as amended on May 14, 2019, Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), a non-public utility<sup>1</sup> submitted a proposed cost-based revenue requirement (Revenue Requirement) for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) from three of its generating facilities under Schedule 2 of the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff). In this order, we accept Hoosier’s Revenue Requirement for filing, to become effective August 1, 2019,<sup>2</sup> the first day of the month immediately following acceptance of the Revenue Requirement by the Commission, subject to refund, and set the Revenue Requirement for hearing and settlement judge procedures.

**I. Background**

2. Hoosier states that it is a member-owned generation and transmission cooperative utility, organized under the laws of the state of Indiana, and funded by its member

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<sup>1</sup> While the Commission has referred to these entities as “non-public utilities,” “non-jurisdictional utilities,” or “exempt utilities” in the past, we here refer to market participants that are utilities that fall within the scope of section 201(f) of the Federal Power Act as “non-public utilities.” *See* 16 U.S.C. § 824(f) (2012).

<sup>2</sup> Although we are giving Hoosier an August 1, 2019 effective date, pursuant to Schedule 2 of MISO’s Tariff, Hoosier may collect charges for Reactive Service only after it meets MISO’s technical requirements for a Qualified Generator. *See* MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation or Other Sources, § III.A.5 (36.0.0).

customers and from long-term debt payable to the Rural Utilities Service, among others. Therefore, Hoosier states that it is not a public utility that is subject to the jurisdiction of the Commission under section 201(f) of the Federal Power Act (FPA). However, Hoosier asserts that it is entitled to recover its Revenue Requirement for providing Reactive Service to MISO from three of its generating facilities, i.e., Lawrence, Merom, and Worthington facilities (Facilities), pursuant to Schedule 2 of the MISO Tariff.<sup>3</sup>

3. Hoosier states that the Lawrence facility consists of six gas combustion turbines with a capacity rating of 258 megawatts (MW), the Merom facility consists of two coal-fired units with a capacity 980 MW, and the Worthington facility consists of four gas units with a capacity of 43.5 MW each. Hoosier adds that all of these facilities are interconnected with Hoosier's transmission facilities and located within the Hoosier Energy pricing zone within MISO.<sup>4</sup>

4. Hoosier explains that, under Schedule 2 of the MISO Tariff, to receive compensation for reactive service, a generating facility must be certified by MISO, and its cost-based Revenue Requirement must be accepted by the Commission. Hoosier requests that the Commission accept its proposed Revenue Requirement, as required under Schedule 2 of the MISO Tariff, subject to the Facilities receiving Qualified Generator certification from MISO. Hoosier explains that it has not yet requested Qualified Generator certification from MISO but, because the Facilities satisfy MISO's technical requirements for a generation resource to be a Qualified Generator, Hoosier has no reason to believe the Qualified Generator certification will not be granted.<sup>5</sup>

5. In support of its filing, Hoosier explains that the proposed revenue requirement applies the methodology approved by the Commission in *American Electric Power Service Corp. (AEP Methodology)*<sup>6</sup> to recover the fixed capability component of Hoosier's costs of reactive power production. However, Hoosier clarifies that, although it is not seeking a heating losses component as part of its cost-based revenue requirement

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<sup>3</sup> Hoosier Filing at 1-2.

<sup>4</sup> *Id.* at 2-3.

<sup>5</sup> *Id.* at 3-4.

<sup>6</sup> *Id.* at 5 (citing *Am. Elec. Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (*AEP*)).

in this filing, it reserves the right to seek compensation for the heating losses component in a subsequent filing with the Commission.<sup>7</sup>

6. In addition, Hoosier states that, pursuant to the *AEP* Methodology, it isolated the four components of its investment that provide the Facilities' reactive power service capability: (1) the generators and exciters; (2) the generator step-up transformers (GSU); (3) accessory electrical equipment; and (4) the balance of plant. Hoosier explains that, because the turbine-generators and the GSUs contribute to the generation of both real and reactive power, it applied a reactive power allocation factor to the total investment in these components to identify the portion of the cost of these items that should be attributed to reactive power production capability.<sup>8</sup>

7. Hoosier also explains that it applied an allocator to the accessory electric equipment investments because these components perform functions associated with both the generator/exciter and the entire production plant. Hoosier adds that it applied an accessory electric equipment allocator of 10.0 percent, the allocator approved by the Commission for accessory electric equipment in *AEP*. Hoosier further explains that it calculated the balance of plant investment for each facility by subtracting the investments in the generator/exciter system, the GSU, and accessory electric equipment from the total investment. Hoosier states that this balance of plant investment was then allocated to reactive supply service using an allocator of 0.15 percent, which Hoosier claims the Commission has found to be a reasonable proxy for balance of plant in *AEP* and other reactive service filings.<sup>9</sup>

8. Hoosier states that it calculated the reactive power allocation factor using a methodology which recognizes that the generator investment is a function of the total rated power in megavolt-amperes (MVA), which in turn is a function of the sum of the rated real ( $MW_{Gen}$ ) and reactive ( $MVAR_{Gen}$ ) capabilities of the generator. Hoosier explains that it used this relationship to calculate the percentage of applicable generating facility costs that is allocable to reactive power based on generator nameplate data, as supported by the results of reactive capability testing performed on the Facilities.<sup>10</sup>

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<sup>7</sup> *Id.* at 4-5

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* Ex. HE-1 at 15-17.

<sup>10</sup> *Id.* Ex. HE-1 at 14-15.

