

147 FERC ¶ 61,178  
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. ER14-1660-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued June 3, 2014)

1. On April 4, 2014, PJM Interconnection, L.L.C. (PJM), pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> submitted for filing revisions to its Open Access Transmission Tariff (OATT) to move forward by two months the procedural deadlines established for the periodic review and development of potential changes to the Variable Resource Requirement (VRR) Curve<sup>2</sup> and two key inputs to the curve. As discussed below, we accept PJM's filing, effective June 4, 2014, as requested.

**I. Background**

2. PJM explains that under the existing OATT,<sup>3</sup> PJM and its stakeholders are required to periodically review the shape of the VRR Curve and its two key inputs, the Cost of New Entry (CONE) by a representative new power plant and the Net Energy and Ancillary Service (EAS) Revenues offset, which reflects the revenues that a plant would be expected to earn in the PJM markets. The PJM OATT currently provides that, starting in 2014, and every fourth Delivery Year thereafter, PJM shall conduct a review of the VRR Curve. The review consists of (1) PJM making its recommendations by July 15, (2) PJM's stakeholders reviewing and voting on the modifications by October 31, and (3) PJM filing proposed changes with the Commission by December 1.<sup>4</sup> The review that is to start in 2014 is for the Delivery Year that begins June 1, 2018.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> The VRR Curve is PJM's administratively-derived demand curve used in its capacity auctions.

<sup>3</sup> PJM OATT, Attachment DD § 5.10 Auction Clearing Requirements (15.0.0), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=154937>.

<sup>4</sup> *Id.*

3. PJM states that its most recent filing to modify the VRR Curve, CONE values, and Net EAS Revenue offset was filed December 1, 2011 and accepted in part by the Commission, effective January 31, 2012.<sup>5</sup> However, the Commission found that the CONE values, which PJM had calculated to be effective for the 2015-2016 Delivery Year, might not be just and reasonable and suspended the effectiveness of those values for five months, i.e., until June 30, 2012.<sup>6</sup> The Commission also established hearing and settlement procedures to consider, among other things, the proposed CONE values. As a result of the Commission's order, the CONE values that were in place prior to the December 1, 2011 filing remained in place for the May 2012 auction that secured capacity commitments for the 2015-2016 Delivery Year. On November 21, 2012, PJM filed a settlement agreement with the Commission containing a provision mandating that PJM conduct a stakeholder process to identify changes in the periodic CONE review process. The Commission approved the settlement on January 31, 2013.<sup>7</sup> PJM states that the instant filing is the result of the stakeholder process mandated by the settlement.

4. In the instant filing, PJM proposes to move forward by two months the procedural deadlines established for the periodic review and development of potential changes to the VRR Curve, CONE values and Net EAS Revenue offset.<sup>8</sup> PJM argues that the proposed modifications will provide PJM and stakeholders more time to achieve consensus on any changes and also provide the Commission more time to process any such changes before they are needed. In particular, PJM states that the proposed October 1 deadline for filing any changes with the Commission would allow the changes to take effect by May 1 of the subsequent calendar year, in time for the capacity auction for which the changes were intended, even if the Commission suspends the proposed changes for the full five months permitted by the FPA.

## **II. Notice of Filing and Responsive Pleading**

5. Notice of PJM's April 4, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 20,194 (2014) with interventions and comments due on or before April 25, 2014.

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<sup>5</sup> *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,062 (2012).

<sup>6</sup> *Id.* P 39.

<sup>7</sup> *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,079 (2013).

<sup>8</sup> Under PJM's proposal, PJM would conduct its review and make its recommendations by May 15, PJM's stakeholders would review and vote on the modifications by August 31, and PJM would file proposed changes with the Commission by October 1.

6. Timely motions to intervene were filed by the Dayton Power and Light Company, PJM Industrial Customer Coalition, NRG Companies,<sup>9</sup> Dominion Resources Services, Inc.,<sup>10</sup> and American Municipal Power, Inc. The North Carolina Electric Membership Corporation (NCEMC) filed a timely motion to intervene and comments.

7. On May 7, 2014, Old Dominion Electric Cooperative (ODEC) filed a motion to intervene out-of-time.

8. PJM filed an answer to NCEMC's comments on May 9, 2014.

9. In its comments, NCEMC states that it does not oppose the approval of changes to the deadlines proposed by PJM. However, NCEMC asserts that the changes, if accepted, could lead to problematic results if a PJM filing to change the CONE or Net EAS parameters was protested and the litigation extended beyond the end of the five-month suspension period. NCEMC argues that allowing the proposed changes to the CONE and Net EAS parameters to become effective in the first capacity auction following the filing and before the issuance of a final Commission order in the case could be problematic if the Commission were to later determine that PJM's proposed levels of CONE and Net EAS parameters result in capacity market clearing prices that are too high. NCEMC explains that, under the current rules requiring a filing by December 1, the five-month suspension period ends after the date of the first capacity auction, and that litigants would have up to 16 months prior to the next auction to resolve disputes before the revised parameters would be used. NCEMC states that, under the proposed rules, the five-month suspension period ends prior to the date of the first capacity auction after the filing of the proposal, such that the filed parameters would go into effect subject to refund prior to the capacity auction. NCEMC adds that, in the context of organized wholesale markets, the Commission would have to order a rerunning of the affected auction in order to ensure that the finally-approved parameters are reflected in the market prices consumers pay. However, NCEMC notes that the Commission on several occasions has expressed its reluctance to rerun markets retroactively due to the administrative difficulty of such a task and the potential reliance market participants may have placed on the initial market outcomes. Therefore, NCEMC states that, if the Commission approves the filing, it should direct PJM to work with stakeholders to develop a mechanism for unwinding the

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<sup>9</sup> The NRG Companies for this filing 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.

<sup>10</sup> Dominion Resources Services, Inc. filed on behalf of Virginia Electric and Power Company d/b/a Dominion Virginia Power.

capacity auction results and rerunning the auctions using the finally-approved CONE and Net EAS parameters.

10. In its answer, PJM states that the Commission should decline NCEMC's request because NCEMC does not oppose the instant filing and does not show that PJM's current OATT is unjust and unreasonable without a mechanism to re-run the capacity auctions.

### **III. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practices and Procedures,<sup>11</sup> the timely-filed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure<sup>12</sup> prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by PJM because it has provided information that assisted us in our decision-making process.

#### **B. Commission Determination**

13. We accept the proposed tariff revisions, effective June 4, 2014, as requested. We find that that proposed revisions are just and reasonable and will provide PJM and stakeholders more time to evaluate and reach consensus on changes to the VRR Curve, CONE values, and Net EAS Revenue offsets. This additional time will also provide greater flexibility in resolution of disputes.

14. We find NCEMC's comments to be speculative at this time. If NCEMC's concern arises in the future, the Commission will address it based on the facts and circumstances of that case.

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<sup>11</sup> 18 C.F.R. § 385.214 (2013).

<sup>12</sup> 18 C.F.R. § 385.213 (a)(2) (2013).

The Commission orders:

PJM's proposed tariff revisions are hereby accepted, effective June 4, 2014, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.