

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

PJM Interconnection, L.L.C. and  
Commonwealth Edison Company and  
Commonwealth Edison Company of Indiana, Inc.

Docket Nos. ER04-367-000  
and ER04-367-001

ORDER ON TARIFF FILING

(Issued March 18, 2004)

1. In this order the Commission accepts and suspends, subject to refund and condition, the tariff revisions filed by PJM Interconnection, L.L.C. (PJM) and Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd) to integrate the revenue requirements associated with ComEd's jurisdictional transmission facilities into the PJM open access transmission tariff (OATT). This order benefits customers by promoting more effective competition in regional wholesale power markets, assuring non-discriminatory transmission service, and improving reliability.

**I. Background**

2. On September 12, 2003 in Docket No. ER03-1335-000, ComEd filed for rate increases for transmission service and ancillary services for scheduling, system control and dispatch. ComEd proposed a two-stage rate increase in this filing. The Phase I rates were based on a revenue requirement of \$303,993,541 and were proposed to be effective on April 12, 2004. The Phase II rates reflected a revenue requirement of \$311,558,424 and were proposed to be effective on the later of April 12, 2004, or the date when ComEd is integrated into the PJM. In the September 12, 2003 filing, ComEd only filed tariff sheets reflecting Phase I, although the filing contained information on the rates for both phases. ComEd noted that the Phase II rates would have to be filed by PJM, since they were reflecting the integration of ComEd into PJM and service would be provided under PJM's OATT.

3. On November 10, 2003, the Commission conditionally accepted and suspended for five months ComEd's proposed rates in Docket No. ER03-1335-000, made them subject to refund, and instituted hearing and settlement judge procedures.<sup>1</sup> The Commission also ruled that the issue of regional through and out rates (RTOR) and associated lost revenue recovery would be subject to the outcome of on-going proceedings addressing these issues. Then, in companion orders issued on November 17, 2003, the Commission found that PJM's and ComEd's RTOR rates for transactions that sink within the combined footprint (or area) of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), PJM, and the former Alliance Companies are unjust and unreasonable.<sup>2</sup>

## II. Description of the Instant Filing

4. On December 31, 2003, PJM and ComEd filed tariff sheets under Section 205 of the Federal Power Act to revise PJM's OATT to (1) incorporate rates for the new ComEd zone in PJM, and (2) revise PJM's RTOR by including ComEd's revenue requirement in the calculation of the PJM RTOR or border rate. ComEd states that the instant filing is a straight-forward, ministerial rate filing necessary for the inclusion of ComEd's transmission facilities into PJM. The Applicants request an effective date of May 1, 2004.

5. The Applicants state that the rates for the ComEd Zone are based on the Phase II transmission service rates and ancillary service rates for scheduling, system control and

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<sup>1</sup> Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc., 105 FERC ¶ 61,186 (2003).

<sup>2</sup> Midwest Independent Transmission System Operator *et al.*, 105 FERC ¶ 61,212 (2003) and Ameren Service Company, *et al.*, 105 FERC ¶ 61,216 (2003). The former Alliance companies identified in these orders were American Electric Power Service Corp. on behalf of Appalachian Power Co., Columbus Southern Power Co., Indiana Michigan Power Co., Kentucky Power Co., Kingsport Power Co., Ohio Power Co., and Wheeling Power Co. (collectively, AEP); Ameren Services Co. on behalf of Union Electric Co. and Central Illinois Public Service Co. (collectively, Ameren); Commonwealth Edison Co. on behalf of itself and Commonwealth Edison Co. of Indiana (collectively, ComEd); FirstEnergy Corp. on behalf of American Transmission Systems, Inc. (ATSI) (collectively, FirstEnergy); Illinois Power Co. (Illinois Power); Northern Indiana Public Service Co. (NIPSCO); and Dayton Power and Light Co. (DP&L). 105 FERC ¶ 61,212 P 3 n. 7.

