

122 FERC ¶ 61,108
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.

Strategic Transmission, LLC

Docket No. EL07-63-001

v.

PJM Interconnection, LLC

ORDER GRANTING MOTION AND DISMISSING COMPLAINT AND
REHEARING REQUEST AS MOOT

(Issued February 7, 2008)

1. In this order, we dismiss the complaint and request for rehearing filed by Strategic Transmission, LLC (Strategic) as moot and grant FirstEnergy's motion to dismiss filed on December 7, 2007. We granted and denied, in part, Strategic's complaint in our order issued on September 7, 2007 (September 7, 2007 Order),¹ which addressed Strategic's request that the Commission direct PJM Interconnection, LLC (PJM) to identify the Incremental Capacity Transfer Rights (ICTRs) for Strategic's merchant transmission Project S16 and direct PJM to provide the project cost and Upgrade Construction Service Agreement (UCSA) for Project S16. Project S16 involved a two-year advancement of a baseline network upgrade, from June 1, 2011 to June 1, 2009 which Strategic asserted would relieve the constrained transfer capability between the MAAC and Eastern MAAC Locational Deliverability Areas (LDAs) under the Reliability Pricing Model (RPM) in PJM.

Rehearing Request, Motion to Dismiss, and Answer

2. Strategic filed a request for clarification or, in the alternative, rehearing of the September 7, 2007 Order, requesting that the Commission clarify whether the costs claimed by Jersey Central Power & Light Company (JCP&L) comply with the PJM Tariff's requirement that the project cost "shall be limited solely to the time value of advancing the required investment." In its alternative request for rehearing, Strategic requests that the Commission limit the allowed project cost to the time value of advancing the requirement investment as set forth in the PJM Tariff.

¹ *Strategic Transmission, LLC*, 120 FERC ¶ 61,224 (2007).

3. On December 7, 2007, FirstEnergy filed a motion to dismiss the complaint as moot (December 7, 2007 Motion) because Strategic failed to meet the requirements of section 213.4 of the PJM Tariff. FirstEnergy asserts that section 213.4 obligates Strategic to have submitted an executed UCSA and appropriate security to PJM by no later than November 30, 2007, which Strategic failed to do.

4. On December 26, 2007, Strategic filed an answer to FirstEnergy's December 7, 2007 Motion (December 26, 2007 Answer), stating that it does not oppose dismissal of the complaint as moot, but presenting different reasons for dismissal than FirstEnergy. Strategic asserts that the first part of the advancement period, from June 1, 2009 to June 1, 2010, became moot once the 2009-2010 RPM Base Residual Auction was conducted in October 2007. Strategic also asserts that the requested in-service date of June 1, 2010 has also become moot because PJM's planning parameters for the 2010-2011 RPM Base Residual Auction show the Eastern MAAC LDA as no longer constrained. Because there is no economic value for any advancement of the baseline project, Strategic states that the complaint is now moot.

5. On December 31, 2007, FirstEnergy filed an answer to Strategic's December 26, 2007 answer. On January 16, 2008, Strategic filed an answer (January 16, 2008 Answer) to FirstEnergy's answer filed on December 31, 2007. Strategic also filed a motion for leave to file its January 16, 2008 Answer one day out of time on January 17, 2008. In these answers, FirstEnergy and Strategic dispute the other party's characterization of the significance of the case. However, neither party disputes that the complaint is moot.

Commission Determination

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits answers to answers or rehearing requests unless otherwise ordered by the decisional authority. We will accept FirstEnergy's December 7, 2007 Motion, Strategic's December 26, 2007 Answer, and the answers to answers filed by FirstEnergy and Strategic as they have provided information that has assisted us in our decision-making process.

7. We will grant FirstEnergy's December 7, 2007 Motion and dismiss the complaint and rehearing request as moot because Project S16 is no longer being pursued.

The Commission orders:

The December 7, 2007 Motion of FirstEnergy is granted and the complaint and rehearing request are hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.