

121 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

H-P Energy Resources LLC

v.

Docket No. EL07-89-000

PJM Interconnection, L.L.C.

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued November 20, 2007)

1. On September 27, 2007, PJM Interconnection, L.L.C. (PJM), on behalf of itself, H-P Energy Resources LLC (H-P), Dominion Virginia Power (Dominion) and PPL EnergyPlus, LLC (PPL) (collectively, the Settling Parties) filed a settlement agreement (Settlement) proposing to resolve all issues raised in this complaint proceeding. The Settlement is uncontested. For the reasons discussed below, we will approve the Settlement.
2. On August 20, 2007, H-P filed a complaint pursuant to section 206 of the Federal Power Act (FPA),¹ naming PJM as the respondent. In its complaint, H-P alleged that PJM, by failing to certify the incremental import capability applicable to two of H-P's interconnection requests, had violated its tariff. H-P further alleged that as a result of this asserted tariff violation, H-P's projects would be unfairly and improperly excluded from participation in PJM's October 1, 2007 Reliability Pricing Model (RPM) base residual auction.
3. Notice of H-P's complaint was published in the *Federal Register*,² with interventions, answers and protests due on or before August 31, 2007. An answer was timely filed by PJM. Motions to intervene were timely filed by Dominion, PPL, FirstEnergy Service Company, and Duke Energy Corporation. Comments were filed by

¹16 U.S.C. § 824e (2000).

²72 Fed. Reg. 50,354 (2007).

PPL. On September 4, 2007 and October 9, 2007, motions to intervene out-of-time were filed by Exelon Corporation (Exelon) and the Public Service Commission of Maryland (Maryland Commission), respectively.

4. In an order issued August 30, 2007, the Commission established settlement judge procedures to consider the possible resolution of H-P's complaint. Settlement negotiations were subsequently held by the Settling Parties.

5. The Settlement establishes the timeframes for the processing of H-Ps transmission interconnection requests and the related ability of H-P to participate in PJM's RPM base residual auctions. On October 17, 2007, comments in support of the Settlement were filed by Trial Staff and H-P. On November 9, 2007, the Settlement Judge certified the Settlement to the Commission as uncontested.³

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁴ the timely, unopposed motions to intervene submitted by the entities noted above serve to make them parties to this proceeding. In addition, we will accept the unopposed late-filed intervention submitted by Exelon and the Maryland Commission.

7. The Settlement is fair and reasonable and in the public interest and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding. The Settling Parties agree that these proceedings are subject to the Commission's "just and reasonable" standard.⁵ Because the applicable standard of review for the Settlement is the just and reasonable standard, the Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the FPA.

³ H-P Energy Resources LLC v. PJM Interconnection, L.L.C., 121 FERC ¶ 63,010 (2007).

⁴ 18 C.F.R. § 385.214 (2007).

⁵ See section 3.6 of the Settlement Agreement.

8. This proceeding is hereby terminated.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.