

150 FERC ¶ 61,041
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

PJM Interconnection, L.L.C.

Docket No. ER14-503-002

ORDER DENYING REHEARING

(Issued January 22, 2015)

1. On November 29, 2013, PJM Interconnection, L.L.C. (PJM), pursuant to section 205 of the Federal Power Act (FPA),¹ submitted revisions to the Reliability Assurance Agreement among Load Serving Entities in the PJM Region (RAA) and the PJM Open Access Transmission Tariff (OATT or Tariff) to recognize limits on the amount of capacity from external generation resources that can be reliably committed in the PJM forward capacity auctions (November 29, 2013 Filing).² On April 22, 2014, the Commission accepted the proposed revisions to be effective January 31, 2014.³ The Illinois Municipal Electric Agency (Illinois MEA), and American Municipal Power, Inc. with Northern Illinois Municipal Power Agency (Joint Parties) have sought rehearing. In this order, we deny rehearing.

I. Background

2. In 2007, PJM implemented a capacity market in order to provide sustained forward investment signals for new resources in locations where they are needed most. PJM's Tariff allows both internal and external resources to participate in the capacity market. Prior to the November 29, 2013 Filing, generation resources external to PJM were able to participate in the capacity market to the extent those resources have firm transmission service in the external area to the PJM border by the delivery year. In the November 29, 2013 Filing, PJM proposed changes that would treat external capacity resources in a way more comparable to internal capacity resources, by requiring external

¹ 16 U.S.C. § 824d (2012).

² On February 20, 2014, PJM filed a response to a deficiency letter (PJM Response to Deficiency Letter) issued on January 28, 2014.

³ *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,060 (2014) (April 22, 2014 Order).

resources to show their deliverability to PJM load, and, in addition, imposing a limit on the amount of external capacity to ensure that imports of capacity do not undermine reliability of the PJM system.

3. PJM determined the Capacity Import Limit for its system initially by examining 20,000 external resources, and determining the ability of external systems to redispatch resources in the case a reliability event occurs.⁴ PJM found that using five zones was a reasonable approximation of the level of operator-to-operator support PJM can expect from all of its neighbors when it is in capacity emergency conditions.

4. PJM proposed to permit certain external resources that do not present the risks contemplated by this filing to seek an exception to the Capacity Import Limit by demonstrating to PJM by no later than five business days prior to the start of the offer period for the relevant capacity market auction that: (1) they are pseudo-tied generation resources; that is, they are treated like internal generation, subject to redispatch and locational pricing, and are not subject to TLR-5⁵ curtailments; (2) they have long-term firm transmission service confirmed on the complete transmission path from such resources into PJM; and (3) they agree to be subject to the same capacity must-offer requirement as PJM's internal resources. PJM states that an external resource that meets all three of these conditions should not be subject to the Capacity Import Limit because that resource has taken steps to be much like a PJM internal resource.

5. PJM proposed revisions to the OATT and RAA that define "Capacity Import Limit," describe a methodology to determine Capacity Import Limit values, establish that PJM will determine the Capacity Import Limit values each year, require PJM to post the Capacity Import Limit values each year, and direct that the capacity market auctions will incorporate Capacity Import Limit values in the auction-clearing process.

⁴ PJM Response to Deficiency Letter at 9 ("Initially, PJM's planning staff considered a method that assumed any generator in the Eastern Interconnection that was included in the powerflow model would be adjusted as necessary to maximize the amount of power that could be imported into PJM without violating reliability criteria on the monitored bulk electric system facilities. This is equivalent to saying every generator in the model outside PJM is its own Source Zone.").

⁵ TLR-5 events call for the transmission provider to reallocate transmission service by curtailing Interchange Transactions using Firm Point-to-Point Transmission Service on a pro rata basis to mitigate System Operating Limit or Interconnection Reliability Operating Limit Violations.

II. Commission's April 22, 2014 Order

6. The April 22, 2014 Order accepted as just and reasonable PJM's November 29, 2013 Filing. The Commission found that the proposed revisions would establish a reasonable methodology to allow PJM to ensure the amount of capacity from external resources does not exceed levels that can be reliably committed in the PJM forward capacity auctions, and help to address the risk that external resources may not be able to deliver capacity in the relevant delivery year. The Commission also found that the proposed revisions would enhance PJM's ability to determine the amount of capacity from external generation resources that PJM can include in the forward capacity auctions without violating reliability criteria. The Commission stated that the Capacity Import Limit proposal recognizes the physical constraints that limit the delivery of capacity to PJM from areas outside of PJM, and represents an appropriate balance between the need to allow capacity from external resources to bid into the market and the importance of ensuring that those external resources are available for delivery when needed and expected.

