

158 FERC ¶ 61,009
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Lark Energy Developments, Inc.

Docket No. ER17-492-000

ORDER GRANTING REQUEST FOR LIMITED WAIVER

(Issued January 5, 2017)

1. On December 5, 2016, Lark Energy Developments, Inc. (Lark Energy) submitted a request for a limited one-day waiver of the October 31, 2016, New Services Queue Closing Date (Closing Date)¹ deadline, as set forth in the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (PJM OATT). For the reasons discussed below, we grant waiver.

I. Background

2. Lark Energy states that it is developing a 10 MW solar energy project located in Sussex County, Delaware (Sussex County Project), and a 3 MW solar energy project in Dorchester County, Maryland (Dorchester County Project) (collectively, Projects). The Sussex County Project will interconnect with Delaware Electric Cooperative, within the PJM operating area. The Dorchester County Project will interconnect with the Delmarva Power transmission system, also within the PJM operating area. Lark Energy states that both projects have a planned commercial operation date of March 31, 2018.²

¹ See PJM OATT at section 36.1.01 (defining “New Services Queue Closing Date”).

² Petition for Limited Waiver at 3.

3. Lark Energy states that its interconnection requests for the Projects were timely filed with and received by PJM.³ According to Lark Energy, it also ordered the required initial deposit of \$30,000 (Deposits) for the Projects' respective interconnection requests and received confirmation from its financial institution of the timely scheduled delivery of the Deposits. Lark Energy states that, however, for reasons beyond Lark Energy's control, Lark Energy's financial institution did not deliver the Deposits until November 1, 2016 at 11:39 a.m., the day after the Closing Date.⁴ Lark Energy explains that its bank delayed the transfer pending additional confirmation of the wire request due to concerns from its fraud department, which Lark Energy immediately provided.

II. Request for Limited Waiver

4. Lark Energy seeks a one-day waiver of the October 31, 2016 New Services Queue Closing Date so that the Sussex County Project and the Dorchester County Project will be included in the interconnection studies for the AC-1queue cycle.⁵ Lark Energy states that the Commission has granted waivers where: (i) the underlying error was made in good faith; (ii) the waiver is of limited scope; (iii) the waiver would remedy a concrete problem; and (iv) the waiver does not have undesirable consequences such as harming third-parties.⁶

5. Lark Energy asserts that its request satisfies each of these requirements. First, Lark Energy contends that despite its best efforts to complete the transaction on time, PJM did not receive the required Deposits by the deadline. Second, Lark Energy argues that its waiver request is limited in scope, given that it will apply only to the closing date requirements, and only to the Deposits submitted by Lark Energy.⁷ Third, Lark Energy contends that the waiver is needed to address a concrete issue, that is, to ensure that studies are completed and interconnection facilities are constructed in time to meet their

³ *Id.* at 1.

⁴ *Id.* at 3-4.

⁵ *Id.* at 2.

⁶ *See id.* at 4 (citing *Oregon Clean Energy, LLC*, 155 FERC ¶ 61,156, at P 13 (2016)).

⁷ *Id.* at 5.

planned commercial operation dates.⁸ Finally, Lark Energy asserts that granting the waiver will not harm third parties and that it will not delay PJM's review process.⁹

III. Notice of Filing and Responsive Pleadings

6. Notice of Lark Energy's filing was published in the *Federal Register*, 81 Fed. Reg. 80,660 (2016), with interventions and protests due on or before December 16, 2016. None were filed.

IV. Commission Determination

9. For the reasons discussed below, we grant Lark Energy's limited request for waiver. The Commission has granted waiver of tariff provisions where: (i) the applicant acted in good faith; (ii) the waiver is of limited scope; (iii) the waiver addresses a concrete problem; and (iv) the waiver does not have undesirable consequences, such as harming third parties.¹⁰

10. We find that Lark Energy's waiver request satisfies these criteria. First, we find that Lark Energy acted in good faith. Lark Energy took all necessary steps to wire transfer the deposits to PJM by the requisite deadline and satisfied all other processing requirements. Second, we find that Lark Energy's requested waiver is limited in scope, as it is a one-day, one-time waiver of a procedural deadline that will only apply to the Deposits. Third, we find that the requested waiver addresses a concrete problem because it will allow the studies to be completed and interconnection facilities to be constructed in time to meet their planned commercial operation dates. Finally, we find that granting the requested waiver will not have undesirable consequences, as it will not harm any third parties or cause any delay to PJM's interconnection studies with respect to the AC-1 queue cycle.

⁸ *Id.*

⁹ *Id.* at 5-6.

¹⁰ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 14 (2016); *Calpine Energy Serv., Inc.*, 154 FERC ¶ 61,082, at P 12 (2016); *New York Power Auth.*, 152 FERC ¶ 61,058, at P 22 (2015).

The Commission orders:

Lark Energy's request for limited waiver of the PJM OATT is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.