

143 FERC ¶ 61,022
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 5, 2013

In Reply Refer To:
PJM Interconnection, L.L.C.
Docket No. ER13-887-000

Pauline Foley
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Valley Forge Corporate Center
Norristown, PA 19403

Dear Ms. Foley:

1. On February 6, 2013, PJM Interconnection, L.L.C. (PJM) requested a limited waiver of Schedule 12A(iv) of the PJM Open Access Transmission Tariff (PJM Tariff) in effect from February 1, 2009 to December 11, 2011, as may be necessary to excuse PJM's inadvertent failure to perform a preliminary assessment of available Incremental Auction Revenue Rights (IARRs) associated with Regional Transmission Expansion Plan (RTEP) projects (Preliminary Assessment).¹ PJM requests that the Commission waive the Preliminary Assessment requirement as set forth in the PJM Tariff for the period February 1, 2009 to December 11, 2011.² As discussed below, we grant the requested waiver, effective April 8, 2013, as requested.

¹ PJM is required to produce a non-binding estimate of the IARRs anticipated to be made available for each Regional Facility within three months of the approval of the first RTEP containing such enhancement. PJM must also determine the final quantity of IARRs associated with such facility (Final Assessment) no later than 45 days prior to the in-service date. Tariff, Schedule 12A(iv). Regional Facilities are defined in the Tariff, Schedule 12 § (b)(i).

² The Commission approved PJM's proposed changes to Schedule 12A, effective December 11, 2011, to remove the need to perform the Preliminary Assessment of available IARRs associated with RTEP projects, and to increase the notice period to a Responsible Customer of the Final Assessment assigned for eligible RTEP upgrades (2011 Tariff Revisions). *See* unpublished letter order, Docket No. ER12-62-000, dated November 29, 2011.

2. PJM states that the requested waiver arises from an unusual and unique set of facts which will be applied on a very limited basis. PJM contends that the requested waiver satisfies the Commission's evaluation criteria for granting such waivers.³ First, PJM contends that, because PJM is requesting a one-time waiver specific to Preliminary Assessments for RTEP IARRs only, the waiver is of limited scope. Second, PJM argues that granting the waiver will resolve a concrete problem because PJM will not need to conduct Preliminary Assessments for RTEP IARRs that it contends serve no useful purpose and produces inaccurate information that could be misconstrued. Moreover, PJM observes that the 2011 Tariff Revisions removed the requirement that PJM conduct Preliminary Assessments for RTEP IARRs.⁴ It also notes that it performed all the Final Assessments within the 45 days prior to the project's in-service date as originally required under Schedule 12A(iv). Third, PJM contends that granting the waiver will not lead to undesirable consequences, such as harming third parties, because PJM will not have to perform Preliminary Assessments that are inaccurate and unnecessary. It continues that the 2011 Tariff Revisions now provide Responsible Customers with greater notice. Further, PJM claims that the Preliminary Assessments were irrelevant in influencing whether a Responsible Customer constructed or paid for a Regional Facility or not.⁵

3. Notice of PJM's filing was published in the *Federal Register*, 78 Fed. Reg. 10,164 (2013), with interventions and protests due on or before February 27, 2013. No protests or adverse comments were filed.

4. According to PJM, the Preliminary Assessment generally yielded results that were not practical, useful or indicative of the actual system when the Final Assessments are determined. As PJM notes, the Commission has previously accepted revised Tariff provisions to remove the need to perform the Preliminary Assessment of available IARRs associated with RTEP projects and increase the notice period to a Responsible Customer of the final quantity of IARRs assigned for eligible RTEP upgrades. We find the requested waiver consistent with our prior actions to eliminate the Preliminary Assessment. We are persuaded by PJM's explanation that the waiver is of a limited

³ PJM Request at 3.

⁴ *Id.* at 4-5.

⁵ *Id.* at 5.

scope, remedies a concrete problem, and does not harm other parties.⁶ Even though PJM does not discuss it, there is also a fourth criteria sometimes used by the Commission in its analysis of waiver requests (i.e., where there is an underlying good faith error). We note that PJM states that it inadvertently failed to perform the Preliminary Assessments for RTEP IARRs during the period February 1, 2009 to December 11, 2011, but it performed the Final Assessments in a timely manner. According to PJM, the Final Assessment analysis is more appropriate because it identified RTEP IARRs closer in time to the Regional Facility's actual in-service date. For these reasons, we grant PJM's request for a limited waiver.

The Commission orders:

PJM's request for limited waiver is hereby granted, as discussed in the body of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ See, e.g., *PJM Interconnection, LLC*, 135 FERC ¶ 61,069, at P 8 (2011); *ISO-NE*, 134 FERC ¶ 61,182, at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at P 9-10 (2010); *ISO New England Inc. - EnerNOC*, 122 FERC ¶ 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).