

152 FERC ¶ 61,099
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.

EL15-31-001

ORDER ON REHEARING

(Issued July 31, 2015)

1. On February 18, 2015, PJM Load Group filed a request for rehearing of the Commission's January 16, 2015, order on PJM Interconnection, L.L.C.'s (PJM) proposed revisions to the PJM Amended and Restated Operating Agreement (Operating Agreement) and the PJM Open Access Transmission Tariff (Tariff) to raise the energy offer cap on cost-based offers from \$1,000/MWh to \$1,800/MWh during the 2014/2015 winter (January 16 Order).¹ The tariff revisions also permitted resources that incurred legitimate incremental energy costs in excess of \$1,800/MWh to recover those costs through uplift.² In this order, we dismiss as moot the PJM Load Group's request for rehearing.

I. Background

2. On December 15, 2014, PJM filed, pursuant to section 206 of the Federal Power Act (FPA),³ proposed revisions to the Operating Agreement and the Tariff to temporarily raise the \$1,000/MWh offer cap to \$1,800/MWh, during the winter of 2014/2015 in anticipation of the possibility that the \$1,000/MWh cap could prevent resources from representing their marginal energy costs in energy offers due to high natural gas prices or other system conditions, as occurred during the 2013/2014 winter. Specifically, PJM proposed to allow resources to submit cost-based offers of up to \$1,800/MWh, and allow those offers to set Locational Marginal Price (LMP), during the 2014/2015 winter, and to allow generators to recover actual incurred costs above that cap through uplift payments, with such costs being subject to an after-the-fact review by PJM and the PJM

¹ *PJM Interconnection, L.L.C.*, 150 FERC ¶ 61,020 (2015) (January 16 Order).

² *Id.* at 6.

³ 16 U.S.C. § 824e (2012).

Independent Market Monitor (IMM). PJM contended that this approach is reasonable because the \$1,800/MWh offer cap was based on the highest cost-based offer submitted during the 2013/2014 winter, which was \$1,725/MWh. PJM also argued that the approach appropriately balanced the concerns presented by PJM stakeholders.⁴

3. On January 16, 2015, the Commission accepted PJM's Tariff revisions on a temporary basis, from January 16, 2015 through March 31, 2015. The Commission found the existing \$1,000/MWh offer cap to be unjust and unreasonable because during periods of high natural gas prices, the \$1,000/MWh offer cap may put resources in the “untenable position of being forced to offer electricity at levels below their marginal costs.”⁵ The Commission then found that increasing the offer cap to \$1,800/MWh, and compensating resources with documented costs in excess of that amount, is a just and reasonable approach for the 2014/2015 winter.⁶ Relevant here, the Commission accepted PJM’s Tariff revisions over the PJM Load Group’s assertion that increasing the offer cap constitutes impermissible retroactive ratemaking because it changes the obligations that Generation Capacity Resources took on as a result of a forward capacity auction.⁷

4. The Commission in the January 16 Order also required the IMM to file an informational report with the Commission, detailing: (1) the total amount in MWh and the total as-bid costs in dollars of energy with incremental energy offers between \$1,000/MWh and \$1,800/MWh that cleared the energy market; (2) the total amount in MWh and the total as-bid costs in dollars of energy associated with cost-based offers above \$1,800/MWh that cleared the energy market; (3) the total amount of make-whole payments that were granted to resources that submitted offers in excess of \$1,800/MWh based on the IMM’s *ex post* review; and (4) a list of the intervals, including time stamps, when PJM’s LMPs exceeded \$1,000/MWh. The Commission stated that the informational filing should cover the time period from the issuance of the January 16 Order through March 31, 2015.

⁴ January 16 Order, 150 FERC ¶ 61,020 at P 6.

⁵ *Id.* P 34.

