

155 FERC ¶ 61,163
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.
Duke Energy Ohio, Inc.

Docket No. ER16-1150-000

ORDER ACCEPTING PROPOSED TARIFF PROVISIONS, SUBJECT TO A
COMPLIANCE FILING

(Issued May 13, 2016)

1. On March 14, 2016, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Duke Energy Ohio, Inc. (Duke Ohio) submitted for filing a proposed Attachment M-2 for inclusion in the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT). As discussed below, we accept Duke Ohio's filing, subject to a compliance filing, effective May 13, 2016, as requested.

I. Background and Filing

2. Duke Ohio states that it is an energy delivery company located in Southwest Ohio. Duke Ohio explains that it is a default load-serving provider for customers that do not opt for competitive energy suppliers under Duke Ohio's retail customer choice program.³

3. Duke Ohio proposes its Attachment M-2 to provide greater transparency by providing a description of the general procedures that Duke Ohio follows in determining

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2015).

³ Transmittal Letter at 2.

Peak Load Contributions,⁴ Network Service Peak Loads, and Final Hourly Load Obligations for those Load Serving Entities (LSE) serving load within the Duke Energy Ohio and Kentucky (DEOK) Zone of PJM. Duke Ohio states that LSEs in the DEOK Zone include traditional, integrated utilities, such as Duke Energy Kentucky, Inc., and competitive electric retail suppliers in the portions of the zone subject to Ohio retail choice laws.⁵

4. Duke Ohio asserts that the methodologies included in its Attachment M-2 are consistent with the terms of Schedule 8⁶ of PJM's Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (RAA), PJM Manual 18: PJM Capacity Market, and section 34 of the PJM OATT. Duke Ohio notes that, although each PJM Transmission Owner's Attachment M-2 is "somewhat unique," the Duke Ohio Attachment M-2 is similar to the one filed by PECO Energy Company in Docket No. ER14-2340. Thus, Duke Ohio asserts that the instant filing raises no issue of first impression and reflects previously approved tariff concepts and language. Duke Ohio requests an effective date of May 13, 2016.⁷

5. Duke Ohio states that, for calculating Peak Load Contributions and Network Service Peak Loads on an annual basis, it stratifies each of its aggregated customers according to its rate class and an analysis of usage and demand from the prior year. At the same time, Duke Ohio calculates scaling factors that relate to each customer's actual energy usage to projected usage based on the load profile and actual weather data. Duke Ohio then calculates Peak Load Contributions and Network Service Peak Loads for service locations within the DEOK Zone, scaling these values so that all individual customer Peak Load Contributions equal the normalized peak load target determined by PJM and all individual customer Network Service Peak Loads equal Duke Ohio's metered zonal load at the time of the zone's highest transmission peak value determined

⁴ We note that Duke Ohio uses "Peak Load Obligations" in its transmittal letter to characterize this parameter. Under the PJM OATT, however, the parameter is referred to as Peak Load Contributions. We will refer to it as such here.

⁵ *Id.* at 1.

⁶ We note that Duke Ohio refers to "section 8" of the RAA in its transmittal letter. Under the PJM OATT, however, the relevant section is referred to as "Schedule 8."

⁷ *Id.* at 2.

by PJM. Duke Ohio then aggregates these values by associating them with the appropriate LSE.⁸

6. Duke Ohio also explains that, for Hourly Load Obligations, it settles such obligations with each LSE and PJM through a two-step process. First, Duke Ohio determines the “day after” hourly load responsibility using available known, preliminary, and historically based information. Duke Ohio then submits the load responsibilities for all LSEs serving load to PJM after adjusting for transmission and distribution losses and distinguishing between interval wholesale-settled customers and all other customers. Second, Duke Ohio determines the final hourly load responsibility by reconciling actual individual customer meter readings and load profile data with the “day after” hourly load responsibility. Duke Ohio then sends the energy variances from the first settlement’s hourly scheduling to PJM after adjusting for transmission and distribution losses and distinguishing between interval-settled customers, monthly-settled customers, and all customers.⁹