9. In addition, Hoosier states that it applied a levelized annual carrying charge cost approach to develop a fixed charge rate for each plant and applied that fixed charge rate to the total investment related to reactive power production to determine each plant's reactive revenue requirement. Hoosier explains that the levelized fixed charge rate includes operating & maintenance (O&M) expenses, administrative & general (A&G) expenses, property taxes, insurance, working capital, depreciation, accumulated deferred income taxes, and cost of capital components. Hoosier further explains that the fixed charge rate includes a component for a weighted overall cost of capital of 7.13 percent, which it calculated based on the 10.32 percent base return on equity previously approved by the Commission in Opinion No. 551 for use by transmission owners in MISO.<sup>11</sup> Hoosier adds that it will update its fixed charge rate and Revenue Requirement to the extent necessary to reflect changes that may result from the rehearing of Opinion No. 551 or from the return on equity complaint currently pending in Docket No. EL15-45-000.<sup>12</sup>

10. Hoosier also states that it allocated a portion of internal A&G expenses to reactive power production based on the ratio of reactive power-related O&M to total system O&M. Hoosier states that property taxes, insurance, and materials and supplies costs were taken directly from its financial statements. Hoosier explains that it is not subject to federal or state income taxes and, therefore, the income tax component of the fixed charge rate is zero. Hoosier further explains that it calculated the depreciation component using the Commission's standard sinking fund method, and it calculated the cash working capital component based on the Commission-accepted convention of one-eighth of the sum of annual non-fuel O&M and A&G expense.<sup>13</sup>

11. Hoosier requests that the proposed Revenue Requirement become effective as of the first day of the month following the Commission's issuance of an order accepting the Revenue Requirement, or the first day of the month if such order is issued on the first day of the month, subject to Hoosier's receipt of certification by MISO that the Facilities are Qualified Generators. Hoosier also requests that, if such certification is not received for all of the Facilities at the same time, that the revenue requirement for each Facility be made effective on the first day of the month following receipt of certification for that Facility, or the first day of the month if such certification is received on the first day of the month. Hoosier commits to refund to MISO any compensation received pursuant to

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<sup>11</sup> *Id.* at 6 & note 15 (citing *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 551, 156 FERC ¶ 61,234 (2016)); Exhibit HE-1 at 19.

<sup>12</sup> *Id.* at 6 & note 16 (citing *Ark. Elec. Coop. Corp. v. Midcontinent Indep. Sys. Operator, Inc.* 155 FERC ¶ 63,030 (2016)).

<sup>13</sup> *Id.* Ex. HE-1 at 19-20.

this filing that exceeds the compensation ultimately found to be just and reasonable following adjudication or settlement. Hoosier states that it will calculate such refunds as of the effective date of the proposed Revenue Requirement and will include interest on any such refunds at the rate indicated for public utilities in section 35.19a of the Commission's Regulations.<sup>14</sup>

12. On May 14, 2019, Hoosier submitted an amendment to its filing. Hoosier states that it found that a limited amount of costs in its calculation of O&M expenses should not have been included in the calculation of Hoosier's Revenue Requirement for Reactive Service. Hoosier explains that, as a result of removing these costs, the calculation of the fixed charge rate for each of its generating facilities was revised, and Hoosier's Revenue Requirement decreased from \$1,346,969 to \$1,297,369. Hoosier states that the specific changes are shown on amended Exhibits HE-2, HE-3, HE-7, and HE-8. Hoosier states that it also added lines 1-22 to Exhibit HE-2 that were inadvertently omitted from Exhibit HE-3. Additionally, Hoosier states that it corrected the description of the formula used to calculate the depreciation component of the fixed charge rate, as shown on line 18 of page 19 of amended Exhibit HE-1.<sup>15</sup>

## **II. Notice and Responsive Pleadings**

13. Notice of Hoosier's Filing was published in the *Federal Register*, 84 Fed. Reg. 11,779 (2019), with interventions and protests due on or before April 10, 2019. None was filed.

14. Notice of Hoosier's amended filing was published in the *Federal Register*, 84 Fed. Reg. 29,514 (2019), with interventions and protests due on or before July 9, 2019. None was filed.

## **III. Discussion**

### **Substantive Matters**

15. Our preliminary analysis indicates that Hoosier's proposed Revenue Requirement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We find that Hoosier's proposed Revenue Requirement 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 Hoosier's proposed Revenue Requirement for filing, to be effective August 1, 2019, subject to refund, and establish

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<sup>14</sup> Hoosier Filing at 7 (citing 18 C.F.R. § 35.19a (2018)).

<sup>15</sup> Hoosier Amended Filing at 1

hearing and settlement judge procedures.<sup>16</sup> Hoosier may begin recovering its reactive power revenue requirement beginning with the month of August 2019, subject to Hoosier's receipt from MISO of certification that the Facilities are qualified generators under Schedule 2 of the MISO Tariff.

16. Although we are setting the Revenue Requirement for hearing in its entirety, we note that information provided in Hoosier's filing raises concerns about the justness and reasonableness of Hoosier's proposed Revenue Requirement, including, but not limited to, Hoosier's support of the gross plant investment costs, fixed Operation and Maintenance expenses and the development of Hoosier's fixed charge rate.

17. While we are setting these matters 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.<sup>17</sup> 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.<sup>18</sup> 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.

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<sup>16</sup> As provided in Section III.A.5 of Schedule 2 to MISO's Tariff, MISO "will implement the rate change on the first day of the month immediately following acceptance of the revenue requirement by the Commission." MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control from Generation or Other Sources, § III.A.5 (36.0.0).

<sup>17</sup> 18 C.F.R. § 385.603 (2018).

<sup>18</sup> If the participants 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>).

The Commission orders:

(A) Hoosier's proposed Revenue Requirement is hereby accepted for filing, to be effective August 1, 2019, 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 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 Hoosier's Revenue Requirement, 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 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 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.