171 FERC ¶ 61,070
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Garden Wind, LLC Docket No. ER20-1062-000

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

(Issued April 24, 2020)

1. On February 24, 2020, pursuant to section 205 of the Federal Power Act (FPA)[1] and Part 35 of the Commission's regulations,[2] Garden Wind, LLC (Garden Wind) 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 Garden Wind's rate for the provision of Reactive Supply and Voltage Control from Generation or Other Sources Service (Reactive Service) from Garden Wind's wind generating facility (Facility). In this order, we accept the Rate Schedule, suspend it for a nominal period, to become effective May 1, 2020, 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. Garden Wind states that it is an indirect subsidiary of NextEra Energy, Inc. Garden Wind notes that the Facility, which is located in Hardin County, Iowa, began

[1] 16 U.S.C. § 824d (2018).

[2] 18 C.F.R. pt. 35 (2019).

[3] Garden 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).

commercial operation in 2009, has a nameplate capacity rating of 160 MW, and is interconnected with the transmission system of ITC Midwest, LLC (ITC Midwest) within the MISO region.[5] Garden Wind states that the Facility is subject to a large generator interconnection agreement to which Garden Wind, ITC Midwest, and MISO are parties (Garden Wind GIA).[6] Garden Wind explains that the Commission authorized it to sell capacity, energy, and ancillary services at market-based rates in 2010.[7]

3. Garden Wind states that the Facility is designed to provide reactive supply capability. Specifically, Garden Wind explains that the Garden Wind GIA requires that the Facility is designed to maintain a power factor in the range of 0.95 leading to 0.95 lagging at the Point of Interconnection.[8] Garden Wind states that the Facility completed its most recent Generator Reactive Power Capability Verification tests on January 15, 2016, and that the Facility is capable of a reactive power range of 0.95 leading to 0.95 lagging.[9]

4. Garden Wind states that Schedule 2 of MISO's Tariff provides for compensation to generators that provide Reactive Service and meet certain technical criteria.[10] Garden Wind asserts that the Facility meets these technical criteria to be a qualified generator.[11] Garden Wind commits to submit a certification statement to MISO with respect to its compliance with the technical criteria set forth in Schedule 2 and supply its cost-based revenue requirement to MISO once the Commission accepts the proposed Rate Schedule.[12]

5. Garden Wind 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 Power*

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[5] Filing, Transmittal Letter at 1.

[6] *Id.*

[7] *Id.* (citing *Garden Wind, LLC,* Docket No. ER10-296-000 (Jan. 13, 2010) (delegated order)).

[8] *Id.* at 3 (citing Garden Wind GIA Appendix C).

[9] *Id.* at 3-4.

[10] *Id.*

[11] *Id.*

[12] *Id.* at 4.

Service Corp.,[13] and has applied in subsequent reactive power fixed revenue requirement cases (*AEP* methodology).[14] Garden Wind 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; and (4) remaining production plant investment.[15]

6. Garden Wind 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.[16] Although the *AEP* methodology was developed in the context of synchronous generators, Garden Wind argues that it is equally applicable to non-synchronous generators that are designed with the capability of providing reactive power support, such as the Facility. Garden Wind 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/exciters, 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. Garden Wind explains that, for purposes of reactive power production, there are two primary differences between a synchronous generator and a non-synchronous generator.[17] First, a non-synchronous wind turbine facility consists of many more turbines and associated generator/exciters 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 Garden Wind, 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

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[13] *American Electric Power Service Corp.*, Opinion No. 440, 88 FERC ¶ 61,141, at 61,456-61,457 (1999) (*AEP*).

[14] Filing, Transmittal Letter at 9.

[15] *Id.* at 4.

[16] *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)).

[17] *Id.* at 4-5.

generation facility may have larger costs associated with generator/exciters. Garden Wind 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 Garden Wind under its GIA.[18]

8. Garden Wind states that for a wind generating facility such as the Facility, the collection system is totally dedicated to support the generators and exciters and this equipment has no other function other than to support the generators and exciters. Thus, Garden Wind contends that it allocated 100% of the costs of the collection system to the calculation of the Fixed Capability Component and determined that 60% of the Facility's substation costs were attributable to the collection system bus and its associated switchgear. Garden Wind also explains that it has a Supervisory Control and Data Acquisition (SCADA) system that controls the wind turbine generators and that 86% of the SCADA cost is attributable to the accessory electric equipment that supports the generators and exciters, while the remaining 14 percent supports the interconnection facilities and thus is not allocated to Garden Wind's reactive power investment.[19]

9. Garden Wind states that, when calculating its Fixed Capability Component, it used the rate of return and capital structure for ITC Midwest, the transmission owner with which the Facility is interconnected.[20] Garden Wind further states that, based on the calculation of the Fixed Capability Component, the annual reactive service revenue requirement is $708,688.74.

