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MMWEC challenges 'reliability' payments to Pittsfield generator as exploitation of consumers

LUDLOW, Mass. - Jan. 10, 2006- A Pittsfield, Mass. power plant that recently received more than $250 million in consumer-funded contract-buyout payments now is asking federal regulators to approve an additional $36.5 million a year in "reliability" payments from consumers in Central and Western Massachusetts, claiming that the additional payments are needed to keep the generating unit in operation.

The request would enable the Pittsfield Generating Company, L.P. to recover all or part of its costs twice, from two different sets of consumers at the same time, resulting in an exploitation of consumers and windfall profits for the generator, according to a motion to reject the request filed with the Federal Energy Regulatory Commission (FERC) by MMWEC on Dec. 21. MMWEC is joined in its motion by the municipal utilities in South Hadley and Chicopee.

MMWEC states that Pittsfield's request presents an opportunity for the FERC to "draw a line in the sand" with respect to the growing number of requests for Reliability Must Run (RMR) agreements, which guarantee payments to generators that are needed to ensure electric service reliability in New England. To obtain such an agreement, a generator must receive verification from ISO-New England that it is needed for reliability and must demonstrate that it is unable to cover its operating costs with revenue from other sources, including energy markets and bilateral contracts.

RMR agreements "are not permanent life support" or "supplemental funding options" for generators unable to make money in competitive markets, according to MMWEC. Instead, FERC has found that RMR agreements are intended for use only as a last resort to ensure that a unit remains in operation for reliability. Pittsfield has not shown that an RMR agreement is needed, MMWEC states.

While the ISO has determined that the gas-fired, 160-megawatt, four-turbine Pittsfield plant is needed for reliability, MMWEC argues that the ISO's analysis was flawed in many respects, most seriously in its failure to examine less expensive ways of resolving the relatively minor voltage support problem identified as the threat to reliability if the Pittsfield plant were not available. The alternatives suggested by MMWEC's expert consultant, Whitfield A. Russell, such as installing an additional transformer or additional capacitor banks, are not mysterious or obscure. Rather, they are options that the ISO should have examined as a matter of standard transmission system planning, but did not, Russell states.

The ISO's reliability analysis "does not demonstrate that continued operation of all four Pittsfield units is the only way, let alone the cheapest or least disruptive way, to meet the area's reliability needs," MMWEC states. "Ratepayers should not be forced to spend $36 million per year for an RMR agreement" while the ISO leisurely contemplates other solutions as part of its overall planning process, according to MMWEC.

"ISO must do more than fiddle while Rome burns at a rate of tens of millions of dollars per year," MMWEC states. "On the contrary, requests for RMR agreements should trigger a prompt and diligent effort to identify less expensive interim solutions that will maintain reliability until an 'optimum solution' is identified and implemented."

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Even if the FERC accepts the ISO's reliability analysis, Pittsfield has not demonstrated that it needs the additional financial support of an RMR agreement to keep its plant operating, according to MMWEC. "Pittsfield has not experienced and will not experience real losses," MMWEC states.

"The linchpin of Pittsfield's application is the preposterous claim that the Commission should ignore roughly $244 million in payments that Pittsfield is receiving as a result of the termination of three Power Purchase Agreements, plus another $37 million in connection with the sale of a gas contract used to supply fuel to the plant," MMWEC states. Revenue from these contract buyouts more than cover the costs of keeping the plant in service for at least several years, and Pittsfield should not be allowed to pocket the buyout revenues and extract additional payments from consumers allegedly needed to keep the plant in service, according to MMWEC.

Pittsfield recently finalized an agreement under which Boston utility NSTAR agreed to pay Pittsfield $85 million to buy out of two power contracts that would have run through 2011. These payments, funded by NSTAR ratepayers, are being made in installments through December 2008. In addition, wholesale supplier USGen New England has paid Pittsfield more than $157 million to buy out of another contract that would have run into 2010. In effect, Pittsfield already has received payments that are based on the cost of operating its plant into the next decade.

In its filing, MMWEC cites numerous reasons and previous FERC orders supporting the inclusion of contract buyout revenues in the analysis used to determine the economic need for an RMR agreement. In addition to exploiting consumers and creating a windfall for Pittsfield, excluding the buyout revenues would create a perverse incentive for other generators to liquidate profitable contracts, pocket the buyout revenues, and return to ratepayers for additional RMR revenues.

If the Pittsfield request is not rejected, MMWEC asks that the FERC suspend the request and establish a hearing where this issues raised by the filing can be investigated thoroughly, including the amount of RMR payments sought by Pittsfield. Among other things, MMWEC states that RMR recovery should be limited to "going forward costs" rather than the full cost of service recovery requested by Pittsfield. "This request should be denied, in that Pittsfield is operating in a 'competitive' market, in which no generator is owed or guaranteed recovery of its full cost of service," MMWEC states.

The Pittsfield plant is owned by U.S. Bank National Association, which has leased its interest in the plant to a subsidiary of General Electric, and operated by a subsidiary of PurEnergy, an asset management company specializing in operating underperforming generation assets.

In addition to the Pittsfield RMR request, MMWEC also is opposing requests for RMR agreements for Mystic Units 8 and 9 in Boston ($238 million/year), Berkshire Power's Agawam plant ($30 million/year), and Consolidated Edison's West Springfield Unit 4 ($8 million/year).

After rejection by the FERC on semi-procedural grounds, Mystic recently refiled its requests for RMR agreements for Mystic Units 8 and 9, but did not refile its RMR request for Mystic Unit 7. MMWEC requested rejection of the initial Mystic RMR filings, arguing among other things that Unit 7 fails to meet the "facility cost" test, making it ineligible for RMR coverage. Mystic had requested approximately $50 million in annual RMR payments for Unit 7, which could have cost municipal utilities in the Northeastern Massachusetts about $4.3 million/year.