

123 FERC ¶ 61,302
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.

PJM Interconnection, L.L.C.

Docket No. OA08-114-000

ORDER ON NOTIFICATION FILING

(Issued June 25, 2008)

1. On April 30, 2008, PJM Interconnection, L.L.C. (PJM) submitted a notification filing indicating that it failed to process certain system impact studies within the 60-day timeframes prescribed by section 19.8 of its Open Access Transmission Tariff (OATT)¹ and Order No. 890.² In this order, we reject PJM's notification filing, as discussed below.

I. Background

2. In Order No. 890, the Commission determined that certain changes to the *pro forma* OATT were necessary to increase the transparency and expediency of transmission service processing by transmission providers, including regional transmission organizations (RTOs) and independent system operators (ISOs).³ As a part of that effort, the Commission concluded that transmission providers could be subject to operational

¹ Section 19.8 of PJM's OATT corresponds to section 19.9 of the *pro forma* OATT revised in Order No. 890. On May 15, 2008, the Commission approved PJM's Order No. 890 compliance filing, effective October 11, 2007, which incorporated section 19.8. See *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,145 (2008).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008) FERC Stats. & Regs. ¶ 31,261 (2007).

³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1353.

penalties when they fail to use due diligence to process transmission studies within 60-days, as prescribed in sections 19.3, 19.4, 19.9, 32.3, 32.4, and 32.5 of the *pro forma* Open Access Transmission Tariff (OATT).⁴

3. Among the changes made to the *pro forma* OATT, Order No. 890 required transmission providers to keep track of and publicly post information on their processing of system impact studies and facilities studies (together, transmission studies). Under sections 19.9 and 32.5 of the *pro forma* OATT, if a transmission provider processes more than 20 percent of non-affiliates' transmission studies outside of the 60-day due diligence deadlines for any two consecutive quarters, it must make a notification filing with the Commission.⁵ After making this filing, transmission providers may be subject to increased posting requirements⁶ as well as monetary and non-monetary operational penalties.⁷ Transmission providers will be subject to operational penalties if they process 10 percent or more of non-affiliates' transmission studies outside the 60-day deadlines for each of the two calendar quarters immediately following the quarter that triggered the notification filing. The operational penalty will be assessed for each calendar quarter for which an operational penalty applies, starting with the calendar quarter immediately following the quarter that triggered the transmission provider's notification filing. The operational penalties will continue to be assessed each quarter until the transmission provider completes more than 90 percent of all non-affiliated transmission studies within the 60-day deadlines.⁸

4. The transmission provider may be excused from operational penalties, however, if it explains in its notification filing the extenuating circumstances that prevented it from meeting the 60-day deadlines and, in turn, demonstrate that it has used due diligence in processing the relevant transmission studies, notwithstanding its inability to meet the 60-day target.⁹ The notification filing gives the transmission provider "the right to

⁴ *Id.* P 1319, 1340-54.

⁵ For purposes of calculating the percentage of system impact studies and facilities studies processed outside the 60-day due diligence deadlines, *pro forma* OATT section 19.9(ii) specifies that the percentage should be calculated by dividing the number of studies that the transmission provider completed on time during the quarter by the total number of studies it completed during the quarter.

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1319-20.

⁷ *Id.* P 1340.

⁸ *See pro forma* OATT at section 19.9(iii).

⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 743-46.

document and describe any unique complexities that particular requests introduce into the study process and that prevent the transmission provider from completing the study” within the 60-day due diligence timeframe.¹⁰

5. Order No. 890 required transmission providers to begin tracking their processing of transmission studies in the fourth quarter of 2007.¹¹ Section 19.9(i) of the *pro forma* OATT requires transmission providers to make notification filings with the Commission within 30 days of the end of the second consecutive quarter in which it processes 80 percent or less of non-affiliates transmission studies within 60 days. Thus, transmission providers that were late in processing transmission studies for the first two consecutive quarters following the effective date of Order No. 890 were required to make notification filings no later than April 30, 2008.

