

169 FERC ¶ 61,161
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Calpine Mid-Merit II, LLC

Docket No. ER19-2916-000

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

(Issued November 26, 2019)

1. On September 30, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Calpine Mid-Merit II, LLC (Mid-Merit II) submitted a proposed rate schedule (Rate Schedule)³ setting forth the revenue requirements of its York Energy Center 2 (Facility) to provide Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service) as defined in Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (PJM Tariff).⁴ We accept for filing Mid-Merit II's proposed Rate Schedule and suspend it for a nominal period, to become effective November 1, 2019, as requested, subject to refund, and establish hearing and settlement judge procedures, as discussed below.⁵

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. pt. 35 (2019).

³ Calpine Mid-Merit II, LLC, FERC Electric Tariffs, [Reactive Rate Schedule, Rate Schedule FERC No. 1 \(0.0.0\)](#).

⁴ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁵ Although Mid-Merit II 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 Mid-Merit II has been providing reactive power service to PJM prior to the instant filing. *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 section 3.5 of 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.").

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.⁶

II. Filing

3. Mid-Merit II states that it is an indirect, wholly owned subsidiary of Calpine Corporation and is an exempt wholesale generator that has been granted market-based rate authority.⁷ Mid-Merit II states that it owns and operates the Facility, an approximately 879 MW (nameplate rating) dual-fuel combined-cycle electric generation facility in Peach Bottom Township, Pennsylvania. Mid-Merit II states that the Facility is interconnected with PECO Energy Company (PECO), and is located within the PECO zone of PJM. According to Mid-Merit II, the Facility commenced commercial operations in March 2019.⁸

4. Mid-Merit II states that the Rate Schedule is a cost-based tariff that represents the Facility's revenue requirement for Reactive Service. Mid-Merit II asserts that although the revenue requirement for Reactive Service typically consists of the fixed cost attributable to reactive power production capability (Fixed Capability Component) and the costs associated with increased generator and step-up transformer heating losses that result from the production of reactive power (Heating Losses Component), Mid-Merit II is not seeking the recovery of a Heating Losses Component at this time.

5. According to Mid-Merit II, consistent with the *AEP* methodology, it calculated the Fixed Capability Component by first determining the portion of the generator/excitation systems, accessory electric equipment, and the generator step-up transformers used to produce reactive power.⁹ Mid-Merit II asserts that because this equipment contributes to

⁶ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (4.0.0).

⁷ Transmittal at 2-3.

⁸ *Id.* at 3.

⁹ *Id.* at 3-4 (citing *American Elec. Power Serv. Corp.*, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000) (establishing the *AEP* methodology); *see also Indiana Mun. Power Agency*, 112 FERC ¶ 61,062 at PP 15-16 (2005) (finding the use of

the provision of both real and reactive power, an allocator is applied to fairly apportion the cost of this plant between the real and reactive power components.¹⁰ Mid-Merit II asserts that testimony of Mr. Del Casale also addresses the treatment of accessory electric equipment and the remaining cost of production plant included in the calculation of the Fixed Capability Component.¹¹ Mid-Merit II states that the Fixed Capability Component of the annual revenue requirement was then determined by applying a fixed charge rate. Mid-Merit II states that a levelized annual carrying cost approach is used to develop the annual revenue requirement.

6. Mid-Merit II states that it used the return on equity and capital structure included in PECO's most recent transmission rate filing.¹² Mid-Merit II asserts that the use of this proxy for the overall rate of return and capital structure is conservative because as the owner of a merchant generating facility, Mid-Merit II faces market risks that are greater than those normally associated with the service provided by a monopoly transmission provider like PECO and that adopting such a proxy is just, reasonable, and in the public interest.¹³

7. Mid-Merit II states that it calculated a total annual revenue requirement for Reactive Service of \$2,075,760.12, and a monthly requirement of \$172,980.01.¹⁴

8. Mid-Merit II requests Commission action by November 29, 2019, to establish an effective date of November 1, 2019.¹⁵ Mid-Merit II avers that it will be eligible to begin

a ratio of the exciter load to the total exciter/auxiliary load to be consistent with the *AEP* methodology)).

¹⁰ *Id.* at 4. Mid-Merit II states that this method uses nameplate data to apportion costs pursuant to the *AEP* methodology. *Id.*

¹¹ *Id.* Mid-Merit II states that, as reflected in his testimony, Mr. Del Casale uses a proxy in the development of the allocator for the remaining cost of production plant. Mid-Merit II states that the use of a proxy is consistent with Commission precedent and has been used in a number of Reactive Service rate schedule filings. *Id.* at 4 n.10.

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ *Id.*; Transmittal, Attachment A, Rate Schedule FERC No. 1; Ex. No. CMM-1, Prepared Direct Testimony of Michael J. Del Casale, at 17.

¹⁵ Transmittal at 6.

recovering its cost of providing Reactive Service within PJM on the first day of the month in which the Commission accepts or approves its revenue requirement.

III. Notice and Responsive Pleadings

9. Notice of Mid-Merit II's September 30, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 53,430 (2019), with interventions and protests due on or before October 21, 2019. Exelon Corporation, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM, and PJM filed timely motions to intervene. No protests were filed.

IV. 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), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

11. Our preliminary analysis indicates that Mid-Merit 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. Mid-Merit II's filing 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 for filing Mid-Merit II's proposed Rate Schedule, suspend it for a nominal period to become effective November 1, 2019, as requested, 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 Mid-Merit II has not provided underlying support for the costs claimed for the Facility. In addition, Mid-Merit II's filing includes accessory electric equipment costs, generator and exciter costs, generator step-up transformer costs, operation and maintenance costs, administrative and general costs, and balance of plant costs that may be excessive.¹⁶ We also note that Mid-Merit II has not provided support from its generator manufacturer to verify its nameplate MVAR and MVA numbers, and Mid-Merit II's Exhibit No. CMM-6 appears to depict degradation in the reactive power output of the facility which will impact the calculation of the reactive power allocator.

¹⁶ See *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,245, at P 29 (2016).

13. 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.¹⁷ 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.¹⁸ 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) Mid-Merit II's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period to become effective, November 1, 2019, as requested, 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 Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly section 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 Mid-Merit II's Rate Schedule, 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 (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

¹⁷ 18 C.F.R. § 385.603 (2019).

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 (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 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 participants 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.