

161 FERC ¶ 62,142

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Wabash Valley Power Association, Inc.
Docket No. EL18-22-000

November 28, 2017

Liane K. Steffes
Parr Richey LLP
251 N. Illinois Street, Suite 1800
Indianapolis, IN 46204

Dear Ms. Steffes:

On October 17, 2017, Wabash Valley Power Association, Inc. (WVPA), on behalf of itself and its 17 participating electric distribution cooperative member-owners (Participating Members),¹ filed pursuant to section 292.402 of the Commission's regulations,² a joint petition for partial waiver of certain Commission regulations implementing section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (Joint Petition).³

The Joint Petition notes that WVPA is an Indiana non-profit corporation responsible for meeting all the power requirements of the Participating Members, which are located in Indiana, Illinois, and Missouri. Further, the Joint Petition explains that the

¹ See Appendix for the full list of Participating Members.

² 18 C.F.R. § 292.402 (2017) (“...[a]non-regulated electric utility may... apply for a waiver from the application of any of the requirements of subpart C (other than § 292.302 thereof), [with the Commission granting] such a waiver only if an applicant...demonstrates that compliance with any of the requirements of subpart C is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.”).

³ 16 U.S.C. § 824a-3 (2012).

Participating Members are obligated to purchase all of their power and energy requirements from WVPA pursuant to long-term wholesale power supply contracts.⁴

WVPA seeks waiver of its obligation under section 292.303(b) of the Commission's regulations⁵ to make retail sales to qualifying facilities (QFs), and the Participating Members seek waiver of their obligation under section 292.303(a) of the Commission's regulations⁶ to make purchases from QFs. WVPA states that, in lieu of WVPA's retail sales to QFs, the Participating Members will make sales, and, similarly, in lieu of the Participating Members' purchases from QFs, WVPA will make such purchases, at WVPA's avoided costs.⁷ WVPA states that QFs interconnecting with itself or the Participating Members will continue to have a market for the capacity and energy they make available for sale, and also will continue to be assured of a source of retail power for their operations through WVPA's Joint PURPA Implementation Plan (Plan).⁸

WVPA explains that the Plan provides that: (1) any QF may interconnect with the electric systems of WVPA and the Participating Members to the extent such QF is entitled to interconnection under Part 292 of PURPA; (2) WVPA will purchase capacity and energy from QFs at not less than WVPA's full avoided cost rates, subject to Participating Members' option to purchase directly from QFs with nameplate capacity of no more than 10 kW or, with WVPA's consent, no more than 25 kW; (3) the Participating Members will sell supplementary, back-up, and maintenance power to QFs, upon request, on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest; and (4) no QF will be subject to duplicative charges for interconnection or wheeling as a result of selling to WVPA or a Participating Member or as a result of buying from the Participating Members.⁹

WVPA claims that the Commission should waive the Participating Members' purchase obligation because the Participating Members' purchases are not necessary to encourage cogeneration or small power production. WVPA contends that the Plan encourages QF development by ensuring that QFs receive a rate for their power that is

⁴ Joint Petition at 1-2.

⁵ 18 C.F.R. § 292.303(b) (2017).

⁶ 18 C.F.R. § 292.303(a) (2017).

⁷ Joint Petition at 3-4.

⁸ *Id.* at 4.

⁹ *Id.* at 4-5.

equal to WVPA's full avoided costs, which it asserts is equal to the avoided costs of the Participating Members. WVPA states that the Plan also provides that QFs will be protected from duplicative interconnection charges or wheeling charges as a result of selling to WVPA rather than an individual Participating Member. WVPA claims that given the non-vertically-integrated structure of WVPA and the Participating Members, it is critical for WVPA to deal directly with QFs in purchasing capacity and energy to effectively and efficiently coordinate power supply decisions on behalf of the Participating Members.¹⁰

WVPA also claims that the Commission should waive WVPA's sales obligation because retail sales by WVPA are not necessary to encourage cogeneration and small power production, as, per the Plan, the Participating Members will provide supplementary, back-up, and maintenance power to QFs, as requested, on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest. Furthermore, WVPA states that it lacks the necessary organizational structure and personnel to provide reliable retail service; whereas the Participating Members already possess the necessary experienced staff, complete distribution facilities, and other attributes.¹¹

WVPA states that, in accordance with section 292.402(a) of the Commission's regulations, it provided public notice of this waiver request in the area served by WVPA and its Participating Members. Specifically, WVPA states that a notice of this filing was published in the local and statewide newspapers between August 26, 2017 and October 7, 2017, covering the entire area served by WVPA and its Participating Members.

Notice of WVPA's petition was published in the *Federal Register*, 82 Fed. Reg. 49,010 (2017), with interventions and protests due on or before November 7, 2017. No protests were filed.

The Joint Petition's requested waiver is hereby granted. Granting waiver of the purchase obligation to the Participating Members will not frustrate the PURPA statutory mandate to encourage the development of QFs because no QF will be deprived of an avoided cost sale of its power, and each will receive a full avoided cost rate. Similarly granting waiver of the sales obligation to WVPA will not frustrate the PURPA statutory mandate because each Participating Member will offer supplementary, back-up, maintenance and interruptible power to QFs at rates that are nondiscriminatory, just and reasonable, and in the public interest.

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 8.

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This action is taken pursuant to authority delegated to the Director, Division of Electric Power Regulation – Central, under 18 C.F.R. § 375.307(a)(6)(iii) (2017). This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2017).

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central

Appendix

Wabash Valley Power Association, Inc.
Participating Members for which Waivers are Granted

Boone REMC
Carroll White County REMC
Citizens Electric Corporation
Corn Belt Energy
EnerStar Electric Cooperative
Fulton County REMC
Heartland REMC
Jay County REMC
Kosciusko REMC
LaGrange County REMC
Marshall County REMC
Miami-Cass REMC
M.J.M. Electric Cooperative
Newton County REMC
Noble REMC
Steuben County REMC
Warren County REMC

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