

152 FERC ¶ 61,151
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. ER15-2370-000

ORDER ON WAIVER

(Issued August 25, 2015)

1. On August 3, 2015, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) filed a request for limited waiver of Attachment DD, section 6.6(g) of the PJM Open Access Transmission Tariff (Tariff) concerning the deadline by which Capacity Market Sellers must submit a pre-notification of deactivation. Specifically, PJM seeks waiver of the September 1, 2015 deadline for submitting pre-notification of a deactivation-related must offer exception request for the 2019-20 Delivery Year Base Residual Auction, to allow Capacity Market Sellers to provide such pre-notification by October 1, 2015. As discussed below, we find that PJM's proposal is just and reasonable, as the requested schedule revision is limited in scope, will remedy a concrete problem, and will not have undesirable consequences.

I. Background

2. All existing Capacity Resources have a must offer requirement such that, unless the resource is granted an exception, it must offer all of its available capacity in the capacity auctions for a Delivery Year.² Exceptions can be granted if: (i) the resource is reasonably expected to be physically unable to participate in the relevant Delivery Year; (ii) it has a financially and physically firm commitment to an external sale of its capacity, or (iii) it was interconnected to the Transmission System as an Energy Resource and not subsequently converted to a Capacity Resource. A resource that plans to deactivate by

¹ 16 U.S.C. § 824d (2012).

² PJM Tariff, Attachment DD, section 6.6(a) and 6.6(g).

the relevant Delivery Year can receive an exception on the basis that it is reasonably expected to be physically unable to participate in the relevant Delivery Year.³

3. Although most must offer exception requests are due 120 days prior to the relevant capacity auction for which the exception is sought, PJM established an earlier time frame for resources that are planning to deactivate. Specifically, PJM established a pre-notification date of September 1, 2015 and a final notification date of December 1, 2015, occurring in the year prior to the commencement of the Base Residual Auction. PJM has asserted that these earlier deadlines “ensure more timely notice to PJM for purposes of its determination of the planning parameters for its RPM Auctions....[and] allow for more timely notification of deactivations to the marketplace which will allow more time for Market Participants to develop and submit new resources to replace deactivated resources.”⁴

4. In PJM’s Capacity Performance proposal,⁵ PJM established voluntary Capacity Performance Transition Incremental Auctions (Transition Auctions) to procure Capacity Performance Resources for the 2016-17 and 2017-18 Delivery Years, for which Base Residual Auctions already were held. PJM originally intended to conduct the Transition Auctions and post the results by early August. However, in compliance with the Commission’s July 22, 2015 order directing PJM to allow non-generation resources which are Capacity Performance-capable to be able to participate in the Transition Auctions,⁶ PJM modified the schedule delaying the posting of results until August 31, 2015 and September 9, 2015 for the 2016-17 and 2017-18 Delivery Years, respectively.⁷

II. Waiver Request

5. PJM seeks waiver of the September 1, 2015 deadline in Attachment DD, section 6.6(g) of the PJM Tariff, to allow Capacity Market Sellers to provide pre-notification of a deactivation-related must offer exception request for the 2019-20

³ PJM Waiver Request at 2.

⁴ *PJM Interconnection, L.L.C.*, Transmittal Letter, Docket No. ER13-2140-000, at 1 (Aug. 9, 2013); see *PJM Interconnection L.L.C.*, 145 FERC ¶ 61,035 (2013).

⁵ *PJM Interconnection, L.L.C.*, Reforms to the Reliability Pricing and Related Rules in the PJM OATT and Reliability Assurance Agreement Among Load Service Entities, Docket No. ER15-623-000 (Dec. 12, 2014).

⁶ *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,064 (2015) (July 22 Order).

⁷ PJM Waiver Request at 3.

Delivery Year Base Residual Auction by October 1, 2015.⁸ PJM states that a significant reason for implementing the Capacity Performance changes, including the Transition Auctions, was to provide additional revenues that Capacity Market Sellers will utilize to invest in their resources. PJM states that it is reasonable that a Capacity Market Seller will require information resulting from the Transition Auctions prior to deciding whether to deactivate a given unit.⁹

6. PJM states that the Commission has held that limited tariff waivers are justified when the applicant has acted in good faith, the waiver request is of limited scope, a concrete problem needs to be remedied, and the waiver does not have undesirable consequences such as harming third parties.¹⁰

7. PJM states that it acted in good faith as it recognized Capacity Market Sellers would rely on the Transition Auction results to help guide deactivation decisions and established a Transition Auction timeline that would accommodate a September 1, 2015 pre-notification date under the must offer exception rules. PJM states that it did not anticipate that it would need to modify the Transition Auction dates, but states it has done so in compliance with the July 22 Order. In addition, PJM argues that the requested waiver is of limited scope as it relates to only one capacity market auction (the Base Residual Auction for the 2019-20 Delivery Year) and will extend the current deadline for only one month – from September 1, 2015 to October 1, 2015.¹¹

