

146 FERC ¶ 61,127
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 Nos.	ER14-876-000
Midcontinent Independent System Operator, Inc.		ER14-862-000

ORDER ACCEPTING REVISIONS TO JOINT OPERATING AGREEMENT

(Issued February 25, 2014)

1. In this order, the Commission accepts revisions to the Joint Operating Agreement (JOA) between PJM Interconnection, L.L.C. (PJM) and Midcontinent Independent System Operator, Inc. (MISO). The revisions to the JOA provide for coordinated planning associated with requests for Incremental Auction Revenue Rights (Incremental ARR). The revisions are accepted to be effective on February 26, 2014, as requested.

I. Background

2. As defined in the PJM Open Access Transmission Tariff (PJM Tariff), an Incremental ARR is the “additional Auction Revenue Rights ... not previously feasible, created by the addition of Incremental Rights-Eligible Required Transmission Enhancements, Merchant Transmission Facilities, or of one or more Customer-Funded Upgrades.”¹ The PJM Tariff and MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff) both provide for Incremental ARRs.²

¹ PJM Tariff, § 1.14B (defining “Incremental Auction Revenue Rights”).

² PJM and MISO December 27, 2013 Filings at 3-4. Under the PJM Tariff, a customer may request specific Incremental ARRs and agree to fund the upgrades necessary to provide for such Incremental ARRs on the PJM system. *Id.* (citing PJM Tariff, Attachment K, Appendix § 7.8); *see also* PJM Operating Agreement, Schedule 1, § 7.8. Additionally, under the PJM Tariff, a participant that funds transmission upgrades may be entitled to receive Incremental ARRs associated with such upgrades. *See* PJM Tariff § 231. The MISO Tariff does not provide for a customer to request Incremental ARRs, but a customer may fund an upgrade on the MISO system and

(continued...)

The JOA, however, does not currently provide a mechanism under which the entity that receives an Incremental ARR Request (i.e., PJM or MISO) will consider the impacts of such a request on the other entity's system. In an informational filing submitted on September 26, 2013, PJM and MISO (the RTO) stated that they had previously addressed increased coordination in this area and planned to file resulting changes to the JOA.³

II. PJM and MISO Filings

3. On December 27, 2013, in separate filings, PJM and MISO filed identical revisions to the JOA between PJM and MISO to provide for coordinated planning associated with requests for Incremental ARRs. PJM and MISO state that coordination regarding Incremental ARR Requests is needed to identify network upgrades on both RTOs' systems that would be necessary to accommodate Incremental ARR Requests and to clarify the impact on each RTO's firm flow entitlement resulting from the construction of the upgrades required to grant Incremental ARRs. PJM and MISO state that the JOA already includes coordination provisions regarding interconnection requests and transmission service requests that may require the construction of network upgrades for such requests. The proposed revisions to the JOA provide for such coordination with respect to Incremental ARR Requests.⁴ PJM and MISO propose the following revisions to the JOA: (1) Article 9 – the provisions regarding coordinated regional transmission expansion planning; (2) Appendix G to Attachment 2 – Congestion Management Process to the JOA, which sets forth provisions for the allocation adjustment for new transmission facilities and/or designated network resources; and (3) Attachment 3 – Interregional Coordination Process to the JOA.⁵

4. In Article 9, which provides for coordination of planning studies, the RTOs added two new sections (sections 9.3.5 and 9.4.3) that provide details on how the analysis of an Incremental ARR Request will be performed, and who will pay for them. These provisions will also specify which RTO's tariff and transmission owners agreement will govern the payment for network upgrades for any upgrades on an RTO's system required to grant an Incremental ARR Request on the other RTO's system. PJM and MISO state

request that MISO review how that upgrade can qualify for Incremental ARRs. PJM and MISO December 27, 2013 Filings at 4 (citing MISO Tariff, Section 46).

³ PJM and MISO, Informational Filing, Docket No. AD12-16-000, Attachment III at 9 (filed Sept. 26, 2013).

⁴ PJM and MISO December 27, 2013 Filings at 4.

