

126 FERC ¶ 61,083  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

PJM Interconnection, L.L.C.

Docket No. ER09-367-000

ORDER ACCEPTING AMENDMENTS TO PJM OPEN ACCESS TRANSMISSION  
TARIFF

(Issued January 30, 2009)

1. On December 2, 2008, PJM Interconnection, L.L.C. (PJM) filed proposed amendments (Proposed Amendments) to its Open Access Transmission Tariff (PJM OATT) adding a new Schedule 12A and making other related changes that would provide for the allocation of Incremental Auction Revenue Rights (IARRs) and Incremental Capacity Transfer Rights (ICTRs) to Responsible Customers<sup>1</sup> that built or assumed cost responsibility for new regional transmission projects at or above 500 kV. The Commission accepts the proposed tariff provisions to become effective February 1, 2009 as requested.

**I. Background**

**A. Incremental Auction Revenue Rights**

2. PJM states that Incremental Auction Revenue Rights are "additional Auction Revenue Rights . . . created by the addition of Merchant Transmission Facilities, or one or more Customer-Funded Upgrades."<sup>2</sup> PJM states, as an example, that a New Service Customer is entitled to receive IARRs when it reimburses the Transmission Provider for the costs of, or undertakes cost responsibility for, constructing network upgrades required

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<sup>1</sup> Responsible Customers are transmission customers and merchant transmission facility owners that are assigned cost responsibility for upgrades included in the PJM Regional Transmission Expansion Plan ("RTEP") pursuant to Schedule 12 of the PJM OATT. Application at 1.

<sup>2</sup> *Id.* at 2.

to accommodate its new service request. PJM asserts that similar to Auction Revenue Rights, IARRs entitle the holder to receive the revenue from the PJM Financial Transmission Right auction.

3. Similarly, PJM states, Regionally Assigned Facilities<sup>3</sup> may also increase the Auction Revenue Right capability of the PJM transmission system. The Proposed Amendments specify that Responsible Customers that are assigned cost responsibility for Regionally Assigned Facilities are entitled to the IARRs associated with such facilities.

4. The Proposed Amendments further specify the mechanism for determining and allocating IARRs. Concerning the allocation of IARRs, the Proposed Amendments state that PJM will allocate IARRs associated with each Regionally Assigned Facility to eligible Responsible Customers based on the percentage cost responsibility assigned to Responsible Customers for that facility as set forth on a zonal basis in the PJM OATT, Schedule 12-Appendix.

5. To find the quantity of IARRs available from a new Regionally Assigned Facility, the Proposed Amendments define<sup>4</sup> source and sink points determined to produce a path for which the Regionally Assigned Facility is most likely to create IARRs, which is based on distribution factor analysis. PJM states that the IARR capability associated with a Regionally Assigned Facility is the difference between the Auction Revenue Right capability without the facility and the Auction Revenue Right capability including the impact of such facility. PJM avers that this methodology for determining IARRs associated with a Regionally Assigned Facility is consistent with the methodology used to determine IARRs associated with upgrades that New Service Customers fund.<sup>5</sup>

6. PJM states that the duration of IARRs is consistent with section 231.5 of the PJM OATT for IARR duration for New Service Customers.<sup>6</sup> The Proposed Amendments

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<sup>3</sup> Regionally Assigned Facilities, as defined in the PJM OATT § 12(b)(i) include Regional Facilities and Necessary Lower Voltage Facilities, which are "new Transmission Facilities or expansions or enhancements to existing Transmission Facilities that operate below 500 kV that must be constructed or strengthened to support new Regional Facilities."