7. Finally, Duke Ohio requests that the Commission find that the abbreviated filing requirements of 18 C.F.R. § 35.13(a)(iii) apply.¹⁰ Duke Ohio seeks waiver of section 35.13(c) because it states that there is no rate impact in this filing.¹¹

II. Notice of Filings & Responsive Pleadings

8. Notice of Duke Ohio’s filing was published in the *Federal Register*, 81 Fed. Reg. 15,299 (2016), with interventions, comments, or protests due on or before April 4, 2016. American Municipal Power, Inc. (AMP) filed a timely motion to intervene and protest. On April 5, 2016, East Kentucky Power Cooperative, Inc. (East Kentucky Power) filed an out-of-time motion to intervene. On May 3, 2016, Duke Ohio filed a motion for leave to answer and answer in response to AMP’s protest. On May 5, 2016, AMP withdrew its protest.

⁸ *Id.* Attachment B at 29-31.

⁹ *Id.* Attachment B at 31-32.

¹⁰ 18 C.F.R. § 35.13(a)(iii) (2015).

¹¹ *Id.* at 3 (citing 18 C.F.R. § 35.13(c) (2015)).

A. AMP Protest

9. AMP asserts that certain provisions of Duke Ohio's proposed Attachment M-2 fail to take into account the different metering arrangements of municipal LSEs that are AMP members and other loads in the DEOK Zone. AMP argues that, unlike the Duke Ohio retail loads, the delivery points of its municipal LSEs are equipped with electronic interval metering. According to AMP, during relevant peak hours, the actual loads of these LSEs and their actual contribution to zonal peak load are directly measurable and need not be inferred from customer class historical use profiles. AMP argues that, where actual load values are known, these values should be used for settlement purposes, even if they differ from the values that result from applying the scaling factor.¹²

10. To address the issue of different metering arrangements, AMP suggests additional clarifying language. AMP first recommends that Duke Ohio specify the time period over which the data used for the Peak Load Contributions calculation were derived. For calculating Network Service Peak Loads, AMP suggests that the actual metered loads of municipal LSEs should not be subject to the scaling factor; instead, they should be taken as measured by the meters and added to the non-interval metered loads, which are scaled as necessary, before applying the weather normalization factor. For daily updates to Peak Load Contributions and Network Service Peak Loads, AMP recommends that Duke Ohio distinguish between interval metered loads and other loads when referring to the application of scaling factors. Likewise, for Hourly Load Obligations, AMP argues that Duke Ohio should distinguish between interval metered wholesale-settled customers and interval metered retail LSE customers. For allocating Unaccounted for Energy, AMP suggests adding language clarifying that Unaccounted for Energy is allocated to non-interval metered customers on a load ratio share basis. Lastly, for Final Hourly Load Obligations, AMP recommends that this section be more clearly structured to clarify which rules apply to which loads.¹³

¹² AMP Protest at 4-5.

¹³ *Id.* at 5-9.

11. Additionally, AMP asserts that Duke Ohio's proposed Attachment M-2 may not be consistent with Opinion No. 543. AMP states that it objects to any such inconsistencies as may be identified in Duke Ohio's proposal.¹⁴

B. Duke Ohio Answer

12. Duke Ohio states that it initiated discussions with AMP subsequent to the filing of AMP's protest, aimed at resolving the concerns in AMP's protest. According to Duke Ohio, both parties agreed to several changes to Duke Ohio's Attachment M-2, which resolve the concerns AMP raised and do so without further proceedings. In its attached revisions, Duke Ohio proposes to clarify that it does not scale the loads of wholesale customers that have interval meters in place. Duke Ohio adds that other changes include clarifying the intent of Attachment M-2.¹⁵

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motion to intervene serves to make AMP a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant East Kentucky Power's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.¹⁶ We will accept Duke Ohio's answer because it has provided information that assisted us in our decision-making process. We will also accept the withdrawal of AMP's protest.¹⁷

¹⁴ *Id.* at 9 (citing *PJM Interconnection, L.L.C. and Am. Transmission Sys., Inc.*, Opinion No. 543, 153 FERC ¶ 61,216 (2015)). AMP states that one such example is Duke Ohio's proposal on allocating Unaccounted for Energy, which may not be consistent with the holding in Opinion No. 543 at P 98, that Unaccounted for Energy may not be recovered unless specified in the customer's contract.