dispatch service accepted by the Commission, subject to refund, in ComEd's pending rate case in Docket No. ER03-1335-000. In addition, the Applicants state the proposed PJM RTOR is based on ComEd's revenue requirement and PJM's rate design. ComEd emphasizes that the revisions to the PJM RTOR reflect no change to the current PJM rate design, but merely incorporate the revenue requirement of ComEd. Further, ComEd notes that it has agreed to reflect in the Phase II rates the ROTR revenue requirement of \$169,800,000<sup>3</sup> embedded in its current rates in calculating the PJM RTOR (as opposed to the Phase II revenue requirement of \$311,558,424), thereby reducing the prospective RTOR rates from \$1.78/kW-month to \$1.57/kW-month. Applicants further state that once the Commission has issued a final order in Docket No. ER03-1335-000, they will file to revise the RTOR to reflect the outcome of that proceeding.

6. On January 12, 2004, PJM and ComEd filed revisions to their filing of December 31, 2003 in Docket No. ER04-367-001. The Applicants state that the revisions correct typographical and similar errors on the originally filed sheets. The Applicants state that the January 12 filing does not effect any substantive change.

### **III. Notice, Protests, Comments, and Answers**

7. Notice of the December 31 filing was published in the Federal Register, 69 Fed. Reg. 2,588 (January 16, 2004), with comments, protests, and motions to intervene due on or before January 21, 2004. Notice of the January 12, 2004 amendment was published in the Federal Register, 69 Fed. Reg. 4,503 (January 30, 2004), with comments, protests, and motions to intervene due on or before February 2, 2004.

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the 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 delay or prejudice, we find good cause to grant all untimely, unopposed interventions.

9. The protestors note that the rates in the instant filing are based on the rates which have been suspended and set for hearing in ComEd's rate case in Docket No. ER03-1335-000. They therefore request that proposed rates in this proceeding be suspended and accepted subject to refund, and either set for hearing or made subject to the outcome of Docket No. ER03-1335-000. Protestors also raise related issues concerning PJM's

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<sup>3</sup> ComEd's currently effective revenue requirement, which was approved in a "black box" settlement, is \$169,800,000 in Docket No. ER99-4470-001. Commonwealth Edison Co., 92 FERC ¶ 61,113 (2002).

proposed RTOR and the replacement of lost revenues with a seams elimination cost assignment (SECA) charge, especially in light of the Commission's November 17, 2003 Orders on RTOR issues.<sup>4</sup>

10. Detroit Edison Company (Detroit Edison) is concerned that it will face a "hefty" rate increase as a result of the shift from paying ComEd rates of \$0.95/kW-month to PJM border rates of \$1.57/kW-month. Detroit Edison is concerned that customers will face a double hit of paying a load-based SECA charge and a higher border rate for existing transactions that continue into the transition period. Detroit Edison states that while it is not affected by the change, it would be affected if AEP were to join PJM. Additionally, other Midwest ISO customers would pay higher rates if they were required to pay the PJM RTOR rather than ComEd's existing rate. Detroit Edison therefore asks the Commission to clarify that customers with qualifying existing reservations will be able to continue to pay the lower rate that was posted when they made their reservation rather than the RTOR.

11. Wisconsin Electric Power Company notes that there is no guarantee that ComEd will be integrated into PJM on May 1, 2004. It therefore contends that the revised tariff sheets should be made effective on the date when ComEd is integrated into PJM.

12. On February 5, 2004, ComEd filed an answer to the protests. Rule 213(a) (2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.<sup>5</sup> The Commission finds that ComEd's answer helps clarify the issues raised in this proceeding and therefore ComEd's answer is accepted for filing.

13. On February 12, 2004, the EME Companies filed in this proceeding an answer to the answer filed by Exelon Corporation on behalf of ComEd in Docket Number ER04-521-000. Since the Exelon's answer was not filed in this proceeding. The Commission will reject the EME Companies' answer filed in this proceeding.

#### **IV. Discussion**

14. This filing is one of a series of filings needed to effectuate the integration of ComEd's system into PJM. In this filing, the rates reflected in the PJM OATT are being revised to reflect the addition of the jurisdictional transmission revenue requirements of a

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<sup>4</sup> See footnote 2 above.

