

140 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

RC Cape May Holdings, LLC

v.

Docket No. EL12-65-000

PJM Interconnection, L.L.C.

ORDER ON COMPLAINT

(Issued August 17, 2012)

1. On May 7, 2012, RC Cape May Holdings, LLC (RC Cape May) filed a complaint (Complaint) under sections 206, 306, and 309 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rules of Practice and Procedure² against PJM Interconnection, L.L.C. (PJM). The Complaint alleges that, from October 2009 through June 2010, PJM violated section 205 of the FPA³ and the filed rate doctrine⁴ by erroneously reducing the rating of the Middle Tap transmission line (Middle Tap Line) connecting RC Cape May's B.L. England Generating Station (B.L. England Station)⁵ to

¹ 16 U.S.C. §§ 824e, 825e, 825h (2006).

² 18 C.F.R. § 385.206 (2012).

³ 16 U.S.C. § 824d (2006).

⁴ The filed rate doctrine requires that regulated utilities charge only the filed rate. *See Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 577-79 (1981).

⁵ The Complaint describes B.L. England Station as a 475.6 MW (gross nameplate) electric generating facility located in Upper Township, Cape May County, New Jersey, which is interconnected to the transmission system operated by PJM and owned by Atlantic City Electric Company (ACE). Complaint at 9. The B.L. England Station interconnects to the PJM transmission system under an interconnection service agreement

(continued...)

the PJM transmission system. The Complaint requests an order directing PJM to refund \$1,256,290, plus interest, to RC Cape May.⁶ For the reasons discussed below, we deny RC Cape May's Complaint.

I. Complaint

2. RC Cape May states that, from October 2009 to June 2010, PJM unilaterally and erroneously reduced the rating of the Middle Tap Line that connects the B.L. England Station to the PJM transmission system. RC Cape May states that, for a three-week period between June 4, 2010 and June 25, 2010, the reduced line rating affected locational marginal prices at the B.L. England Station bus, which resulted in losses of over \$1.2 million to RC Cape May. RC Cape May states that, by incorrectly reducing the Middle Tap Line rating and failing to correct the error after becoming aware of it, PJM violated the FPA and the filed rate doctrine because it failed to comply with provisions of PJM's Consolidated Transmission Owners Agreement (Transmission Owners Agreement) and associated provisions in the business practices manual governing Energy Management System Model Updates and Quality Assurance (EMS Update Manual). Specifically, RC Cape May states that PJM violated the Transmission Owners Agreement by unilaterally and erroneously reducing the rating of the Middle Tap Line and by failing to give notice of the change within 30 days, as required.

3. RC Cape May states that, in October 2009, PJM reduced the rating for the Middle Tap Line in the direction running from PJM to the B.L. England Station from 199 MW to 119 MW.⁷ RC Cape May states that, because of a software limitation, PJM also reduced, from 199 MW to 119 MW, the line rating used in PJM's energy management system for power flowing in the opposite direction (i.e., from the B.L. England Station to PJM).

with PJM and ACE via three 138 KV transformers and four 138 KV lines that carry the output from the B.L. England Station substation. Complaint at 10-11.

⁶ On June 13, 2012, RC Cape May moved for leave to answer, and filed an answer, to a motion for summary disposition filed by PJM on May 29, 2012. In the June 13, 2012 answer, RC Cape May agreed with PJM that the Complaint could be resolved on summary disposition and, to facilitate that disposition, offered to reduce the requested refund amount to \$896,616, plus interest. RC Cape May June 13, 2012 Answer at 2. RC Cape May states that the new refund amount compensates for the harm done due to the miscalculation of locational marginal prices on the Middle Tap Line for the period from June 17, 2010 to June 25, 2010. *Id.*

⁷ The Complaint states that power flows from the PJM transmission system to the B.L. England Station when the B.L. England Station is not dispatched and is taking power from the PJM system (i.e., station power). Complaint at 3.