¹⁵ Duke Ohio Answer at 2-3; Ex. A.

¹⁶ 18 C.F.R. § 385.213(a)(2) (2015).

¹⁷ 18 C.F.R. § 385.101(e) (2015).

B. Commission Determination

15. As discussed below, we accept Duke Ohio's Attachment M-2, subject to a compliance filing.¹⁸ At the outset, we acknowledge that Duke Ohio is voluntarily submitting its Attachment M-2 for filing with the Commission, since PJM's tariffs, agreements, or manuals do not require it to do so.¹⁹ In PJM, EDCs and Transmission Owners are responsible for calculating LSEs' Peak Load Contributions, Network Service Peak Loads, and other parameters that PJM uses for a variety of purposes, including determination of the capacity to be procured in the Reliability Pricing Model's Base Residual Auction and Incremental Auctions.²⁰ Thus, while they are required to provide the values of these parameters to PJM, PJM does not provide specific guidelines with respect to the level of detail that EDCs should provide on how the parameters are calculated.

16. According to Duke Ohio, AMP agrees that Duke Ohio's revised Attachment M-2, as proposed in its answer, addresses the concerns AMP raised in its protest, which we

¹⁸ The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

¹⁹ PJM does not require Electric Distribution Companies (EDC) or Transmission Owners to file Attachment M-2s. They may choose to do so or, instead, choose to provide information on their procedures in the appropriate state commission tariffs or on their company websites. *See PJM, TOA-AC - THEO, PLC and NSPL Methodology Inventory* (Sept. 2014), <http://www.pjm.com/~media/committees-groups/committees/toa-ac/postings/20140903-theo-plc-nspl-methodology-inventory-process.ashx>; *PJM, THEO, PLC and NSPL Methodology Inventory* (2016), <http://www.pjm.com/markets-and-operations/billing-settlements-and-credit/theo-plc-and-nspl.aspx>. The latter webpage is an "inventory" with links to each EDC's and Transmission Owner's procedures (i.e., as described in Attachment M-2s, state commission tariffs, or company websites). EDCs and Transmission Owners are responsible for updating their respective inventory entries and notifying PJM accordingly when they make any changes to their procedures.

²⁰ *See PJM, Reliability Assurance Agreement Schedule 8* (Sept. 2010), <http://www.pjm.com/media/documents/merged-tariffs/raa.pdf>; *PJM, PJM Manual 18: PJM Capacity Market Section 7* (Apr. 2016), <https://www.pjm.com/~media/documents/manuals/m18.ashx>.

note has been withdrawn. Duke Ohio's proposal appears to be just and reasonable, and has not been shown to be unjust and unreasonable. We find that the proposed changes clarify that scaling is not applied to interval metered customer load, and also describe in detail the steps taken in each calculation and state the intent of Duke Ohio's Attachment M-2. As such, we require Duke Ohio to submit a compliance filing within 30 days of the date of this order that modifies its Attachment M-2 to reflect the revised Attachment M-2 as proposed in its answer.

17. Finally, we grant Duke Ohio's request for waiver of the filing requirements under section 35.13(c) of the Commission's regulations.

The Commission orders:

(A) Duke Ohio's proposed tariff provisions are hereby accepted, effective May 13, 2016, contingent on Duke Ohio submitting a compliance filing, as discussed in the body of this order.

(B) Duke Ohio is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.