

124 FERC ¶ 61,147
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PSEG Energy Resources & Trade LLC	Docket No. ER99-3151-008
Public Service Electric and Gas Company	Docket No. ER97-837-007
PSEG Power Connecticut LLC	Docket No. ER03-327-002
PSEG Fossil LLC	Docket No. ER08-447-000
PSEG Nuclear LLC	Docket No. ER08-448-000
Allegheny Power	Docket No. ER98-1466-005
Allegheny Energy Supply Company, LLC	Docket No. ER00-814-006
Green Valley Hydro, LLC	Docket No. ER00-2924-006
Buchanan Generation, LLC	Docket No. ER02-1638-005
PPL Electric Utilities Corporation,	Docket No. ER00-1712-008
Lower Mount Bethel Energy, LLC	Docket No. ER02-2408-003
PPL Brunner Island, LLC	Docket No. ER00-744-006
PPL Holtwood, LLC	Docket No. ER00-744-006
PPL Marlins Creek, LLC	Docket No. ER00-744-006
PPL Montour, LLC	Docket No. ER00-744-006
PPL Susquehanna, LLC	Docket No. ER00-744-006
PPL University Park, LLC	Docket No. ER02-1327-005
PPL EnergyPlus, LLC	Docket No. ER00-1703-003
PPL Edgewood Energy, LLC	Docket No. ER02-1749-003
PPL Shoreham Energy, LLC	Docket No. ER02-1747-003
PPL Great Works, LLC	Docket No. ER99-4503-005
PPL Maine, LLC	Docket No. ER00-2186-003
PPL Wallingford Energy LLC	Docket No. ER01-1559-004
Atlantic City Electric Company	Docket No. ER96-1361-013
Delmarva Power & Light Company	Docket No. ER99-2781-011
Potomac Electric Power Company	Docket No. ER98-4138-009
Conectiv Energy Supply, Inc.	Docket No. ER00-1770-019
Conectiv Bethlehem, LLC	Docket No. ER02-453-010
Pepco Energy Services, Inc.	Docket No. ER98-3096-015

Bethlehem Renewable Energy, LLC	Docket No. ER07-903-002
Eastern Landfill Gas, LLC	Docket No. ER05-1054-003
Potomac Power Resources, LLC	Docket No. ER01-202-008
Fauquier Landfill Gas, LLC	Docket No. ER04-472-007
Dominion Energy Marketing, Inc.	Docket No. ER01-468-008
Dominion Nuclear Connecticut, Inc.	Docket No. ER00-3621-009
Dominion Nuclear Marketing III, LLC	Docket No. ER00-3746-009
Dominion Energy Kewaunee, Inc.	Docket No. ER04-318-004
Dominion Energy Brayton Point, LLC	Docket No. ER05-36-005
Dominion Energy Manchester Street, Inc.	Docket No. ER05-37-005
Dominion Energy New England, Inc.	Docket No. ER05-34-005
Dominion Energy Salem	Docket No. ER05-35-005
Dominion Retail, Inc.	Docket No. ER04-249-005
Elwood Energy, LLC	Docket No. ER99-1695-010
Fairless Energy, LLC	Docket No. ER02-23-011
Kincaid Generation, LLC	Docket No. ER97-30-006
State Line Energy, LLC	Docket No. ER96-2869-013
Virginia Electric and Power Company	Docket No. ER97-3561-005
	Docket No. ER00-1737-011
Baltimore Gas and Electric Company	Docket No. ER99-2948-012
Constellation Power Source Generation, Inc.	Docket No. ER00-2918-011
Calvert Cliffs Nuclear Power Plant, Inc.	Docket No. ER00-2917-011
Constellation Energy Commodities Group, Inc.	Docket No. ER97-2261-022
Handsome Lake Energy, LLC	Docket No. ER01-556-010
Nine Mile Point Nuclear Station, LLC	Docket No. ER01-1654-013
Constellation NewEnergy, Inc.	Docket No. ER02-2567-011
Constellation Energy Commodities Group Maine, LLC	Docket No. ER02-699-005
R.E. Ginna Nuclear Power Plant, LLC	Docket No. ER04-485-008
Raven One, LLC	Docket No. ER07-247-003
Raven Two, LLC	Docket No. ER07-245-003
Raven Three, LLC	Docket No. ER07-244-003
Exelon Generation Company, LLC	Docket No. ER00-3251-015
AmerGen Energy Company, LLC	Docket No. ER99-754-016
Commonwealth Edison Company	Docket No. ER98-1734-014
Exelon Energy Company	Docket No. ER01-1919-011

