

142 FERC ¶ 61,092
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

PJM Interconnection, L.L.C.

Docket No. ER13-529-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued February 4, 2013)

1. On December 7, 2012, PJM Interconnection, L.L.C. (PJM), pursuant to section 205 of the Federal Power Act (FPA),¹ submitted proposed revisions to Section 6.7(c) of Attachment DD of the PJM Open Access Transmission Tariff (Tariff) to make changes to the default Avoidable Cost Rates (ACR) available for use in PJM's Reliability Pricing Model (RPM) auctions. Specifically, PJM proposes to (1) consolidate ACR generator classifications, (2) update the default ACR values, and (3) change the methodology used to escalate these values for future RPM Auctions.

2. In this order, we accept PJM's filing as requested with an effective date of February 5, 2013 as discussed below.

I. Background

3. The Tariff provides that in RPM, Capacity Market Sellers identified by a market structure screen as possessing market power must provide PJM and its Independent Market Monitor with detailed unit-specific documentation to establish a Market Seller Offer Cap.² As an alternative to submitting detailed unit-specific avoidable cost calculations, the Capacity Market Sellers may choose to use the Tariff-defined default ACR values that are benchmarked to a typical generation resource category's fixed, avoidable costs.³ The Tariff specifies the default ACR values for various generation technologies, for both mothball and retirement scenarios, specific to the Base Residual

¹ 16 U.S.C. § 824d (2006).

² Tariff, Attachment DD, Section 6.4(b) and 6.7(d).

³ Exclusive of any incremental project investment such as pollution control retrofits.

Auctions (BRA) for the 2011/2012 and 2012/2013 Delivery Years, and also describes the methodology for calculating default ACRs for subsequent Delivery Years.⁴

II. Filing

4. In the December 7, 2012 filing, PJM proposes to consolidate ACR categories and map the current manufacturer and configuration specific default ACR categories to larger technology categories. PJM contends that the broader categories are more inclusive so as not to put any undue administrative burden on any particular generation resource type not defined in previous default categories. PJM states that this will also eliminate any potential discriminatory treatment of particular units whose exact resource type does not have a defined default ACR. PJM states that, to the extent that specific generation resources have specific avoidable cost values that differ from the default values, sellers of generation resources still retain the option of submitting unit-specific avoidable cost data.

5. PJM also proposes to update the default ACR values based on the most recent information available from recent cost studies and analysis of data collected in an ACR survey. PJM states that PJM and its Independent Market Monitor, Monitoring Analytics, Inc. (Market Monitor), benchmarked the historic data and survey results by comparing them with recent independent cost studies. PJM contends that its statistical analysis showed that the default ACR values based on the updated information for combustion turbine and combined-cycle technologies are relatively close to the existing default ACR values for most configuration and manufacturer combinations that are currently defined in Section 6.7(c).⁵

6. Finally, PJM proposes to escalate the default ACR values by the actual annual rate of change in the Handy-Whitman Index of Public Utility Construction Costs (Handy-Whitman Index), where available, and then continue to use the ten-year annual average rate of change in the Handy-Whitman Index for future years for which there are no Handy-Whitman Index values. PJM recommends using the most up-to-date actual information instead of using estimation methods for future inflation because escalation of the ten-year average, without adjusting for actual, realized changes in the applicable Handy-Whitman values may over- or under-inflate the values of the default ACR. PJM contends that using the average Handy-Whitman Index for forecasting future years is reasonable; however, when actual Handy-Whitman Index values are known, they should be used instead of average values.

⁴ Section 6.7(c) of Attachment DD.

⁵ Where survey data showed a statistically significant difference between the current and proposed ACR value, PJM established a default ACR value at a point in the range of potential ACR values derived from recent cost studies.

7. PJM requests that the Commission accept the proposed revisions with an effective date of February 5, 2013.

III. Notice, Interventions, Protest, and Answer

8. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 74,652, with interventions and protests due on or before December 28, 2012.

