

143 FERC ¶ 61,015
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 4, 2013

In Reply Refer To:
Appalachian Power Company, *et al.*
Docket No. ER13-933-000

Amanda Riggs Conner, Esq.
American Electric Power Service Corporation
801 Pennsylvania Avenue, NW
Suite 320
Washington, DC 20004-2684

Dear Ms. Conner:

1. On February 12, 2013, American Electric Power Service Corporation (AEP), on behalf of certain of its affiliates,¹ filed a request for limited waiver of Section 6.7 of Attachment DD to PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff). AEP represents that neither PJM nor the Independent Market Monitor (Market Monitor) opposes the request for waiver. Specifically, AEP requests that it be allowed to submit to PJM and the Market Monitor Avoidable Cost Recovery (ACR) data for a single generator unit after the January 13, 2013 deadline, and that AEP be allowed to submit a request for a lower maximum output for the same unit. For good cause shown, as discussed below, the Commission grants AEP's request for limited waiver, with the deadlines specified by PJM, as explained below.

2. AEP explains that after reviewing the calculations for retro-fitting its Muskingum River #5 unit to convert it from a coal steam unit to a gas steam unit, it was determined that the unit would likely qualify for an ACR value significantly higher than the default value in the PJM Tariff. AEP states that, as part of a court ordered consent decree, the unit must not operate as a coal unit after December 31, 2015. Furthermore, AEP points out that the unit required retro-fitting to meet certain U. S. Environmental Protection

¹ The following AEP affiliates are included: Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company.

Agency Standards by April 16, 2015. Thus, AEP asserts that its engineers determined that the most cost effective alternative for continuing to operate the unit would be to convert it to a gas steam unit.² AEP states that this conversion will cost in excess of \$50 million.³

3. AEP states that the ACR rate for a gas steam unit in the 2016/2017 delivery year is \$91.94/MW-day, but according to its calculations, the ACR rate exceeds \$200/MW-day for the Muskingum #5 unit.⁴ AEP also believes that the conversion will drop the maximum output of the unit from 600 MWs to 578 MWs.

4. Sections 6.7(a) and 6.7(b) of Attachment DD of the Tariff require a generation owner to submit data regarding the ACR rate and the capacity of its units at least 120 days before the start of the base RPM Auction. Accordingly, AEP requests that the Commission waive this deadline and allow it to submit updated ACR and maximum output information. AEP asserts that its request was presented to both PJM and the Market Monitor, and that neither objects to the request for the extension. AEP states that its request for waiver meets the standards by which the Commission has previously granted waivers, specifically: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem must be remedied; and (4) the waiver does not have undesirable consequences.⁵

5. AEP requests that the Commission issue an order by April 15, 2013, to allow AEP to submit an ACR for the Muskingum River #5 unit prior to the start of the base capacity auction for the 2016/2017 delivery year.

6. PJM filed comments stating that it did not object to the waiver request but asks that the Commission also: (a) specify a deadline by which AEP must submit its requests for a unit-specific ACR, Market Seller Offer Cap and Opportunity Costs, along with all required supporting documentation, of March 18, 2013, (b) grant an extension of the deadline by which the Market Monitor must review the request and supporting documentation and provide its findings as to the unit-specific ACR, Market Seller Offer Cap and Opportunity Cost, in writing, to AEP and PJM to April 10, 2013, (c) specify the

² Petition for Waiver (Petition) at 4.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 5 (citing *American Municipal Power, Inc.*, 140 FERC ¶ 61,102, at P 10 (2012). See also *PPL EnergyPlus, LLC*, Docket No. ER13-882-000 (letter order), 142 FERC ¶ 61,177 (2013)).

deadline by which AEP must notify the Market Monitor and PJM of the level of Market Seller Offer Cap to which it agrees to commit is extended to April 15, 2013, and (d) grant an extension of the deadline by which PJM must review the requests and supporting documentation and provide to AEP and the Market Monitor, in writing, its determination whether the unit-specific ACR and Market Seller Offer Cap are acceptable to April 22, 2013. PJM explains that the deadline and extensions are necessary to guarantee that PJM and the Market Monitor have adequate time to consider the requests and provide their determinations before the May 2013 base capacity auction. PJM also states that the March 18, 2013 deadline will not harm AEP as it has already submitted its request and documentation.⁶

7. Notice of AEP's filing was issued on February 13, 2013, with protests or interventions due on or before March 5, 2013. PJM filed a late intervention and comments on March 14, 2013. No protests were filed. Pursuant to Rule 214 (d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (d) (2012), the Commission will grant PJM'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.

8. We find that good cause exists to grant AEP's request for waiver of the January 13, 2013 tariff deadline, with the deadlines established by PJM. The Commission has previously granted limited, temporary waivers in similar situations.⁷ We particularly note that PJM and the Market Monitor have authorized AEP to state that they support the request for waiver, and that no parties have intervened to oppose the request or challenge AEP's assertions. Based on the record before us, it therefore appears that AEP's failure to meet the Tariff requirement in a timely manner was indeed due to a good faith error, that the requested waiver is limited in nature, that it would allow AEP, PJM, and the Market Monitor to remedy a concrete problem, and that it would have no undesirable consequences for the Market Monitor, PJM, or any third parties. PJM supports the waiver of its tariff provisions as long as it is subject to firm deadlines related to AEP's submission of material and subsequent review of such material.

9. Accordingly, we grant waiver of Attachment DD of the PJM Tariff for the limited purpose of extending AEP's deadline for the submission of information related to Muskingum River #5 unit until March 18, 2013, to support the unit-specific ACR, Market

⁶ Motion to Intervene and Comments of PJM Interconnection, L.L.C. (PJM Motion) at 5.

⁷ See *Pittsfield Generating Company, L.P.*, 130 FERC ¶ 61,182, at P 10 (2010); *ISO New England-EnerNOC, Inc.*, 122 FERC ¶ 61,297, at P 14 (2008); and *PPL EnergyPlus, LLC*, 142 FERC ¶ 61,177 (2013) at P 8 n.10.

Seller Offer Cap, and Opportunity Cost, extending the Market Monitor's and PJM's deadlines for reviewing such information until April 10, 2013 and April 22, 2013, respectively, and further establish the deadlines specified by PJM in its comments, as detailed above.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.