

169 FERC ¶ 61,082
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

New Creek Wind LLC

Docket No. ER19-2745-000

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

(Issued October 30, 2019)

1. On September 4, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² New Creek Wind, LLC (New Creek) submitted a rate schedule (Rate Schedule)³ for Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service) under Schedule 2 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff).⁴ In this order, we accept New Creek's proposed Rate Schedule for filing and suspend it for a nominal period, to

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. pt. 35 (2019).

³ New Creek Wind LLC, Rate Schedules, [Rate Schedule, Reactive Power Compensation \(0.0.0\)](#).

⁴ See PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0). Although New Creek has not previously filed for approval of a Reactive Service tariff, we conclude that this is a proposed rate change under section 205(d) of the FPA, rather than an initial rate, because New Creek has been providing Reactive Service to PJM prior to the instant filing. Transmittal Letter at 5; see *Calpine Oneta Power, L.P.*, 103 FERC ¶ 61,338, at P 11 (2003) (stating that, as the Oneta Project has been providing reactive power service under its Interconnection Agreement, albeit without charge, "the proposed rates for Reactive Power Service in the instant proceeding are not initial rates, but are changed rates").

become effective November 4, 2019, subject to refund, and establish hearing and settlement judge procedures.

I. Background

2. 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.⁵

II. Filing

3. New Creek states that it owns and operates a 102.5 MW wind turbine generating facility (Facility) in Grant County, West Virginia, which began commercial operation in December 2016.⁶ New Creek states that the Facility interconnects to the transmission system of Virginia Electric and Power Company (VEPCO), within the PJM region.⁷ New Creek states that it, VEPCO, and PJM are parties to an interconnection service agreement that was recently amended in 2018.⁸

4. New Creek states that it calculated the Facility's fixed capability component for Reactive Service using the methodology that the Commission adopted in *American Electric Power Service Corp. (AEP Methodology)*.⁹ New Creek notes that the *AEP Methodology* considers the costs associated with four groups of plant investments: (1) generators/exciters; (2) generator step-up (GSU) transformers; (3) accessory electric equipment (AEE); and (4) remaining production plant investment.¹⁰

5. New Creek states that it calculated a total plant investment attributable to reactive power production at the Facility of \$4,415,565 which consists of: (i) \$3,343,985 (the

⁵ See PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁶ Transmittal Letter at 1.

⁷ *Id.*

⁸ *Id.* (citing *PJM Interconnection, L.L.C.*, Docket No. ER19-506-000 (Jan. 23, 2019) (delegated order)).

⁹ *Id.* at 9.

¹⁰ *Id.* at 3.

reactive portions of the generator/exciter and AEE); (ii) \$214,063 (the reactive portions of the GSU transformer); and (iii) \$857,517 (the portion of the remaining total production plant used to support reactive power production).¹¹ Based on the fixed revenue requirement, New Creek calculated the annual Reactive Service revenue requirement to be \$558,176.11. New Creek states that it divided this amount by twelve to arrive at its monthly Reactive Service revenue requirement of \$46,514.68.¹²

III. Notice

6. Notice of New Creek's filing was published in the *Federal Register*, 84 Fed. Reg. 47,502 (2019), with interventions and protests due on or before September 25, 2019. PJM and Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (IMM), filed timely motions to intervene. Dominion Energy Services, Inc., on behalf of VEPCO d/b/a Dominion Energy Virginia/North Carolina (Dominion) moved to intervene out-of-time.

IV. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), PJM's and the IMM's timely, unopposed motions to intervene serve to make them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.214(d), the Commission will grant Dominion's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

8. Our preliminary analysis indicates that New 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. New 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. Accordingly, we accept New Creek's proposed Rate Schedule for filing and suspend it for a nominal period, to become effective November 4, 2019, subject to refund, and establish hearing and settlement judge procedures.

¹¹ *Id.* at 11.

¹² *Id.* at 12.

9. Although we are setting the Rate Schedule for hearing in its entirety, we note that New Creek's accessory electric equipment and allocator, generator and exciter costs, GSU transformer costs, administrative and general costs, and balance of plant allocator and costs may be excessive. New Creek has not provided a detailed explanation of the components of the accessory electric equipment and their associated costs. We also note that New Creek has not provided sufficient data which would allow verification of its reactive allocator such as the manufacturer's nameplate data and reactive power output test data.¹³ Furthermore, New Creek has provided no underlying cost support for the costs claimed in its filing.

10. While we are setting this matter 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.¹⁴ 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.¹⁵ 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) New Creek's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective November 4, 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 Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to

¹³ See *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,246, at P 28 (2016).

¹⁴ 18 C.F.R. § 385.603 (2019).

¹⁵ 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 (5) 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'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 New Creek's proposed Rate Schedule. 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 (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 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.