9. Timely motions to intervene were filed by the Maryland Public Service Commission, Duke Energy Corporation,⁶ Dominion Resources Services, Inc.,⁷ FirstEnergy Companies,⁸ American Electric Power Service Corporation,⁹ Exelon Corporation, and American Municipal Power, Inc. An out-of-time motion to intervene was filed by Monitoring Analytics, Inc.¹⁰ A motion to intervene and protest were filed by the NRG Companies (NRG).¹¹ A motion for leave to answer and answer was filed by PJM.

⁶ On behalf of Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Duke Energy Indiana, Inc., Duke Energy Carolinas, LLC, Progress Energy Carolinas, Inc., Progress Energy Florida, Inc., Duke Energy Commercial Asset Management, Inc., Duke Energy Retail Sales, LLC, Duke Energy Hanging Rock II, LLC, Duke Energy Washington II, LLC, Duke Energy Lee II, LLC, Duke Energy Fayette II, LLC, and Duke Energy Business Services, LLC.

⁷ On behalf of Dominion Energy Marketing, Inc., Elwood Energy, LLC, Fairless Energy, LLC, Kincaid Generation, LLC, and Virginia Electric and Power Company.

⁸ On behalf of FirstEnergy Solutions Corp. and Allegheny Energy Supply Company, LLC.

⁹ On behalf of Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, AEP Ohio Transmission Company, and AEP West Virginia Transmission Company.

¹⁰ As the Independent Market Monitor for PJM.

¹¹ On behalf of NRG Power Marketing LLC, GenOn Energy Management, LLC, Conemaugh Power LLC, GenOn Chalk Point, LLC, GenOn Mid-Atlantic, LLC, GenOn Power Midwest, LP, GenOn REMA, LLC, GenOn Wholesale Generation, LP, Indian River Power LLC, Keystone Power LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG Rockford LLC, NRG Rockford II LLC, and Vienna Power LLC.

A. Protest

10. NRG states that PJM does not provide adequate justification or support for combining the generator classifications. Further, NRG states that PJM does not provide sufficient data to support the reduced ACR values, and has not adequately explained its departure from the existing rate categories, or why it should decrease ACR values for certain generator technologies by more than 75 percent.

11. NRG argues that instead of decreasing the number of these time consuming and burdensome unit-specific ACR requests, the PJM proposal will likely cause resources covered by existing categories to submit more unit-specific offers. As such, NRG contends that the proposed combination of categories merely shifts the burden of submitting unit-specific offers to resources with costs above the ACR values of the combined category, and that PJM could achieve its stated goal by simply creating an additional catch all category for such new technologies that would have allowed an opportunity to utilize a proxy value in lieu of a unit-specific submittal.

12. NRG states that if the Commission does approve PJM's proposal to collapse the existing fourteen generator technology categories covering combustion turbine, combined-cycle and coal technologies into four categories, PJM should be directed to use the highest point in the range of potential values it identified from the studies, such as the Brattle Report and EIA data, for each of the four categories.¹²

13. NRG points out that while PJM explains how, for certain units, PJM used survey data to develop the proposed default ACR values, NRG states that PJM does not provide sufficient information to support its proposed ACR values. Furthermore, NRG contends that PJM does not explain how the proposed values were developed for other resources, instead indicating that the values are in the range of the two third-party study results.

B. Answer

14. PJM states that it provided adequate justification for consolidating generator classification. PJM cites to the Commission order approving the default ACR specifications in which the Commission stated that "The default bid [] should attempt to reflect a competitive bid submitted by the widest range of generating units."¹³ PJM states

¹² NRG Protest at 3 (citing December 7, 2012 Filing Letter at 10-11 (citing the Brattle Groups 2011 "Cost of New Entergy Estimates for Combustion Turbine and Combined Cycle Plants in PJM" and RW Beck's "Updated Capital Cost Estimates for Electricity Generation Plants" commissioned by the EIA and released in October 2010)).

