

120 FERC ¶ 61,203
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.

H-P Energy Resources LLC

v.

Docket No. EL07-89-000

PJM Interconnection, L.L.C.

ORDER ESTABLISHING SETTLEMENT JUDGE
PROCEDURES

(Issued August 30, 2007)

1. On August 20, 2007, H-P Energy Resources LLC (H-P) filed a complaint pursuant to section 206 of the Federal Power Act (FPA)¹ against PJM Interconnection, L.L.C. (PJM). H-P alleges that PJM, without justification or authority, failed to certify the Incremental Import Capability (IIC) for two of H-P's merchant transmission projects, S119 and S120, both of which are designed to increase import capability into the potentially constrained markets operated by the Mid-Atlantic Area Council and Allegheny Power System.² H-P asserts that without this certification, its projects cannot be offered as Qualifying Transmission Upgrades (QTU) in the 2009-2010 Reliability Pricing Model (RPM) base residual auction that commences October 1, 2007.

¹ 16 U.S.C. § 824e (2000).

² Project S119 is a \$300,000 network upgrade designed to advance the upgrade of wavetraps on Lexington-Dooms 500 kv circuit in PJM's Dominion zone by three years, from June 1, 2012 to June 1, 2009. Project S120 involves the upgrade of limiting equipment on Bristers-Ox 500 kv circuit, also in the Dominion zone.

2. H-P asserts that Projects S119 and S120 were submitted by H-P in good faith and in full compliance with all written PJM rules and requirements and in reliance on PJM's conditions applicable to RPM auction participants. Accordingly, H-P requests that the Commission order PJM to provide IICs for Projects S119 and S120, allow these projects to participate in the upcoming base residual auction, and grant such other relief as the Commission may find just and reasonable. H-P states that time is of the essence concerning this matter.

3. H-P asserts that it has attempted unsuccessfully to resolve its dispute with PJM. However, we find the involvement of a settlement judge may assist the parties in reaching a mutually agreeable resolution of this matter. We also find that the issues presented here may be amenable to settlement.

4. Accordingly, we encourage the parties to make every effort to settle their dispute before further Commission action in this case is required. To aid the parties in their settlement efforts, we direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.³ The Chief Judge will select a judge for this purpose. The settlement judge shall report to the Chief Judge and the Commission on or before September 17, 2007, concerning the status of settlement discussions.

5. Notwithstanding the procedures established here, the Commission's comment date of August 31, 2007, as established in the official notice issued by the Secretary, remains the date by which responsive pleadings and motions should be filed by interested parties. We express no opinion on the merits of the complaint at this time.

The Commission orders:

(A) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2007), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within one (1) day of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge.

³ 18 C.F.R. § 385.603 (2007).

(B) On or before September 17, 2007, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.