

144 FERC ¶ 61,152
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER13-1822-000

ORDER APPROVING PJM TARIFF REVISIONS

(Issued August 26, 2013)

1. On June 27, 2013, PJM Interconnection, L.L.C. (PJM) filed revisions to its Open Access Transmission Tariff (OATT)¹ and its Amended and Restated Operating Agreement (Operating Agreement).² PJM's proposed revisions codify the authority and obligations of PJM and its Independent Market Monitor (IMM) with respect to obtaining and providing access to complete electronic tags (e-Tags) used to schedule the transmission of electric power in wholesale markets on an ongoing, non-public basis as required by Order No. 771.³ Additionally, PJM seeks a finding by the Commission that the revised confidentiality provisions set forth in the instant filing constitute "appropriate confidentiality restrictions" as that term is used in Order No. 771.⁴ For the reasons discussed below, we accept PJM's proposed tariff revisions, effective August 26, 2013, as requested, subject to the Commission's order addressing the remaining requests for rehearing of Order No. 771.

¹ PJM Interconnection, L.L.C., Intra-PJM Tariffs, Administration and Study of New Service Requests, OATT ATT M – Appendix (8.0.0).

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, Operating Agreement, Miscellaneous Provisions, OA 18.17 Confidentiality (4.0.0).

³ *Availability of E-Tag Information to Commission Staff*, Order No. 771, FERC Stats. & Regs. ¶ 31,339 (cross-referenced at 141 FERC ¶ 61,235) (2012); *order on reh'g*, Order No. 771-A, 142 FERC ¶ 61,181 (2013).

⁴ PJM Transmittal at 2.

Background

2. E-Tags, also known as Requests for Interchange, are used to schedule interchange transactions in wholesale electric transmission markets. E-Tags document the movement of energy across an interchange, over prescribed physical paths, for a given duration, and for a given energy profile(s), and include information about those entities with financial responsibilities for the receipt and delivery of the energy.⁵ E-Tags may contain information about the different types of entities involved in moving power across interchanges, including generators, transmission system operators, energy traders, and load serving entities.

3. On December 20, 2012, in Order No. 771, the Commission amended its regulations, pursuant to sections 222 and 307(a) of the FPA to grant the Commission access, on a non-public and ongoing basis, to the complete e-Tags used to schedule the transmission of electric power interchange transaction in wholesale markets. The Commission explained that the information made available under Order No. 771 would bolster the Commission's market surveillance and analysis efforts by helping the Commission to detect and prevent market manipulation and anti-competitive behavior.⁶ Specifically, Order No. 771 required e-Tag authors and balancing authorities to take appropriate steps to ensure Commission access to e-Tags by designating the Commission as an addressee on the e-Tags.⁷ In addition to ordering Commission access to e-Tags, Order No. 771 required that e-Tag information be made available to regional transmission organizations (RTO) and independent system operators (ISO) and their Market Monitoring Units (MMU), upon request to the e-Tag authors and balancing authorities, subject to appropriate confidentiality restrictions.⁸

⁵ Order No. 771-A, 142 FERC ¶ 61,181 at P 3.

⁶ Order No. 771, FERC Stats. & Regs. ¶ 31,339 (cross-referenced at 141 FERC ¶ 61,235) at P 6.

⁷ Order No. 771, FERC Stats. & Regs. ¶ 31,339 (cross-referenced at 141 FERC ¶ 61,235) at P 39.

⁸ Order No. 771, FERC Stats. & Regs. ¶ 31,339 (cross-referenced at 141 FERC ¶ 61,235) at P 53.

PJM's Proposal

4. PJM states that, while its OATT and Operating Agreement require PJM and the IMM to keep member data and information confidential, both tariffs are silent as to similar confidential protections for non-members.⁹ PJM further notes that, although PJM and the IMM presently have general tariff authority to provide confidential information to the Commission, there is no specific directive for e-Tags, which would be deemed to be confidential information of both PJM members and non-members.

5. To remedy these omissions and comply with Order No. 771, PJM proposes to revise Article I of Attachment M-Appendix of the OATT and Section 18.17 of the Operating Agreement to make clear that: (1) PJM must make e-Tags available to the Commission, and make e-Tags available to other RTOs and ISOs upon request, (2) the IMM has authority to share e-Tag data with other MMUs upon request, and (3) PJM and the IMM can use an agent such as Open Access Technology International, Inc. (OATI), to provide the requested e-Tags to the Commission, RTOs, ISOs and MMUs.

6. PJM also proposes revisions to incorporate a requirement for PJM and the IMM to maintain as confidential e-Tags of both Members and non-Members to address the Commission's requirement that appropriate confidentiality restrictions be in place before e-Tags can be received from or disclosed to other RTOs, ISOs and MMUs. Specifically, PJM proposes to revise Section 18.17.1(b) of the Operating Agreement to incorporate a requirement that PJM and its designated agents, representatives, and contractors maintain the confidentiality of e-Tags of an e-Tag author or balancing authority.¹⁰ PJM proposes nearly identical revisions to the parallel provisions of Article I of Attachment M-Appendix of the OATT concerning the IMM's requirement to maintain e-Tags confidential.¹¹

7. PJM notes that while Order No. 771 requires that complete e-Tags be made available to RTOs, ISOs and their MMUs upon request to e-Tag authors and balancing

⁹ PJM Transmittal at 6.

¹⁰ PJM Transmittal at 9.

¹¹ PJM also proposes to make several minor, non-substantive revisions to Section 18.17 of the Operating Agreement and Article I, Section A of Attachment M-Appendix of the OATT for consistency and clarity, and to correct formatting and typographical errors.

authorities, “subject to appropriate confidentiality provisions,” the order is silent with respect to who determines whether a confidentiality restriction or agreement is “appropriate.”¹² Therefore, PJM seeks a finding that the confidentiality restrictions it proposes in its filing constitute “appropriate confidentiality restrictions” within the meaning of Order No. 771 so that PJM and its IMM can begin to exercise the right to obtain data upon request from e-Tag authors and other balancing authorities.

Notice and Responsive Pleadings

8. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 41,054 (2013), with interventions, comments and protests due on or before July 18, 2013. No protests or adverse comments were filed.

Discussion

9. We accept PJM’s proposed tariff revisions, effective August 26, 2013, as requested, subject to the outcome of the rehearing of Order No. 771. We find that, consistent with Order No. 771, PJM has addressed the obligations of PJM and its IMM with respect to obtaining and providing access to complete e-Tags. Specifically, PJM has revised its OATT and Operating Agreement to state that PJM will make e-Tags available to the Commission, and that PJM and the MMU will make e-Tags available to other RTOs, ISOs, and MMUs, upon request. We also find just and reasonable PJM’s proposed revisions to the OATT and Operating Agreement that extend the same confidentiality provisions applicable to members to non-members.

10. In addition, PJM seeks a finding that the confidentiality restrictions it proposes in its filing constitute “appropriate confidentiality restrictions” within the meaning of Order No. 771 so that PJM and its IMM can begin to exercise the right to obtain data upon request from e-Tag authors and other balancing authorities. Order No. 771 did not specify criteria for determining “appropriate confidentiality restrictions” leaving that determination for the parties to such agreements. PJM has chosen to include such provisions in its tariff, rather than individual agreements. We find that such an approach is just and reasonable.

¹² PJM Transmittal at 8.

The Commission orders:

The revisions to PJM's OATT and Operating Agreement are hereby accepted, to become effective August 26, 2013, subject to the outcome of further proceedings, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.