⁵ *Id.* at 6-7.

that new section 9.3.5, entitled “Analysis of Incremental Auction Revenue Rights Requests,” provides how the RTOs will coordinate the studies necessary to determine the impact on both RTOs’ systems in response to an Incremental ARR Request made under one RTO’s tariff. The results of such studies will be reported to the requesting customer. PJM and MISO further state that new section 9.4.3, entitled “Network Upgrades Associated with Incremental Auction Revenue Rights Requests,” provides that if an Incremental ARR Request will have an impact on the other RTO’s system (Affected System) that requires network upgrades, the network upgrades will be paid for in accordance with the terms and conditions of the Affected System’s tariff.⁶

5. PJM and MISO also revised Appendix G (Allocation Adjustments for New Transmission Facilities and/or Designated Network Resources)⁷ to Attachment 2 – Congestion Management Process to the JOA – to recognize that increased capacity created on a Reciprocal Coordinated Flowgate due to network upgrades associated with an Incremental ARR Request will be assigned to the RTO granting the Incremental ARRs for the purpose of the historical allocation and firm flow entitlement calculations. PJM and MISO also revised the first paragraph of Appendix G to specify that the procedures in Appendix G apply to upgrades funded by a market participant for the purpose of obtaining Incremental ARRs under one RTO’s tariff.⁸

6. Additionally, the RTOs modified section 6 of Appendix G to clarify the terms “builder” and “non-builder” for the application of the flowgate allocation process. PJM and MISO state that the revisions clarify that where a market participant has funded a transmission facility upgrade for the purpose of obtaining Incremental ARRs under one of the RTO’s tariffs, the term “builder” refers to the RTO granting the Incremental ARRs. The RTOs state that this change is necessary to clarify who receives the benefit (i.e., the flowgate allocation) of an upgrade constructed for the purpose of obtaining Incremental ARRs in the flowgate allocation adjustment process, and to ensure that the firm flow entitlements correctly account for the impact of the increase in capacity from the upgrades associated with Incremental ARR Requests. PJM and MISO further revised

⁶ *Id.*

⁷ The RTOs state that the procedures in Appendix G set forth the guiding principles the RTOs use to determine allocation adjustments for new transmission facilities and/or designated network upgrades and the RTOs’ procedures for determining allocation adjustments based on cross-border cost sharing and the builder for the new transmission service or upgrades.

⁸ PJM and MISO December 27, 2013 Filings at 8.

section 6 to provide that when a market participant with cost responsibility for a transmission facility upgrade has resources and/or participates in both RTOs' markets, the allocation will be split between the two markets subject to the RTOs' tariffs and business practices, as applicable.⁹

7. PJM and MISO also revised Attachment 3 to the JOA to modify the term "Annual Revenue Rights" to "Auction Revenue Rights." The RTOs submit that this revision ensures that the terminology used throughout the JOA is consistent.¹⁰

8. PJM and MISO submit that the proposed revisions are just and reasonable because they facilitate coordination between the RTOs regarding the determination of upgrades necessary to grant Incremental ARR Requests, clarify the impact on firm flow entitlement rights resulting from the construction of upgrades as a result of Incremental ARR Requests, and ensure that neither RTO is adversely impacted by Incremental ARR Requests on the other RTO's system. PJM and MISO request a February 26, 2014 effective date.¹¹

III. Notice of Filing and Responsive Pleadings

9. Notice of PJM's filing was published in the *Federal Register*, 79 Fed. Reg. 821 (2014), with interventions and protests due on or before January 17, 2014. The Illinois Commerce Commission filed a notice of intervention. NRG Companies filed a timely motion to intervene.¹² Timely motions to intervene and comments were filed by Exelon Corporation (Exelon) and Northern Indiana Public Service Company (NIPSCO).

10. Notice of MISO's filing was published in the *Federal Register*, 79 Fed. Reg. 653 (2014), with interventions and protests due on or before January 17, 2014. The Illinois Commerce Commission filed a notice of intervention. Edison Mission Energy,

⁹ *Id.* at 8-9.

¹⁰ *Id.* at 9.

¹¹ *Id.*

¹² NRG Companies consist of: NRG Power Marketing LLC, GenOn Energy Management, LLC, Conemaugh Power LLC, GenOn Mid-Atlantic, LLC, Indian River Power LLC, Keystone Power LLC, NRG Chalk Point, LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG Power Midwest, LP, NRG REMA, LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Wholesale Generation LP, Vienna Power LLC and Energy Curtailment Services, Inc.