10. Garden Wind requests an effective date of April 24, 2020.

II. Notice and Responsive Pleadings

11. Notice of the filing was published in the *Federal Register*, 85 Fed. Reg. 11,982 (Feb. 28, 2020), with interventions and protests due on or before March 16, 2020. MISO filed a timely motion to intervene. Interstate Power and Light Company (IPL) filed a

[18] *Id.* at 5.

[19] *Id.* at 10-11.

[20] *Id.* at 12. Garden Wind states that ITC Midwest's capital structure is 40% debt and 60% equity and its rate of return is 8.17%, which includes a return on equity (ROE) of 10.63%. Garden Wind notes that it utilized a ROE of 9.88% which it states is the ROE that the Commission established for MISO's transmission owners.

timely motion to intervene and protest. On March 31, 2020, Garden Wind filed a motion to answer and answer to IPL's protest.

12. IPL argues that the Commission should modify or reject the filing, or, in the alternative, accept the Rate Schedule, suspend it for five months, and set it for hearing and settlement judge procedures. IPL raises issues and questions related to the appropriateness of assumptions used in the calculations of the proposed revenue requirement. First, IPL argues that Garden Wind's use of a 0.15% Balance of Plant allocator is neither supported nor justified. IPL argues that Garden Wind fails to explain why using ITC Midwest's capital structure is just and reasonable. IPL states that, while Garden Wind utilizes ITC Midwest's 40% debt and 60% equity capital structure because ITC Midwest is the transmission owner to which the Facility is interconnected, ITC Midwest utilizes a capital structure with a higher equity ratio compared to other MISO transmission owners. Therefore, IPL argues that the use of ITC Midwest's capital structure, with the higher equity ratio, should be considered when determining if Garden Wind's adoption of this capital structure is just and reasonable.[21]

13. Second, IPL argues that the allocation of accessory electric equipment costs to the production of reactive power should be scrutinized. IPL argues that allocating 60% of the substation costs to the collector system, and assuming that 100% of the collector system is associated with reactive power production because it is totally dedicated to supporting the generators and exciters, does not appear reasonable. IPL argues that the percentage of costs associated with the SCADA system is not realistic. Citing its own experience of owning and operating over one gigawatt of wind facilities, IPL argues that a more appropriate allocation would include a smaller fraction of these costs to be attributed to the reactive power service.[22]

14. In addition to its specific concerns regarding the proposed Rate Schedule, IPL states that the Commission should consider, in a generic proceeding, how reactive power revenue requirements for non-synchronous generators should be calculated.[23] IPL contends that the *AEP* methodology was originally established for synchronous generation units, but that with advances in technology and the broad deployment of non-synchronous generators (such as wind turbines), the *AEP* methodology may no longer be sufficient to account for the inherent differences between synchronous and non-synchronous generators. IPL contends that applying the *AEP* methodology to non-synchronous resources could result in an over-allocation of plant investment to reactive

[21] IPL Protest at 4-5.

[22] *Id.* at 5.

[23] *Id.* at 1.

power production and lead to unjust and unreasonable costs, ultimately borne by customers. IPL argues that the Commission should examine issues associated with applying the *AEP* methodology to non-synchronous generators and how best reactive power revenue requirements for non-synchronous units should be calculated.[24]

15. IPL also argues that the Commission should consider balancing the requirement to provide reactive power with the need for reactive power in a particular locale or region. IPL contends that the Commission should not simply assume that, because a generator is able and willing to provide reactive power, that this reactive power is needed for reliable and efficient operation of the electric system. IPL contends that requiring customers to pay for a service in excess of the amount needed may result in costs that are unjust and unreasonable.[25]

16. In its answer, Garden Wind maintains that it has submitted information explaining the Facility's configuration, how Garden Wind followed the *AEP* methodology to isolate equipment and cost allocations that support its reactive capability, and how its revenue requirement is developed. Garden Wind avers that its filing is substantiated to the same degree as numerous other reactive capability compensation rate schedules of wind generating companies which the Commission accepted and/or set for hearing and settlement procedures.[26]