II. PJM’s Notification Filing

6. In its April 30, 2008 filing, PJM states that in the last quarter of 2007 and the first quarter of 2008, more than 20 percent of transmission service system impact studies for its eligible customers were not completed within the completion deadlines set forth in its OATT.¹² However, PJM states that a literal reading of the requirements of Order No. 890 and the provisions of its OATT may not trigger the notification filing requirements. PJM notes that it included incomplete studies as part of its study completion performance metrics to comply with what it believes is the presumed intent behind the notification filings.

7. PJM also contends that extenuating circumstances prevented it from meeting its study deadlines. First, PJM contends that its use of a single integrated queue for all transmission service, interconnection, and upgrade requests has resulted in a queue backlog. PJM states that it cannot easily study transmission service requests out of order or make assumptions in order to complete transmission service request studies within the time limits set forth in its OATT. Additionally, PJM notes that its queue includes a

¹⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1341.

¹¹ The penalty regime became effective at the same time as the rest of the new *pro forma* OATT. *See id.* P 1341.

¹² PJM does not use the 60-day due diligence deadlines established in Order No. 890. Instead, PJM’s OATT provides for system impact studies to commence four times a year. PJM has 120 days from the commencement date to complete a system impact study. *See PJM Interconnection, L.L.C.*, Docket No. ER08-280-000 (January 25, 2008) (unpublished letter order) (discussing revisions to PJM’s tariff sheets to provide that system impact studies will be performed four times a year rather than twice a year).

number of “mega projects” that swamp the capability of the transmission system in terms of the number of criteria violations they create and the magnitude of the solutions required to resolve those violations. PJM states that because the enormity of such projects and their potential impact on the system takes more time to evaluate, studies cannot be completed in the timeframes required by PJM’s OATT. Further, the network upgrades required for these projects impact most of the subsequently queued projects, including pending requests for transmission service and their system impact studies, and, therefore, a “mega project” that requires more time to evaluate will delay subsequently queued projects.¹³

8. PJM asserts that it has taken steps to address the queue backlog. Specifically, as a result of a recent settlement in Docket No. EL08-36-000, a stakeholder process began, which will lead to a filing by PJM to implement critical reforms in the processing of the queue going forward.¹⁴ PJM also states that it will look at solutions and continue to exercise due diligence to complete the overdue transmission service system impact studies as soon as possible. PJM states that it will file a notification with the Commission when the overdue transmission service studies are completed.

III. Notice of Filing

9. Notice of PJM’s notification filing was published in the *Federal Register*, 73 Fed. Reg. 28,108 (2008), with interventions and protests due on or before May 21, 2008. None were filed.

IV. Discussion

10. We agree with PJM’s assessment that it was not required to make a notification filing. Section 19.8(ii) of the PJM OATT clearly specifies that the percentage of transmission studies processed outside the due diligence deadlines should be calculated by dividing the number of studies that the transmission provider completed on time during the quarter by the total number of studies it completed during the quarter. In PJM’s case, the studies that were not completed would not count toward this figure; rather, they will count toward non-compliance with the study deadlines set forth in its OATT. As directed in Order No. 890, PJM must file a notification with the Commission when its use of the appropriate calculation triggers such a notification filing.

¹³ PJM also notes that it documented the problems and circumstances giving rise to the queue backlog in its December 11, 2007 *Status of the PJM Queue: Overview of Comments of PJM Interconnection* and its April 21, 2008 *Status Report of the PJM Queue*, filed in Docket No. AD08-2-000.

¹⁴ PJM submitted this filing on May 30, 2008 in Docket No. EL08-36-001.

11. Despite the fact that PJM was not required to make a notification filing under section 19.8 of its OATT, we take this opportunity to note that in future notification filings, we expect more detail to be provided regarding any failure to comply with study deadlines. PJM should identify with specificity the studies that are completed outside the study deadlines, the circumstances that prevented those particular studies from being completed on a timely basis, and how PJM exercised due diligence in processing the studies.

The Commission orders:

PJM's notification filing is hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.