

171 FERC ¶ 61,079
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Hazleton Generation LLC

Docket No. ER20-1210-000

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

(Issued April 28, 2020)

1. On March 9, 2020, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Hazleton Generation LLC (Hazleton) submitted a proposed rate schedule (Rate Schedule)³ for 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 (Tariff).⁴ In this order, we accept Hazleton's Rate Schedule for filing and suspend it for a nominal period, to become effective April 1, 2020, as requested, subject to refund, and set the filing for hearing and settlement judge procedures.⁵

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. pt. 35 (2019).

³ Hazleton Generation LLC, Market Based Rates, [Reactive Service Tariff, RATE SCHEDULE FERC NO. 2, 1.0.0.](#)

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

⁵ Although Hazleton 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 Hazleton 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) (finding that the proposed rates for Reactive Power Service "are not initial rates, but are changed rates," where the relevant project had been providing service under an interconnection agreement, albeit without charge).

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. Hazleton states that it is a wholly-owned indirect subsidiary of investment funds managed and controlled exclusively by Starwood Energy Group Global, L.L.C.⁷ Hazleton also states that it is an exempt wholesale generator that is authorized by the Commission to sell energy, capacity, and certain ancillary services at market-based rates.⁸ Hazleton further states that it owns and operates a 232 MW natural gas and oil-fired electric generating facility located in Hazle Township, Luzerne County, Pennsylvania (Hazleton Generation Facility).⁹ Hazleton states that the Hazleton Generation Facility is equipped with three General Electric (GE) LM5000 gas turbine generators and one Alstom 11D5 gas turbine generator, and is interconnected to PPL Electric Utilities Corporation's (PPL) electrical system within PJM.¹⁰ Hazleton notes that it is currently providing Reactive Service to the PJM transmission system without compensation, and the Hazleton Generation Facility's generators are operated under PJM's control and are capable of producing or absorbing reactive power to maintain transmission voltages on the PJM transmission system.¹¹ Hazleton states that it is

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

⁷ Filing at 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* Hazleton states that the Alstom 11D5 gas turbine generator was placed in service in 1989, and the three GE LM5000 gas turbine generators were initially placed in service at other locations between 1989 and 1991 and were subsequently refurbished and placed in service at the Hazleton Generation Facility in 2002. Filing, Attachment B, Ex. No. HGF-001 (Testimony of Adrian J. Kimbrough) at 2.

¹¹ *Id.*

submitting its Reactive Service Rate Schedule in order to ensure that it is appropriately compensated for providing Reactive Service to PJM.¹²

4. Hazleton states that its proposed Reactive Service revenue requirement is derived using the *AEP* methodology developed in Opinion No. 440,¹³ and applied in subsequent orders.¹⁴ Hazleton also states that its proposed Reactive Service revenue requirement for the Hazleton Generation Facility consists of only the fixed costs attributable to reactive power production capability (Fixed Capability Component).¹⁵ Hazleton states that the Fixed Capability Component is calculated by determining the portion of the total plant investment attributable to reactive service and applying a fixed charge rate. Hazleton explains that Hazleton Generation Facility's Fixed Capability Component is calculated by analyzing the reactive portion of investment in: (1) the generator and associated exciter equipment, (2) generator step-up transformers, (3) accessory electric equipment that supports the operation of the generator-exciter system, and (4) the balance of plant.¹⁶ Hazleton states that because each of these components contributes to the provision of both reactive power and real power, these individual amounts are multiplied by the appropriate allocation factor to determine the reactive power portion of the investments. Hazleton also states that the individual allocated amounts are then summed and multiplied by the fixed cost carrying charge to produce Hazleton's annual revenue requirement for reactive service.¹⁷

5. Hazleton states that it uses the generating units' nameplate power factor rating to calculate the reactive power allocation factor used to develop its revenue requirement and is providing reactive power test results associated with reactive power capability testing performed on the Hazleton Generation Facility's generating units on February 11, 2020.