PECO Energy Company	Docket No. ER01-1147-006
Exelon West Medway, LLC	Docket No. ER01-513-021
Exelon Wyman, LLC	Docket No. ER01-513-021
Exelon New Boston, LLC	Docket No. ER01-513-021
Exelon Framingham, LLC	Docket No. ER01-513-021
Exelon New England Power Marketing, L.P.	Docket No. ER99-2404-011
FirstEnergy Operating Companies	Docket No. ER01-1403-006
Pennsylvania Power Company, et al.	Docket No. ER06-1443-002
Jersey Central Power & Light Company	Docket No. ER04-366-005
FirstEnergy Solutions Corp.	Docket No. ER01-2968-007
FirstEnergy Generation Corporation	Docket No. ER01-845-006
FirstEnergy Nuclear Generating Corporation	Docket No. ER05-1122-004
FirstEnergy Generating Mansfield Unit 1 Corp.	Docket No. ER08-107-001

ORDER ON SIMULTANEOUS TRANSMISSION IMPORT LIMIT STUDIES

(Issued August 6, 2008)

1. In this order, we find that the simultaneous transmission import limit (SIL) studies submitted by PJM Interconnection, L.L.C. (PJM) on April 30, 2008 and June 2, 2008, as amended July 14, 2008, for the PJM market and PJM-East submarket meet the Commission's requirements for a SIL study.

I. Background

2. On June 21, 2007, the Commission issued Order No. 697,¹ codifying and, in certain respects, revising its standards for obtaining and retaining market-based rates for public utilities. In Order No. 697, the Commission adopted the requirement that SIL studies be used as a basis for transmission access when performing the market power analysis (either the indicative screens or the delivered price test (DPT) analysis).² The Commission stated that sellers should submit the SIL study as shown in Appendix E of the April 14 Order.³ When actual OASIS practices conflict with the instructions in

¹ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 (2008).

² Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 19.

Appendix E of the April 14 Order, sellers should follow their OASIS practices and provide adequate support in the form of documentation of these practices.⁴

3. On January 14, 2008, the above-captioned entities (collectively, PJM RTO⁵ Filers) submitted updated market power analyses. On April 4, 2008, the Director, Division of Tariffs and Market Development – West, acting under delegated authority, requested additional information in relation to the analyses submitted by the PJM RTO Filers. Specifically, the request noted that the PJM RTO Filers had failed to provide with their updated market power analyses a SIL study as required by the Commission in Order No. 697. The request directed the PJM RTO Filers to provide a SIL study consistent with the requirements of Order No. 697, or in the alternative to provide a SIL study done by PJM that adequately addresses the Order No. 697 principles for how to measure transmission import capability.

4. On April 30, 2008, PJM filed a motion to intervene out-of-time in the above captioned dockets and a SIL study for the entire PJM region (PJM SIL Study). PJM states that it conducted the SIL analysis at the request of several of the PJM member companies.

5. On May 15, 2008, Commission Staff held a conference call to discuss the PJM SIL Study. On the same date, PJM filed documents that it discussed during the conference call.

6. On June 2, 2008, PJM filed, at the request of the PJM RTO Filers, a SIL study for the PJM-East submarket (PJM-East SIL Study).