RC Cape May states that this line rating, which applies when the B.L. England Station is delivering power to PJM, is relevant to calculating the locational marginal prices that RC Cape May receives for power generated by the B.L. England Station.

4. RC Cape May states that PJM failed to correct the erroneous line rating in the energy management system model after becoming aware of it. RC Cape May states that PJM system operators and Real-Time⁸ personnel saw unusual congestion patterns on the Middle Tap Line as early as April 2010 and again in early June 2010, when prices at the B.L. England Station bus dropped to a fraction of the locational marginal prices at other points in its pricing zone.⁹ RC Cape May states that PJM's Real-Time personnel issued contingency alerts associated with the Middle Tap Line rating and manually corrected the line rating in the Real-Time energy management system model. RC Cape May states that the Real-Time operators also sent a communication to PJM's Day-Ahead personnel informing them of the incorrect line rating and requested that the error be corrected in the Day-Ahead energy management system model. RC Cape May states that this request was ignored or overlooked by the Day-Ahead personnel, and that the error continued for three weeks, until June 24, 2010, when RC Cape May asked PJM about the pricing anomalies, at which point PJM took corrective action.

5. RC Cape May states that PJM's actions concerning the Middle Tap Line rating violated the filed rate doctrine because they were inconsistent with the procedures in PJM's Transmission Owners Agreement and EMS Update Manual. RC Cape May states that the Transmission Owners Agreement provides that PJM Transmission Owners are responsible for establishing, verifying, and proposing any changes to transmission line ratings, subject to PJM review and approval, but it does not allow PJM to unilaterally change line ratings. RC Cape May further states that, when PJM changes a line rating, it must give notice of its action within 30 days.

II. Notice of Filing and Responsive Pleadings

6. Notice of RC Cape May's Complaint was published in the *Federal Register*, 77 Fed. Reg. 28,373 (2012), with interventions and protests due on or before May 29, 2012. On May 29, 2012, PJM filed a timely motion for summary disposition and an answer to the Complaint. Timely motions to intervene were filed by Exelon Corporation and Old Dominion Electric Cooperative. A timely motion to intervene and

⁸ The Complaint states that PJM operates two energy markets (i.e., a "Real-Time" market and "Day-Ahead" market) in which PJM calculates locational marginal prices for each market using its congestion pricing model. Complaint at 13.

⁹ The Complaint states that the B.L. England Station is in the PJM-designated "AECO" (Atlantic Electric Power Company, Inc.) pricing zone. Complaint at 14.

comments were filed by DC Energy, LLC (DC Energy). An out-of-time motion to intervene was filed by American Municipal Power, Inc. On June 13, 2012, RC Cape May filed a motion for leave to answer, and an answer, to PJM's answer. On June 27, 2012, PJM filed a motion for leave to answer, and an answer, to RC Cape May's June 13, 2012 answer. On July 9, 2012, RC Cape May filed a motion for leave to answer, and an answer, to PJM's June 27, 2012 answer.

A. PJM's May 29, 2012 Answer

7. PJM states that it is entitled to summary disposition based on the facts alleged in the Complaint. PJM states that it complied with the PJM Open Access Transmission Tariff (PJM Tariff), the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement), and the Transmission Owners Agreement in calculating Real-Time and Day-Ahead locational marginal prices from October 2009 through June 2010. Moreover, in this case, PJM states that it has no authority to correct the Day-Ahead locational market prices. PJM explains that, even accepting the Complaint's rendition of the facts, the Complaint describes a pricing error relating to the Middle Tap Line rather than a billing error. PJM adds that corrections to pricing errors must be done consistent with the PJM Tariff, and, in this case, corrections were not made within the deadlines imposed by the Tariff. PJM also states that the relief sought in the Complaint would require PJM to re-run its markets in violation of the filed rate doctrine and Commission policy against re-running markets. PJM further states that the Commission should apply the more rigorous application of the statutory just and reasonable standard under the "Mobile-Sierra 'public interest' standard of review."¹⁰

