

171 FERC ¶ 61,175  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

AEP Generation Resources Inc.

Docket No. ER20-1473-000

ORDER ACCEPTING TARIFF REVISIONS AND GRANTING WAIVER

(Issued May 29, 2020)

1. On April 1, 2020, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and part 35 of the Commission's regulations,<sup>2</sup> American Electric Power Service Corporation, on behalf of AEP Generation Resources Inc. (AEP), filed proposed revisions to Rate Schedule No. 3, which sets forth AEP's cost-based revenue requirement for generation resources that provide Reactive Supply and Voltage Control for Generation Resources (Reactive Service) in the PJM Interconnection, L.L.C. (PJM) region. AEP's proposed revisions eliminate the revenue requirement associated with its Conesville Unit 4 generating unit, which will be deactivated on June 1, 2020. AEP also requests waiver of the 90-day notice requirement in Schedule 2 of the PJM Open Access Transmission Tariff (PJM Tariff). As discussed below, we accept the proposed revisions, effective June 1, 2020, as requested, and grant AEP's requested waiver.

**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.<sup>3</sup> Schedule 2 requires that at least 90 days before deactivating or transferring a resource receiving compensation for Reactive Service, the resource owner must either: (1) submit a filing to

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<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> 18 C.F.R. pt. 35 (2019).

<sup>3</sup> PJM, Intra-PJM Tariffs, OATT, Schedule 2.

either terminate or adjust its cost-based rate schedule to account for the deactivated or transferred unit; or (2) submit an informational filing explaining the basis for the decision by the Reactive Service supplier not to terminate or revise its cost-based rate schedule.

## II. Filing

3. AEP states that, on January 23, 2019, it provided notice to PJM, on behalf of itself and AES Ohio Generation, LLC,<sup>4</sup> that Conesville Unit 4 would be deactivated, with a planned deactivation date of June 1, 2020.

4. AEP proposes here to reduce to zero the revenue requirement associated with Conesville Unit 4 in its Rate Schedule No. 3 following deactivation of the unit. AEP states that the current annual revenue requirement for the Conesville Unit 4 of \$643,612 would be removed from the current total annual revenue requirement of \$1,364,836, resulting in a revised total annual revenue requirement of \$721,224. AEP requests an effective date for the revised Schedule No. 3 of June 1, 2020, the date of the planned deactivation.

5. AEP also requests waiver of the 90-day notice requirement in Schedule 2 of the PJM Tariff that requires a generation owner to file to eliminate cost-based Reactive Service revenue requirements for deactivated units 90 days prior to the planned deactivation date. AEP states that it notified PJM of the planned deactivation in January 2019, well in advance of the planned deactivation date and in compliance with deactivation notice requirements in the PJM Tariff. However, as a result of administrative oversight, AEP notes that the instant filing was not made 90 days in advance of the planned deactivation date. AEP states that good cause exists to grant the requested waiver because: (1) the underlying circumstances and decisions giving rise to the waiver request were made in good faith, as demonstrated by the notice of deactivation being timely provided and this filing being promptly submitted upon learning of the oversight; (2) the waiver is limited in scope to this one deadline and this one generating unit; (3) a concrete problem needs to be remedied, which is that AEP can no longer comply with a deadline that has passed, yet Rate Schedule No. 3 should reflect reduced revenue requirements effective June 1, 2020; and (4) the waiver will not have undesirable consequences since PJM still has 60 days to implement the reduction in revenue requirements.

## III. Notice and Responsive Pleadings

6. Notice of AEP's filing was published in the *Federal Register*, 85 Fed. Reg. 19,469 (Apr. 7, 2020), with interventions and protests due on or before April 22, 2020. PJM and

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<sup>4</sup> AEP states that Conesville Unit 4 is jointly owned by AEP and AES Ohio Generation, LLC. Transmittal at 3.

Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM, filed timely motions to intervene.

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

##### **B. Substantive Matters**

8. We find that AEP's proposed revisions to Rate Schedule No. 3 to reduce its total revenue requirement to reflect the deactivation of Conesville Unit 4 are just, reasonable, and not unduly preferential or discriminatory. In particular, we find that AEP's proposed revisions and rate reduction ensure that Rate Schedule No. 3 accurately reflects the generation resources that will provide Reactive Service in PJM and their associated revenue requirement. Accordingly, we accept revised Rate Schedule No. 3, effective June 1, 2020, as requested.

9. We also grant AEP's request for waiver of the 90-day notice requirement in Schedule 2 of the PJM Tariff. As an initial matter, we view this as a prospective waiver request. The requested waiver relates to the AEP's proposed retirement of Conesville Unit 4 on June 1, 2020 on less than 90 days' notice, and any resulting violation of the tariff absent the waiver will not occur unless and until Conesville Unit 4 actually is retired on that date. We evaluate that request for a prospective waiver under our four factor test, which considers whether: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.<sup>5</sup>

10. We find that the circumstances of the instant case satisfy the foregoing criteria. First, we find that the underlying error was made in good faith, as evidenced by the notice of deactivation being timely provided to PJM and this filing being submitted expeditiously after discovering the oversight. Second, we find that the requested waiver is limited in scope because it is a one-time, limited waiver of the 90-day requirement in Schedule 2 of the PJM Tariff. Third, we find that the waiver addresses a concrete problem because, absent the requested waiver, the reduction in AEP's Rate Schedule No. 3 as a result of the deactivation of Conesville Unit 4 could be delayed. Finally, we find that the waiver does not have any undesirable consequences, such as harming third

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<sup>5</sup> See, e.g., *New Brunswick Energy Mktg. Corp.*, 167 FERC ¶ 61,252, at P 12 (2019); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

parties, as AEP's filing ensures that AEP's rates are reduced upon the deactivation of Conesville Unit 4.

The Commission orders:

(A) AEP's proposed revisions to Rate Schedule No. 3 are hereby accepted, effective June 1, 2020, as requested, as discussed in the body of this order.

(B) AEP's request for waiver is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.