7. On July 3, 2008, the Director, Division of Tariffs and Market Development – West, acting under delegated authority, requested additional information in relation to the June 2 filing concerning the PJM-East SIL Study.

³ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 Order), *order on reh'g*, 108 FERC ¶ 61,026 (2004) (July 8 Order).

⁴ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 356; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 135. Separately, we note that on July 17, 2008, the Commission issued an order clarifying the allocation of the SIL capability for purposes of performing the indicative screens. *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 124 FERC ¶ 61,055 (2008) (Allocation Order).

⁵ Regional Transmission Organization (RTO).

8. On July 14, 2008, PJM filed an amendment to the PJM-East SIL Study.

II. Notice

9. Notice of PJM's April 30 and June 2 filings, as well as the documents PJM submitted on May 15 related to the May 15 conference call, was published in the *Federal Register*, 73 Fed. Reg. 34,010 (2008), with interventions and protests due on or before June 27, 2008. On June 27, 2008 the PPL Companies⁶ filed a protest to the April 30 and June 2 filings. On July 14, 2008, the FirstEnergy Operating Companies (FirstEnergy) filed an answer to the PPL Companies' filing.

10. Notice of PJM's July 14, 2008 amendment to the June 2 filing (concerning PJM-East) was published in the *Federal Register*, 73 Fed. Reg. 43,747 (2008), with interventions and protests due on or before July 25, 2008. None was filed.

III. Discussion

A. Procedural Matters

11. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2008), the Commission will grant PJM's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept FirstEnergy's answer because it has provided information that assisted us in our decision-making process.

B. Analysis

13. The Commission has reviewed the PJM SIL Study and the PJM-East SIL Study and finds that the studies meet the Commission's requirements for a SIL study as discussed in Appendix E of the April 14 Order and Order No. 697. The Commission will address below concerns raised by the PPL Companies and FirstEnergy.

⁶ The PPL Companies include: PPL Electric Utilities Corporation; Lower Mount Bethel Energy, LLC; PPL Brunner Island, LLC; PPL Holtwood, LLC; PPL Martins Creek, LLC; PPL Montour, LLC; PPL Susquehanna, LLC; PPL University Park, LLC; PPL EnergyPlus, LLC; PPL Edgewood Energy, LLC; PPL Shoreham Energy, LLC; PPL Great Works, LLC; PPL Maine, LLC; and PPL Wallingford Energy LLC.

1. Protests

14. The PPL Companies and FirstEnergy protest PJM's treatment of transmission reservations in conducting the SIL studies. They argue that PJM should not have subtracted, from the total simultaneous import capability, the amount of transmission capacity represented by all existing and confirmed transmission reservations for imports into PJM.⁷ They argue that a SIL study should properly distinguish between the import capability that is available for use by the applicant (and its affiliates) and the import capability for all other competing suppliers (non-affiliates).⁸ They maintain that PJM's treatment of transmission reservations does not properly distinguish between these two groups and is therefore inconsistent with Order No. 697 and other Commission precedent.

15. Specifically, FirstEnergy requests that the Commission require PJM either to: (1) clarify that it has not reduced the amount of SIL capacity in its studies by the amount of all firm transmission import reservations, or (2) revise its SIL studies to provide a more accurate assessment of the amount of SIL capacity into PJM available for FirstEnergy's competitors.⁹ In a similar manner, the PPL Companies argue that the treatment of non-affiliated transmission reservations in the SIL study should be changed before the Commission accepts these studies.¹⁰

16. The PPL Companies and FirstEnergy argue that to the extent that PJM believes that it is required to consider all reserved transmission capacity as unavailable to provide competing imports, whether affiliated or not, its position is inconsistent with precedent requiring that applicant/affiliate reservations be distinguished from reservations of non-affiliates that may be available for competitive supply.¹¹ The PPL Companies state that the April 14 Order makes clear that the SIL analysis should distinguish between the applicant's import capability and that of any uncommitted competing supplies. They state that Appendix E of the April 14 Order requires that the transmission provider applicant should represent "all firm/network reservations held by applicant/affiliate resources during the most recent seasonal peaks."¹²

⁷ PPL Companies Filing at 3, FirstEnergy Filing at 4.

