

168 FERC ¶ 61,096
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Turtle Creek Wind Farm LLC

Docket No. ER19-2224-000

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

(Issued August 19, 2019)

1. On June 21, 2019, pursuant to section 205 of the Federal Power Act¹ and Part 35 of the Commission's regulations,² Turtle Creek Wind Farm LLC (Turtle Creek) submitted a proposed rate schedule (Rate Schedule) in accordance with Schedule 2 of the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff),³ which specifies Turtle Creek's rate for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) from the Turtle Creek wind turbine generating facility (Facility). In this order, we accept the Rate Schedule, suspend it for a nominal period, to become effective September 1, 2019, the first day of the month immediately following acceptance of the revenue requirement by the Commission,⁴ subject to refund, and set the Rate Schedule for hearing and settlement judge procedures.

I. Background

2. Turtle Creek states that it is an indirect subsidiary of EDP Renewables North America LLC. Turtle Creek notes that the Facility, which is located in Mitchell County, Iowa, began commercial operation in December 2018, has a nameplate capacity rating of

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ Turtle Creek Wind Farm LLC, FERC FPA Electric Tariff, Rate Schedule, [Rate Schedule FERC No. 1, Reactive Power Compensation, 0.0.0](#).

⁴ See MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation or Other, § III.A.5 (36.0.0).

199.2 MW, and is interconnected with the transmission system of ITC Midwest LLC (ITC) within the MISO region.⁵ Turtle Creek states that the Facility is subject to a large generator interconnection agreement to which Turtle Creek, ITC and MISO are parties (Turtle Creek GIA), which was last amended in June 2018.⁶ Turtle Creek explains that the Commission authorized it to sell capacity, energy, and ancillary services at market-based rates in 2018.⁷

3. Turtle Creek states that the Facility is designed to provide reactive supply capability. Specifically, Turtle Creek explains that the Turtle Creek GIA requires that the Facility must maintain a power factor in the range of 0.95 leading to 0.95 lagging at the Point of Interconnection.⁸ Turtle Creek states that the Facility completed its most recent Generator Reactive Power Capability Verification tests on May 21, 2019 and those tests confirmed the ability of the Facility to operate over the reactive capability range of 0.95 leading to 0.95 lagging.

4. Turtle Creek states that Schedule 2 of MISO's Tariff provides for compensation to generators that provide Reactive Service and meet certain technical criteria.⁹ Turtle Creek asserts that the Facility has met the testing requirements for voltage control capability for MISO.¹⁰ Turtle Creek commits to submit a certification statement to MISO on its compliance with the technical qualifications set forth in Schedule 2 and supply its cost-based revenue requirement to MISO once the Commission accepts the proposed Rate Schedule.

5. Turtle Creek states that it calculated the Facility's Fixed Capability Component in accordance with the methodology for determining the cost-of-service associated with providing reactive power capability that the Commission adopted in *American Electric*

⁵ Filing, Transmittal Letter at 2.

⁶ *Id.* (citing *Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER18-1858-000 (Aug. 10, 2018) (delegated order)).

⁷ *Id.* (citing *Turtle Creek Wind Farm LLC*, Docket No. ER18-1186-000 (May 14, 2018) (delegated order)).

⁸ *Id.* at 3 (citing Turtle Creek GIA Appendix C).

⁹ *Id.*

¹⁰ *Id.* at 4.

Power Service Corp.,¹¹ and has applied in subsequent reactive power fixed revenue requirement cases (*AEP* methodology).¹² Turtle Creek notes that the *AEP* methodology considers the costs associated with four groups of plant investments: (1) generators/excitors; (2) generator step-up (GSU) transformers; (3) accessory electric equipment; and (4) remaining production plant investment.¹³

6. Turtle Creek asserts that the underlying principle of the *AEP* methodology is to establish a cost of service for providing reactive power capability by identifying the costs associated with the four groups of plant investments, then allocating those costs between real and reactive power using an allocation factor.¹⁴ Although the *AEP* methodology was developed in the context of synchronous generators, Turtle Creek argues that it is equally applicable to asynchronous generators that are designed with the capability of providing reactive power support, such as the Facility. Turtle Creek notes that there are differences in the types and quantities of equipment providing reactive power support between synchronous and non-synchronous generators, such as a wind turbine generator, but argues that, in both types of facilities, the costs of the generators/excitors, GSU transformers, and accessory electric equipment can be separated from the remaining plant investment, and the portion of those costs attributable to the production of reactive power can be determined by applying an allocation factor.