<sup>4</sup> Application at 7.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> *Id.* at 9.

specify 30 years, or the life of the upgrade, if less, as the duration of IARRs associated with upgrades to Regionally Assigned Facilities.<sup>7</sup>

**B. Incremental Capacity Transfer Rights**

7. PJM states that Incremental Capacity Transfer Rights (ICTRs) are financial instruments that may be used to hedge congestion costs in PJM's capacity market. Capacity Transfer Rights are rights allocated to Load Serving Entities (LSEs) serving load in a Locational Deliverability Area, to receive payments on imports into such Locational Deliverability Area. These payments are based on the transmission import capability and offset, in whole or in part, the charges attributable to the Locational Price Adder, if any, included in the Zonal Capacity Price calculated for the Locational Deliverability Area. ICTRs are allocated to generation and merchant transmission interconnection customers obligated to fund a transmission facility or upgrade that increases the transmission import capability (transfer capability) into a Locational Deliverability Area.<sup>8</sup>

8. PJM states that under the Reliability Pricing Model (RPM), if a Locational Deliverability Area is constrained then the capacity price in that Locational Deliverability Area will differ from other capacity prices in the rest of the PJM Region, similar to the LMP price differences among regions that occur in the energy market when congestion is present. In the RPM, the locational premium above the base regional cost of capacity is referred to as a Locational Price Adder, which is paid to existing or planned generation capacity or demand resources located in the Locational Deliverability Area that clear in the RPM auctions.<sup>9</sup>

9. PJM states that the impact of such higher prices on loads is mitigated by giving each LSE credit for a share of the import capability into the zone through a Capacity Transfer Right. The Capacity Transfer Right entitles the LSE to a payment equal to the Locational Price Adder times the LSE's pro rata share of the capacity imported into the Locational Deliverability Area.<sup>10</sup> Similar to the FTRs used by loads to hedge transmission congestion, Capacity Transfer Rights entitle the LSE to payments that offset, in part, the higher capacity price it pays to ensure reliable service to its loads in an import-limited Locational Deliverability Area.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 3-4.

<sup>10</sup> *Id.* at 4.

10. Like the upgrades funded by New Service Customers, Regionally Assigned Facilities also can increase the transmission import capability into a Locational Deliverability Area. As with IARRs, Responsible Customers assigned cost responsibility for Regionally Assigned Facilities that increase the transmission import capability into a Locational Deliverability Area should be entitled to the ICTRs associated with such upgrades.<sup>11</sup>

11. PJM states that the proposal to allocate IARRs and ICTRs to Responsible Customers that have cost responsibility assignments for Regionally Assigned Facilities was fully vetted through the stakeholder process and obtained overwhelming stakeholder support.<sup>12</sup> The Markets and Reliability Committee endorsed the new IARR and ICTR allocation rules and tariff revisions on August 6, 2008. On September 18, 2008, the Market Implementation Committee endorsed the amendments with a revision, which only two members opposed. On September 18, 2008, the Tariff Advisory Committee also approved the revised tariff provisions. Subsequently, on September 24, 2008, the Markets and Reliability Committee re-endorsed the revisions with the revision sink-point change by acclamation. Finally, on September 25, 2008, the Members Committee endorsed the revisions with no objections.

## **II. Notice of Filing and Responsive Pleadings**

### **A. Notice and Interventions**

12. Notice of PJM's filing was published in the *Federal Register*, 73 Fed. Reg. 76,626 (2008), with interventions and protests due on or before December 23, 2008. Timely motions to intervene were filed by Allegheny Power,<sup>13</sup> American Municipal Power – Ohio, Inc., Old Dominion Electric Cooperative, and Pepco Holdings, Inc. (PHI Companies).<sup>14</sup> A timely motion to intervene and comments in support of PJM's filing was submitted by Exelon Corporation (Exelon). A timely motion to intervene and request for clarification and establishment of a technical conference was submitted by

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<sup>11</sup> *Id.* at 4-5.

<sup>12</sup> *Id.* at 5.

<sup>13</sup> Allegheny Power for Monongahela Power Company, Potomac Edison Company, and West Penn Power Company.

<sup>14</sup> The PHI Companies are Potomac Electric Power Company, Delmarva Power & Light Company, Atlantic City Electric Company, Conectiv Energy Supply Company, and Pepco Energy Services, Inc.

Long Island Lighting Company d/b/a LIPA (LIPA). On January 7, 2009, PJM and Exelon filed answers in response to LIPA's request for clarification and technical conference.