Consumers Energy Company, Southwest Power Pool Inc. and Wisconsin Electric Power Company filed timely motions to intervene. Timely motions to intervene and comments were filed by Exelon and NIPSCO. On February 10, 2014, PJM and MISO filed a joint motion for leave to file an answer and answer to the comments.

11. Exelon supports the revisions to the JOA that provide for coordinated planning associated with requests for Incremental ARR, but Exelon argues that certain provisions must be clarified. Exelon agrees that the proposed changes clarify how the RTOs will coordinate the analysis needed to determine required upgrades on the adjacent system. However, Exelon contends that leaving the details of the timeline to the business practices manuals of each RTO will require additional coordination among at least three parties and could create unneeded confusion and delays, especially if individual RTO timelines do not match. Therefore, Exelon requests that the Commission direct the RTOs to revise the JOA to provide greater detail surrounding the RTO coordination, customer notification, upgrade milestones, and payment collection. Exelon also requests that the System Impact Study timeline be incorporated into proposed section 9.3.5 of the JOA,¹³ and further requests that revisions be made to section 9.3.5(i) associated with the commencement of the Incremental ARR Schedule.¹⁴

12. Exelon states that the purpose and meaning of proposed section 9.3.5(a) is unclear regarding the impacts to the customer requesting the Incremental ARRs and paying for the upgrades. Exelon requests that the RTOs make revisions to clarify how section 9.3.5(a) impacts the customer funding the upgrades. Exelon argues that if this section results in a determination of increased firm flow entitlements where the customer is able to choose which RTO is allocated the increased firm flow entitlements, then Exelon requests that additional revisions be made to the JOA to reflect this intent.¹⁵

13. Exelon notes that MISO's Tariff currently does not explain how costs of network upgrades associated with Incremental ARRs will be paid for. Exelon states that when a market participant funds an Incremental ARR upgrade in MISO, individual negotiation with the local Transmission Owner is required, can take years to complete, and result in varied and/or extreme expenses. To remedy this situation, Exelon requests that the Commission require MISO to file tariff changes establishing a timeline to complete the

¹³ Exelon Comments at 4-5.

¹⁴ *Id.* at 5-6.

¹⁵ *Id.* at 6.

upgrade agreement between the Transmission Owner and market participant, *pro forma* terms and conditions for payment, and a formula for costs in the MISO Tariff.¹⁶

14. Exelon also requests clarification to the proposed revision to Appendix G 6 of Attachment 2, which relates to determination of the builder in the flowgate allocation process. Exelon argues that the proposed revision does not clarify how the firm flow entitlement allocation will be determined or the options, if any, for the market participant(s) funding the upgrade. In addition, Exelon argues that it is unclear what options, if any, the market participant(s) funding the upgrade has in choosing where the increased firm flow entitlement will be allocated, or how any “unsubscribed” firm flow entitlements are determined and allocated.¹⁷

15. NIPSCO states that it appreciates the effort of MISO and PJM to better coordinate the impact of Incremental ARR Requests, but believes the coordination should be further enhanced. NIPSCO argues that without a more robust consideration of the impacts of the Incremental ARR Requests on each RTO’s market and systems within the context of other requests and planned events, as well as other Incremental ARR Requests under review, neither RTO will be able to truly capture the impacts of such requests on their systems, markets and market participants. Therefore, NIPSCO recommends that the RTOs enhance the coordination and assessment processes to include: (1) an economic “no-harm” test to ensure that if an Incremental ARR Request in one RTO is granted, it will not cause harm to the other RTO’s system reliability, power market economics, and ARR and Financial Transmission Rights; and (2) coordination with pending and planned generator interconnections, generator retirements, transmission service requests, market participant funded upgrades, merchant projects, and other ARR requests to ensure planning is aligned in a manner to capture market and reliability impacts.¹⁸

16. NIPSCO argues that MISO and PJM should develop and use a common, combined RTEP/MTEP model with common load, generator dispatch, and other core assumptions

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 8 (citing MISO Financial Transmission Rights Working Group, *MISO-PJM JOA Changes for IARR Requests (ER14-862)*, at 8 (Jan. 2014), available at https://www.misoenergy.org/_layouts/MISO/ECM/Redirect.aspx?ID=167697). Exelon states that the presentation suggests that the market participant has the ability to decide how to assign unsubscribed firm flow entitlements on a Reciprocally Coordinated Flowgate. Exelon argues that if this is the intent, then the proposed revisions to the JOA are unclear.

