

124 FERC ¶ 61,099
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 28, 2008

In Reply Refer To:
PJM Interconnection, L.L.C.
Docket Nos. ER08-1044-000
ER08-1052-000
(not consolidated)

PJM Interconnection, L.L.C.
955 Jefferson Avenue
Norristown, PA 19403

Attention: Steven R. Pincus
Assistant General Counsel

Reference: Non-conforming Transmission Service Agreements

Dear Mr. Pincus:

1. On May 30, 2008, PJM Interconnection, L.L.C. (PJM) submitted for filing Transmission Service Agreements for firm point-to-point transmission service under the PJM Open Access Transmission Tariff (OATT), as executed between PJM and: (i) Orion Power Midwest, L.P. (Orion);¹ and (ii) FirstEnergy Solutions Corp. (FirstEnergy)² (collectively, the Agreements). In this order, we accept the Agreements, effective July 29, 2008, as requested, subject to revision as discussed below.

2. In an order issued January 17, 2008, the Commission addressed Duquesne Light Company's (Duquesne) conditional request to withdraw from the PJM regional transmission organization. The Commission found that Duquesne will satisfy the relevant withdrawal requirements set forth in PJM's operating agreements, subject to

¹ Original Service Agreement No. 1952.

² Original Service Agreement No. 1951.

conditions.³ With respect to Duquesne's obligations under PJM's capacity procurement protocols, i.e., under PJM's reliability pricing model (RPM), the Commission held that if Duquesne commits to withdraw from PJM prior to the 2011-12 delivery year, the Duquesne zone capacity must be excluded from PJM's RPM capacity auction for that year, i.e., from the May 2008 auction.⁴

3. On April 18, 2008, the Commission addressed a request for clarification regarding the ability of generators inside the Duquesne territory to participate in PJM capacity auctions once Duquesne leaves PJM.⁵ First, the Commission clarified that given Duquesne's commitment to withdraw from PJM, the Duquesne zone capacity resources, relative to PJM's future RPM auctions, must be treated as external resources. The Commission also found that the Duquesne zone generators may require some assurance prior to the conduct of the May 2008 auction that they will be able to obtain firm transmission service to the border of PJM. The Commission further noted that PJM, as the current administrator of the OATT for the Duquesne zone, was authorized to offer firm point-to-point service with a future reservation date. Accordingly, the Commission found that PJM is authorized to contract for firm point-to-point service for the 2011-12 delivery year for those generators that wish to contract for such service prior to the May 2008 auction.

4. In the transmittal letters accompanying its filings, herein, PJM explains that, as contemplated in the April 18 Order, Orion and FirstEnergy requested firm point-to-point service that duplicates the service that these entities' resources in the Duquesne zone now rely on as the beneficiaries of network service. PJM states that service under the Agreements will commence one day before the date of Duquesne's exit from PJM and that the Agreements are conditioned on the Commission's order establishing an exit date.

5. PJM states that these arrangements allow Orion and FirstEnergy to satisfy the requirements for external resources on a contingency basis and permit their participation as external resources in the May 2008 RPM auction for the procurement of capacity for the 2011-12 delivery year and for future auctions. PJM states that if Duquesne does not exit PJM, as planned, the load serving entities to whom Orion and FirstEnergy sell energy in the Duquesne zone will continue to use the same network service on which they currently rely to receive these resources.

³ *Duquesne Light Company*, 122 FERC ¶ 61,039 (2008) (*Duquesne Withdrawal Order*).

⁴ Duquesne submitted its notice, as required, on February 1, 2008.

⁵ *Duquesne Light Company*, 123 FERC ¶ 61,060 (2008) (April 18 Order).

6. PJM states that it can provide the requested service without the need to perform any reliability studies. PJM asserts that this expedited procedure is possible because no usage of the system is contemplated over and above the current network services already being provided. PJM states that, as such, the firm point-to-point service provided under the Agreements will have no adverse impact on PJM's operation of its system or on the functioning of its markets. PJM requests that the Agreements be made effective July 29, 2008.

7. Notice of PJM's filings was published in the *Federal Register* with interventions, comments and protests due on or before June 20, 2008. Timely motions to intervene and notices of intervention were filed, in both proceedings, by FirstEnergy's affiliate, FirstEnergy Service Company (hereinafter, FirstEnergy), Allegheny Energy Supply Company, LLC (Allegheny), the Public Service Commission of Maryland, and jointly by Reliant Energy, Inc. and Orion. Comments in both proceedings were filed by Allegheny. On July 7, 2008, in Docket No. ER08-1044-000, FirstEnergy submitted an answer to Allegheny's comments.

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene and notices of intervention serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or comment unless otherwise ordered by the decisional authority. We are not persuaded to accept FirstEnergy's answer and will, therefore, reject it.

9. We accept the Agreements, effective July 29, 2008, as requested. Allegheny, in its comments, asks that the Commission respond to its pending request for clarification of the April 18 Order prior to addressing the Agreements at issue here. Allegheny notes that, in its request, it seeks clarification regarding PJM's authority to provide conditional point-to-point service without first conducting a transmission study.

10. We will rule on the generic clarification and rehearing requests of the April 18 Order in due course.⁶ With respect to the Agreements at issue here, Allegheny does not challenge their terms nor does it contest PJM's determination that it can provide the requested service without the need to perform a study, i.e., because no usage of the system is contemplated over and above the current network services already being provided and because service under the Agreements will have no adverse impact on PJM's operation of its system or on the functioning of its markets.

⁶ See *Stowers Oil and Gas Company*, 27 FERC ¶ 61,001 (1984) (Commission is master of its own calendar and procedures).

11. We note, however, that the Agreements, as filed, reflect an erroneous effective date. Accordingly, we direct PJM to submit a compliance filing within 30 days of the date of this order reflecting the effective date requested by PJM in the transmittal letters accompanying its filings.

By direction of the Commission.

Kimberly D. Bose,
Secretary.