

151 FERC ¶ 61,092  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

PJM Interconnection, L.L.C.

Docket No. ER15-1160-000

ORDER GRANTING TARIFF WAIVER REQUEST

(Issued May 1, 2015)

1. On March 2, 2015, pursuant rule 207(a)(5) of the Commission's Rules of Practice and Procedure,<sup>1</sup> PJM Interconnection, L.L.C. (PJM), filed a petition for limited waiver of the deadline in section 7.3.7 of Attachment K-Appendix of the PJM Open Access Transmission Tariff (Tariff) regarding the posting of results for monthly Financial Transmission Right (FTR) auctions. Specifically, PJM seeks waiver of the provision requiring PJM to post the results of a monthly auction within five business days after the close of the bid and offer period. PJM seeks this waiver for the period of May 26, 2014 through December 31, 2015 or the effective date of the Federal Power Act section 205 filing to address this issue which PJM plans to submit for the Commission's consideration by June 2015. For the reasons discussed below, we grant PJM's request for waiver, from May 26, 2014 until December 31, 2015 unless superseded by a revised tariff record, as requested.

**I. Background**

2. FTRs are financial rights that entitle the holders to receive transmission congestion credits that can be used to hedge or offset transmission congestion charges across a specific transmission path.<sup>2</sup> PJM states that section 7.3.7 of Attachment K-Appendix of the PJM Tariff governs the provisions of FTRs. PJM states that FTRs are bought and sold in three auction mechanisms: long term, annual, and monthly.<sup>3</sup>

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) (2014).

<sup>2</sup> *PJM Interconnection, L.L.C.*, 102 FERC ¶ 61,276, at P 3 (2003).

<sup>3</sup> PJM Transmittal Letter at 2.

3. PJM asserts that it recently learned that the results for the June and September 2014 monthly FTR auctions were posted after the five business day deadline had elapsed due to software limitations beyond PJM's control (i.e., on the sixth and seventh business day, respectively).<sup>4</sup> PJM contends that the software was unable to complete the analysis necessary to clear the auction in the specified time frame for several reasons. First, PJM states that FTR participants are able to buy and sell FTRs in the monthly auctions for both individual months and quarterly periods of three consecutive months, necessitating complex and iterative calculations to analyze the simultaneous impact of FTRs spanning different time periods.<sup>5</sup>

4. Second, PJM states that it offers FTR option products which provide the potential for positive value for FTR participants when the day-ahead locational marginal price (LMP) at the sink is higher than the day-ahead LMP at the source, but do not have a negative value when the day-ahead LMP at the source is higher than the day-ahead LMP at the sink. In other words, PJM explains FTR options do not provide counterflow that would relieve limits preventing the feasibility of other FTRs in the opposite direction. PJM asserts that FTR options are therefore much more complex for the optimization software to solve than, for example, offers to buy and sell energy in the day-ahead energy market.<sup>6</sup> Third, PJM argues that FTR participants whose FTR bids would require them to post additional collateral are, during the auction clearing period, given the option to either post more collateral or remove their bids from the auction during the clearing process. Should FTR participants take that option, the auction must be re-cleared with the removed bids, increasing the time lag before results can be posted.<sup>7</sup>

5. Finally, PJM argues that both the number of FTR Participants submitting bids and the number of bids they submit have increased dramatically over the past ten years. PJM explains that, collectively, these issues have slowed down the clearing software process and thus, have contributed to delaying the posting of auction results.<sup>8</sup>

6. PJM states that it has been working to improve its hardware and software to handle the changes to the market that have resulted in the failure to meet the five business

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<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.* at 5.

day posting requirement.<sup>9</sup> PJM explains that given its software limitations, the growth in the amount of FTR participants and FTR bids in its monthly auctions, and the complexity inherent in clearing the monthly FTR auctions given the flexibility afforded to FTR participants,<sup>10</sup> it determined that the prudent course of action is to build in flexibility to the monthly FTR auctions' posting deadline in the applicable Tariff language. PJM also explains posting monthly FTR auction results outside the five business day period will have at most a *de minimus* impact on PJM's markets and operations, and on FTR participants. PJM further explains this is because FTRs are not effective until the first day of the subsequent month after the monthly FTR auction has been cleared.<sup>11</sup> PJM states that FTR auctions usually clear approximately one week before the end of each month, which allows additional time to clear the FTR auction before the FTRs become effective in the event the five day posting deadline is not strictly met.<sup>12</sup>

## II. Waiver Request

7. PJM states it plans to submit a section 205 filing to the Commission no later than June 2015 which will offer a more permanent solution by giving PJM flexibility in the posting deadline. Therefore, PJM requests waiver of the deadline until the earlier of December 31, 2015 or the acceptance by the Commission of the planned section 205 filing.<sup>13</sup> PJM states it will continue to approve and post monthly FTR auction results promptly after the auction clearing software makes those results available, and will comply with the tariff posting requirement to the extent its auction clearing software produces auction results prior to the five business day deadline.<sup>14</sup>

8. PJM also requests the waiver go into effect as of May 26, 2014, in order to include two instances in 2014 when auction results were discovered to have been posted after the

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<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 5-6.