¹⁸ NIPSCO Comments at 5-6.

to determine cross border impacts of generator interconnections, generator retirements, transmission service requests, market participant funded upgrades, merchant projects, and Incremental ARR Requests.¹⁹ NIPSCO contends that based on this common model, each RTO should have primary responsibility for studying the effects of the Incremental ARR Request on its system rather than employing a reactive approach and relying on studies performed by the other RTO and that a process should be developed wherein each RTO would advise the other of submitted Incremental ARR Requests on an established and reasonable timeline.²⁰

Answer

17. In their joint answer, the RTOs oppose NIPSCO's economic "no harm" test. PJM and MISO argue that NIPSCO's proposed economic "no harm" test fails to recognize that the proposed revisions to the JOA are intended to mitigate cross border market impacts stemming from Incremental ARR Requests under each RTO's tariff. PJM and MISO contend that the basis for coordination is to mitigate any impacts to a neighboring RTO's system caused by an Incremental ARR Request under the RTOs' respective tariffs, and whatever its merits, NIPSCO has not shown that the lack of such an undefined "no harm" test renders this proposal unjust and unreasonable.²¹ PJM and MISO believe they have proposed a reasonable coordination process by which each potentially impacted RTO will have the ability to mitigate impacts to its system by a neighboring RTO's Incremental ARR process. PJM and MISO argue that such coordination should give a potentially impacted RTO an opportunity to participate in the study process and work with the "host" RTO to prevent harm to its system. Accordingly, PJM and MISO do not support engrafting an undefined economic "no harm" test to include power market economics and ARR and Financial Transmission Rights as a condition precedent to moving forward to enhance coordination and ensure reliability of each RTO's system.

18. PJM and MISO argue that NIPSCO's recommendation that the RTOs coordinate with pending and planned generator interconnections, generator retirements, transmission service requests, market participant funded upgrades, merchant projects and other ARR requests to ensure planning is aligned in a manner to capture market and reliability impacts is beyond the scope of this filing.²² PJM and MISO contend that the basis for

¹⁹ *Id.* at 6.

²⁰ *Id.*

²¹ PJM and MISO Answer at 3.

²² *Id.* at 4.

this filing is to define the coordination required to mitigate any impacts to a neighboring RTO's system caused by an Incremental ARR Request under the RTOs' respective tariffs, including reliability impacts. PJM and MISO argue that NIPSCO's request for a common, combined RTEP/MTEP model is also beyond the scope of this filing and should be rejected.²³

19. According to PJM and MISO, Exelon opines that while the revisions provide clarification for how the RTOs will coordinate the analysis needed to determine required upgrades on a neighboring system, the revisions do not clarify how the process relates to a customer.²⁴ PJM and MISO contend that the process as it relates to customers is detailed in each RTO's respective tariff.²⁵ PJM and MISO state that this enhancement to RTO-to-RTO coordination was not intended, nor would it be wise public policy, to "trump" the specific interface procedures between the host RTO and its customers as embodied in each RTO's tariff. PJM and MISO contend that the JOA is limited to RTO-to-RTO coordination and should not be transformed through this protest into a whole new set of RTO-to-customer interface procedures. PJM and MISO state that asking the Commission to provide clarity to the respective RTO interconnection processes in this filing, such as requiring a study timeline for the JOA, is beyond the scope of this filing and should be denied, as this filing was intended to provide a better "road map" for how coordination will take place between the two RTOs when their underlying tariff processes impact their neighbor.²⁶

20. Regarding Exelon's arguments concerning proposed section 9.3.5.(a), PJM and MISO assert that to coordinate an Incremental ARR Request and identify an increase in firm flow entitlements, both RTOs must agree upon the base value of a firm flow entitlement before conducting a study. PJM and MISO contend that section 9.3.5(a) was included to memorialize in the JOA the RTOs' commitment to agree upon the base value of firm flow entitlements that may be affected by an Incremental ARR Request in order to identify any increases in the firm flow entitlements. PJM and MISO state that Exelon's request for further clarification of this provision misconstrues the intent of this section (i.e., it was not intended to address how the RTOs will calculate any increased

²³ *Id.* at 6.