8. PJM also states that the waiver will remedy a concrete problem; namely, that for some Capacity Market Sellers, whether or not their Capacity Resources clear the Transition Auctions will contribute to deactivation decisions, and the revised timeline for these auctions does not provide sufficient time for Capacity Market Sellers to make those decisions in advance of when the pre-notification requests are due to be submitted under the Tariff, i.e., September 1, 2015. PJM states that extending the date one month, to October 1, 2015, will solve this concrete problem.¹²

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.* at 5 (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); *N.Y. Indep. Sys. Operator, Inc.*, 125 FERC ¶ 61,005 (2008)).

¹¹ *Id.* at 5.

¹² *Id.* at 6.

9. Finally, PJM states that the requested waiver will have no impact on the market or reliability and will not harm third parties. PJM explains that the impetus for the deadline is to provide PJM enough time to establish planning parameters which must be completed by February 1, 2016 and to provide Market Participants sufficient notice to develop and submit new resources to replace deactivated resources. PJM states that moving the date one month to October 1, 2015, in this limited circumstance, will not frustrate either of those goals as more complete information will be known by October 1, 2015 than September 1, 2015 given the Transition Auctions this year.¹³

III. Notice of Filing and Responsive Pleadings

10. Notice of PJM's filing was published in the *Federal Register*, 80 Fed. Reg. 47,483 (2015), with protests and interventions due on or before August 10, 2015.¹⁴ Timely motions to intervene were filed by Duke Energy Corporation, Public Citizen, Inc., Electric Power Supply Association, NRG Companies,¹⁵ PJM Power Providers Group, and Public Service Electric and Gas Companies.¹⁶ Wabash Valley Power Association (Wabash), the Illinois Commerce Commission (Illinois Commission), Exelon Corporation (Exelon), and FirstEnergy Service Company (FirstEnergy) filed out-of-time motions to intervene. PJM Power Providers Group filed comments in support of PJM's filing. No protests were filed.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁷ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and

¹³ *Id.*

¹⁴ The Commission issued an errata notice shortening the comment period to August 10, 2015. Errata Notice Shortening Comment Date, Docket No. ER15-2370-000 (Aug. 4, 2015).

¹⁵ NRG Power Marketing LLC and GenOn Energy Management, LLC.

¹⁶ Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

¹⁷ 18 C.F.R. § 385.214 (2015).

Procedure,¹⁸ the Commission will accept Wabash's, the Illinois Commission's, FirstEnergy's, and Exelon's late-filed motions to intervene given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Commission Determination

12. PJM has filed, pursuant to section 205 of the FPA, proposing to extend the deadline for Capacity Market Sellers to submit pre-notification of a deactivation-related must offer exception request from September 1, 2015, to October 1, 2015. We find PJM's proposal is just and reasonable, as the requested revision is limited in scope, will remedy a concrete problem, and will not have undesirable consequences. It is, as well, uncontested.

13. We recognize that PJM's request for waiver is driven by the recent delay in the Transition Auctions. As PJM explains, in compliance with the Commission's July 22 Order, PJM has delayed the dates for the Transition Auctions for the 2016-17 and 2017-18 Delivery Years. This delay will prevent Capacity Market Sellers from having the results of these auctions sufficiently in advance of the September 1 pre-notification date to make fully informed deactivation decisions. Moving the deadline back one month from September 1, 2015 to October 1, 2015 will provide more complete information to both PJM and Market Participants.

14. We find that the request is limited in scope, as it applies only to one capacity market auction (the Base Residual Auction for the 2019-20 Delivery Year) and it will extend the current deadline for only one additional month. Further, we find that it remedies a concrete problem; namely, that Capacity Market Sellers will rely on the Transition Auction results to help guide deactivation decisions, and, in light of the delay in these auctions, the revised timeline for these auctions does not provide sufficient time for Capacity Market Sellers to consider these results. Extending the deadline for pre-notification requests by one month will remedy this problem. We also find that granting the proposal will not have undesirable consequences. As PJM explains, the pre-notification deadline for deactivation-related must offer exceptions provides PJM enough time to establish planning parameters and to provide Market Participants sufficient notice to develop and submit new resources to replace deactivated resources.

15. We thus find that granting PJM's request to change the deadline for notification of deactivation for a limited tariff waiver is just and reasonable, and we will accept the proposed revision.

¹⁸ 18 C.F.R. § 385.214(d) (2015).

The Commission orders:

PJM's proposed revision of the deadline for submitting pre-notification of a deactivation-related must offer exception request for the 2019-20 Delivery Year Base Residual Auction is hereby accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.