142 FERC ¶ 61,067
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.

PJM Interconnection, L.L.C. Docket No. ER13-481-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued January 28, 2013)

1. On November 30, 2012, pursuant to section 205 of the Federal Power Act (FPA),[1] PJM Interconnection, L.L.C. (PJM) submitted revisions to sections 1.10.2 and 3.2.3 of Attachment K-Appendix to its Open Access Transmission Tariff (Tariff),[2] and parallel provisions of Schedule 1 of its Amended and Restated Operating Agreement (Operating Agreement),[3] to change the cost allocation methodology for day-ahead operating reserves. In this order, we accept PJM's proposed tariff revisions to become effective December 1, 2012, as requested, as discussed below.

I. **Background**

2. PJM operates the region's wholesale electric markets by providing an energy market that consists of two settlements – "day-ahead" and "real-time." PJM commits certain units during the day-ahead energy market to meet energy levels above those needed to meet forecasted demand (operating reserves). These operating reserves represent the generating capability standing by, ready for service in case of an unexpected event on the PJM system, such as the loss of a large generator. Operating reserves are scheduled on a day-ahead basis and maintained in real-time. PJM currently charges all load-serving market participants in the PJM system a share of the cost of the day-ahead

[1] 16 U.S.C. § 824d (2006).

[2] PJM Tariff, Attachment K-Appendix, § 1.10.2, (9.1.0); PJM Tariff, Attachment K-Appendix, § 3.2.3, (15.1.0).

[3] PJM Operating Agreement, Schedule 1, § 1.10.2, (9.1.0); PJM Operating Agreement, Schedule 1, § 3.2.3, (15.0.0).

operating reserves based on those participants' proportionate share of the overall PJM load.[4]

3. PJM may commit additional generation units for resource adequacy to meet forecasted load or for reliability reasons in the real-time energy market. Costs resulting from the commitment of these units are funded through balancing operating reserves charges. Balancing operating reserves charges may also occur when units are dispatched out-of-merit to provide other ancillary services such as voltage support and to meet the requirements of a black start plan. The costs of balancing operating reserves are allocated to the region or zone in which they are needed, based upon principles of cost causation.[5]

4. PJM states that, in May 2012, it began experiencing unusually high rates for balancing operating reserves due to low natural gas prices, which caused low-cost combustion turbines to be scheduled more frequently in the day-ahead energy market but not run in real-time. PJM explains that this is because it has to commit other out-of-merit steam units in the real-time energy market for reliability reasons, including voltage issues, black start capability, reactive service, and interface control. PJM explains that units scheduled in the day-ahead energy market, but not run in real-time by request of PJM, are subsequently made whole through lost opportunity cost payments.

5. PJM states that, consistent with its obligation to commit resources "in the least costly manner, subject to maintaining the reliability of the PJM region," PJM changed its day-ahead resource commitment practices on September 13, 2012 to improve efficiency by committing certain "out-of-merit" steam resources in the day-ahead energy market that previously had been committed only in real-time for reliability reasons. PJM states that this operational change resulted in a more accurate representation of actual, real-time operating conditions in the day-ahead energy market and lowered aggregate costs, but had the unintended consequence of changing the relative cost responsibilities among load serving entities by increasing day-ahead operating reserve rates. PJM represents that, recognizing that a more optimal and equitable cost allocation methodology might be warranted, it initiated a stakeholder process to improve the cost allocation methodology for day-ahead operating reserves.

6. On October 19, 2012, in Docket No. EL13-12-000, Dominion filed a complaint against PJM, alleging that PJM's decision to move dispatch of certain generation units from the real-time energy market to the day-ahead energy market results in an unjust, unreasonable, and unduly discriminatory cost allocation (Complaint). In the Complaint, Dominion requests that the Commission order PJM to: (1) amend its cost allocation

---

[4] PJM Tariff, Attachment K-Appendix, § 3.2.3(d).

[5] PJM Tariff, Attachment K-Appendix, § 3.2.3(h).

mechanism for Operating Reserves charges in the Day-Ahead Market based on PJM's changed resource commitment policy to align with traditional cost causation principles and (2) refund all overcharges resulting from the change in policy. Dominion requests a refund effective date of September 13, 2012. The Commission is issuing an order concurrent with this order dismissing Dominion's Complaint in Docket No. EL13-12-000.[6]

II. Details of the Filing

7. PJM states that the stakeholder process produced these proposed revisions to the Tariff and Operating agreement, which modify the cost allocation methodology for day-ahead operating reserves to mirror the balancing operating reserves cost allocation methodology for resources scheduled in the day-ahead energy market that would not otherwise be scheduled day-ahead but for certain identified reliability violations.