¹³ *PJM Interconnection, LLC*, 122 FERC ¶ 61,264, at P 3 (2008) (March 21, 2008 Order).

that the proposed consolidation will capture new emerging resource configurations, and it will not put any undue administrative burden on any particular generation resource types not defined in the current default categories. Furthermore, PJM contends that it would eliminate the discriminatory treatment of particular units because their exact resource type did not fall into one of the defined default resource categories.

15. PJM acknowledges that this may increase the administrative burden on Capacity Market Sellers who benefit from their default value being higher than the new consolidated resource category. But, PJM questions why a Capacity Market Seller does not already calculate its unit-specific avoidable costs to determine if it should use a default ACR or request a unit-specific determination. Thus, PJM concludes that these changes to the default ACR values will not cause any undue burden on Capacity Market Sellers.

16. PJM points out that Capacity Market Sellers who find that the default ACR value do not adequately reflect its avoidable cost may still submit a unit-specific ACR request. PJM argues that the consolidated categories are more representative of actual costs as they exist today and meet the standards set in the March 21, 2008 Order.

17. PJM admits that it did not provide stakeholders the same detailed cost data provided in the 2006 and 2010 filings originally incorporating default ACRs into the Tariff. PJM explains that instead of using a bottom up approach to estimate the ACRs, PJM used actual cost data from survey responses submitted by Capacity Market Sellers. PJM states that this data is considered confidential and subject to the limitations of Section 18.17 of PJM's Amended and Restated Operating Agreement (Operating Agreement).

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁴ the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the early stage of this proceeding and the absence of undue prejudice or delay, we grant the unopposed out-of time motion to intervene submitted by the Market Monitor.

¹⁴ 18 C.F.R. § 385.214 (2012).

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority.¹⁵ We accept PJM's answer because it has aided us in our decision-making process.

B. Commission Determination

20. As discussed below, we accept PJM's filing to become effective February 5, 2013 as requested.

21. We find that PJM's proposed method to determine default ACR values to be just and reasonable as it meets the goal outlined in the March 21, 2008 Order, specifically that default ACR values reflect a competitive bid submitted by a wide range of generating units. PJM's estimates are based on data provided to PJM by generating units which serve load inside PJM. PJM and the Market Monitor subsequently analyzed the historic and survey data, comparing it with other independent surveys. From this PJM determined when to base the ACR value on the median value from the survey data and when to use a value derived from the other independent cost studies. As these values are based on the median costs for each class of generator, they will allow a wide range of generating units to use the new default ACR values. Capacity Market Sellers who find the proposed default ACR values to be too low may submit unit-specific data to PJM to avoid over-mitigation.

22. NRG argues that because PJM's generator classifications are broad, generators will likely have to increase the amount of unit specific avoidable cost data submitted to PJM. While some generators may find the need to submit unit specific data, the submission of such data will render the mitigated values more accurate. These data are already in the possession of the generators and NRG has not established an undue burden in submitting the data. We reject NRG's argument that the default ACR value should be set to the highest point in the range of potential values identified in category. Choosing values at the top of the range will potentially result in the overstatement of avoidable costs, and unnecessarily reduce the competitiveness of the bidding process. The Capacity Market Sellers' may avoid over-mitigation by submitting unit specific data.

23. We reject NRG's argument that PJM did not provide the Commission or stakeholders with sufficient data to support the proposed values. We find that PJM's decision to use actual data, when appropriate, in determining default ACR values will produce accurate default ACR values. PJM is independent of any generator or buyer and has sufficiently explained how these numbers are the result of careful analysis which incorporated both internal survey and historical data and independent cost studies..¹⁶

¹⁵ 18 C.F.R. § 385.213(a)(2) (2012).

¹⁶ PJM's decision not to share the data was keeping with the requirements of its Operating Agreement.

Moreover, since generators can submit their own unit specific data, PJM has little incentive to create inaccurate values, and the generators can avail themselves of a reasonable alternative in place of relying on the data.

The Commission orders:

PJM's filing is hereby accepted, as discussed in the body to this order, to become effective February 5, 2013, as requested.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.