

143 FERC ¶ 61,091
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 2, 2013

In Reply Refer To:
Southern Indiana Gas & Electric Company
Docket No. ER13-1031-000

Laura R. Chipkin
Schiff Hardin L.L.P.
901 K Street, NW
Suite 700
Washington, DC 20001

Dear Ms. Chipkin:

1. On March 4, 2013, Southern Indiana Gas and Electric Company (Southern Indiana) requested a limited waiver of a provision in Attachment DD of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff). Southern Indiana states that the requested waiver is necessary to allow Southern Indiana to secure an exemption from the must-offer requirement with respect to its share of the Fowler Ridge II wind generation unit for the May 2013 PJM Reliability Pricing Model (RPM) auction. Southern Indiana is requesting this limited waiver because it inadvertently failed to request the exemption during the time period prescribed under the Tariff. Southern Indiana states that PJM and the Independent Market Monitor (IMM) support the waiver request. For the reasons discussed below and good cause shown, the Commission grants the waiver.

2. Southern Indiana is an Indiana public utility with approximately 1350 MW of generation and approximately 1350 MW of load. Southern Indiana's customer base is approximately 25 percent residential and 75 percent commercial, industrial and other customers. Southern Indiana's generating resources are pseudo-tied into the Midwest Independent Transmission System Operator, Inc. (MISO) footprint. Southern Indiana purchases a capacity share¹ of the Fowler Ridge II Wind Farm (Fowler Ridge), which is located in Benton County, Indiana. Fowler Ridge is interconnected to the PJM

¹ Southern Indiana's share of Fowler Ridge is 49.5 MW out of the 200 MW total capacity of the facility.

transmission system and qualifies as an Existing Generation Capacity Resource in PJM for the RPM auction. According to Southern Indiana, Fowler Ridge became operational on December 17, 2009 and has a rated capacity of 4.8 MW. Southern Indiana states that, having pseudo-tied its share of Fowler Ridge into the MISO footprint on March 18, 2010, it sells its entire share of capacity and energy from Fowler Ridge into the MISO market through financially and physically firm commitments. Accordingly, over the past three years, PJM has granted Southern Indiana an exemption from the must-offer requirement, consistent with section 6.6(g) of Attachment DD of the Tariff.

3. Southern Indiana states that, under section 6.6(g) of Attachment DD of the PJM Tariff, a capacity market seller, such as Southern Indiana, may seek approval for an exemption from the must-offer requirement in the RPM auction by submitting a written request to the IMM and the PJM Office of Interconnection at least 120 days prior to the start of the auction.

4. Southern Indiana states that, for the 2016/2017 Delivery Year auction, which begins on May 14, 2013, the 120-day deadline fell on January 13, 2013, but it inadvertently did not submit its request for an exemption until early February 2013. Therefore, Southern Indiana seeks a limited waiver of section 6.6(g) of Attachment DD of the Tariff to allow the submission of its request after the January 13, 2013 deadline.

5. Southern Indiana states that the Commission has granted waiver of the tariff when four conditions are met:

- a. The underlying error was made in good faith;
- b. The waiver is of limited scope;
- c. Granting waiver would remedy a concrete problem; and
- d. The waiver does not have undesirable consequences.²

6. Southern Indiana asserts that it missed the January 13, 2013 deadline due to its reliance on informal past practices and its error was made in good faith. Southern Indiana argues that the waiver is also of limited scope as it is asking for waiver of one provision of the Tariff for only one generating unit. Southern Indiana also states that granting waiver would remedy a concrete problem by allowing Southern Indiana to claim an exemption that it is otherwise entitled to claim under the Tariff. Southern Indiana

² Southern Indiana Petition at 3 (citing *American Municipal Power, Inc.*, 140 FERC ¶ 61,102, at P 10 (2012); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225, at P 28 (2007); *Waterbury Generation, L.L.C.*, 120 FERC ¶ 61,007, at P 31 (2007)).

further states that the request for waiver was filed shortly after the expiration of the January 13, 2013 deadline but well before the start of the May 2013 auction.

7. Notice of Southern Indiana's filing was issued on March 5, 2013, with protests or interventions due on or before March 25, 2013. Neither PJM nor the IMM opposed the request for waiver, and no interventions, protests or adverse comments were filed.

8. We find that Southern Indiana has shown good cause for granting its waiver request. The Commission has granted limited waivers in similar situations.³ We particularly note that PJM and the IMM support the request for waiver, and that no parties intervened to oppose the request or challenge Southern Indiana's assertions. The record before us indicates that: (1) Southern Indiana's failure to meet the Tariff requirement in a timely manner was indeed due to a good faith error; (2) the requested waiver is limited in nature; (3) the waiver would allow Southern Indiana to remedy a concrete problem; and (4) the waiver would have no undesirable consequences for PJM, the IMM or any other third parties. Accordingly, we grant waiver of section 6.6(g) of Attachment DD of the PJM Tariff for the limited purpose to secure an exemption from the must-offer requirement with respect to its share of the Fowler Ridge II wind generating unit for the May 2013 auction deadline, as requested.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ See *New York System Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,108 (2012); *PJM Interconnection, LLC*, 137 FERC ¶ 61,184 (2011); *PJM Interconnection, LLC*, 137 FERC ¶ 61,109 (2011); *Hudson Transmission Partners*, 131 FERC ¶ 61,157 (2010); *ISO New England, Inc.*, 122 FERC ¶ 61,297 (2008).