8. Alternatively, PJM answers the Complaint by disputing its assertions. PJM states that it did not unilaterally or incorrectly change the line rating of the Middle Tap Line. Instead, PJM states that it first reduced the line rating for both directions (i.e., from 199 MW to 119 MW) at the request of the Middle Tap Line Transmission Owner on October 1, 2009 for the purpose of replacing and upgrading relays. PJM states that the Middle Tap Line rating was again adjusted on June 17, 2010 when the Middle Tap Line Transmission Owner requested a revision of the line rating for a single direction (i.e., from the B.L. England Station to PJM). PJM states that its energy management system, by design, does not allow for directional ratings. PJM states that for reliability reasons, PJM sets the default rating on each transmission line with bi-directional ratings to the most conservative rating of the two ratings. PJM further states that if energy flows approach the default rating and the energy flows in the direction with the higher rating, PJM's system operators manually input into the energy management system the higher rating provided by the Transmission Owner, as it did on June 17, 2010. PJM states that

¹⁰ PJM May 29, 2012 Answer at 12-16.

when such conditions conclude, it manually re-enters the more conservative rating into the energy management system. PJM states that it manually inputted approximately 300 such revisions between June 17, 2010 and April 28, 2011 on the Middle Tap Line.

9. PJM states that there is no rule requiring that the Real-Time and Day-Ahead energy models match, but PJM strives for symmetry between the Real-Time and Day-Ahead transmission line ratings. PJM states that Real-Time operators typically send emails to Day-Ahead personnel informing them of any directional ratings that the Real-Time operators manually inputted. PJM states that its Real-Time operators did not include the Day-Ahead personnel on the email sent out on June 17, 2010 informing PJM departments of the directional rating change to the Middle Tap Line. PJM states that the rating change was brought to the attention of the Day-Ahead personnel on June 25, 2010, at which time PJM revised the Day-Ahead Middle Tap Line rating to match the Real-Time rating. PJM admits that the Middle Tap Line rating utilized the default rating in the Day-Ahead model between June 17, 2010 and June 25, 2010.

10. PJM states that it complied with the Transmission Owners Agreement and the EMS Update Manual by using ratings for the Middle Tap Line in its Real-Time and Day-Ahead models submitted by the Middle Tap Line Transmission Owner. While PJM manually inserted ratings for the Middle Tap Line into its energy management system, PJM states that it inserted the directional ratings provided to PJM by the Middle Tap Line Transmission Owner. PJM further states that it approved the requested changes to the Middle Tap Line ratings and provided notice of the change to the Middle Tap Line Transmission Owner within two hours of receiving the requests.

11. PJM states that it complied with the PJM Tariff and Operating Agreement and that the Day-Ahead market operated and cleared from June 17, 2010 to June 25, 2010 using the most recent and up-to-date ratings available to the Day-Ahead market personnel. While PJM admits it used the default input in the formula rate for calculating locational marginal prices in the Day-Ahead market during that period, PJM states that it correctly followed the filed rate, which contains the price finality provisions in Section 1.10.8 (e) of the PJM Tariff and Operating Agreement.¹¹ PJM states that Section 1.10.8 (e) prevents PJM from revising the posted results because the deadlines imposed by Section 1.10.8 (e) were not met.

¹¹ See Section 1.10.8 (e) of Attachment K – Appendix to the PJM Tariff and section 1.10.8 (e) of Schedule 1 to the Operating Agreement (collectively, “Section 1.10.8 (e)”).

B. RC Cape May's June 13, 2012 Answer

12. In answer to PJM's motion for summary disposition, RC Cape May states that the Complaint is ripe for summary disposition because PJM admits that it used an erroneous line rating for the Middle Tap Line for a period between June 17, 2010 and June 25, 2010 in the Day-Ahead market. RC Cape May states that PJM violated the filed rate doctrine because it used incorrect inputs for the formula rate for the period from June 17, 2010 through June 25, 2010. RC Cape May states that it is prepared to limit the requested refund to the period from June 17, 2010 to June 25, 2010, with the effect of reducing the requested refund amount to \$896,616, plus interest.