⁶ *Id.* PP 34, 37. The Commission accepted PJM’s Tariff revisions subject to the condition that PJM submit a compliance filing no later than February 27, 2015, to remove the Tariff revisions as of April 1, 2015, and reinstate the \$1,000/MWh offer cap. *Id.* P 43.

⁷ *Id.* PP 23, 38.

5. On May 4, 2015, the IMM filed the required informational report.⁸ The IMM found, *inter alia*, that although some resources submitted offers with incremental energy components above \$1,000/MWh, none of those offers cleared PJM's energy market and, therefore, no offers with incremental energy costs above \$1,000/MWh established the LMP.⁹ Furthermore, no uplift payments were made to generators with incremental energy costs above \$1,800/MWh as a result of the temporary Tariff revisions.

6. The IMM explained that although real-time and day-ahead LMPs exceeded \$1,000/MWh in some intervals during the January 16 -March 31, 2015 period, these LMPs were not established by resources with incremental energy offers in excess of \$1,000/MWh because no such resource cleared the market.¹⁰ The IMM reported that LMPs can exceed \$1,000/MWh when no resources with incremental offers greater than \$1,000/MWh clear the market due to violation penalties associated with transmission constraints.¹¹

7. On February 25, 2015, PJM filed Tariff revisions to reinstate the \$1,000/MWh offer cap, as required by the January 16 Order.¹² The Commission accepted those Tariff revisions on March 31, 2015.¹³

II. Request for Rehearing

8. The PJM Load Group requests rehearing of the Commission's decision to accept PJM's Tariff revisions, reiterating its argument that changing PJM's offer cap constitutes retroactive ratemaking. The PJM Load Group asserts that the Commission cannot alter a rate retroactively and that the January 16 Order violates this rule because it rescinds obligations that attached to Generation Capacity Resources at the time of their clearing in a Base Residual Auction or Incremental Auction, to the benefit of generators and to the

⁸ See IMM, Informational Report, Docket No. EL15-31-000 (May 4, 2015).

⁹ *Id.* at 2. PJM LMP is calculated by adding three costs components: energy, congestion, and losses.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4.

¹² PJM, Tariff Filing, Docket No. EL15-31-002 (filed Feb. 25, 2015).

¹³ *PJM Interconnection, L.L.C.*, Docket No. EL15-31-002 (Mar. 31, 2015) (delegated letter order).

detriment of customers.¹⁴ The PJM Load Group argues that PJM's Tariff revisions are unjust and unreasonable because they require consumers to pay capacity prices for the Cleared Capacity Resources, while losing the benefit of the \$1,000/MWh offer-price cap that applied to those resources' must-offer obligations in the day-ahead energy market.

III. Commission Determination

9. We dismiss as moot the PJM Load Group's request for rehearing.¹⁵ On May 4, 2015, the IMM submitted its informational filing, in accordance with the Commission's directive in the January 16 Order. The IMM reported that no resources with incremental energy offers above \$1,000/MWh cleared the market and therefore no such offer established LMP or resulted in uplift payments to generators.¹⁶ Because the Tariff revisions accepted on a temporary basis in the January 16 Order (i.e., revisions effective only for the 2014/2015 winter) did not result in LMPs that were based on incremental energy offers in excess of \$1,000/MWh, no party was adversely affected by the January 16 Order. Therefore, we dismiss as moot the PJM Load Group's request for rehearing.

The Commission orders:

The PJM Load Group's request for rehearing is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁴ PJM Load Group Request for Rehearing at 4.

¹⁵ We note that the Commission previously has addressed the retroactive ratemaking argument that the PJM Load Group raises and has found that increasing the offer cap does not constitute retroactive ratemaking. January 16 Order, 150 FERC ¶ 61,020 at P 38; *see also PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,059, at P 18 (2014) (finding that allowing resources to receive make-whole payments to compensate them for costs in excess of PJM's offer cap does not constitute retroactive ratemaking).

¹⁶ IMM, Informational Report, Docket No. EL15-31-000 at 4-5 (May 4, 2015).