

168 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tuscola Wind II, LLC

Docket No. ER19-2546-000

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

(Issued September 30, 2019)

1. On August 8, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Tuscola Wind II, LLC (Tuscola II) 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 II's rate for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) from the Tuscola II wind turbine generating facility (Facility). In this order, we accept the Rate Schedule, suspend it for a nominal period, to become effective October 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 II states that it is an indirect subsidiary of NextEra Energy, Inc. Tuscola II notes that the Facility, which is located in Tuscola County, Michigan, began

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. pt. 35 (2019).

³ Tuscola Wind II, LLC, FERC FPA Electric Tariff, Rate Schedules, [Rate Schedule, 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).

commercial operation in November 2013, has a nameplate capacity rating of 105.6 MW, and is interconnected with the transmission system of International Transmission Company, LLC (ITC) within the MISO region.⁵ Tuscola II states that the Facility is subject to a large generator interconnection agreement with ITC and MISO (Tuscola II GIA) that was last amended in 2014.⁶ Tuscola II explains that the Commission authorized it to sell capacity, energy, and ancillary services at market-based rates in 2013.⁷

3. Tuscola II states that the Facility is designed to provide reactive supply capability. Specifically, Tuscola II explains that the Tuscola II GIA requires that the Facility be capable of maintaining a power factor of 0.95 leading to 0.95 lagging at the Point of Interconnection.⁸ Tuscola II states that the Facility completed its most recent Generator Reactive Power Capability Verification tests on January 4, 2018, 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 II states that Schedule 2 of MISO's Tariff provides for compensation to generators that provide Reactive Service and meet certain technical criteria.⁹ Tuscola II asserts that the Facility has met the testing requirements for voltage control capability for MISO.¹⁰ Tuscola II 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 II states that it calculated the Facility's Fixed Capability Component in accordance with the methodology for determining the cost-of-service associated with

⁵ Filing, Transmittal Letter at 1.

⁶ *Id.* at 1-2.

⁷ *Id.* at 2 (citing *Tuscola Wind II, LLC*, Docket No. ER13-2458-000 (Nov. 20, 2013) (delegated order)).

⁸ *Id.* at 3 (citing Tuscola II GIA Appendix C and Exhibit A14).

⁹ *Id.*

¹⁰ *Id.* at 3-4.

providing reactive power capability that the Commission adopted in *American Electric Power Service Corp.*,¹¹ and has applied in subsequent reactive power fixed revenue requirement cases (*AEP* methodology). Tuscola II 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.¹²

6. Tuscola II 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.¹³ Although the *AEP* methodology was developed in the context of synchronous generators, Tuscola II 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 II 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 II explains that, for purposes of reactive power production, there are two primary differences between a synchronous generator and a non-synchronous generator.¹⁴ 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 II, 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 II contends that, for *AEP* methodology

¹¹ *Id.* at 9 and n.8 (citing *American Electric Power Serv. Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999) (*AEP*)).

¹² *Id.* at 4.

¹³ *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 (2008)).

¹⁴ *Id.* at 4-5.

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 Tuscola II under its GIA.

8. Tuscola II 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.¹⁵ Tuscola II further states that, based on the calculation of the Fixed Capability Component, the annual reactive service revenue requirement is \$672,368.56.

9. Tuscola II requests that the Commission waive its regulations at 18 C.F.R. § 35.3 (2019) and grant an effective date of September 29, 2019, which is less than 60 days from the date of filing. Tuscola II argues that good cause exists to grant its request because it originally filed the identical rate schedule application in Docket No. ER19-2499-000 with the same requested effective date, which was 60 days from the filing date. Tuscola II states that it is resubmitting its Rate Schedule in this new docket only to correct a filing error so that its filing would display properly in the Commission's eTariff viewer and that all other aspects of this filing are identical to the previous filing. Tuscola II also argues that the waiver would allow it to begin collecting its rate in October 2019, but without the requested waiver, it would be precluded from recovering its rate until November 2019 pursuant to MISO's Tariff.¹⁶

¹⁵ *Id.* at 13. Tuscola II states that ITC's rate of return is 8.48 percent, which includes a return on equity (ROE) of 11.07 percent, and that the most recent information for ITC's capital structure is 40 percent debt and 60 percent equity. Tuscola II notes that it excluded the 50 basis point ROE adder associated with ITC'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. *Id.*

¹⁶ *Id.* at 14 (citing MISO, FERC Electric Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation or Other, § III.A.5 (36.0.0)) ("If a change is due to the Commission's approval of a new or revised revenue requirement, the Transmission Provider will implement the rate change on the first day of the month immediately following acceptance of the revenue requirement by the Commission or the first day of the month if Commission acceptance of such revenue requirement is on the first day of the month."). Given this MISO Tariff provision, while Pheasant Run requests a September 29, 2019 effective date for the Rate Schedule, the earliest it would be permitted to start collecting the revenue requirement per MISO's Tariff is October 1, 2019, which is the effective date we grant herein.

II. Notice and Responsive Pleadings

10. Notice of the filing was published in the *Federal Register*, 84 Fed. Reg. 40,400 (2019), with interventions and protests due on or before August 29, 2019. MISO and DTE Electric Company (DTE) filed timely motions to intervene.

11. On September 5, 2019, Tuscola II filed a motion requesting that the Commission issue an order on its filing no later than October 1, 2019, so as to allow Tuscola II to receive compensation for the Reactive Service it will be providing to MISO in October 2019. Tuscola II states that all parties have authorized Tuscola II to represent that they do not oppose the motion.

III. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), MISO's and DTE's timely, unopposed motions to intervene serve to make them parties to this proceeding.

13. For good cause shown, we will grant Tuscola II's request for waiver of the prior notice requirement to permit the effective date established herein.

B. Substantive Matters

14. Our preliminary analysis indicates that Tuscola II'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 II'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."¹⁷ Accordingly, we accept Tuscola II's proposed Rate Schedule for filing and suspend it for a nominal period, to become effective October 1, 2019, subject to refund, and establish hearing and settlement judge procedures.

15. Tuscola II's filing raises concerns about the justness and reasonableness of Tuscola II's proposed Rate Schedule, including but not limited to, Tuscola II's lack of support for its Generator Step-Up Transformer designation, fixed operation and

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

maintenance expenses, and inclusion of costs associated with collection systems, capacitor banks, and substations. The filing also raises questions regarding possible degradation of reactive power capabilities for generating units. In addition, Tuscola II 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.¹⁸

16. 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 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) Tuscola II's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective October 1, 2019, subject to refund, as discussed in the body of this order.

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 (2019).

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>).

(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 II'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 (2019), 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.