**B. Comments and Protests**

13. Exelon requests that the Commission accept the Proposed Amendments as filed. Exelon notes that in the RTEP Order,<sup>15</sup> the Commission directed PJM to allocate the costs of new facilities that operate at or above 500 kV regionally rather than on a beneficiary pays basis. Exelon states that since the RTEP Order was issued, \$800 million in transmission investment of 500 kV or above has been allocated to the ComEd zone. Exelon asserts that these investments were justified as eliminating the potential for reliability violations in Eastern PJM. Exelon contends that this filing allocates IARRs to those who pay for these upgrades and thereby would allow customers in the ComEd zone to recoup some of the costs they will incur for the new investments that benefit the Eastern zones.

14. In its request for clarification, LIPA notes that PJM's proposed tariff revisions provide that network customers, transmission customers with an agreement for firm point-to-point service, and merchant transmission facility owners that are assigned cost responsibility for a regional facility or a necessary lower voltage facility shall be entitled to receive an allocated share of the IARRs. LIPA asserts that, as indicated by PJM, these shares shall be based on the percentage cost responsibility assigned to Responsible Customers for such facility as set forth on a zonal basis in Schedule 12-Appendix to the tariff. However, LIPA points out that the proposed tariff revisions only explain the basis upon which network customers and point-to-point transmission service customers will be allocated IARRs.<sup>16</sup> LIPA requests that PJM clarify how IARRs will be allocated to a merchant transmission facility owner, and that such allocations are not predicated on the form of transmission service taken.

15. In addition, LIPA states that PJM does not provide sufficient information regarding its proposed methodology for calculating and allocating IARRs. PJM's proposal states that its proposed method of determining source and sink points for the IARRs associated with each regionally assigned facility produces a path for which the regionally assigned facility is most likely to create IARRs based on the distribution factor

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<sup>15</sup> *PJM Interconnection L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 (2007) (RTEP Order).

<sup>16</sup> See proposed Schedule 12A, section (a)(vi).

analysis.<sup>17</sup> However, LIPA contends that PJM has provided no evidence to demonstrate that the proposed method captures the “most likely” IARRs created by the RTEP upgrades, and that PJM has not demonstrated that the proposed method accurately correlates the IARRs to the parties’ RTEP cost responsibility.

16. LIPA states that it is particularly important to merchant transmission facility owners and their customers that there is an accurate correlation between the IARR identification and cost responsibility designations under the Tariff. Otherwise, LIPA contends that there may be an under-allocation of IARRs. LIPA avows that this may allow network customers to unfairly benefit because they participate in Stage 1 of the Auction Revenue Right allocation process and would receive the majority of any unallocated IARRs, while merchant transmission facility owners and their customers that take point-to-point transmission service participate in Stage 2 of the Auction Revenue Right allocation process. LIPA requests that the Commission establish a technical conference on the IARR methodology. In the alternative, LIPA requests that the Commission take any other steps available to it, including the issuance of a deficiency notice, to ensure that PJM provides the necessary clarifying information.

### C. Answers

17. In its Answer, PJM clarifies that allocations of IARRs to merchant transmission facility owners are not predicated on the form of transmission service taken. Rather, allocations of IARRs are based on cost responsibility assignments for RTEP upgrades. PJM states that Schedule 12A specifies how each network customer and point-to-point transmission service customer will be allocated IARRs because cost responsibility for RTEP upgrades is assigned to these customers on a zonal basis, rather than to each individual customer in the zone. In contrast, merchant transmission facility owners each receive their own cost responsibility assignment for RTEP upgrades.