<sup>13</sup> *Id.* at 3. PJM explains that the December 31, 2015, date is being proposed so there is an end date on the effectiveness of the waiver request in the event that it files the section 205 filing later than expected or the Commission rejects or modifies the section 205 filing.

<sup>14</sup> *Id.* at 6.

five business day deadline.<sup>15</sup> PJM states it will file a self-report with the Commission's Office of Enforcement regarding those Tariff violations if the Commission does not grant the waiver with the requested effective date.<sup>16</sup>

9. PJM argues that the Commission has previously accepted similar waivers where the underlying failure was made in good faith, the waiver request is of limited scope, the request addresses a concrete problem, and the waiver would not have any undesirable consequences.<sup>17</sup> PJM argues the error was made in good faith, as PJM posted the auction results late due to software limitations beyond PJM's control and posted them as soon as they became available.<sup>18</sup>

10. PJM argues that the requested waiver is limited in scope because it will only apply if PJM's software is unable to process the results of monthly FTR auctions within the five business day requirement (including June and September 2014) due to the months having an unusually high volume of FTR bids, among other factors, if such conditions do in fact occur.<sup>19</sup> In addition, PJM argues the waiver request addresses a concrete problem; namely that PJM inadvertently violated its Tariff when the software failed to clear the market within the time limit due to software limitations, and may inadvertently do so again if there are similar circumstances in the future. Finally, PJM argues that the requested waiver will have only a *de minimus* impact on the market or reliability and will not harm third parties, because the FTRs are not effective until the first day of the month after the monthly auction has been cleared.<sup>20</sup>

### **III. Notice of Filing and Responsive Pleadings**

11. Notice of PJM's filing was published in the *Federal Register*, 80 Fed. Reg. 12,473 (2015), with protests and interventions due on or before March 23, 2015. Timely

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<sup>15</sup> *Id.* at 6-7.

<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.* at 7 (citing *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,119 (2014); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,109 (2011); *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069 (2011); *PJM Interconnection, L.L.C.*, 125 FERC ¶ 61,279 (2008); *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,005 (2008)).

<sup>18</sup> *Id.* at 7.

<sup>19</sup> *Id.* at 8.

<sup>20</sup> *Id.* at 8.

motions to intervene were filed by Boston Energy Trading and Marketing LLC and NRG Companies. No protests or adverse comments were filed.

#### **IV. Discussion**

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

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>21</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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

13. We grant the requested limited waiver of section 7.3.7 Attachment K-Appendix of PJM's Tariff, from May 26, 2014 until December 31, 2015 unless superseded by a revised tariff record, as requested. The Commission has granted limited waivers of tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requisite waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.<sup>22</sup> As discussed below, we find that the requested waiver meets these criteria.

14. PJM argues that its request is necessitated by the system software design requirements and is designed to facilitate access to short-term transmission congestion hedging tools. We find credible PJM's claim that the growth of the FTR market has impacted its software performance. For example, 68,158 FTR bids were submitted in June 2005 whereas in June 2014, 578,321 FTR bids were submitted, which is an increase of 748 percent. In addition, the total number of FTR participants submitting bids grew from 56 to 147 between June 2005 and June 2014.<sup>23</sup> The tariff provisions at issue in this proceeding, which govern the deadline for posting auction results, were originally filed in 2005 and reflected the market conditions of that time.<sup>24</sup> Additionally, to the extent an FTR participant requests its bids be removed because it is unable to post collateral for the

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<sup>21</sup> 18 C.F.R. § 385.214 (2014).

<sup>22</sup> See, e.g., *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,033 (2014); *New York Independent System Operator, Inc.*, 148 FERC ¶ 61,098 (2014); *PJM Interconnection, L.L.C.*, 125 FERC ¶ 61,279 (2008).

<sup>23</sup> PJM Transmittal Letter at 5.

<sup>24</sup> *PJM Interconnection, L.L.C.*, Docket No. ER06-150-000 (December 14, 2005) (delegated letter order).

monthly auction, PJM is required to re-clear the auction with the removed bids, which, because of the iterative nature of this process, can cause the five business day deadline to be exceeded.

15. We also find that the requested waiver is limited in scope, as it applies only in the event that PJM's monthly FTR auction clearing software is unable to post the results of the auction within the five business day deadline, which we do not believe will be a frequent occurrence since PJM has been able to meet the deadline since October 2014. Further, we find that the waiver remedies a concrete problem, namely that PJM's software may not be able to clear the auction within five business days for months with increased volumes of FTR bids.

16. Finally, we find that granting the limited waiver will have no adverse effects on third parties. Because FTR results are not effective until the first day of the subsequent month after the monthly auction has been cleared, and there is typically a week between the results being posted and the first of the month, it does not appear that PJM's tardiness in past auctions either unduly harmed or benefitted any market participants. That said, we find PJM must in all instances post monthly auction results within a reasonable timeline before the close of the Day-Ahead Market for the first date the FTR becomes effective. Furthermore, given PJM's commitment to incorporating flexibility in the Tariff posting requirement in instances where it is unable to meet the posting deadline, we will extend the waiver through December 31, 2015, unless superseded by a revised tariff record. Accordingly, we grant PJM's request for a limited tariff waiver.

The Commission orders:

PJM's request for a limited tariff waiver is hereby granted.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.