13. RC Cape May states that PJM made a billing error and not a pricing error. RC Cape May supports its position by citing to PJM's conduct in another proceeding, where RC Cape May states that PJM described the use of erroneous inputs into its formula rate as a "billing error."¹² In addition, RC Cape May states that Section 1.10.8(e), relating to the correction of pricing errors, is unreasonable. RC Cape May further states that it has not asked PJM to re-run the markets for the relevant period but instead has conservatively estimated the amount of the requested refund.¹³ RC Cape May states that PJM failed to cite any provision of the PJM Tariff or Operating Agreement to warrant application of the *Mobile-Sierra* doctrine.

C. PJM's June 27, 2012 Answer

14. PJM states that RC Cape May incorrectly asserts that the miscalculation of locational marginal prices in the Day-Ahead market is a "billing error" as opposed to a

¹² Request of PJM Interconnection, L.L.C. for Limited Tariff Waiver, Shortened Comment Period, and Expedited Commission Action, Petition, Docket No. ER12-412-000 (Filed Nov. 14, 2011) (MSCS Proceeding).

¹³ The approach for calculating the refund amount for the period between June 4, 2010 to June 25, 2010 is set forth in the Baynard Affidavit, attached to the Complaint. Complaint at Attachment 2. RC Cape May states that the Baynard Affidavit sets forth a model comparing price spreads between the B.L. England Station bus and the AECO zonal price. Complaint at 32. RC Cape May states that the model allows an "apples-to-apples" comparison of expected prices in a normally-functioning market to actual locational marginal prices at the B.L. England Station bus during the relevant time period and "includes conservative approximation values, which factor out any 'noise,' and ensure that the calculation only captures impact attributable to PJM's incorrect line rating." *Id.* RC Cape May filed a Supplemental Affidavit of Cameron Baynard with its June 13, 2012 answer that employed the same methodology but limited the refund period to June 17, 2010 to June 25, 2010. RC Cape May June 13, 2012 Answer at 10.

“pricing error.” PJM states that a billing error is an error in PJM’s billing and settlement system (i.e., PJM’s Market Settlement Calculation System software) that incorrectly calculates credits or charges to market participants. PJM states that in this case data (i.e., the Middle Tap Line limit for the Day-Ahead market) inputted into PJM’s Day-Ahead security constrained economic dispatch program resulted in the calculation of locational marginal prices that differed from prices that would have been calculated had the most recent transmission line limits been in place. PJM distinguishes this from the MSCS Proceeding in Docket No. ER12-412-000, cited by RC Cape May, where locational marginal prices were accurately calculated but the MSCS Billing Software incorrectly allocated associated charges and prices to market participants. PJM states that RC Cape May does not contend that PJM’s MSCS Billing Software functioned incorrectly in this case. While admitting that pricing errors will typically be carried forward into PJM’s billing and settlement functions and invoices, PJM states that RC Cape May’s reasoning improperly transforms every pricing error into a billing error, effectively nullifying the provisions of Section 1.10.8 (e) that address pricing errors. PJM further states that the only way it can provide a refund to RC Cape May under the PJM Tariff is to re-run the Day-Ahead market and recalculate locational marginal prices for the relevant time period using the higher line rating.

