

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket Nos. ER06-657-000 and
ER06-657-001

ORDER REJECTING FILINGS

(Issued June 9, 2006)

1. On February 21, 2006, as amended April 14, 2006, PJM Interconnection, L.L.C. (PJM) filed an executed Interconnection Service Agreement (ISA)¹ and an executed Construction Service Agreement (CSA)² (together, agreements) among PJM, Bethlehem Renewable Energy, L.L.C. (Bethlehem), and PPL Electric Utilities Corporation (PPL EU). These agreements concern the interconnection of Bethlehem's 5 MW landfill-gas fired generating facility (Bethlehem Generating Facility) to PPL EU's local distribution system. The Commission finds that it lacks jurisdiction over the interconnection proposed in these types of agreements and, therefore, rejects them.

Background

2. The ISA is intended to facilitate the interconnection of the Bethlehem Generating Facility, located in Northampton County, Pennsylvania, to PPL EU's local distribution facilities. PJM states that it submitted the ISA because it contains non-conforming changes to the current pro forma ISA set forth in PJM's tariff. PJM states that the non-conforming changes: (1) include new language in Schedule G of the ISA, which clarifies the power factor requirements for the generator, and new Appendices 1 and 2, which reflect the definitions and standard terms and conditions set forth in Subpart E of Part IV

¹ Original Service Agreement No. 1440

² Original Service Agreement No. 1441

of the PJM Tariff, and (2) excludes the new pro forma ISA section 22 and the schedule entitled “Interconnection Requirements for a Wind Generating Facility.”³

3. The CSA facilitates the construction of facilities necessary to accommodate the Bethlehem interconnection to PPL EU’s distribution system. PJM states that the CSA conforms to the pro forma CSA set forth in Attachment P of PJM’s tariff, except as discussed above, it includes new Appendices 1 and 2 described above, but excludes the new pro forma CSA section 15 and schedule entitled “Interconnection Requirements for a Wind Generating Facility.”

4. On April 14, 2006, PJM filed a response to Staff’s request for clarification as to whether the Bethlehem interconnection subject of the ISA and CSA is an interconnection to a local distribution facility. PJM affirms that the interconnection is to “a distribution facility and that there are no other generating facilities interconnected to the line which engage in wholesale sales of energy.”

5. PJM seeks waiver of the 60-day notice requirement required by section 205 of the FPA and section 35.3 of the Commission’s regulations to permit the ISA and CSA to become effective as of January 19, 2006.

Notice of Filing and Responsive Pleadings

6. Notice of the filings was published in the *Federal Register* with comments, interventions, and protests due on or before May 5, 2006. None were filed.

Discussion

7. The Commission rejects this filing because the Commission lacks jurisdiction over the interconnection proposed in this ISA. In *PJM Interconnection, L.L.C.*, the Commission rejected two filings of ISAs for generators connecting to a utility’s local distribution facility.⁴ In this prior order, the Commission stated:

In Order No. 2003, the Commission found that it does not have jurisdiction over an interconnection where the interconnection customer seeks to interconnect to a “local distribution” facility that is unavailable for jurisdictional transmission service under a Commission-approved OATT at the time an interconnection request is made. Thus, under Order No. 2003, in order for the Commission to assert jurisdiction over interconnections to local distribution facilities, there must

³ PJM explains that the proposed ISA and the CSA were executed prior to the addition of these provisions to the pro forma ISA and CSA on January 18, 2006.

⁴ *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,191 (2006), *reh’g pending*.

be a preexisting interconnection and a wholesale transaction over these local distribution facilities prior to the new interconnection request being made. In the absence of these requirements being met, ... we find that the Commission lacks jurisdiction under Order No. 2003 over interconnections to these local distribution facilities.⁵

8. As described by PJM in its response, the line to which the Bethlehem Generating Facility will interconnect is a distribution facility, and there are no other generating facilities attached to the line which engage in wholesale sales of energy.⁶ Thus, there was no wholesale transaction over these local distribution facilities prior to the new Bethlehem interconnection request being made. Consequently, as we concluded in *PJM Interconnection, L.L.C.*, pursuant to Order No. 2003, the Commission lacks jurisdiction over interconnection to the local distribution facility at issue in this filing. Since we are not addressing the ISA or the CSA, we will not address the proposed non-conforming changes contained in the agreements.

The Commission orders:

The filings are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary

⁵ *Id.* at 14 (citations omitted).

⁶ Although PJM's response characterized this facility as a "distribution" facility, we conclude that it is properly characterized as a "local distribution" facility.