

112 FERC ¶ 61,277  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

AmerGen Energy Company, LLC

Docket No. ER05-1050-001

ORDER GRANTING CLARIFICATION

(Issued September 15, 2005)

1. In this order, we will grant clarification of the Commission's July 21, 2005 Order that accepted for filing, suspended, made effective subject to refund, and set for hearing and settlement judge procedures the rate schedule for providing reactive power that AmerGen Energy Company, LLC (AmerGen) proposed for its Clinton Nuclear Generating Station (Clinton Station).<sup>1</sup> *AmerGen Energy Co.*, 112 FERC ¶ 61,082 (2005) (July 21 Order).

**Background**

2. In the July 21 Order, the Commission found that AmerGen's proposed reactive power rate schedule had not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. The Commission also found that the proposed rate schedule raised issues of material fact. Accordingly, the Commission accepted the rate schedule for filing, suspended it, made it effective subject to refund, and set it for hearing and settlement judge procedures. To guide these procedures, the Commission listed, at P 14 of the July 21 Order, certain issues for discussion, with the qualification of these issues as "among others."<sup>2</sup>

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<sup>1</sup> May 31, 2005 Filing by Exelon Corporation (Exelon) in Docket No. ER05-1050-000 (May 31 Filing). Exelon, AmerGen's parent company, also filed the request for rehearing of the July 21 Order.

<sup>2</sup> The items listed are: "(1) the proposed monthly \$7,968,236 fixed capacity component; (2) the lost opportunity cost component should Midwest ISO direct modification of Clinton Station's energy output; (3) the procedures AmerGen employed to calculate the level of Clinton Station investment used to produce vars; (4) the proposed 8.92 percent return on equity; (5) heat losses; and (6) the lack of actual investment costs for certain Clinton Station components."

### **Clarification Request**

3. AmerGen explains that the transmittal letter to the May 31 Filing inadvertently and incorrectly stated that “[t]he lost opportunity cost component represents foregone energy revenues when Clinton is directed by [Midwest Independent Transmission System Operator, Inc. (Midwest ISO)] to restrict its real power output in order to provide a certain level of reactive power service.”<sup>3</sup> AmerGen explains further that its filed tariff provides that it may receive revenues for lost opportunity costs as a result of lowering its output, and does not limit such recovery to reductions ordered by Midwest ISO, but would authorize recovery for reductions ordered by AmerGen’s control area operator, Illinois Power Company (Illinois Power). AmerGen points out that the Commission, in listing the issues to be addressed at hearing and settlement, included, at item (2), “the lost opportunity cost component should Midwest ISO direct modification of Clinton Station’s energy output.” AmerGen regrets the confusion its misstatement apparently caused. It requests clarification that, at hearing, it be allowed to establish its entitlement to recover lost opportunity costs when ordered to reduce output by either Midwest ISO or Illinois Power.

4. AmerGen explains additionally that its filed revenue requirement, as shown in the consultant’s affidavit and supporting schedules in the May 31 Filing, was calculated to produce a return on equity of 10.88 percent and a return on overall capital of 8.92 percent. It states that it used these conservative figures in hopes of avoiding a hearing or limiting issues at hearing. It adds that it expressly reserved the right to submit evidence and prove a higher return on equity, subject to the limitations of the filed rate doctrine, in the event the return on equity issue were set for hearing.<sup>4</sup> It points out that the July 21 Order did set the issue for hearing, directing that those issues to be addressed “should include, among others, . . . (4) the proposed 8.92 percent return on equity. . . .” AmerGen requests that the Commission clarify that it intended to include among the issues for hearing the 10.88 percent return on equity that AmerGen’s filed rate was calculated to produce, and that AmerGen will be allowed to support a higher return on equity within the limitations of the filed rate doctrine.

### **Discussion**

5. We will grant the clarifications sought by AmerGen. While the Commission included, at item (2) of the issues list in P 14, AmerGen’s misstatement of the issues concerning the recovery of lost opportunity costs, the Commission did not intend to limit consideration at hearing or settlement to just those issues specified in P 14. Indeed, in

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<sup>3</sup> AmerGen’s May 31, 2005 Filing in Docket No. ER05-1050-000 at 5.

<sup>4</sup> May 31 Filing at 4 n. 3.

setting the proposed rate schedule for hearing and settlement judge procedures, the Commission specifically provided that “[t]he issues to be addressed should include, among others, the following. . . .” Thus, the Commission explicitly recognized that the parties could raise other issues relevant to the proposed rate schedule.<sup>5</sup> Accordingly, we clarify that AmerGen may raise at hearing or in settlement that it should be entitled to recover lost opportunity costs when either Midwest ISO or Illinois Power directs it to reduce output.

6. We also recognize that the July 21 Order inadvertently and incorrectly stated that AmerGen’s proposed return on equity was 8.92 percent. As AmerGen points out, the 8.92 percent is its return on overall capital and its return on equity is 10.88 percent. Thus, the list of issues in P 14 of the July 21 Order should have stated, at item (4), “the proposed 10.88 percent return on equity.” Accordingly, we clarify that the Commission intended to include among the issues set for hearing and settlement procedures the 10.88 percent return on equity that AmerGen’s filed rate was calculated to produce, and that in these proceedings AmerGen will be allowed to support a higher return on equity within the limitations of the filed rate doctrine.

The Commission orders:

AmerGen’s request for clarification is hereby granted.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>5</sup> See, e.g., *Long Island Lightening Co.*, 83 FERC ¶ 61,076 at 61,378 & n. 8 (1998).