

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

American Municipal Power-Ohio

v.

Docket No. EL06-12-000

PJM Interconnection, L.L.C.

ORDER FINDING FILING DEFICIENT

(Issued January 11, 2006)

1. On October 26, 2005 American Municipal Power-Ohio (AMP-Ohio) filed a complaint against PJM Interconnection, L.L.C. (PJM). The complaint as filed is deficient because it failed to include a Statement of Issues, as required by Order No. 663,¹ which became effective September 23, 2005. Order No. 663 amended Rule 203 of the Commission's Rules of Practice and Procedure to require that any pleading, which includes a complaint,² must include a "Statement of Issues," listing each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which the participant is relying; any issue not so listed will be deemed waived. Under Rule 203, a failure to include an issue in such a Statement results in the issue being waived.

2. The purpose of this new requirement is to benefit all participants in a proceeding by ensuring that the filer, the Commission, and all other participants understand the issues raised by the filer, and to enable the Commission to respond to these issues. As explained in Order No. 663, there have been numerous instances where appeals have been denied because an appellant failed to clearly raise an issue before the Commission.³

¹ Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663, 70 Fed. Reg. 55,723 (Sept. 23, 2005), FERC Stats. & Regs. Regulations Preambles ¶ 31,193 (2005) (to be codified at 18 C.F.R. § 385.203(a)(7)) (Order No. 663).

² 18 C.F.R. § 385.202 (2005).

³ Order No. 663, at P 4.

Having a clearly articulated Statement of Issues will ensure that issues are properly before the Commission during the initial phases of a proceeding and avoid the waste of time and resources involved in litigating appeals on issues that were not clearly identified at the Commission stage of proceedings.

3. The Commission finds that under Order No. 663, AMP-Ohio's failure to include a statement of issues waives its issues. Because the filing is deficient, we will dismiss the complaint without prejudice to AMP-Ohio refiling with a proper statement of issues that complies with Order No. 663 by listing each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which AMP-Ohio is relying.

The Commission orders:

AMP Ohio's filing is deficient and the complaint is dismissed, without prejudice to being refiled in accordance with the procedures explained in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.