<sup>5</sup> 18 C.F.R. § 385.214 (2003).

new PJM member. According to the Applicants, there are no changes in the PJM rate design; rather, a new “ComEd Zone” is being created to reflect the fact that PJM, rather than ComEd, will be providing service once ComEd is integrated into PJM. Since the rates in this proceeding are based on the filing made by ComEd in Docket No. ER03-1335-000, the Commission accepts and suspends the proposed rates, subject to the outcome of ComEd’s pending rate case proceeding. Further, since PJM’s RTOR rates are the subject of on-going proceedings in Docket No. EL02-111-004, et al., the acceptance and suspension of the tariff sheets are also subject to the outcome of that RTOR proceeding and any related proceedings regarding the integration of ComEd into PJM.

15. Our preliminary analysis of the Applicants’ proposed rates indicate that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the proposed rates for filing and suspend them, subject to refund. The proposed rates may not go into effect until the date specified in a further Commission order for the integration of ComEd into PJM.

16. Detroit Edison requests clarification that customers with qualifying existing reservations on ComEd will be able to continue to pay ComEd’s current rate when ComEd joins PJM rather than paying the higher PJM RTOR. The Commission will deny Detroit Edison’s requested clarification. In Docket No. EL02-111-004, et al., the Commission found that continuation of through and out rates is not just and reasonable when applied to certain transactions and therefore directed that the through and out rates for such transactions be replaced effective May 1, 2004 with a new rate design.<sup>6</sup> The Commission also found that through and out rates for certain other transactions (i.e., for requests for reservations made on or after November 17, 2003 for service commencing on or after April 1, 2004 and sinking within the combined Midwest ISO-PJM region), should remain in effect for a two-year transition period ending March 30, 2006. Detroit Edison has provided no justification for granting an exception to this ruling. Once ComEd joins PJM, certain transactions through or out of PJM will pay the PJM border rate. The Commission will not require that customers located in the Midwest ISO that continue to pay the through and out rate under the PJM OATT have the advantage of a lower border rate for service into Midwest ISO than customers delivering to other regions would have.

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<sup>6</sup>105 FERC ¶ 61,212 at 62,101 (setting April 1, 2004 effective date for replacement of RTOR) and 106 FERC ¶ 61,106 (2004) (extending the date to May 1, 2004).

17. A review of the Applicants' filing shows that Sheet No. 315, which is Attachment H-14 to the PJM OATT and reflects the rate for network integration transmission service to non-zone load, was not included with the filing. This sheet must be filed in a compliance filing within 15 days from the date of this order.

18. In Docket No. ER03-1335-000, the Applicants anticipated that the integration of ComEd into PJM would take effect on April 14, 2004. In this proceeding, they anticipated an integration date of May 1, 2004. As explained in an order issued concurrently with this order in Docket No. RP04-521-000, the Commission is requiring PJM and MISO to file the North American Electric Reliability Council's (NERC) report on their reliability plans and any changes that NERC is requiring. The Commission will then issue an order on this filing addressing the NERC review of the PJM and Midwest ISO reliability plans, any suggested changes to those plans, any proposed tariff changes, and will set an effective date for integration of ComEd into PJM. The requested May 1, 2004, integration date may still be feasible depending on the timing and conditions of NERC's approval. Accordingly, the proposed rates may not go into effect until the date specified in a further Commission order for the integration of ComEd into PJM.

The Commission orders:

(A) The tariff sheets are accepted and suspended, subject to refund, subject to the outcome of the ComEd rate case proceeding in Docket Nos. ER03-1335-000, to the outcome of the RTOR proceedings in Docket No. EL02-111-004, et al., and to other related proceedings involving the integration of ComEd into PJM.

(B) The tariff sheets cannot become effective until the date specified by the Commission for the integration of ComEd into PJM, and in no event earlier than the proposed effective date of May 1, 2004.

(C) ComEd's answer is accepted for filing.

(D) EME Companies' answer to the answer by Exelon is rejected for filing in this proceeding.

(E) The Applicants must file Sheet No. 315 in the compliance filing within 15 days of the date of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.