D. RC Cape May’s July 9, 2012 Answer

15. RC Cape May states that it is undisputed that PJM calculated locational marginal prices in the Day-Ahead market from June 17, 2010 to June 25, 2010 using erroneous data inputs for the Middle Tap Line rating. RC Cape May, citing to another Commission proceeding, states that this is not an isolated event and PJM should be held accountable for its errors and process mistakes so that independent system operators and regional transmission organizations (RTOs) have incentive to ensure that they implement effective procedures to prevent errors in the future, notify market participants of any errors, and correct them.¹⁴ RC Cape May also states that the provisions in the PJM Tariff addressing corrections of pricing errors and billing errors are not mutually exclusive and that the requested refund is permissible because it falls within the time frame specified in the PJM Tariff for addressing billing errors. RC Cape May further states that even if PJM committed a pricing error, the deadlines imposed by Section 1.10.8 (e) for correcting pricing errors do not apply because that section states that the deadlines do not apply “if the referenced market results are under publicly noticed review by the FERC,” which RC Cape May states is the case here. Also, RC Cape May states that PJM failed to notify market participants of the pricing error, which RC Cape May states is an unconditional obligation on PJM that must be satisfied by PJM before the deadlines in

¹⁴ RC Cape May July 9, 2012 Answer at 2-3 (citing *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,173, at 61,875 (2010)).

Section 1.10.8 (e) can apply. Finally, RC Cape May states that the requested refund can be made without re-running the Day-Ahead market for the relevant time period.

E. Comments

16. DC Energy states that it takes no position on the remedy requested by RC Cape May. DC Energy urges PJM and the Commission to increase transparency in the PJM markets to prevent what happened to RC Cape May from happening to other market participants in the future.

III. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), the Commission will grant American Municipal Power, Inc.'s late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept PJM and RC Cape May's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

20. We deny RC Cape May's Complaint because we find that PJM did not violate the filed rate doctrine when it calculated locational marginal prices in the Day-Ahead market from June 17, 2010 to June 25, 2010. We also find that the billing error correction provisions of the PJM Tariff do not constitute a basis for granting the Complaint, and we reject RC Cape May's refund calculation methodology.

1. Filed Rate Doctrine

21. The crux of this dispute is PJM's application of the lower line rating of 119 MW to production out of its B.L. England Station rather than the higher line rating of

199 MW. PJM had been applying the lower line rating since October 2009.¹⁵ In June 2010, the Middle Tap Line Transmission Owner asked PJM to raise the line rating for one direction, from B.L. England to PJM, to 199 MW.¹⁶ PJM accommodated that request. However, PJM continued to use the 119 MW line rating in its energy management system because it was the most conservative rating and because bi-directional ratings cannot be modeled by the PJM energy management system. On June 17, 2010, PJM's Real-Time market personnel recognized that market flows were regularly running from B.L. England Station to PJM at levels higher than 119 MW. Because flows were regularly running in the higher rated direction, the Real-Time personnel made a manual change in the Real-Time energy management system to use the 199 MW limit. The Real-Time personnel sent an email to various departments within PJM informing them of this action. The Day-Ahead market continued to use the 119 MW rating in the energy management system until June 26, 2010.

22. On June 24, 2010, RC Cape May sent an email to PJM asking about a potential dispatch and price anomaly involving the B.L. England Station. PJM responded on June 25, 2010, and explained its practice of using the most conservative limit. PJM stated, however, that it would "make an exception and override the software to use the 199 MW."¹⁷

23. RC Cape May contends that during this period, PJM violated two provisions of the PJM Tariff: (1) by unilaterally and erroneously changing the Middle Tap Line rating (in violation of Sections 4.11.1 and 4.11.2 of the Transmission Owners Agreement); and (2) by failing to give notice of the line rating changes (in violation of Section 4.11.4 of the Transmission Owners Agreement).

24. Sections 4.11.1 and 4.11.2 require that transmission owners provide PJM with detailed data justifying line rating changes.¹⁸ Section 4.11.4¹⁹ requires PJM to maintain a

¹⁵ On October 1, 2009, the Middle Tap Line Transmission Owner submitted a request to PJM to reduce the line ratings for both directions on the Middle Tap Line from 199 to 119 MW for purposes of replacing and upgrading relays.