²⁴ *Id.* at 7.

²⁵ *See* PJM Tariff at Parts IV and VI; *see also* MISO Tariff at Attachment FF, Part IV.

²⁶ PJM and MISO Answer at 7-8.

firm flow entitlements associated with an Incremental ARR Request nor was it intended to impact the customer funding the upgrade).²⁷

21. PJM and MISO argue that Exelon's request for clarification regarding allocation of firm flow entitlements is outside of the scope of the filing and should be rejected. PJM and MISO contend that neither of Exelon's requests for clarification relate to the coordination process proposed in their filing. Rather, the RTOs state that Exelon's inquiries seek to understand how firm flow entitlements are allocated and whether the market participant has any say in the allocation.²⁸

IV. Discussion

A. Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding in which they filed the intervention.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PJM's and MISO's joint answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

24. We accept the proposal by PJM and MISO to revise the JOA to provide for coordinated planning associated with requests for Incremental ARRs as just and reasonable. We accept the proposed revisions to be effective on February 26, 2014, as requested.

25. We find that PJM and MISO's proposal to modify the JOA will allow coordination between the RTOs related to Incremental ARR Requests and will ensure network upgrades maintain the reliability of each RTO's transmission system. As PJM and MISO explain, such a coordination process is reasonable because it provides each potentially impacted RTO with the ability to mitigate impacts to its system by a neighboring RTO's Incremental ARR process.

²⁷ *Id.* at 9.

²⁸ *Id.* at 10.

26. We agree with PJM and MISO that Exelon and NIPSCO's arguments are beyond the scope of this proceeding. Exelon suggests that the timeline for coordination provided in MISO and PJM's proposal is unclear and that the JOA should provide specific timelines, as well as greater detail surrounding RTO coordination, customer notification, upgrade milestones, and payment collection. While we recognize the importance to market participants of transparency of both RTOs' processes for evaluating Incremental ARR, we find that the revisions to the JOA as proposed are a just and reasonable improvement to the existing JOA. While further improvements such as a timeline in the JOA or the other details suggested by Exelon might improve coordination with respect to coordinating planning for Incremental ARRs, we do not find the existing proposal unjust and unreasonable or unduly discriminatory without them. Nonetheless, we encourage the RTOs to provide market participants with as much transparency as possible on the coordination process, timelines, and status.

27. With respect to Exelon's request that the RTOs make revisions to clarify how proposed section 9.3.5(a) and Appendix G 6 of Attachment 2 impact a customer that is funding upgrades and the customer's role regarding allocation of firm flow entitlements, we agree with MISO and PJM that these arguments are also beyond the scope of this filing. PJM and MISO explain that their proposal is seeking to address coordination among the RTOs and not between the RTOs and customers. Furthermore, the purpose of the base firm flow entitlements discussed in section 9.3.5(a) and referenced in Appendix G 6 is not to calculate increased firm flow entitlements for Incremental ARRs or customer funded upgrades but to provide a basis for market-to-market payments, which are allocations to RTOs only.²⁹ Accordingly, we reject Exelon's proposals. Finally, Exelon's suggestion that the MISO Tariff be modified to specify how network upgrade costs will be paid for is beyond the scope of this proceeding, which concerns coordination under the JOA of Incremental ARR Requests.

28. Regarding NIPSCO's requests for a broader impact assessment for each RTO's system, as well as the use of a common RTEP/MTEP model, we find that MISO and PJM's proposal is restricted to the steps needed to coordinate the planning for Incremental ARRs. We agree with MISO and PJM that the proposal provides a reasonable opportunity to assess impacts resulting from Incremental ARRs and that an analysis of market impacts or the development of a common model is not needed for this analysis.

²⁹ Firm flow entitlements used in real-time and day-ahead energy market-to-market settlement are derived from flowgate allocations. Market-to-Market Flowgates are limited to no more than the firm flow entitlements to each RTO. See Appendix G 6 and Attachment 3 Overview of the Market-to Market Coordination Process.

The Commission orders:

PJM's and MISO's proposed revisions to the JOA are hereby accepted, effective February 26, 2014, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.