18. PJM states that a technical conference regarding its use of the ten-generator methodology for calculating and allocating IARRs is unnecessary. PJM explains that using the distribution factor approach in the source-sink selection process ensures that the path used to determine IARRs associated with a regionally assigned facility is electrically

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<sup>17</sup> Specifically, for each regionally assigned facility, PJM proposes to use a source point for the associated IARRs that is an aggregate pricing point comprised of up to ten generator busses that have the greatest flow increase effect (measured by distribution factors) on the transmission constraint that is relieved by the regionally assigned facility, and a sink point for the associated IARRs that is an aggregate pricing point consisting of the zone that has the greatest flow increase effect (measured by distribution factors) on the constraint that is relieved by the regionally assigned facility.

close to the constraint being relieved by the regionally assigned facility and therefore is likely to result in a transfer increase due to the addition of the new facility thereby producing associated IARRs. Further, PJM states that its proposed sink point and source point lessens the potential that the IARR capability will be limited by distant constraints. PJM concludes that its proposed methodology for identifying IARRs will maximize the opportunity for IARRs associated with each regionally assigned facility, and this methodology will result in no under-allocation of IARRs. Moreover, because the allocation of IARRs will be in proportion to the allocation of cost responsibility for the associated regionally assigned facility, PJM contends that there will be a direct correlation between an entity's cost responsibility assignment and the number of IARRs it will be allocated.

19. PJM notes that its proposed methodology was endorsed by various stakeholder committees, including the Members Committee. During this process, PJM offered alternative methodologies, and stakeholders were given the opportunity to ask questions and to propose alternative methodologies. However, no stakeholder suggested an alternate methodology during this process.

20. Exelon urges the Commission to deny LIPA's request for a technical conference or deficiency letter because such action would delay the implementation of IARRs for the 2009/2010 Planning Year.<sup>18</sup> Exelon contends that without PJM's proposed tariff revisions, customers paying for regionally assigned facilities would not receive the benefit of IARRs. Exelon states that any future improvements to the allocation methodology should be adopted in the context of PJM's stakeholder process.

### **III. Discussion**

#### **A. Procedural Matters**

21. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention requests at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Exelon and PJM filed answers to LIPA's request for clarification and technical conference. While the Commission's regulations do not permit the filing of answers to protests,<sup>19</sup> the Commission will accept the answers because they provide additional information which aids in our decision making process.

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<sup>18</sup> Exelon notes that the Auction Revenue Right allocation process for the 2009/2010 Planning Year will begin in March 2009.

<sup>19</sup> 18 C.F.R. § 385.213 (2008).

**B. Substantive Matters**

22. We accept the tariff provisions to become effective on February 1, 2009, as requested. IARRs and ICTRs are already being awarded to New Service Customers in PJM as specified in sections 231 and 234 of the PJM OATT, respectively, for participant funded expansions of the transmission system. The Proposed Amendments extend awarding IARRs and ICTRs to Responsible Customers for regional projects identified in the RTEP. In the RTEP Order,<sup>20</sup> we found that regional cost responsibility instead of a beneficiary pays approach is appropriate method to encourage new backbone transmission projects that benefit many market participants. Accordingly, awarding IARRs and ICTRs, as compensation to those who take cost responsibility for those projects is reasonable.

23. We do not find a need for a technical conference on the issues raised by LIPA. As PJM points out in its Answer, the proposed ten-generator methodology will maximize the allocation of IARRs on paths that are most likely to realize increased transfer capability. In addition, PJM indicates that the methodology will minimize any limiting effect that distant generators may have on IARRs. PJM will actually model all of the generator buses on its system, and assess which buses (i.e., a maximum of 10 generators) will have the greatest effect on the transmission constraint that is relieved by the regionally assigned facility. Under PJM's usual distribution of generators, we find it reasonable to find that the 10 most effected generators will give a measurable account of the flowgates in order to effectively allocate IARRs and ICTRs. We also note that the allocation will be strictly proportionate to cost responsibility for all services, and the type of service is irrelevant (e.g. network, point-to-point or merchant).<sup>21</sup> As PJM points out in its Answer, using a methodology for maximizing possible IARRs and allocating them proportional to cost responsibility will not lead to under allocation.

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<sup>20</sup> RTEP Order, 119 FERC ¶ 61,063 at P 77.

<sup>21</sup> PJM Answer at 2-3.

The Commission orders:

The tariff revisions are accepted to be effective February 1, 2009.

By the Commission. Commissioner Kelliher not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.