7. PJM proposed to identify five external source zones as groupings of one or more balancing authority areas in order to reflect in the planning analysis the fact that when one system enters an emergency condition, it can usually rely on support from surrounding systems.⁶ The Commission found that the use of five source zones to determine the Capacity Import Limit benefit provides a reasonable approximation of the level of flow-adjustment support PJM can expect to receive from external systems.

8. The Commission also accepted PJM's proposal to permit certain external resources that do not present the risks contemplated by this filing to seek an exception to the Capacity Import Limit. The Commission found that the pseudo-tie requirement, in combination with the other exception requirements, is a reasonable method by which external capacity resources can seek to offer into the forward capacity auctions without being subject to the Capacity Import Limit.

III. Rehearing Requests

9. Illinois MEA raises three issues. First, it argues the Commission's finding that the requirement that external generation resources be pseudo-tied to PJM to qualify for the Capacity Import Limit exception was just and reasonable is not supported by substantial evidence; that there was no record evidence that an across-the-board pseudo-tie requirement was necessary to mitigate the risk of curtailments of firm transmission; and that there was no record evidence relating the composition of the five external source zones to the risk of firm transmission curtailment. Second, it argues the proposed

⁶ PJM stated that the zones may need to be periodically modified based on changing system patterns or historical operational data.

revisions unduly discriminate against load serving entities with load obligations in PJM that own generation resources outside of PJM. Third, it argues that the Commission, in addressing Illinois MEA's proposal that the Commission condition approval of the Capacity Import Limit on the availability of Fixed Resource Requirement waivers, shifted the burden of proof.

10. Joint Parties argue that the Commission erred in accepting the Capacity Import Limit proposal without undertaking a meaningful analysis of the adverse impacts the Capacity Import Limit would have on the competitiveness of the PJM capacity market.⁷ Joint Parties further maintain the Commission erred in accepting PJM's Capacity Import Limit proposal without evaluating whether PJM's proposal would result in an efficient use of resources in the PJM and Midcontinent Independent System Operator, Inc. regions.

11. Joint Parties maintain the Commission's statement that PJM's Capacity Import Limit proposal "represents an appropriate balance between the need to allow capacity from external resources to bid into the market and the importance that those external resources are available for delivery when needed and expected" is not supported by substantial evidence in the record. Joint Parties also argue that the Commission erred in failing to establish that the Capacity Import Limit proposal is the least restrictive alternative in terms of its impact on competition.

IV. Commission Discussion

12. As discussed below, we deny the requests for rehearing of Illinois MEA and Joint Parties.

A. Addressing Illinois MEA's Rehearing Arguments

13. Illinois MEA contends that the Commission based the need for the pseudo-tie requirement on PJM's assessment of the risk of curtailment of firm transmission by surrounding systems. Illinois MEA disputes PJM's assessment of the curtailment risk and states that it presented evidence identifying only limited curtailments affecting Illinois MEA transactions to PJM.⁸ Specifically, Illinois MEA argues that the Schum Affidavit it submitted identified very few summer curtailments when Illinois MEA was prevented by a regional transmission organization (RTO) or balancing authority from

⁷ Joint Parties supplemented their request for rehearing with documents related to the May 2014 Base Residual Auction. PJM filed an answer opposing Joint Parties' request to supplement the record.

⁸ With its protest, Illinois MEA submitted an affidavit of Alice Schum, vice-president of operations at Illinois MEA (Schum Affidavit).

delivering from its external generation resources into PJM. Illinois MEA further contends that the Schum Affidavit shows that most of the curtailments that did occur were required by PJM, not by transmission systems outside of PJM. Illinois MEA contends that there is no record evidence to support PJM's concerns.

