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**Intervention Deadline:** 5:00 p.m. Eastern Time on December 7, 2023.

Dated: November 16, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023–25824 Filed 11–21–23; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER20–1041–003]

#### Wabash Valley Power Association, Inc.; Order Establishing Additional Briefing Procedures

Before Commissioners: Willie L. Phillips, Acting Chairman; James P. Danly, Allison Clements, and Mark C. Christie.

1. This order establishes additional briefing procedures following the issuance of an Initial Decision on January 28, 2022,<sup>1</sup> involving Wabash Valley Power Association's (Wabash) proposed, unexecuted agreement for early termination of two wholesale power supply contracts between Wabash (as seller) and Tipmont Rural Electric Membership Cooperative (Tipmont) (as buyer). In this order, we establish a briefing schedule to develop a more comprehensive record on which to make a determination, as discussed below.

#### I. Background

2. This proceeding concerns Tipmont's desired early termination of its membership with Wabash and two of its contracts that are on file with the Commission: the 1977 Contract that governs all-requirements service from 1977 through until 2028, and the 2006 Contract that governs such service from 2006 through 2050 (each a Contract, and collectively, Contracts). At issue also in

this proceeding is an unexecuted 2020 Agreement For Early Termination of Wholesale Power Supply Contracts (Termination Agreement).

3. On October 1, 2018, Tipmont filed a complaint (Complaint) against Wabash requesting that the Commission: (1) find that Tipmont may terminate its Contracts early, and (2) initiate a proceeding to establish the just and reasonable level of stranded costs resulting from Tipmont's early departure.<sup>2</sup> On February 20, 2020, Wabash filed the Termination Agreement pursuant to section 205 of the Federal Power Act. On April 20, 2020, the Commission concurrently: (1) issued an order granting, denying, and dismissing various aspects of the Complaint;<sup>3</sup> and (2) issued an order accepting and suspending Wabash's proposed Termination Agreement and established hearing and settlement judge procedures.<sup>4</sup>

4. On July 30, 2020, after the Settlement Judge declared an impasse, the Chief Judge issued an order terminating settlement judge procedures and designated Administrative Law Judge Andrea McBarnette as the Presiding Judge. The hearing commenced on May 20, 2021, and concluded on June 8, 2021. The Presiding Judge issued the Initial Decision on January 28, 2022. Subsequently, the participants filed Briefs on Exceptions and Briefs Opposing Exceptions on March 31, 2022, and April 20, 2022, respectively.

#### II. Discussion

5. We establish a briefing schedule to allow the participants to address the issues set forth in Appendices A and B. Further briefing on these issues will help develop a more comprehensive record for the Commission to evaluate the justness and reasonableness of the Termination Agreement. Accordingly, we provide questions directed at Wabash in Appendix A and one question directed at Tipmont in Appendix B. Wabash and Tipmont are required to submit initial briefs within 45 days of the date of this order. At the initial briefing stage, Wabash may address only questions in Appendix A of this order, and Tipmont may address only the question in Appendix B of this order. Further, participants are permitted to file reply briefs within 30 days of the date of filing of initial

briefs.<sup>5</sup> At the reply briefing stage, participants may address questions directed at the other party. Briefs making any factual assertions must be accompanied by a sworn affidavit of one or more witnesses.

#### The Commission orders:

(A) Wabash and Tipmont are hereby required to submit initial briefs within 45 days of the date of this order, as discussed in the body of this order.

(B) Participants are hereby permitted to file reply briefs within 30 days of the date of filing of initial briefs.<sup>6</sup>

(C) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Issued: November 16, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

#### Appendix A

##### Questions Directed at Wabash

##### A. Transmission

1. Section 3 of the 1977 Contract and section 5 of the 2006 Contract allow Wabash to own transmission in limited circumstances.<sup>7</sup>

a. For each transmission asset reflected in the Black & Veatch Study, please identify the agreements (*i.e.*, Transmission Participation Agreements and Transmission, Operation and Maintenance Agreements)<sup>8</sup> that allow(s) Wabash to own said transmission assets and explain in each instance how such ownership right is consistent with the exception criteria in the Contracts.

b. For each of the agreements identified in response to part a., please state the corresponding amounts of transmission plant and transmission capital expenditure balances reflected in the Black & Veatch Study for years 2019–2021.

c. In addition, please identify any transmission assets that were excluded from the proposed buyout amount due to limitations set forth in the Contracts.

<sup>5</sup> As participants in the hearing proceeding, Trial Staff and United Power, Inc. may submit reply briefs. This Commission, however, is generally less likely to allow new participants to intervene after issuance of a merits order. *See, e.g., Conn. Yankee Atomic Power Co.*, 92 FERC ¶ 61,269, at 61,899 (2000) (denying the subsidiaries of the Northeast Utilities system's (NU) out-of-time motion to intervene because "[t]o permit NU's late intervention after the issuance of the Initial Decision . . . would result in undue burden on the active parties to the hearing.").