¹⁶ On June 17, 2010, the Middle Tap Line Transmission Owner emailed PJM to request a change in the line ratings (from 119 MW to 199 MW) for a single direction (from B.L. England Station to PJM) on the Middle Tap Line.

¹⁷ Complaint at 16.

¹⁸ Transmission Owners Agreement sections 4.11.1, 4.11.2.

¹⁹ *Id.* section 4.11.4.

database of all Transmission Facility ratings and provide notice no later than thirty (30) days after receiving a request for a proposed rating change of the acceptance, denial, or deferral of such change, including a written explanation of the basis for denying or deferring such change if the change is denied or deferred.

25. We find that PJM complied with these provisions because it acted in response to requests by the Middle Tap Line Transmission Owner and posted these changes in its public database. PJM's position is supported by the "Transmission Equipment Ratings Monitor" (TERM)²⁰ application tickets submitted by the Middle Tap Line Transmission Owner to PJM, which are attached to PJM's May 29, 2012 answer. Further, PJM states that the TERM tickets indicate that it provided the Middle Tap Line Transmission Owner with notice of the revised line ratings within two hours of the requests. RC Cape May does not contest PJM's statements.

26. RC Cape May maintains that PJM's use of the 119 MW line rating in calculating locational marginal prices in the Day-Ahead market from June 17, 2010 to June 25, 2010 in itself constituted a violation of the filed rate. RC Cape May relies upon the fact that the PJM Real-Time market personnel made manual changes to the PJM Real-Time software to reflect the fact that flows were regularly flowing away from the B.L. England Station in the direction rated 199 MW.

27. We find that PJM did not violate the filed rate by using the 119 MW directional line rating for power flowing from the B.L. England Station to PJM from June 17 to June 25, 2010. As indicated above, PJM had posted the 119 MW rating in the TERM system and had been using that rating for nine months. When the Middle Tap Line Transmission Owner requested a higher uni-directional rating, PJM granted the request, but continued to use the lower rating in its energy management system consistent with its general reliability practice: "for reliability reasons, PJM sets the default rating on each transmission line with bi-directional to be the most conservative rating of the two sets of ratings."²¹ PJM's planning practice is consistent with the North American Electric

²⁰ PJM states that "TERM" is "a PJM web-based application that [is] used by PJM's transmission owners to submit to PJM initial ratings and revise ratings for its transmission equipment used in PJM's real-time and day-ahead EMS models. Term requires that a [transmission owner] submit ratings and PJM review and approve such ratings. Once PJM reviews and approves the ratings, the ratings are committed to PJM's EMS." PJM Answer at 18 n.50.

²¹ PJM May 29, 2012 Answer at 18-19.

Reliability Corporation's (NERC) Reliability Standards.²² It is undisputed that PJM's energy management system does not support bi-directional line ratings. Instead, when presented with bi-directional line ratings, PJM's energy management system enforces the more conservative line rating (in this case 119 MW), consistent with the NERC Reliability Standards. As such, the use of the more conservative line rating to calculate locational marginal prices in the Day-Ahead market was not a system error or malfunction.

28. While PJM Real-Time personnel accommodated power flows higher than the 119 MW limit by manually overriding the energy management system in certain cases, RC Cape May does not identify any provision in the PJM Tariff that mandated such actions. Moreover, RC Cape May has not explained how PJM violated the filed rate by not making similar manual adjustments to the Day-Ahead model. RC Cape May has not identified any provision in the PJM Tariff that required PJM's Day-Ahead market to reflect the same changes as the Real-Time market by temporarily overriding the line rating limitations used in the energy management system model. By contrast, PJM states that while it "generally strives for symmetry between real-time and the day-ahead transmission line ratings" there is "no rule in PJM's governing documents or manuals requiring that the day-ahead model match the real-time model."²³ Accordingly, what occurred here was not a failure to follow the filed rate; PJM simply did not make a manual change to temporarily accommodate a customer until that customer, who was on