14. Contrary to Illinois MEA's argument that the Commission's acceptance of the pseudo-tie exception requirement was not supported by substantial evidence, we find PJM provided evidence and facts sufficient to justify the justness and reasonableness of the Capacity Import Limit proposal by, among other things, establishing that a pseudo-tie is needed to address the risk of curtailment of firm transmission by surrounding systems. First, the risk of a TLR-5 event interrupting the transmission of energy necessary in an emergency situation is a sufficient basis to justify the Capacity Import Limit, since such a risk demonstrates that resources external to PJM may not be equal to internal resources in satisfying a capacity requirement. Second, PJM's November 29, 2013 Filing did identify and detail actual occurrences where the risk of curtailment of firm transmission by surrounding systems occurred and posed a reliability problem for PJM.⁹ PJM stated that, from January 2009 through July 2013, firm transmission into PJM was curtailed under 151 separate TLR-5 events. PJM answered the Illinois MEA protest, in which it clarified the record regarding TLR-5 events for the PJM region.¹⁰ PJM stated that none of the events cited by Illinois MEA involved a TLR-5 called by PJM, and most of the firm curtailments cited by Illinois MEA were TLR-3 curtailments (typically holding, but not increasing existing schedules). PJM also stated that Illinois MEA's suggestion that some of the 151 TLR-5s cited in the PJM filing may have been initiated by PJM is incorrect, and that none of the 151 TLR-5s cited in the November 29, 2013 Filing were initiated by PJM. PJM stated that it did not call any TLR-5 events during the January 2009 through July 2013 period that curtailed firm imports.¹¹ While Illinois MEA presented evidence through the Schum Affidavit regarding the curtailments from the region in which its

⁹ PJM stated that the information in its November 29, 2013 Filing is a summary of data obtained from the North American Electric Reliability Corporation Interchange Distribution Calculator. November 29, 2013 Filing, fn. 7.

¹⁰ PJM January 6, 2014 Answer at 13-14.

¹¹ PJM noted that it called two TLR-5s during this entire period involving curtailments of firm exports from PJM to the New York Independent System Operator, Inc. region.

generation is located,¹² the Schum Affidavit does not discuss evidence of TLR-5 events for the larger PJM region, which supports the conclusion that TLR-5 events from surrounding systems pose a sufficient risk to justify the generic application of the Capacity Import Limitation.¹³ The fact that PJM does not provide evidence indicating that Illinois MEA's external generation has been subject to a TLR-5 event does not mean that a concern related to all external generation should not be addressed.

15. Illinois MEA argues that the record evidence, showing limited geographic distribution of TLR-5 events, does not support that an across-the-board pseudo-tie requirement is necessary to mitigate the risk of curtailments of firm transmission. For example, Illinois MEA notes that in the November 29, 2013 Filing approximately 66 percent of the TLR-5 events cited by PJM were from a region not related to the location of Illinois MEA external generation. We agree with PJM, however, that the data shows a risk of a potential TLR-5 event can exist in any region. Illinois MEA has provided no evidence that a TLR-5 event may not be a risk in the future for the PJM territory. PJM does not need to show that a TLR-5 event has occurred in every surrounding region to justify a generic tariff change that is applicable in the future. Further, we agree with PJM that the level and growth of capacity imports, and recent experience with TLR-5 curtailment events, underscore the need to recognize the constraints on transfers of capacity into PJM. This is consistent with the recognition of locational transmission constraints within PJM.

16. Illinois MEA argues that there was no record evidence that the composition of the five external source zones created by PJM for imposing Capacity Import Limits was related to the risk of curtailment of firm transmission from different zones. However, PJM's analysis was not based on the risk of curtailment from any individual zone. Instead, it was based on an assessment of the availability of additional external resources from any location to provide power in the case of a TLR-5 or other reliability event. PJM's initial analysis was based on treating each external generator individually and determining the ability of other external generators to supply power if an event occurs that would limit imports. Based on this analysis, PJM determined that its five zones, which produced 9,700 MWs of redispatchable generation reasonably replicated the theoretical maximum and, with the subtraction of the Capacity Benefit Margin, was a reasonably conservative means of determining the Capacity Import Limit on an on-going basis for the system as a whole.¹⁴ This analysis produces a reasonable Capacity Import Limit for the system as a whole regardless of where an actual event occurs.

¹² The Schum Affidavit is limited to risk of curtailment for those Illinois MEA transactions importing to PJM.

¹³ See November 29, 2013 Filing at 5-8.

¹⁴ PJM Response to Deficiency Letter at 9-10.