<sup>6</sup> *See supra* note 5.

<sup>7</sup> *See e.g., Ex. TIP–0003* at 3 ("It is understood by and between the Parties that the express intent of Wabash Valley is to not own, operate or maintain any transmission facilities and/or substations except as such ownership, operation and maintenance may inure to Wabash Valley by reason of Transmission Participation Agreements and Transmission, Operation and Maintenance Agreements with other suppliers which own and operate bulk transmission systems.").

<sup>8</sup> *See supra* n.7.

<sup>2</sup> Tipmont Rural Electric Member Cooperative, Complaint, Docket No. EL19–2–000, at 1–2 (filed Oct. 1, 2018) (Complaint).

<sup>3</sup> *Tipmont Rural Elec. Member Coop. v. Wabash Valley Power Ass'n, Inc.*, 171 FERC ¶ 61,059 (2020).

<sup>4</sup> *Wabash Valley Power Ass'n, Inc.*, 171 FERC ¶ 61,053 (2020).

<sup>1</sup> *Wabash Valley Power Ass'n, Inc.*, 178 FERC ¶ 63,005 (2022).

2. Wabash's transmission plant in service balance for year 2019 is \$354.9 million in the Black & Veatch Study<sup>9</sup> and \$312.8 million in Wabash's annual FERC Form No. 1 filing.<sup>10</sup> Please explain the divergence between these two values. Wabash's transmission plant in service balance for year 2020 is \$423.1 million in the Black & Veatch Study<sup>11</sup> and \$321.2 million in Wabash's 2020 budget study.<sup>12</sup> In addition, Wabash states that this value is \$348.9 million in the Adjusted Black & Veatch Study.<sup>13</sup>

a. Please explain why Wabash's transmission plant in service balance for year 2020 decreased by \$74.2 million between the original and Adjusted Black & Veatch studies.

b. Please explain the \$27.7 million divergence between Wabash's transmission plant in service balance for year 2020 in the Adjusted Black & Veatch Study and Wabash's 2020 budget study.

c. Please provide updated versions of the spreadsheets contained in Ex. TIP-0097 and Ex. TIP-0113 that reflect the updated transmission plant in service balance for year 2020, and all other modified values, used in the Adjusted Black & Veatch Study.

3. Wabash's annual transmission capital expenditure for year 2019 is \$50.6 million in the Black & Veatch Study,<sup>14</sup> \$41.9 million in Wabash's annual FERC Form No. 1 filing,<sup>15</sup> and \$42.2 million according to Wabash's work orders.<sup>16</sup> Please explain the divergence among these values.

4. Wabash's annual transmission capital expenditure for year 2020 is \$71.8 million in the Black & Veatch Study,<sup>17</sup> \$41.6 million in Wabash's annual FERC Form No. 1 filing,<sup>18</sup> and \$66.5 million according to Wabash's work orders.<sup>19</sup> Please explain the divergence among these values.

5. Please explain the transmission service that Wabash takes under the MISO Tariff in association with delivery to Tipmont.

6. Wabash states that the original and Adjusted Black & Veatch studies "make no adjustment to Wabash Valley's forecasted transmission revenues."<sup>20</sup>

a. Please explain how Wabash estimated the annual transmission revenues it would receive if Tipmont remained a member of Wabash and describe the source(s) of those

revenues. Describe all assumptions and provide supporting workpapers.

b. In addition, please describe how these revenues compare to what Wabash would receive if Tipmont departs and procures network service for its entire load.

#### *B. Capacity Price Forecast*

7. Please identify the source of the \$22.34/MW-day initial value used in forecasting the Black & Veatch Study's capacity price for years 2020–2025.<sup>21</sup>

8. Please explain how the Black & Veatch Study determined the annual growth rate for its forecasted capacity prices for years 2021–2025.<sup>22</sup>

9. Please explain why the Black & Veatch Study switches from using the recent capacity price level observed in the MISO market as a starting point for the capacity price forecast for years 2020–2025 to using weighted average solar power purchase agreement costs beginning in year 2026 specifically.<sup>23</sup>

#### *C. Energy Price Forecast*

10. Please explain how the Black & Veatch Study selects the New York Mercantile Exchange Henry Hub forward price curve dated October 2, 2019, as the basis for the projected natural gas prices used in years 2021–2031 of its energy price forecast.<sup>24</sup> In addition, please explain why the Black & Veatch Study uses a single forward curve instead of averaging over multiple forward curves.