8. Specifically, PJM proposes to revise section 1.10.2(a) of Attachment K-Appendix to the Tariff and Schedule 1 of the Operating Agreement to state that when selecting pool-scheduled resources in the day-ahead energy market to commit to provide energy in real-time dispatch, PJM will consider whether a resource is expected to be needed during the operating day due to anticipated real-time reliability needs. PJM notes that the Operating Agreement already requires it to schedule resources in the least-cost manner respecting system reliability needs, and this revision clarifies that scheduling resources in the day-ahead energy market in anticipation of real-time reliability needs is a component of this mandate.[7]

9. Similarly, PJM proposes to revise section 3.2.3(b) of Attachment K-Appendix to the Tariff and Schedule 1 of the Operating Agreement to require PJM to determine whether a resource was scheduled in the day-ahead energy market to provide black start service, reactive services or transfer interface control during the following operating day:

> "because they are known or expected to be needed to maintain system reliability in a Zone during the Operating Day in order to minimize the total cost of Operating Reserves associated with the provision of such services and reflect the most accurate possible expectation of real-time operating conditions in the day-ahead model, which resources would not have otherwise been committed in the day-ahead security-constrained dispatch."[8]

---

[6] *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,068 (2012).

[7] Transmittal at 10-11.

[8] Proposed PJM Tariff, Attachment K-Appendix, § 3.2.3(b).

10. PJM proposes to revise section 3.2.3(d) of Attachment K-Appendix to the Tariff and Schedule 1 of the Operating Agreement to change the manner in which PJM allocates the cost of day-ahead operating reserves for resources scheduled to provide black start service, reactive services or transfer interface control, so that the allocation will mirror the existing Operating Agreement provisions regarding how the same costs are allocated for balancing operating reserves. Specifically, the cost of operating reserves in the day-ahead energy market for resources scheduled to provide black start service for the operating day when those resources would not have otherwise been committed in the day-ahead security constrained dispatch "shall be allocated by ratio share of the monthly transmission use of each Network Customer or Transmission Customer serving Zone Load or Non-Zone Load."[9] The cost of operating reserves in the day-ahead energy market for resources scheduled to provide reactive services or transfer interface control because they are known or expected to be needed to maintain system reliability in a zone during the operating day and would not have otherwise been committed in the day-ahead security constrained dispatch:

> "shall be allocated and charged to each Market Participant in proportion to the sum of its real-time deliveries of energy to load (net of operating Behind The Meter Generation) in such Zone, served under Network Transmission Service, in megawatt-hours during that Operating Day, as compared to all such deliveries for all Market Participants in such Zone."[10]

PJM explains that these revisions provide for consistency in how these costs are allocated when incurred as the result of scheduling these resources in both the day-ahead energy market and the real-time energy market.[11]

11. For consistency, PJM proposes to revise section 3.2.3(h), (p), and (q) of Attachment K-Appendix to the Tariff and Schedule 1 of the Operating Agreement to allocate balancing operating reserve charges to resources scheduled in the real-time energy market specifically for the purpose of providing black start service in real-time to transmission customers' monthly zone and non-zone transmission use on a megawatt basis. PJM explains that the revisions are proposed to mirror how other black start credits are allocated as stipulated in Schedule 6A of the Tariff.[12]

---

[9] Proposed PJM Tariff, Attachment K-Appendix, § 3.2.3(d).

[10] *Id*.

[11] Transmittal at 11.

[12] *Id.* at 12-13.

12. Due to the accelerated nature of the stakeholder process, PJM explains that stakeholders requested continuation of the stakeholder process on the day-ahead operating reserve cost allocation in order to provide further opportunity to examine these issues in detail. Therefore, PJM explains that it may file, at a future time, adjustments to the day-ahead operating reserve allocation mechanism should the stakeholder discussions result in stakeholder acceptance of an alternative mechanism.[13] PJM requests a December 1, 2012 effective date for the filing.

III. Notice and Responsive Pleadings

13. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 73,027 (2012), with protests and interventions due on or before December 14, 2012. Motions to intervene were filed by Duke Energy Corporation; FirstEnergy Services Company; American Electric Power Services Corporation; Southern Maryland Electric Cooperative, Inc.; NRG Companies;[14] Old Dominion Electric Cooperative; North Carolina membership Corporation; American Municipal Power, Inc.; and Exelon Corporation. Dominion Resources Services Inc (Dominion) submitted a motion to intervene and comments. The Dayton Power and Light Company (Dayton Power) submitted a motion to intervene and limited protest.

14. On December 17, 2012, the PSEG Companies[15] filed a motion to intervene out-of-time and the Retail Energy Supply Association (RESA)[16] filed a motion to intervene out-of-time and comments.

---

[13] *Id.* at 15-16.

[14] NRG Companies include NRG Power Marketing LLC; Conemaugh Power LLC; Indian River Power LLC; Keystone Power LLC; NRG Energy Center Dover LLC; NRG Energy Center Paxton LLC; NRG Rockford LLC; NRG Rockford II LLC; and Vienna Power LLC.

[15] The PSEG Companies include PSEG Services Corporation, PSEG Power LLC, and PSEG Energy Resources & Trade, LLC.

[16] RESA's members include: Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.

