

168 FERC ¶ 61,101
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tuscola Bay Wind, LLC

Docket No. ER19-2235-000

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

(Issued August 21, 2019)

1. On June 24, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Tuscola Bay Wind, LLC (Tuscola Bay) 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 Tuscola Bay's rate for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) from the Tuscola Bay 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 rate schedule by the Commission,⁴ subject to refund, and set the Rate Schedule for hearing and settlement judge procedures.

I. Background

2. Tuscola Bay states that it is an indirect subsidiary of NextEra Energy, Inc. Tuscola Bay notes that the Facility, which is located in Bay, Tuscola, and Saginaw Counties, Michigan, began commercial operation in December 2012, has a nameplate

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ Tuscola Bay Wind, 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).

capacity rating of 120 MW, and is interconnected with the transmission system of the Michigan Electric Transmission Company, LLC (METC) within the MISO region.⁵ Tuscola Bay states that the Facility is subject to a large generator interconnection agreement with METC and MISO (Tuscola Bay GIA) that was last amended in June 2016. Tuscola Bay explains that the Commission authorized it to sell capacity, energy, and ancillary services at market-based rates in 2012.⁶

3. Tuscola Bay states that the Facility is designed to provide reactive supply capability. Specifically, Tuscola Bay explains that the Tuscola Bay GIA requires that the Facility be capable of operating to a +/- 0.95 lag/lead power factor at the Point of Interconnection.⁷ Tuscola Bay states that the Facility completed its most recent Generator Reactive Power Capability Verification tests on February 16, 2017, 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. Tuscola Bay states that Schedule 2 of MISO's Tariff provides for compensation to generators that provide Reactive Service and meet certain technical criteria.⁸ Tuscola Bay asserts that the Facility has met the testing requirements for voltage control capability for MISO.⁹ Tuscola Bay 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. Tuscola Bay 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 *AEP*,¹⁰ and has applied in subsequent reactive power fixed revenue requirement cases (*AEP* methodology). Tuscola Bay notes that the *AEP* methodology considers the costs

⁵ Filing, Transmittal Letter at 1.

⁶ *Id.* at 1-2 (citing *Tuscola Bay Wind, LLC*, Docket No. ER12-1660-000 (June 14, 2012) (delegated order)).

⁷ *Id.* at 3 (citing Tuscola Bay GIA Appendix C and Exhibit A14).

⁸ *Id.*

⁹ *Id.* at 3-4.

¹⁰ *American Electric Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-61,457 (1999) (*AEP*).

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.¹¹

6. Tuscola Bay 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.¹² Although the *AEP* methodology was developed in the context of synchronous generators, Tuscola Bay argues that it is equally applicable to asynchronous generators that are designed with the capability of providing reactive power support, such as the Facility. Tuscola Bay 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. Tuscola Bay explains that, for purposes of reactive power production, there are two primary differences between a synchronous generator and a non-synchronous generator.¹³ 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 Tuscola Bay, 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 generation facility may have larger costs associated with generator/excitors. Tuscola Bay 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

¹¹ Filing, Transmittal Letter at 4.

¹² *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)).

¹³ *Id.* at 4-5.

transmission organization requires the generator to provide reactive power as a condition of interconnection service, which is the case for Tuscola Bay under its GIA.

8. Tuscola Bay states that, when calculating its Fixed Capability Component, it used the rate of return and capital structure for METC, the transmission owner with which the Facility is interconnected.¹⁴ Tuscola Bay further states that, based on the calculation of the Fixed Capability Component, the annual reactive service revenue requirement is \$938,561.50.

II. Notice and Responsive Pleadings

9. Notice of the filing was published in the *Federal Register*, 84 Fed. Reg. 31,058 (2019), with interventions and protests due on or before July 15, 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 Tuscola Bay'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. Tuscola Bay'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 "will implement the rate change on the first day of the month immediately following acceptance of the revenue requirement by the Commission."¹⁵ Accordingly, we accept

¹⁴ *Id.* at 13. Tuscola Bay states that METC's rate of return is 8.325 percent, which includes a return on equity (ROE) of 11.07 percent, and uses METC's most recent capital structure of 40 percent debt and 60 percent equity. Tuscola Bay notes that it excluded the 50 basis point ROE adder associated with METC's participation in MISO, as well as the 25 basis point ROE adder for a Transco corporate structure, which reduced the ROE component to 10.32 percent, the MISO-wide ROE for transmission owners.

¹⁵ MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation or Other, § III.A.5 (36.0.0).

Tuscola Bay's proposed Rate Schedule for filing and suspend it for a nominal period, to become 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 Tuscola Bay's filing raises concerns about the justness and reasonableness of Tuscola Bay's proposed Rate Schedule, including but not limited to, Tuscola Bay's lack of support for its balance of plant allocator, generator/exciters allocators, fixed operation and maintenance expenses and inclusion of costs associated with collection system and capacitor banks. In addition, Tuscola Bay proposes a 10.32 percent ROE based on the MISO-wide ROE for transmission owners. We find that this ROE should be subject to the outcome of the MISO-wide ROE proceedings.¹⁶

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.¹⁷ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.¹⁸ 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 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.

¹⁶ *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).

¹⁷ 18 C.F.R. § 385.603 (2018).

¹⁸ 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>).

The Commission orders:

(A) Tuscola Bay'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 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 Tuscola Bay's proposed Rate Schedule, as discussed in the body of this order. 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 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)

Kimberly D. Bose,
Secretary.