

134 FERC ¶ 61,153
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

PJM Interconnection, L.L.C. and
PJM Settlement, Inc.

Docket No. ES11-08-001

ORDER GRANTING REHEARING

(Issued March 2, 2011)

1. On January 31, 2011, PJM Interconnection, L.L.C. (PJM) and PJM Settlement, Inc. (PJM Settlement) (collectively, Applicants) filed a request for expedited rehearing of the Commission's order issued on December 30, 2010,¹ granting authorization to issue securities and approving a guaranty under section 204 of the Federal Power Act (FPA).²

2. As discussed below, the Commission grants the request for rehearing and finds that PJM Settlement is authorized to guarantee \$215 million of PJM's obligations, which is the amount of PJM's total borrowing capacity authorized by the Commission (PJM Settlement Guaranty).

I. Background and Request for Rehearing

3. PJM is a regional transmission organization that administers the PJM Open Access Transmission Tariff (PJM OATT), operates the PJM Interchange Energy Market and related capacity and ancillary services markets, and conducts the day-to-day operations of the bulk power system in the PJM region.

4. PJM Settlement is a nonprofit member organization formed on October 20, 2010 on a non-stock basis as a central counterparty for trades in the PJM markets. PJM Settlement will not own any capital assets. As provided in the Support Services Agreement between Applicants, PJM Settlement will pay PJM for services needed by

¹ *PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,278 (2010) (December 30 Order).

² 16 U.S.C. § 824c (2006).

PJM Settlement to perform its functions. PJM Settlement will recover its costs through the cost-based rates set forth in Schedule 9-PJM Settlement to the PJM Settlement tariff.

5. Applicants originally requested Commission authorization for the following: (1) PJM Settlement to guarantee obligations of PJM (PJM Settlement Guaranty); (2) a line of credit provided by PJM to PJM Settlement, not to exceed PJM's available capacity on its bank working capital line of credit (PJM Line of Credit); and (3) a line of credit provided by PJM Settlement to PJM up to \$158.1 million (PJM Settlement Line of Credit). These arrangements were in connection with the formation of PJM Settlement as the counterparty to transactions in the PJM markets.³

6. In the December 30 Order, the Commission granted the authorizations requested by Applicants. Specifically, the Commission authorized PJM to make available to PJM Settlement its available capacity on its \$50 million Line of Credit with the National Cooperative Services Corporation (NCSC) and authorized PJM Settlement to borrow from PJM the available capacity on that line of credit. The Commission also authorized PJM Settlement to issue short-term debt securities in the form of a line of credit. In addition, PJM Settlement was authorized to make available to PJM, and PJM was authorized to borrow from PJM Settlement, under a line of credit, the lesser of the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse or \$158.1 million at an interest rate of 6.05 percent. Finally, PJM Settlement was authorized to guarantee the obligations of PJM. The amount of the guaranty was limited to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.

7. In their request for rehearing, Applicants contend that the Commission erred by limiting the PJM Settlement Guaranty to the amount of cash that PJM Settlement holds from prepayments that have not been disbursed up to \$158.1 million. Applicants contend that the imposed limitation will not meet the financial obligations of PJM being guaranteed. Applicants also state that the limited guaranty will not provide any assurance to creditors or credit rating agencies that any of PJM's obligations can be guaranteed by PJM Settlement. As a result, Applicants argue that the Commission should modify the PJM Settlement Guaranty to reflect no limitation or at a minimum \$215 million, which is the amount of PJM's total borrowing capacity authorized by the Commission.⁴

³ See *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207 (2010).

⁴ PJM states that the amount of \$215 million represents PJM's current outstanding \$110 million term loan, plus \$40 million of remaining capacity on its private placement, plus its \$65 million working capital line of credit. Rehearing Request at 11 n.36.

8. North Carolina Electric Membership Corporation (North Carolina Electric) filed an answer in support of Applicants' request for rehearing.

II. Discussion

A. Procedural Matters

9. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2010), prohibits an answer to a request for rehearing. Accordingly, we reject North Carolina Electric's answer.

B. Substantive Matters

10. As stated above, the Commission granted the authorizations requested by Applicants, but limited the PJM Settlement Guaranty to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.⁵ On further consideration, we grant Applicants request for rehearing because the limitation would prevent PJM from being able to meet its financial obligations⁶ as well as maintain a desired entity credit rating for PJM and PJM Settlement.

11. While we agree with Applicants that the limitations on the PJM Settlement Guaranty should be modified, we continue to find that there should be a dollar limit on the PJM Settlement Guaranty. The Commission's practice has been to not, as a general matter, grant unlimited guarantees. Thus, in the December 30 Order, based on the information received from Applicants, we limited the PJM Settlement Guaranty to the amount that Applicants asserted was the largest historical amount of members' prepayments held by PJM, \$158.1 million. That is, the Commission limited the PJM Settlement Guaranty to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million. On rehearing, we will modify the limitation of the PJM Settlement

⁵ December 30 Order, 133 FERC ¶ 61,278 at P 35-36.

⁶ Applicants state that PJM Settlement serves the same members as PJM and thus these members have the same responsibility to pay the costs of operating PJM, including all of PJM's obligations as they come due. Likewise, these same members are responsible for the costs of PJM Settlement pursuant to a formula rate under Schedule 9-PJM Settlement of the PJM Tariff.

Guaranty to \$215 million, the amount of PJM's total borrowing capacity authorized by the Commission.⁷

12. In addition to granting the modification of the PJM Settlement Guaranty, we remind Applicants that, if PJM Settlement intends to issue securities in connection with the \$65 million line of credit with PJM,⁸ they will need to request Commission authorization prior to issuing any securities.

The Commission orders:

The request of PJM and PJM Settlement for rehearing is hereby granted, as discussed in the body of this order, and the dollar limitation for the PJM Settlement Guaranty is hereby modified to \$215 million, the total amount of PJM's total outstanding borrowing capacity authorized by the Commission.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ PJM's current borrowing capacity is \$215 million. Applicants are reminded that the authorization for the \$110 million term loan expires on March 31, 2011. It is the responsibility of the Applicants' to seek renewal or new authorizations to maintain its borrowing capacity limits.

⁸ *PJM Interconnection, L.L.C.*, 134 FERC ¶ 62,088 (2011).