17. We also disagree with Illinois MEA's arguments that establishing the Capacity Import Limit unduly favors internal generation resources, or discriminates against load serving entities with load obligations in PJM that own generation resources outside of PJM. Illinois MEA does not adequately support its contention that the purpose of the Capacity Import Limit is to "starve off" future retirements by creating an artificial mechanism designed to make generation resources within PJM more profitable. PJM stated that its current procedures do not address the risk that firm transmission may be curtailed by third-party systems, and that over-commitment of external resources that cannot be delivered into PJM affects both short-term and long-term reliability. We find that the Capacity Import Limit is intended to address this concern, i.e., that not all external resources can be reliably delivered into PJM. We do not find any support for the arguments that the Capacity Import Limit unduly discriminates against load serving entities with load obligations in PJM that own generation resources outside of PJM. We note that similar principles of physical deliverability apply to resources internal to PJM. Capacity Import Limit constraint is analogous to the Capacity Emergency Transfer Limit constraint, which applies to internal generation and recognizes the physical limits on the movement of capacity from one Locational Deliverability Area to another.

18. On rehearing, Illinois MEA contends that the Commission shifted the burden of proof to show that the Capacity Import Limit is unjust and unreasonable. We disagree. PJM has the burden of proof as to the overall justness and reasonableness of its filing, and PJM provided sufficient evidence to support the justness and reasonableness of the Capacity Import Limit as applied to the auction. Protesters who argue that acceptance of the filing should be tied to granting certain waiver requirements have an obligation to provide reasonable support for their position.¹⁵ However, Illinois MEA's protest failed to provide support for concluding that PJM's filing to establish a Capacity Import Limit should be found unjust and unreasonable without an exemption or waiver applicable to the Fixed Resource Requirement. Therefore, the Commission correctly found PJM's filing to be just and reasonable. Moreover, we note that Illinois MEA *did* submit a

¹⁵ *Louisiana Pub. Serv. Commission v. Entergy Servs., Inc.*, 119 FERC ¶ 61,095, at P 51 (2007) (a party making a protest in a Commission proceeding has an obligation to make its case before the Commission with reasonably articulated arguments to which the Commission can respond); *see National Wildlife Fedn. v. FERC*, 912 F.2d 1471, 1485-86 (D.C. Cir. 1990) (speculation, without more, is insufficient to undermine the Commission's independent determination); *FPL Energy Marcus Hook, L.P. v. FERC*, 430 F.3d 441, 448 (D.C. Cir. 2005) (meager references in briefs and no counter-interpretation of these provisions insufficient to overcome Commission's interpretation); *California Dept. of Water Resources v. FERC*, 306 F.3d 1121, 1126 (D.C. Cir. 2002) (footnote does not properly present, and thus does not preserve, the issue the intervenors wish to argue); *State of North Carolina v. FERC*, 112 F.3d 1175, 1192 (D.C. Cir. 1997) (discussion of issue tucked away in a footnote not sufficient to preserve appeal).

request for waiver of the Fixed Resource Requirement rules to the Commission, and the Commission ruled on it.¹⁶

19. Illinois MEA contends, for the first time on rehearing,¹⁷ that the Capacity Import Limits are not consistent with section 217 of the FPA.¹⁸ Section 217 provides:

Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

Section 217 applies to firm transmission rights or financial transmission rights. These rights apply in the energy market. Capacity markets, however, were established to ensure the long-term reliability and adequacy of the system and, therefore, different requirements may reasonably be applied to these markets.¹⁹ As PJM has shown, the capacity provided by generation resources external to PJM includes the risk, not present for internal generation, that the firm transmission may be curtailed by third-party systems. The purpose of the Capacity Import Limit revisions to the PJM Tariff is to address an over-commitment of capacity that cannot be reliably delivered into PJM, and Illinois MEA has not adequately shown how section 217 supports its arguments regarding PJM's auctions for deliverable capacity, nor why it cannot avail itself of the import limit exception.

¹⁶ See *Illinois Municipal Electric Agency*, 147 FERC ¶ 61,090 (2014) (granting the Illinois IMEA request for waiver of Schedule 8.1, Section D.5 of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region for the 2017/18 Delivery Year), *order on reh'g*, 150 FERC ¶ 61,040 (2015).

¹⁷ The Commission looks with disfavor on parties raising issues for the first time on rehearing, in part, because other parties are not permitted to respond to a request for rehearing. *San Diego Gas & Elec. Co.*, 130 FERC ¶ 61,183 (2010).