²² See, e.g., Reliability Standard TOP-002-2b, Requirement R10, which states that, "Each Balancing Authority and Transmission Operator shall plan to meet all System Operating Limits (SOLs) and Interconnection Reliability Operating Limits (IROLs)." PJM's energy management system software only allows thermal limits in one direction. Because PJM cannot know in advance what direction power will flow along the transmission line, PJM's use of the more conservative of the two line ratings as the default rating ensured that Day-Ahead simulations would not run with facilities (i.e., transmission lines) operating above their System Operating Limits (i.e., the MW value that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria). Although PJM eventually agreed to use the higher rating in their Day-Ahead model, it was not until after identifying the typical flow of power across that line was in the direction of the higher rating. See Complaint at 16 ("However, since we found that the flow on this line is typically from England to Middle Tap and the difference in the two limits is so large, we will make an exception and override the software to use the 199 MW.").

²³ PJM May 29, 2012 Answer at 19. While we have determined that PJM did not violate the filed rate, we encourage PJM to maintain and promote more effective lines of communication among its market operators in the future.

notice of the line rating changes, specifically inquired. We will not consider PJM's subsequent action to accommodate the customer as evidence of a violation of the filed rate doctrine that requires the re-running of the market and potential refunds.²⁴

29. We agree with PJM that this case is similar to *Bangor*, where the Commission denied a complaint requesting recalculation of clearing prices.²⁵ In *Bangor*, the complainant sought recalculation of clearing prices based on the undisputed fact that ISO-New England's dispatch software failed to minimize the system energy production costs. The Commission concluded that the mistake was an "implementation error" and that it did not constitute a violation of the filed rate because energy clearing prices were being calculated according to the relevant market rules.²⁶ In this matter, PJM calculated Day-Ahead locational marginal prices in accordance with the PJM Tariff. The lower locational marginal prices were not the result of a failure to follow PJM's Tariff formula, instead they were due to PJM's energy management system intentionally using the lower, more conservative line rating on the directional Middle Tap Line to calculate Day-Ahead locational marginal prices. PJM's system used the lower line rating input not because of any error but because that is how the system is designed to operate for reliability purposes.

2. Billing Error Correction Provisions of PJM's Tariff

30. RC Cape May also characterizes PJM's calculation of locational marginal prices during the relevant period as billing errors that are correctable pursuant to section 10.4 of the PJM Tariff. Section 10.4 allows for billing error corrections within a two year period, which is consistent with the timeline in this case.²⁷ RC Cape May contends that PJM committed a billing error because it was "an error in the invoice (and the reduced

²⁴ See Fed. R. Evid. 407 & advisory committee's note (excluding evidence of remedial measures as an admission of fault, quoting *Hart v. Lancashire & Yorkshire Ry Co.*, 21 L.T.R.N.S. 261, 263 (1869), to the effect that this rule rejects the notion that "because the world gets wiser as it gets older, therefore it was foolish before"). Interpreting PJM's actions as RC Cape May urges could lead PJM and other RTOs to refrain from making such accommodations in the future.

²⁵ *Bangor Hydro-Electric Company v. ISO New England Inc.*, 97 FERC ¶ 61,339 (2001), *reh'g denied*, 98 FERC ¶ 61,298 (2002) (*Bangor*).

²⁶ *Bangor*, 97 FERC at 62,590.

²⁷ PJM Tariff section 10.4; Operating Agreement section 15.6.

payments) to RC Cape May caused by a mistake by PJM in its input to the EMS software model used to calculate [locational marginal prices] in the Day-Ahead market.”²⁸

31. We reject RC Cape May’s contention that PJM committed a billing error that is correctable pursuant to section 10.4 of the PJM Tariff. Initially, as we determine above, PJM’s calculation of locational marginal prices during the relevant time period was not an error of any kind. On that basis alone, section 10.4 is inapplicable.