6. Hazleton states that it is a merchant independent power producer and is not subject to traditional utility rate regulation nor is it subject to cost-of-service accounting or the

¹² *Id.* at 3.

¹³ *Id.* (citing *Am. Elec. Power Service Corp.*, Opinion No. 440, 88 FERC ¶ 61,141 (1999) (*AEP*)).

¹⁴ *Id.* (citing *WPS Westwood Generation, LLC*, 101 FERC ¶ 61,290, at P 14 (2002); *Dynegy Midwest Generation, Inc.*, 121 FERC ¶ 61,025, at PP 3-4 (2007), *order on reh'g*, 125 FERC ¶ 61,280 (2008)).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

Commission's Uniform System of Accounts.¹⁸ Hazleton also states that the Commission allows merchant generators such as Hazleton to use the authorized cost of capital of the utility to which the generator is interconnected.¹⁹ Hazleton further states that the Commission permits merchant generators to use the interconnected utility's cost of capital as a proxy because the utility faces less risk than the merchant generator.²⁰ Hazleton states that it has incorporated in its revenue requirement the Commission-approved cost of capital of PPL.²¹

7. Hazleton states that it calculated the total annual revenue requirement for Reactive Service of \$1,020,563.76, with a monthly revenue requirement of \$85,046.98.²²

8. Hazleton requests that the Commission issue an order by April 29, 2020 and requests waiver of the Commission's prior notice requirement to permit Hazleton's proposed Reactive Service Rate Schedule to become effective April 1, 2020. Hazleton states that because it has been providing Reactive Service to PJM without compensation, granting the requested waiver is necessary to prevent Hazleton from foregoing compensation for Reactive Service for the month of April 2020. Hazleton also requests waiver of those requirements of section 35.13 of the Commission's regulations that are not applicable to this filing and any other necessary waivers to permit the Reactive Service Tariff to become effective as requested.²³

III. Notice and Responsive Pleadings

9. Notice of Hazleton's filing was published in the Federal Register, 85 Fed. Reg. 14,673 (Mar. 13, 2020), with interventions and protests due on or before March 30, 2020. Monitoring Analytics, LLC, acting in its capacity as PJM's Independent Market Monitor (Market Monitor), filed a timely motion to intervene. PJM filed a motion to intervene out of time.

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Filing, Attachment A (Proposed Reactive Service Tariff).

²³ Filing at 1, 4, 7.

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 (2019), the Market Monitor's timely, unopposed motion to intervene serves to make it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2019), the Commission will grant PJM'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

11. Our preliminary analysis indicates that Hazleton'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. Hazleton'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 Hazleton's proposed Rate Schedule for filing and suspend it for a nominal period, to be effective April 1, 2020, 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 the operation and maintenance costs, administrative and general costs, accessory electric equipment costs, fixed charge rate, and balance of plant costs may be excessive. We also note a lack of underlying cost support for Hazleton's filing.²⁴ In addition, it is clear that the Hazleton Generation Facility is unable to operate at its nameplate capacity of 232 MW and is now operating at 161 MW, and its reactive power output appears to be degraded based upon the Reactive Power Capability Testing Reports submitted by Hazleton.²⁵ Finally, as a result of the reduced total MW output of the Hazleton Generation Facility, Hazleton's calculation of the reactive allocator is incorrect.

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

²⁴ *Wabash Valley Power Ass'n, Inc.*, 154 FERC ¶ 61,245, at PP 28-29 (2016).

²⁵ Filing, Attachment B, Ex. No. HGF-003 (Recent Reactive Capability Test Reports) at 11, 24, 37, 50.

of the Commission's Rules of Practice and Procedure.²⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.²⁷ 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) Hazleton's proposed Rate Schedule is hereby accepted for filing and suspended for a nominal period, to become effective April 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 on the Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Hazleton's proposed Rate Schedule. 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 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

²⁶ 18 C.F.R. § 385.603 (2019).

²⁷ 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>).

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)

Kimberly D. Bose,
Secretary.