⁸ PPL Companies Filing at 7-8, FirstEnergy Filing at 5.

⁹ FirstEnergy Filing at 5.

¹⁰ PPL Companies Filing at 2.

¹¹ PPL Companies Filing at 7, FirstEnergy Filing at 5.

¹² PPL Companies Filing at 4-5, *citing* the April 14 Order, 107 FERC ¶ 61,018 at Appendix E.

17. The PPL Companies state that the July 8 Order clarified that “only the portion of an applicant’s uncommitted remote generation capacity that has firm or network reservations should be modeled in the base case and subtracted from available simultaneous transmission import capability,” including “remote resources owned or controlled by the applicant or its affiliates.”¹³ They state that the July 8 Order explained the rationale for not requiring that non-affiliate, non-network firm contracts be modeled, noting that the provision was “based on the assumption that all reservations historically controlled by nonaffiliates would have been used to compete to inject energy into the transmission provider’s control area market if market power or scarcity was driving market prices above other regional prices.”¹⁴

18. The PPL Companies state that PJM’s basis for including all reservations in the analysis is not clear, but deducting transmission capacity associated with all firm reservations in the analysis will lead to erroneous results as individual applicants seek to use the PJM study to present their updated market power analyses.¹⁵ FirstEnergy explains that because firm transmission capacity that has been reserved by competitors of any applicants using the SIL study is already deducted from the total SIL capability, PJM’s calculation of the SIL capability understates the amount of generation capacity that can be imported by competitors of those applicants.¹⁶

19. The PPL Companies state that although PJM is a transmission provider, it is not an applicant for market-based rate authority and does not sell energy in competition with other providers. Instead, PJM is producing a SIL study that market-based rate applicants themselves will use in seeking reauthorization of their own market-based rate authority. The PPL Companies state that in this context, it does not make sense for PJM to exclude transmission capacity associated with firm transmission reservations in its SIL study, as PJM is not acting as a seller whose control over transmission capacity is at issue in a market-based rate determination.¹⁷ The PPL Companies state that the sellers using the PJM SIL Study must deduct their own individual reservations (and those of their

¹³ PPL Companies Filing at 5, *citing* the July 8 Order, 108 FERC ¶ 61,026 at P 16.

¹⁴ PPL Companies Filing at 5, *citing* July 8 Order, 108 FERC ¶ 61,026 at P 49.

¹⁵ PPL Companies Filing at 5-6.

¹⁶ FirstEnergy Filing at 4.

¹⁷ In arguing that PJM should not *exclude* transmission capacity associated with firm transmission reservations in the final value of the SIL capability, PPL is arguing that PJM should not *include* the firm reservations of all competitors in the base case of the SIL study.

affiliates) from the PJM SIL but these sellers are not required, as PJM has done, to deduct *all* reservations, affiliated and nonaffiliated alike.¹⁸

2. Commission Determination

20. We find that the PJM SIL Study and PJM-East SIL Study meet the Commission's requirements for a SIL study as discussed in Appendix E of the April 14 Order and Order No. 697. The purpose of a SIL study is "to provide a reasonable simulation of historical conditions' and is not 'a theoretical maximum import capability or best import case scenario.'"¹⁹ The Commission has explained that "[t]o determine the amount of transfer capability under the SIL study, 'historical operating conditions and practices of the applicable transmission provider (e.g., modeling the system in a reliable and economic fashion as it would have been operated in real time) are reflected.'"²⁰ In addition, "the 'analysis should not deviate from' and 'must reasonably reflect' its OASIS operating practices."²¹ Furthermore, "when actual OASIS practices conflict with the instructions of Appendix E, sellers should follow OASIS practices and must provide adequate support in the form of documentation of these processes."²²

