

124 FERC ¶ 61,140
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.

Mirant Energy Trading, LLC,
Mirant Chalk Point, LLC,
Mirant Mid-Atlantic, LLC, and
Mirant Potomac River, LLC

Docket No. EL08-8-001

v.

PJM Interconnection, LLC

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued August 5, 2008)

1. On March 14, 2008, Mirant Energy Trading, LLC, Mirant Chalk Point, LLC, Mirant Mid-Atlantic, LLC, and Mirant Potomac River, LLC (jointly, Mirant), PJM Interconnection, LLC (PJM), and the other settling parties filed a Settlement Agreement resolving all of the issues between Mirant and PJM in this proceeding, concerning Mirant's allegation that the Market Seller Offer Cap for the Third Incremental Auction that would take place annually as part of PJM's Reliability Pricing Model (RPM) was unjust and unreasonable.

2. The Settlement Agreement modifies section 6.4 of Attachment DD to the Tariff, providing that, for the Third Incremental Auction only, the Market Seller Offer Cap for an existing generation resource shall be, at the election of such resource, (a) the avoided cost rate; (b) the documented price available to an existing generation resource in a market external to PJM; or (c) 1.1 times the Capacity Resource Clearing Price in the Base Residual Auction for the relevant Locational Delivery Area and Delivery Year. The settling parties request that these tariff provisions be made effective on November 1, 2008.

3. The Settlement Agreement further provides that PJM shall use a new or existing stakeholder process to examine the RPM penalty structure as it impacts the Third Incremental Auction, and shall make a filing with the Commission by December 31, 2008 indicating whether any additional changes to the Tariff were identified for

implementation as a result of such stakeholder process. In addition, the Settlement Agreement provides that by December 31, 2008, PJM's Market Monitor shall also make a filing (but not a filing under sections 205 or 206 of the Federal Power Act) with the Commission addressing any issues related to the penalty structure as it impacts the prices established in the Third Incremental Auction.

4. The settling parties request that the Commission rule on this Settlement Agreement by September 1, 2008.

5. On April 2, 2008, Commission Trial Staff filed comments in support of the Settlement Agreement. No other comments were filed. On May 14, 2008, the Presiding Judge certified the Settlement Agreement to the Commission as an uncontested settlement.

6. The settlement is fair, reasonable, and in the public interest and is hereby approved. The standard of review for any modifications to this settlement not agreed to by the parties, including modifications by the Commission acting *sua sponte*, shall be the "just and reasonable" standard of review. The Commission therefore approves the settlement agreement, including the new tariff provision to become effective on November 1, 2008.

7. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. 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 Federal Power Act, 16 U.S.C. § 824e (2006).

8. The rate schedule sheets submitted as part of this Settlement are in compliance with Order No. 614. *See* Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

9. The Settlement Agreement resolves all issues in Docket No. EL08-8-000.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.