¹⁸ 16 U.S.C. § 824q(b)(2) (2012).

¹⁹ Even if section 217 of the FPA were to apply to capacity markets, section 217 would not prohibit PJM from recognizing capacity limitations, because section 217 recognizes that firm transmission rights and financial transmission rights must be honored only to the extent deliverable.

B. Addressing Joint Parties' Rehearing Arguments

20. Joint Parties argue that there is no evidence in the record that would support the Commission's finding that the Capacity Import Limit revisions to the PJM Tariff strike an appropriate balance between the need to allow capacity from external resources to bid into the market and ensuring that those external resources are available when needed and expected. Joint Parties contend that the Commission's findings are without an evaluation of the competing objectives of reliability and competition, and that by relying on the comments of the Public Utilities Commission of Ohio and Pennsylvania Public Utility Commission (Ohio and Pennsylvania Commissions) and the comments of the Electric Power Supply Association (EPSA), the Commission made an unlawful delegation of authority. Moreover, Joint Parties contend that there is no analysis underlying the comments of the Ohio and Pennsylvania Commissions, and the EPSA comments provide no independent support for the Commission's finding. The Joint Parties further argue that the Capacity Import Limit revisions to the PJM Tariff would impair the competitiveness of the PJM capacity market and are akin to territorial allocations or refusals to deal. Joint Parties also argue that the Commission's recognition of physical constraints that limit the delivery of capacity to PJM from areas outside of PJM does not address the adverse competitive impacts of the Capacity Import Limit.

21. To the Joint Parties' arguments that the Commission's findings are without an evaluation of the adverse impacts of the proposal on the competitiveness of the PJM capacity market or on the competing objectives of reliability and competition, or that the proposal would result in an inefficient use of resources, we find to the contrary. We find that an over-commitment of external resources in the Base Residual Auction would run a deliverability risk and distort the Base Residual Auction process by displacing resources that are deliverable. That is, the Capacity Import Limit recognizes the physical constraints on external resources that can be reliably delivered by the transmission system, as has previously been determined for internal resources. An over-commitment of external resources in the Base Residual Auction, beyond the level capable of reliably being physically delivered, adversely affects both short-term and long-term reliability by artificially inflating the supply of resources in the Base Residual Auction. Systematic commitment of external resources at levels that cannot be reliably delivered will add resources to the supply curve in the auction and tend to reduce the clearing price below the level offered by resources that are actually deliverable to PJM. Unfortunately, because price signals that would otherwise be sent are distorted, price suppression may result in the exit of more reliable resources from the PJM market, or a failure to attract needed entry.

22. Joint Parties' argument that the Commission delegated its authority is misplaced. The Commission found that the Capacity Import Limit revisions to the PJM Tariff strike an appropriate balance between the need to allow capacity from external resources to bid into the market and the physical constraints that limit the delivery of capacity to PJM from areas outside of PJM. In its prior order, the Commission also agreed with the Ohio

and Pennsylvania Commissions that the Capacity Import Limit revisions to the PJM Tariff represent an appropriate balance between the need to allow capacity from external resources to bid into the market and the importance of ensuring that those external resources are available for delivery when needed and expected. Our agreement with the position of the Ohio and Pennsylvania Commissions, and the EPSA comments, is not tantamount to a delegation of our authority to other parties.

23. Joint Parties maintain the Commission's statement that PJM's Capacity Import Limit proposal "represents an appropriate balance between the need to allow capacity from external resources to bid into the market and the importance that those external resources are available for delivery when needed and expected" is not supported by substantial evidence in the record. We note again that PJM has provided evidence and facts sufficient to support the justness and reasonableness of the Capacity Import Limit proposal, finding that the commitment of resources in the Base Residual Auction that are likely to be undeliverable exposes loads to the risk of resource inadequacy if sellers choose to pay a resource deficiency penalty rather than pay for transmission upgrades or secure replacement capacity. But, as PJM notes, resource deficiency payments do not protect reliability. Further, the failure of a seller to secure firm transmission for an external resource, or to correctly anticipate the cost of deliverable replacement capacity, is not solely a risk to the seller in the form of deficiency charges. The adverse consequences of the seller's errant assumptions will also fall on the customers that are left without the resources that committed to be available.