7. Turtle Creek explains that, for purposes of reactive power production, there are two primary differences between a synchronous generator and a non-synchronous generator.¹⁵ First, a non-synchronous wind turbine facility consists of many more turbines and associated generator/excitors than a synchronous generator of similar capacity, which can have just a few units. Second, a non-synchronous generator facility does not have certain required auxiliary and supporting equipment that is necessary for a conventional synchronous generator. According to Turtle Creek, this means that a synchronous generator may have larger costs associated with accessory electric equipment or balance of plant, which results in a smaller percentage of those costs being allocated to reactive power production, whereas a non-synchronous wind turbine

¹¹ Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-61,457 (1999) (*AEP*).

¹² Filing, Transmittal Letter at 9.

¹³ *Id.* at 4.

¹⁴ *Id.* (citing *AEP*, 88 FERC ¶ 61,141; *Dynegy Midwest Generation, Inc.*, Opinion No. 498, 121 FERC ¶ 61,025 (2007), *order on reh'g*, 125 FERC ¶ 61,280 (2009)).

¹⁵ *Id.* at 5.

generation facility may have larger costs associated with generator/exciters. Turtle Creek contends that, for *AEP* methodology purposes, such differences are irrelevant because an owner or operator of a wind facility that invests in facilities to provide reactive power capability is entitled to the same means to determine, and opportunity to receive, compensation as a synchronous generator, especially when the utility or regional transmission organization requires the generator to provide reactive power as a condition of interconnection service, which is the case for Turtle Creek under its GIA.

8. Turtle Creek states that, when calculating its Fixed Capability Component, it used the rate of return and capital structure for ITC, the transmission owner with which the Facility is interconnected.¹⁶ Turtle Creek further states that, based on the calculation of the Fixed Capability Component, the annual reactive service revenue requirement is \$1,115,267.86.

II. Notice and Responsive Pleadings

9. Notice of the filing was published in the *Federal Register*, 84 Fed. Reg. 30,710 (2019), with interventions and protests due on or before July 12, 2019. MISO filed a timely motion to intervene.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), MISO's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

11. Our preliminary analysis indicates that Turtle Creek'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. Turtle Creek's proposed Rate Schedule raises issues of material fact that cannot be resolved based on the record before us and are more appropriately addressed in the hearing and settlement judge procedures ordered below. As provided in Section III.A.5 of Schedule 2 to MISO's Tariff, MISO

¹⁶ *Id.* at 13. Turtle Creek states that ITC's rate of return is 8.47 percent, which includes a return on equity (ROE) of 11.07 percent, and its capital structure is 40 percent debt and 60 percent equity. Turtle Creek notes that it excluded the 50 basis point adder associated with ITC's participation in MISO, as well as the 25 basis point adder for a Transco corporate structure, which reduced the ROE component to 10.32 percent.

“will implement the rate change on the first day of the month immediately following acceptance of the revenue requirement by the Commission.”¹⁷ Accordingly, we accept Turtle Creek’s proposed Rate Schedule for filing and suspend it for a nominal period, to be effective September 1, 2019, subject to refund, and establish hearing and settlement judge procedures.

12. Although we are setting the Rate Schedule for hearing in its entirety, we note that the information in Turtle Creek’s filing raises concerns about the justness and reasonableness of Turtle Creek’s proposed Rate Schedule, including but not limited to, Turtle Creek’s lack of support for its balance of plant, generator/exciters allocators, accessory electrical equipment allocator, fixed operation and maintenance expenses and administrative and general expenses, and inclusion of costs related to collection system. In addition, Turtle Creek proposes a 10.32 percent ROE. We find that this ROE should be subject to the outcome of the MISO-wide ROE proceedings.¹⁸

13. 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 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.¹⁹ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.²⁰ The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges’ availability. The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the

¹⁷ MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation or Other, § III.A.5 (36.0.0).

¹⁸ *E.g., Tenaska Frontier Partners, Ltd.*, 167 FERC ¶ 61,183, at P 18 (2019) (subjecting Tenaska’s ROE to the outcome of the MISO-wide ROE proceeding). *See also Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 165 FERC ¶ 61,118 (2018) (establishing a paper hearing to determine whether and how various financial models should apply when determining the just and reasonable base ROE for the MISO transmission owners).

¹⁹ 18 C.F.R. § 385.603 (2018).

²⁰ 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>).

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) Turtle Creek's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective September 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 on 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 Turtle Creek's proposed Rate Schedule. However, the hearing will 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 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)

Kimberly D. Bose,
Secretary.