

135 FERC ¶ 61,057  
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.

Midwest Independent Transmission System  
Operator, Inc.

Docket No. ER09-1049-004

PJM Interconnection, L.L.C.

Docket No. ER09-1063-005

ORDER DENYING CLARIFICATION

(Issued April 19, 2011)

1. The Office of the Ohio Consumers Counsel (OCC) seeks clarification of companion orders, issued October 21, 2010,<sup>1</sup> in which the Commission addressed one of the four market reform initiatives established in Order No. 719, namely, the requirement that regional transmission organizations (RTO) and independent system operators (ISO) adopt procedures and/or structural reforms, as necessary, ensuring that their board of directors is responsive to the needs of its stakeholders.<sup>2</sup> The Commission addressed these issues, in the RTO/ISO Responsiveness Orders, regarding the respective policies and processes of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM). For the reasons discussed below, we deny clarification.

---

<sup>1</sup> *Midwest Independent Transmission System Operator, Inc.*, 133 FERC ¶ 61,068 (2010) (Midwest ISO Responsiveness Order); *PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,071 (2010) (PJM Responsiveness Order) (collectively, the RTO/ISO Responsiveness Orders).

<sup>2</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 73 FR 64100 (Oct. 28, 2008), FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh'g*, Order No. 719-A, 74 FR 37776 (Jul. 29, 2009), FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

**Background****A. The Midwest ISO's Compliance with Responsiveness Requirements of Order No. 719**

2. On April 28, 2009, the Midwest ISO submitted a filing addressing its compliance with Order No. 719. In a notice issued November 13, 2009, the Commission announced that the record regarding one of the issues addressed by the Midwest ISO in its filing, i.e., Order No. 719's RTO/ISO responsiveness requirement, would be further developed in an RTO/ISO-wide technical conference.<sup>3</sup> Based on this record, the Commission found, in the Midwest ISO Responsiveness Order, that the Midwest ISO's existing governance procedures and stakeholder processes meet the four responsiveness requirements of Order No. 719.<sup>4</sup>

3. With respect to ongoing responsiveness, the Commission found that the Midwest ISO's Advisory Committee is a standing committee well equipped to provide ongoing stakeholder input to the Board. The Commission also found that the Midwest ISO Board had recently adopted a governance protocol reaffirming the Board's commitment to openness and inclusiveness, specifically including the need for the Midwest ISO's directors to be attentive to stakeholder concerns on an ongoing basis. The Commission also noted, however, that RTOs and ISOs, including the Midwest ISO, should continually evaluate their governance policies and stakeholder processes and consider how they may be improved. The Commission further held that if parties continue to have concerns in these areas that are not being addressed, the Commission may revisit these issues. In addition, the Commission held that it would continue to monitor these matters and take appropriate action, as required.

**B. PJM's Compliance with Responsiveness Requirements of Order No. 719**

4. On April 29, 2009, as amended on May 1, 2009, PJM submitted a filing addressing its compliance with Order No. 719. In an order issued December 18, 2009, the Commission accepted PJM's compliance filing, subject to conditions, but reserved for

---

<sup>3</sup> The technical conference was held February 4, 2010.

<sup>4</sup> The four requirements are: (i) inclusiveness; (ii) fairness in balancing diverse interests; (iii) representation of minority positions; and (iv) ongoing responsiveness. *See* Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 502.

judgment in a separate order, i.e., in the PJM Responsiveness Order, PJM's compliance proposal regarding RTO/ISO responsiveness issues.<sup>5</sup>

5. In the PJM Responsiveness Order, the Commission found that PJM's existing governance procedures and stakeholder processes meet the four responsiveness requirements of Order No. 719. With respect to ongoing responsiveness, the Commission held that PJM's existing business practices and procedures are well-equipped to provide ongoing responsiveness to stakeholders. The Commission noted, however, that RTOs and ISOs, including PJM, should continually evaluate their governance policies and stakeholder processes and consider how they may be improved. The Commission further held that if parties continue to have concerns in these areas that are not being addressed, the Commission may revisit these issues. In addition, the Commission held that it would continue to monitor these matters and take appropriate action, as required.