15. On December 21, 2012, PJM filed an answer to Dominion's and RESA's comments.

A. Comments

16. In its comments, Dominion supports the proposed revisions. Dominion states that the revisions were vetted by stakeholders and will ensure that operating reserves in the day-ahead energy market will be allocated justly, reasonably, and in accordance with well accepted notions of cost-causation. Dominion believes that the tariff changes constitute a well-reasoned and equitable solution. However, Dominion notes that it raised concerns in stakeholder meetings regarding the effective date of the proposed changes.[17]

17. Dominion states that coordinated consideration is appropriate in this instance because the instant filing and the Complaint involve the same parties and issues and arise out of a common event. However, Dominion notes that approval of the proposed amendments to the Tariff and Operating Agreement need not be delayed by the calculation of refunds in the Complaint proceeding.[18] Dominion states, that, while this proceeding resolves its request that PJM alter its Tariff provisions resulting in a more equitable cost allocation based on cost causation principles, it is a prospective remedy and does not remedy the overcharges Dominion has sustained as a result of the change in resource allocation before a change in cost allocation.

18. RESA and Dayton Power support PJM's proposal, explaining the proposed tariff revisions better match cost responsibility with the beneficiaries of the costs. However, RESA and Dayton Power explain that PJM's proposed December 1, 2012 effective date fails to redress the harm that occurred between September 13, 2012 and November 30, 2012. Therefore, RESA and Dayton Power urge the Commission to approve the tariff changes, but order refunds and billing adjustments based on the earliest effective date allowed by law, such as September 13, 2012, the date PJM changed its dispatch practice, or October 19, 2012, the date the Complaint was filed.[19] RESA argues that an earlier effective date would not be administratively burdensome and urges that the proceedings be consolidated to the extent necessary to effectuate an earlier effective date.

B. PJM's Answer

19. In its answer, PJM opposes consolidating the proceedings to the extent that consolidation would cause undue delay. PJM argues that a September 13, 2012 or

---

[17] Dominion comments at 4-5.

[18] *Id.* at 7.

[19] Dayton Power comments at 5.

October 19, 2012 effective date would constitute retroactive ratemaking, which is prohibited under the filed-rate doctrine. PJM also argues that the September 13, 2012 effective date cannot be imposed because the Commission may not change a previously approved tariff provision under FPA section 206 before the date the FPA 206 proceeding is instituted and unless a party violates its tariff by charging a rate other than the filed-rate.[20] PJM states that it did not violate its tariff by changing its dispatch practices, but rather acted in accordance with its obligations under the Tariff and Operating Agreement, and the Complaint does not allege otherwise. PJM clarifies that, in requesting a December 1, 2012 effective date for the Tariff revisions, PJM was not recommending a retroactive effective date but merely seeking waiver of the prior notice requirement of section 35.3(a)(1) of the Commission's regulations[21] to establish the effective date one day after filing.

IV. Discussion

A. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[22] the timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding.

21. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,[23] the Commission will grant the PSEG Companies' and RESA's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[24] prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept PJM's answer because it has aided us in our decision-making.

---

[20] PJM Answer at 5-6 (*citing San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Services*, 93 FERC ¶ 61,121, at 61,381 (2000); *Md. Pub. Service Commission v. PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,169 at P 51 (2008)).

[21] 18 C.F.R. § 35.3(a)(1) (2012).

[22] 18 C.F.R. § 385.214 (2012).

[23] *Id*. § 385.214(d).

[24] *Id*. § 385.213(a)(2).

B. Substantive Matters

23. The proposed revisions modify the cost allocation methodology for day-ahead operating reserves to mirror the balancing operating reserves cost allocation methodology for resources scheduled in the day-ahead energy market that would not otherwise be scheduled day-ahead but for certain reliability reasons. The revisions therefore provide consistency in the manner in which these costs are allocated in the day-ahead energy market and real-time energy market and reflect principles of cost causation. Accordingly, we find the proposed tariff revisions to be just and reasonable.

24. Dayton Power argues that, given that Dominion has requested refunds back to September 13, 2012 in the Complaint proceeding, the effective date for the instant filing should be earlier than the date PJM requests. Dayton Power suggests October 19, 2012, the date the Complaint was filed, and September 13, 2012, the date that PJM changed its dispatch practice, as possible effective dates. The filing party, PJM, requested an effective date of December 1, 2012. We will not require PJM to accept an effective date earlier than it requested.[25] Accordingly, we accept the proposed revisions effective December 1, 2012, as requested.

The Commission orders:

The proposed tariff revisions are hereby accepted, effective December 1, 2012, as requested.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

---

[25] *See Portland General Electric Co.*, 98 FERC ¶ 61,050, at 61,133 (2002) (finding that the filed rate doctrine and prohibition against retroactive ratemaking bar the Commission from making proposed rates effective earlier than the date the filing public utility requests); *accord KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.*, 101 FERC ¶ 61,230, at P 27 (2002).