11. Please explain why the Black & Veatch Study assumes that the five-year compound annual growth rate implied in the natural gas forward prices for 2027–2031 will persist through 2050.<sup>25</sup>

#### *D. Miscellaneous Issues*

12. Wabash proposes a 10-year buyout period, arguing that for any termination initiated prior to April 14, 2028, Tipmont agreed to a ten-year notice and buyout period during which Tipmont remains a member, continues to purchase all-requirements service, and makes additional monthly escrow payments based on the rate set by the Wabash board of directors.<sup>26</sup> In contrast, Tipmont argues that the 10-year buyout period has not been found to be just and reasonable; that, as long as Tipmont pays the verifiable stranded costs associated with Tipmont's exit,<sup>27</sup> Wabash and its members are protected from any financial impacts associated with such exit, whether Tipmont leaves immediately or in 10 years; and that Tipmont's continued membership in Wabash is causing harm to Tipmont.<sup>28</sup> Tipmont requests that the Commission direct Wabash to make a compliance filing that sets the date of Tipmont's exit as "the first day of the

month one year after the date of that Commission order."<sup>29</sup>

Please address the manner in which an immediate buyout scenario should be effectuated in the event the Commission finds the 10-year buyout period is not required by the parties' contracts and otherwise has not been shown to be just and reasonable.<sup>30</sup>

13. Wabash's property insurance costs for year 2019 are \$1.5 million in the Black & Veatch Study<sup>31</sup> and \$169,871 in Wabash's annual FERC Form No. 1 filing.<sup>32</sup> Please explain the divergence between these values.

14. Wabash's property tax costs for year 2019 are \$5.57 million in the Black & Veatch Study and \$5.37 million in Wabash's Trial Balance workpaper.<sup>33</sup> Please explain the divergence between these values.

### **Appendix B**

#### **Question Directed at Tipmont**

15. According to Trial Staff, the London Economics International (LEI) Study's energy price forecast projects an approximate \$3/MMBtu seasonal spread in intra-year natural gas prices beginning in 2030.<sup>34</sup> Please explain how the seasonal natural gas price spreads observed in the LEI Study's energy price forecast are consistent with current and expected natural gas market dynamics in MISO.

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## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

[Docket No. CP24–12–000]

#### **Transcontinental Gas Pipe Line Company, LLC; Notice of Application and Establishing Intervention Deadline**

Take notice that on November 2, 2023, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251, filed an application under section 7b of the Natural Gas Act (NGA), and part 157 of the Commission's regulations requesting authorization for its Ship Shoal 246 to Ship Shoal 242 Abandonment Project (Project). The Project consists of Transco abandoning offshore laterals extending from Ship Shoal Block 246 Platform A to the Ship Shoal Block 242 underwater platform, and auxiliary facilities,

<sup>29</sup> Tipmont Br. on Exceptions 13.

<sup>30</sup> *Id.*

<sup>31</sup> Ex. TIP-0097; Ex. TIP-0113 at 'Prop Ins' tab, cell E14.

<sup>32</sup> Wabash, FERC Form No. 1/3–Q, Rev. 02–04, at 323 (Electric Operation and Maintenance Expenses (line 185(d)) (2019).

<sup>33</sup> Ex. WV-0035 (citing Ex. TIP-0082).

<sup>34</sup> Trial Staff Initial Br. 40 (citing Tr. 528:23–529:22, 531:4–22).

<sup>9</sup> Ex. TIP-0097; Ex. TIP-0113 at 'Depreciation' tab, cell C28.

<sup>10</sup> Wabash, FERC Form No. 1/3–Q, Rev. 02–04, at 207 (Electric Plant in Service (Account 101, 102, 103, and 106, line 58(g)) (2019).

<sup>11</sup> Ex. TIP-0097; Ex. TIP-0113 at 'Depreciation' tab, cell D28.

<sup>12</sup> Ex. TIP-0016 at 'BL Pg 20 Cost of Trans' tab, cell I44.

<sup>13</sup> Ex. WV-0035 at 35.

<sup>14</sup> Ex. TIP-0097; Ex. TIP-0113 at 'Depreciation' tab, cell C7.

<sup>15</sup> Wabash, FERC Form No. 1/3–Q, Rev. 02–04, at 206 (Electric Plant in Service (Account 101, 102, 103, and 106, line 58(c)) (2019).

<sup>16</sup> Ex. WV-0035 at 36 (citing Ex. WV-0049).

<sup>17</sup> Ex. TIP-0097; Ex. TIP-0113 at 'Depreciation' tab, cell D7.

<sup>18</sup> Wabash, FERC Form No. 1/3–Q, Rev. 02–04, at 206 (Electric Plant in Service (Account 101, 102, 103, and 106, line 58(c)) (2020).

<sup>19</sup> Ex. WV-0035 at 36 (citing Ex. WV-0049).

<sup>20</sup> *Id.* at 44–45.

<sup>21</sup> Ex. WV-0014 at 15 ("For the years 2020 through 2025, Black & Veatch increased the capacity prices from the recent capacity price level of \$22.34/MW-day observed in the MISO market.").

<sup>22</sup> *Id.* at 30.

<sup>23</sup> *Id.* at 15, 30.

<sup>24</sup> *Id.* at 15.

<sup>25</sup> *Id.*

<sup>26</sup> Wabash Br. Opposing Exceptions 13–14.

<sup>27</sup> Tipmont Br. Opposing Exceptions 2.

<sup>28</sup> *Id.* at 1 (citing Ex. TIP-0001 at 25).