24. Joint Parties filed a supplement to their request for rehearing to bring to the Commission's attention: (1) results from the 2014 Base Residual Auction; and (2) issuance of a decision in *Electric Power Supply Association v. Fed. Energy Reg. Comm'n (EPSA)*.²⁰ Joint Parties contend that the results of the 2014 Base Residual Auction support its contention regarding the competitive impacts of the Capacity Import Limits, and EPSA requires the Commission to address in a meaningful way their arguments as to competitive impacts. We deny the Joint Parties request to supplement the record. As an initial matter, it is well settled that the Commission does not accept new evidence, such as the results of the 2014 auction, at the rehearing or later stage of a proceeding.²¹ Moreover, while the 2014 auction results may be higher than in prior years, Joint Parties have offered no evidence that the Capacity Import Limit was the sole or even predominant cause of the change in prices. As far as the arguments regarding competitive impact, The Commission explained in the April 22, 2014 Order, and we explain in this order, why the exclusion of non-deliverable resources not only promotes

²⁰ 753 F.3d 216 (D.C. Cir. 2014).

²¹ See *Southern California Edison Company*, 137 FERC ¶ 61,016 (2011) (citing *Ocean State Power II*, 69 FERC ¶ 61,146 (1994)).

reliability, but also ensures that competition among resources is fairly based on the value they provide as capacity. Joint Parties' contention that external resources should be included even when they may not be deliverable disadvantages those resources that do provide for enhanced reliability and artificially lowers auction clearing prices. Even if, as Joint Parties maintain, the Capacity Import Limit was the predominant factor resulting in higher prices in the 2014 Base Residual Auction, as compared to prior auctions, that fact does not demonstrate that the Capacity Import Limit had an adverse competitive impact. Rather, it demonstrates that prices more accurately reflect the physical capabilities of the transmission system with respect to the reliable delivery of external resources.

25. Joint Parties also argue that the Commission erred in failing to establish that the Capacity Import Limit proposal is the least restrictive alternative in terms of its impact on competition. Joint Parties' argument is grounded in anti-trust concerns, and that well-established anti-trust law requires that, where an otherwise prohibited restraint of trade is deemed to be permissible in light of an overriding public need, it must be shown to be the least restrictive means of addressing the public need.²² As previously discussed, the Capacity Import Limit proposal is based on the physical constraints that limit the delivery of capacity to PJM from areas outside of PJM, and therefore external resources above the capacity limit are not competitive with internal resources. Moreover, neither *Gulf States* nor *Northern Natural Gas* requires the analysis argued for by the Joint Parties. *Gulf States* does not require every allegation of anti-competitive behavior be investigated. The court noted that such a rule would limit the discretion the Commission must have in order to mold its procedures to the exigencies of the particular case.²³ *Northern Natural Gas* specifically recognizes that regulatory agencies are not strictly bound by the dictates of anti-trust laws, and that anti-trust laws are merely another tool which a regulatory agency employs to a greater or lesser degree to give understandable content to the broad statutory concept of public interest.²⁴ *NYISO* notes that the Commission will review anti-competitive concerns as warranted by the circumstances.²⁵

²² Joint Parties Rehearing Request at 7 (citing *Gulf States Utilities Co. v. FPC*, 411 U.S. 747, 758-59 (1973) (*Gulf States*); *Northern Natural Gas Co. v. FPC*, 399 F.2d 953, 960-63 (D.C. Cir. 1968) (*Northern Natural Gas*); *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,136 (2009) (*NYISO*)).

²³ *Gulf States*, 411 U.S. at 762.

²⁴ *Northern Natural Gas*, 399 F.2d at 961.

²⁵ *NYISO*, 127 FERC ¶ 61,136 at P 6.

26. We find the Capacity Import Limit revisions to the PJM Tariff to be based on a reliability concern related to the physical limits of the transmission system, and we find no cognizable antitrust claim here.²⁶ Parties have made no showing that market power is likely to be exercised simply from the limitation on external resources for valid reasons. Moreover, PJM's tariff requires mitigation to the extent that the remaining generators are sufficiently concentrated that they may exercise market power, and the Independent Market Monitor is required to evaluate and report to the Commission exercises of market power.

The Commission orders:

We deny the requests for rehearing of Illinois MEA and the Joint Parties, as discussed in the body of this order.

By the Commission. Commissioner Honorable is voting present.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁶ See *Gulf States*, 411 U.S. at 759-60.