17. Garden Wind contends that IPL's request for a five-month suspension of Garden Wind's Rate Schedule is inappropriate, arguing that IPL does not allege that the proposed Rate Schedule is excessive and that Garden Wind utilized the Commission's well-accepted *AEP* methodology. In addition, Garden Wind states that the Commission has imposed a five-month suspension only where the filing party was seeking a significant rate increase over its previously filed reactive power rate. Garden Wind explains that it has never previously filed rates for reactive power supply.[27]

18. With respect to IPL's claim that Garden Wind's use of a 0.15% Balance of Plant allocator is neither supported nor justified, Garden Wind responds that its sister companies have performed detailed calculations for their respective wind generating facilities to arrive at the real power losses incurred to produce reactive power and these

[24] *Id*. at 5-6.

[25] *Id*.

[26] Garden Wind Answer at 2.

[27] *Id.* at 3.

calculations have consistently identified an allocation factor between 0.14 to 0.18%.[28] In response to IPL's argument that Garden Wind fails to explain why using ITC Midwest's capital structure is just and reasonable, Garden Wind states that the fact that one utility in MISO may have a higher or lower equity or debt ratio is irrelevant and Garden Wind's use of ITC Midwest's cost of capital is consistent with long-standing precedent.[29]

19. In response to IPL's claim that Garden Wind's allocation of 60% of the cost of the substation to the collector system should be scrutinized, Garden Wind notes that IPL does not identify any specific fault with how 60% was derived and why it is being used.[30] Similarly, Garden Wind states that IPL provides no legal support for its position that Garden Wind's allocation of 100% of its collection system costs to its reactive function does not appear reasonable.[31] Additionally, Garden Wind contends that IPL provides no evidence in support of its claimed experience with SCADA cost allocation, and Garden Wind argues that IPL's experience with other wind farms is irrelevant.[32]

20. Finally, with regard to IPL's request for a generic proceeding, Garden Wind states that it welcomes consideration of such policy issues as part of the reactive supply compensation proceeding in Docket No AD16-17-000,[33] but it contends that such a request should not be entertained in a section 205 filing which is of limited scope such as the instant docket.[34]

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[28] *Id.* at 8.

[29] *Id.* at 9.

[30] *Id.* at 6.

[31] *Id.*

[32] *Id.* at 5-6.

[33] *Reactive Supply Compensation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, , Notice of Workshop, Docket No. AD16-17-000 (March 17, 2016) (Commission staff workshop to discuss compensation for Reactive Supply and Voltage Control within the Regional Transmission Organizations and Independent System Operators).

[34] Garden Wind Answer at 9-10.

III. Discussion

A. Procedural Matters

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

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by Garden Wind because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

23. Our preliminary analysis indicates that Garden Wind'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. Garden Wind'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."[35] Accordingly, we accept Garden Wind's proposed Rate Schedule for filing and suspend it for a nominal period, to be effective May 1, 2020, subject to refund, and establish hearing and settlement judge procedures.[36]

24. Although we are setting the Rate Schedule for hearing in its entirety, we note that the information in Garden Wind's filing raises concerns about the justness and reasonableness of Garden Wind's proposed Rate Schedule, including but not limited to, Garden Wind's lack of support for its fixed operation and maintenance expenses and the possible inclusion of transmission related expenses, such as costs associated with the

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

[36] In *West Texas Utilities Co.,* 18 FERC ¶ 61,189, at 61,374-61,375 (1982), the Commission explained that when its preliminary analysis indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, the Commission will generally impose a five-month suspension. In the instant proceeding, our preliminary analysis indicates that the proposed rates may not be substantially excessive, as defined in *West Texas*, and therefore we deny IPL's request for a five-month suspension.

collection system and substation. In addition, Garden Wind utilized a ROE of 9.88% which it states is the ROE that the Commission established for MISO's transmission owners; we find that the proposed ROE should be subject to the outcome of the MISO-wide ROE proceeding.[37] Further, we find that IPL's request for a generic proceeding is beyond the scope of this proceeding. IPL may raise its concerns regarding how the proposed revenue requirement has been calculated in the hearing and settlement judge procedures ordered below.

25. 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.[38] If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.[39] 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 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) Garden Wind's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective May 1, 2020, 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 Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206

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[37] *See Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,129 (2019).

[38] 18 C.F.R. § 385.603 (2019).

[39] 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).

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 Garden Wind's proposed 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 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 days of the date of this order.

(D) Within 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 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 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.