

150 FERC ¶ 61,123
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 20, 2015

In Reply Refer To:
Robinson Power Company, LLC
Docket No. ER15-955-000

Joseph W. Lowell
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Lowell:

1. On January 30, 2015, Robinson Power Company, LLC (Robinson Power) filed a request for a one-time, limited waiver of the procedural deadlines set forth in section 5.14(h)(9)(ii) and, to the extent necessary, section 5.14(h)(9)(iii), of the Reliability Pricing Model (RPM) rules (Attachment DD) of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff).¹ The waiver would allow Robinson Power to apply for, and PJM to grant, a Competitive Entry Exemption² from the Minimum Offer Price Rule (MOPR) with respect to a new plant Robinson Power anticipates will become operational in June 2018, the beginning of the 2018/2019 Delivery Year (the Project). Robinson Power requests action by February 20, 2015, in order to enable Robinson Power to apply for an exemption in time for the upcoming Base Residual Auction for the 2018/2019 Delivery Year (Base Residual Auction). As discussed below, we grant the requested waiver.

2. The MOPR is a PJM Tariff rule that requires certain Generation Capacity Resources, unless exempt, to submit offers no lower than the established offer floor in order to prevent price suppression.³ Under the PJM Tariff, a Capacity Market Seller

¹ PJM Interconnection, L.L.C., Intra-PJM Tariffs (Attachment DD), [OATT ATTACHMENT DD.5.14 Clearing Prices and Charges, \(12.0.0\)](#).

² *Id.* § 5.14(h)(7).

³ *Id.* § 5.14(h)(1).

seeking a Competitive Entry Exemption from the MOPR must submit its request, together with the required documentation and officer's certification, no later than 135 days prior to the commencement of the offer period for the Base Residual Auction in which it seeks to submit its Sell Offer.⁴ Pursuant to this Tariff provision, the deadline for submission of a MOPR exemption request for the upcoming Base Residual Auction, which is scheduled to commence on May 11, 2015, was December 27, 2014.

3. Robinson Power states that the Project is a new combined-cycle gas-fired 651 MW generation plant interconnected to PJM in Washington County, Pennsylvania. Robinson Power further states that it submitted the required PJM Generation Interconnection Feasibility Study on March 31, 2014, and the System Impact Study on December 1, 2014.⁵ According to Robinson Power, it expects to receive the Interconnection Service Agreement and Construction Service Agreement for the Project in the fourth quarter of 2015 and estimates that the plant will enter into service in June 2018.

4. Robinson Power requests a one-time waiver of the deadline to submit a request for Competitive Entry Exemption from the MOPR by December 27, 2014, as set forth in section 5.14(h)(9)(ii) of Attachment DD to the Tariff. To the extent necessary, Robinson Power also requests a waiver of the deadlines in section 5.14(h)(9)(iii) of Attachment DD to the Tariff, which require the Office of Interconnection to review the Competitive Entry Exemption request and provide its determination within sixty-five days and require PJM's Market Monitoring Unit (MMU) to review the exemption request and provide its determination within forty-five days of receipt of the exemption request.

5. In support of its request, Robinson Power contends that its request for waiver is consistent with prior situations in which the Commission has granted a waiver. Robinson Power states that the Commission has granted waivers of tariff provisions where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) the waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences such as harming third parties. Robinson Power asserts that all four criteria are satisfied here.

6. First, Robinson Power explains that its failure to meet the original deadline was in good faith because its failure to timely submit its request for a Competitive Entry Exemption was inadvertent and due, in part, to the uncertainty about whether the Project could be in service by the 2018/2019 Delivery Year. Robinson Power asserts that it has acted diligently and in good faith to promptly request this waiver.

⁴ *Id.* § 5.14(h)(9)(ii).

⁵ Robinson Power Company, LLC January 30, 2015 Transmittal Letter at 3.

7. Second, Robinson Power asserts that its waiver request is limited in scope because it is only requesting a one-time waiver of limited provisions of the PJM Tariff in section 5.14(h)(9)(ii) of Attachment DD and, to the extent necessary, section 5.14(h)(9)(iii), for one auction. In addition, Robinson Power states that the waiver will be applicable only to its own request for a Competitive Entry Exemption for the Project.

8. Third, Robinson Power argues that its requested waiver would remedy a concrete problem by allowing it to become eligible to submit a request for a Competitive Entry Exemption from the MOPR for the 2018/2019 Delivery Year. Robinson Power states that, without the waiver, it would be unable to seek a MOPR exemption, creating the risk that it would be unable to clear in the Base Residual Auction.

9. Finally, Robinson Power asserts that granting the waiver request will not result in any undesirable consequences. Robinson Power states other generation resources that seek to participate in the Base Residual Auction will not be prevented from participating and no third-party will be harmed. Robinson Power also claims that the limited extension it requests is sufficiently in advance of the May 11, 2015 commencement of the Base Residual Auction to avoid causing delay in the administration of the auction. Robinson Power further explains that it discussed this petition for waiver with the MMU prior to filing.⁶

10. Notice of Robinson Power's filing was published in the *Federal Register*, 80 Fed. Reg. 7,444 (2015), with interventions and protests due on or before February 9, 2015. PJM filed a timely motion to intervene. No protests or comments were filed. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁷ PJM's timely, unopposed motion to intervene serves to make it a party to this proceeding.

11. The Commission has previously granted market participants one-time waivers of tariff provisions in situations where: (1) the applicant was unable to comply with the tariff provision at issue in good faith; (2) the waiver is of limited scope; (3) granting the waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.⁸

12. We find that good cause exists to grant Robinson Power's unopposed request for waiver. Robinson Power maintains that it failed to meet the deadline due to a good faith

⁶ *Id.* at 2.

⁷ 18 C.F.R. § 385.214 (2014).

⁸ See, e.g., *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110, at P 10 (2014); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060, at P 12 (2013).

belief that it needed to be confident that its unit would be constructed and in-service prior to the Delivery Year for which it sought to participate in the Base Residual Auction. We find that, while this is an incorrect reading of the Tariff,⁹ Robinson Power acted in good faith. Thereafter, Robinson Power has promptly sought a waiver to allow it to apply for a Competitive Entry Exemption for its Project. Second, we find that the requested waiver is a one-time waiver and is limited in scope, in that it is limited solely to the procedural deadlines for one auction and the waiver will apply only to Robinson Power's own request for a Competitive Entry Exemption for the Project. Third, we find that the waiver will remedy a concrete problem and enable Robinson Power to seek a MOPR exemption in time to allow the Project's capacity to enter into the Base Residual Auction. Fourth, we find that granting the requested waiver will not lead to undesirable consequences for PJM or any third parties. In addition, according to Robinson Power, it discussed this petition for waiver with the MMU prior to filing; moreover, no parties opposed the request.

13. Accordingly, we grant Robinson Power's request for a limited, one-time waiver of the procedural deadlines set forth in section 5.14(h)(9)(ii), and, to the extent necessary, in section 5.14(h)(9)(iii), of Attachment DD of the PJM Tariff.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁹ Under the PJM Tariff, an application for a Competitive Entry Exemption does not commit the generator to participate in the auction. The notification provides PJM and the MMU with sufficient time to process the request efficiently.