### **Request for Clarification**

6. OCC states that, in the RTO/ISO Responsiveness Orders, the Commission reiterated the requirement of Order No. 719 that RTOs and ISOs must continue, over time, to consider customer and other stakeholder needs as the architecture or market environment of the RTO or ISO changes. OCC notes that, in addition, the Commission emphasized that RTOs and ISOs should continue to evaluate their governance policies and stakeholder processes and should consider how these policies and processes may be improved. OCC adds that, with respect to the requirement of ongoing responsiveness, the Commission held that it would continue to monitor these matters and take appropriate action, as required.

7. OCC seeks clarification regarding this latter holding. Specifically, OCC asserts that the Commission's stated commitment to monitor RTO/ISO responsiveness fails to specify how the Commission intends to do so. OCC states that to clarify this commitment, the Commission should require PJM and the Midwest ISO to submit annual, or biennial, information filings describing how they satisfy the Order No. 719 ongoing responsiveness requirement.

8. OCC argues that, with this clarification, the Commission can reinforce its commitment to continue to monitor RTO/ISO responsiveness. OCC states that, likewise, its requested filing requirement will ensure RTO/ISO compliance with the ongoing

---

<sup>5</sup> *PJM Interconnection, L.L.C.*, 129 FERC ¶ 61,250, at P 19 (2009) (December 18 Order). The December 18 Order held that the record on governance issues would be developed further in the RTO/ISO-wide technical conference noted above.

responsiveness requirement of Order No. 719 by allowing for periodic evaluation of whether RTOs/ISOs continue to satisfy the Commission's standards for responsiveness over time, taking into account any relevant environmental or market changes in the electric industry. OCC adds that the requirement it seeks will also allow the public and, most importantly, RTO/ISO consumers to see and, perhaps, better understand how RTOs and ISOs are working to ensure that the consumer voice is a meaningful one in the RTO/ISO decision-making process.

### **Discussion**

9. We deny OCC's requested clarification regarding the Commission's commitment, in the RTO/ISO Responsiveness Orders, to continue to monitor stakeholder needs and concerns, as they may arise. OCC requests that the Commission implement this commitment by imposing an annual, or biannual, informational filing requirement on PJM and the Midwest ISO for the purpose of ensuring that RTOs and ISOs continue to have appropriate stakeholder policies and processes in place that will effectively represent the interests of residential customers.

10. We share OCC's concerns regarding the importance of ongoing RTO/ISO responsiveness, for all the reasons discussed by the Commission in Order No. 719 and the RTO/ISO Responsiveness Orders.<sup>6</sup> We also reiterate our commitment to continue to monitor these important matters and take appropriate action, as required. However, we are not persuaded that the imposition of an annual, or biannual, informational filing requirement on PJM, or the Midwest ISO, is required to supplement the publicly-available record on these issues, including the records that will be developed in the event that the Midwest ISO or PJM seek to revise their existing Commission-approved governance protocols.<sup>7</sup> Nor are we persuaded that annual, or biannual, informational filing requirements are required to otherwise address matters that may be brought to the Commission's attention directly by stakeholders and/or by other interested entities. For these reasons, we deny OCC's request to clarify the RTO/ISO Responsiveness Orders.

---

<sup>6</sup> See, e.g., Midwest ISO Responsiveness Order, 133 FERC ¶ 61,068 at P 47; PJM Responsiveness Order, 133 FERC ¶ 61,071 at P 38.

<sup>7</sup> The Midwest ISO's governance protocols are set forth in its Bylaws at Appendix F of the Midwest ISO Transmission Owners Agreement. PJM's governance protocols are set forth in the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C.

The Commission orders:

OCC's request to clarify the RTO/ISO Responsiveness Orders is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.