21. PJM's SIL studies are consistent with the Commission's requirements. PJM's SIL studies reflect PJM's OASIS practices and PJM has provided adequate documentation and support in its filings. PJM states that its SIL studies are conservative estimates.²³ PJM's SIL studies are based on its historical practices of operating a transmission system, consistent with prior Commission guidance. PJM included the transmission reservations of all parties using its OASIS system. While it may appear that PJM's inclusion of all firm reservations instead of only the applicant/affiliate reservations conflicts with the Appendix E guidance, PJM followed its OASIS practices, and therefore PJM's SIL studies are consistent with Commission direction in Order No. 697.

22. With regard to PPL Companies' and FirstEnergy's concerns, we understand their argument to be that PJM's *inclusion* of all firm reservations in the base case power flow

¹⁸ PPL Companies Filing at 6-7.

¹⁹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 354 (internal citations omitted).

²⁰ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 354.

²¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 354.

²² Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 356.

²³ PJM April 30 Filing at 7; PJM June 2 Filing at Attachment 1.

model *reduces* the SIL capability. PPL Companies and FirstEnergy thus argue that the lower SIL capability (which has already *deducted* or *subtracted* competitors' reservations) results in competitors having reduced import capability. We understand that the PPL Companies and FirstEnergy are concerned that PJM's SIL values represent less transmission capacity into the study area than may actually be available, which would in turn increase the likelihood that an applicant will fail the screens. They believe that PJM's treatment of reservations will lead to erroneous results. However, PPL and FirstEnergy are not required to rely on PJM's SIL studies.²⁴ They can file their own SIL studies or submit sensitivity studies to PJM's SIL studies. In Order No. 697, the Commission stated that "[t]o the extent that an RTO/ISO conducts transmission studies and makes that information available, a seller may rely on the information obtained from its RTO/ISO to conduct its SIL study."²⁵ The Commission also stated that it will continue to allow sensitivity studies, but the sensitivity studies must be filed in addition to, and not in lieu of, a SIL study.²⁶ The Commission clarified that sensitivity studies are intended to provide the seller with the ability to modify inputs to the SIL study.²⁷ Consistent with Order No. 697, we will allow the PPL Companies and FirstEnergy to file their own SIL studies or submit sensitivity studies to PJM's SIL studies, adjusting for the reservations in question.²⁸ We emphasize that if they choose to submit sensitivity studies, the sensitivity studies must be accompanied by the PJM SIL Study or PJM-East SIL Study. Thus, any of the PJM RTO Filers, which include PPL and FirstEnergy, may: (1) choose to rely on the PJM SIL Study and the PJM-East SIL Study; (2) conduct sensitivity studies on the PJM SIL Study and PJM-East SIL Study, which they would

²⁴ This order only finds that the SIL studies PJM filed were prepared in a manner consistent with Appendix E of the April 14 Order and Order No. 697. We recognize, however, that PJM is an RTO and not a market-based rate seller. Thus, we stress that this order does not prejudice any market-based rate filing that may be submitted by a PJM RTO Filer.

²⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 379

²⁶ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 355.

²⁷ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 355.

²⁸ We note that in the Allocation Order, the Commission addressed concerns that the seller's and affiliates' firm transmission reservations should not be "double counted" by being deducted in both the calculation of the SIL capability and the allocation of the SIL capability. The Commission clarified that the values of these transmission rights must only be deducted once from the value of the SIL capability. *See* Allocation Order, 124 FERC ¶ 61,055 at P 32 n.49.

submit along with the PJM SIL Study or PJM-East SIL Study; or (3) perform their own SIL studies.

The Commission orders:

We hereby find that the PJM SIL Study and the PJM-East SIL Study meet the Commission's requirements for a SIL study as set forth in Appendix E of the April 14 Order and Order No. 697, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.