

146 FERC ¶ 61,041
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER14-1144-000

ORDER GRANTING WAIVER

(Issued January 24, 2014)

1. PJM Interconnection, L.L.C. (PJM) filed a request for temporary waiver—from January 24, 2014 to March 31, 2014—of provisions of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) and the PJM Open Access Transmission Tariff (Tariff) in response to unprecedented spikes in fuel costs caused by recurring extreme cold weather events.¹ The requested waiver is to permit sellers that submit cost-based offers from Generation Capacity Resources into the PJM energy markets and whose costs exceed the applicable energy market clearing price to receive a make-whole payment covering the difference between their costs and the clearing price.² PJM requests expedited relief. As discussed below, the Commission finds good cause to grant the requested waiver, and, in light of the immediacy of the extreme weather conditions, to do so on an expedited basis.

Background and Details of the Filing

2. PJM explains that the Operating Agreement provides that resources that have been committed as capacity shall submit offers into the day-ahead energy market for the available capacity of their resources; however, the Operating Agreement also provides that offers in the day-ahead energy market shall not exceed an energy offer price of

¹ In Docket No. ER14-1145-000, PJM concurrently submitted a waiver request to allow cost-based offers to exceed the offer cap of \$1,000/MWh and requests that this relief supersede the instant waiver in this proceeding.

² Capitalized terms used but not defined herein are intended to have the meaning given to such terms in the Operating Agreement of the PJM Open Access Transmission Tariff, as applicable.

\$1,000/MWh. PJM explains that published natural gas prices to two key citygates in the PJM region recently averaged over \$120/MMbtu and included prices up to \$140/MMbtu. PJM states that these gas prices are unprecedented in the PJM region.³ PJM states that these record-setting prices would equate to a marginal energy cost for a simple-cycle combustion turbine (CT) generator of approximately \$1,200/MWh. PJM also notes that, on January 21, 2014, it saw approximately 5,000 MWs of energy market offers in the day-ahead market at a price of \$999/MWh, implying that the costs for these resources was above the \$1,000/MWh but their offers were constrained by the offer cap.

3. PJM states that this situation is untenable because it does not provide the affected generators an opportunity to recover their costs of generating the energy that they are required to offer into the PJM market. PJM states that, “[i]f this uncertainty is not forthrightly addressed, it will undermine confidence in market operations and could well result in resource unavailability when such resources are most needed by the system operator.”⁴ PJM requests interim and immediate relief to the present untenable situation in the form of a waiver, effective January 24, 2014, to permit Generation Capacity Resource sellers that submit cost-based offers in PJM’s energy markets, but would be barred by the \$1,000/MWh offer cap from including all legitimate costs in their offers, to recover those legitimate costs that are in excess of the applicable clearing price. Specifically, PJM requests a waiver of Operating Agreement, Schedule 1, sections 1.10.1A(d) (the \$1,000/MWh offer cap) and 3.2.3 (defining the costs eligible for make-whole treatment), the equivalent Tariff sections of Attachment K-Appendix, and any other related Operating Agreement and Tariff provisions, as necessary, to permit sellers whose costs exceed the applicable energy market clearing price to receive a make-whole payment covering the difference between their costs and the clearing price. PJM notes that the seller’s marginal costs must be as determined and documented in accordance with the cost development guidelines and procedures in PJM’s Manual 15.⁵

4. PJM states that, if the requested waiver is granted, PJM will recover such make-whole payments in the same manner as is currently permitted for other similar make-whole payments in the energy market. In addition PJM seeks waiver of the 60-day notice requirement.

Discussion

5. In light of the immediacy of the extreme weather conditions, the Commission finds good cause for expeditiously granting the requested waiver of the Operating

³ PJM Transmittal at 5.

⁴ *Id.* at 4.

⁵ *Id.* at 7.

Agreement, Schedule 1, sections 1.10.1A(d) and 3.2.3; the equivalent Tariff sections of Attachment K-Appendix; and any other related Operating Agreement and Tariff provisions, as necessary to permit sellers that submit cost-based offers from Generation Capacity Resources for whom the price of natural gas results in documented costs that exceed PJM's \$1,000/MWh offer cap to receive a make-whole payment covering the difference between their costs and the clearing price.⁶ The waiver is limited in time from January 24, 2014 until the earlier of the relief sought in Docket No. ER14-1145-000 or March 31, 2014, the end of the current winter season. We find that the waiver is necessary to address the reliability concerns posed by the sustained extreme weather currently being experienced in the PJM Region and maintain confidence in market operations.⁷

6. We note that, under the PJM Tariff, the market monitor reviews all cost-based offers to verify the documented costs submitted. Given the unique nature of PJM's request, we direct the market monitor to submit an informational filing within 30 days of the expiration of the requested waiver that identifies: (1) the total amount of energy in MWhs that was accepted over the bid cap; (2) the associated cost of such energy; and (3) information on any unverifiable bids that were rejected.

The Commission orders:

PJM's request for limited waiver of the Operating Agreement and Tariff from January 24, 2014 to the earlier of the relief sought in Docket No. ER14-1145-000 or March 31, 2014 is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ See *Entergy Serv., Inc.*, 124 FERC ¶ 61,226, at PP 7-9 (2008). See also *State of Ca. ex rel. Lockyer v. F.E.R.C.*, 329 F.3d 700, 710-11 (9th Cir. 2003); *Stingray Pipeline Co., L.L.C.*, 113 FERC ¶ 61,147, at P 7 (2005); *Southern Natural Gas Co.*, 113 FERC ¶ 61,218, at PP 8-9 (2005).

⁷ See *Cal. Indep. Sys. Op. Corp.*, 93 FERC ¶ 61,239 (2000) (granting emergency waiver in extraordinary circumstances to allow an ISO to retain generation resources in order to maintain reliability of the transmission system).