32. In addition, even assuming PJM erred, we agree with PJM that it was a pricing error and not a billing error, and the Commission would not order refunds for pricing errors involving PJM’s dispatch and calculation of prices under its state estimator.²⁹ A billing error occurs when PJM correctly calculates the locational marginal prices but bills incorrectly, such as by assessing the wrong party for those costs or by invoicing the wrong amount.³⁰ In this case, however, the allegation is that PJM improperly calculated locational marginal prices, not that it billed the wrong party or invoiced the wrong amount. Under RC Cape May’s reasoning pricing errors effectively become billing errors since every pricing error is reflected in an invoice. But this interpretation ignores the fundamental distinction between pricing and billing errors: whether the error involves the dispatch of generation and the calculation of market prices.

33. This distinction is illustrated in the MSCS Proceeding. In that proceeding, PJM accurately calculated locational marginal prices, but PJM’s MSCS Billing Software incorrectly allocated charges and payments associated with the prices to market participants, resulting in incorrect invoices despite the correct prices used in the billing calculations. RC Cape May characterizes PJM’s request in the MSCS Proceeding as necessitated by an “input error in its Market Settlement Calculation System software model that resulted in incorrect payments and charges for certain market participants.”³¹ Nowhere, however, does RC Cape May argue that PJM in the MSCS Proceeding

²⁸ RC Cape May June 13, 2012 Answer at 4.

²⁹ See *Bangor*, 97 FERC at 62,590; *Exelon Corporation v. PPL Electric Utilities Corporation*, 114 FERC ¶ 61,298, at P 20 (2006) (*Exelon*); *Md. PSC v. PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,169, at P 49 (2008) (*Md. PSC*).

³⁰ See, e.g., *Exelon*, 114 FERC ¶ 61,298 at P 20 (a billing error occurs where the amount calculated by the model is simply billed to the wrong party).

³¹ *Id.*

dispatched generation incorrectly and miscalculated locational marginal prices, as alleged in this case.³²

34. RC Cape May does not dispute that re-running the Day-Ahead market in this case “would do far more harm to wholesale electricity markets than is justifiable or appropriate in light of the circumstances.”³³ Instead, RC Cape May responds that the Commission should disregard its policy against re-running of the market by applying RC Cape May’s “conservative methodology” to calculate the losses it incurred (and thus the appropriate refund amount) due to PJM’s miscalculation of locational marginal prices during the relevant period. RC Cape May contends that the requested relief is “narrow” because it “addresses a single PJM error that artificially reduced the payments received by a single market participant, at a single location, for one week in June 2010.”³⁴

35. RC Cape May’s so-called “conservative methodology” does not provide an independent basis for granting relief when, as discussed above, we do not find a violation of the filed rate doctrine. Moreover, under RC Cape May’s approach, it simply approximates the amount it thinks it would have been paid had it been dispatched based on historical comparisons. RC Cape May, however, does not detail at all how its proposal would, in fact, work, including what would happen to prices paid to other generators that ran based on instructions from PJM, and which parties should be responsible for paying higher amounts in order to cover the refunds to RC Cape May. Thus, RC Cape May’s proposed refund method does not alleviate the problems entailed in changing dispatch and pricing determinations in energy management system software.³⁵

³² As we have found that PJM did not commit a billing error, we do not need to address the issue raised by RC Cape May of whether the billing error and pricing error correction provisions of the PJM Tariff are mutually exclusive.

³³ PJM May 29, 2012 Answer at 10.

³⁴ RC Cape May June 13, 2012 Answer at 8.

³⁵ See *Md. PSC*, 123 FERC ¶ 61,169 at P 49 (where the Commission declined to order a refund requiring re-running of markets because even if PJM could have recalculated prices, it could not have recaptured payments made to generators that bid appropriately and ran based on PJM’s dispatch instructions).

The Commission orders:

RC Cape May's Complaint is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.