

124 FERC ¶ 61,158
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 13, 2008

In Reply Refer To:
PJM Interconnection, L.L.C.
Docket No. ER08-1170-000

PJM Interconnection, L.L.C.
Attn: Jacquelynn B. Hugee, Esq.
Senior Counsel
955 Jefferson Avenue
Norristown, Pennsylvania 19403

Dear Ms. Hugee:

1. On June 27, 2008, PJM Interconnection, L.L.C. (PJM) filed revisions to its Tariff and Operating Agreement, under section 205 of the Federal Power Act, 16 U.S.C. § 824d (2006), to establish a sixth scarcity pricing region in PJM, to be called the APSouth Scarcity Pricing Region. Specifically, PJM proposes to make changes to section 6A.2.1 of Schedule 1 of the Operating Agreement and Attachment K of the PJM Tariff, to incorporate the new scarcity pricing region. PJM also proposes to make corrections to the tables of contents of the Operating Agreement and Tariff, as well as other ministerial changes to reflect this addition.
2. PJM states that it conducted an annual review of defined Scarcity Pricing Regions under section 6A.2.2 of the Operating Agreement, and found that the APSouth region meets the criteria set forth in section 6A.2.2. PJM also notes that a new scarcity pricing region should be established for APSouth because upgrades to the Beddington-Black Oak circuit have resulted in the APSouth reactive transfer interface becoming more congested. PJM requests an effective date of August 28, 2008 for the tariff changes, sixty days following its filing, but notes that it is not opposed to an earlier date. PJM also notes that its requested effective date essentially precludes use of the new scarcity pricing region during the Summer of 2008.
3. Notice of PJM's filing was published in the Federal Register, 73 Fed. Reg. 40,570 (2008), with interventions and protests due on or before July 18, 2008. On June 30,

2008, the PJM Suppliers¹ filed an emergency motion seeking an immediate effective date for the APSouth scarcity pricing region. Timely interventions were filed by Mirant Energy Trading, LLC, Mirant Mid-Atlantic, LLC, Mirant Chalk Point, LLC, and Mirant Potomac River, LLC (Mirant Parties), Exelon Corporation, FPL Energy Marcus Hook, L.P., North Jersey Energy Resources, L.P., Doswell Limited Partnership, Backbone Mountain Windpower LLC, Mill Run Windpower LLC, Somerset Windpower LLC, Meyersdale Windpower LLC, Waymart Wind Farm, LP, and Pennsylvania Windfarms, Inc. (FPL Energy Generators), PJM Industrial Customer Coalition, H-P Energy Resources LLC (H-P Energy), Edison Mission Energy, the Public Service Commission of Maryland, the Borough of Chambersburg, Pennsylvania, the Pennsylvania Public Utility Commission, Allegheny Power and Allegheny Supply Company LLC (Allegheny Energy Companies), the City and Towns of Hagerstown, Thurmont and Williamsport, Maryland, Pepco Holdings, Inc., North Carolina Electric Membership Corporation, Old Dominion Electric Cooperative, PPL Electric Utilities Corporation, PPL EnergyPlus LLC, PPL Brunner Island LLC, PPL Holtwood LLC, PPL Martins Creek LLC, PPL Montour LLC, PPL Susquehanna LLC, PPL University Park LLC and Lower Mount Bethel Energy LLC (PPL Parties), New Jersey Board of Public Utilities, NRG Power Marketing LLC, Conemaugh Power LLC, Indian River Power LLC, Keystone Power LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG Rockford LLC, NRG Rockford II LLC and Vienna Power LLC (NRG Companies), and Reliant Energy, Inc. The Delaware Public Service Commission filed comments. On July 10, 2008, PJM filed an answer to the PJM Suppliers' emergency motion. On July 24, 2008, H-P Energy filed an answer to PJM's July 11, 2008 answer. On August 8, 2008, PJM answered H-P Energy's July 24, 2008 answer and on August 12, 2008, H-P Energy answered PJM's August 8, 2008 answer.²

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding. Rule

¹ PJM Suppliers consists of Edison Mission Energy, Duke Energy, FPL Energy Generators, Exelon Corporation and the Mirant Parties.

² In their various comments and answers, H-P Energy, the Maryland Public Service Commission, the Delaware Public Service Commission, the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities requested that the Commission expedite certain projects in the PJM queue, consider other lower-cost options to relieve congestion or, prior to establishing a new scarcity pricing region, require PJM to demonstrate that it has exhausted other means of mitigating congestion. These issues are outside the scope of this proceeding and therefore will not be addressed. Likewise, the July 24, 2008 answer by H-P Energy, August 8, 2008 answer by PJM and August 12, 2008 answer by H-P Energy will not be entertained.

213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits answers to answers unless otherwise permitted by the decisional authority. In this case, we accept the July 10, 2008 answer filed by PJM, as it has assisted us in the decision-making process.

5. No protests were filed to the proposal. However, a number of parties commented that the new APSouth Scarcity Pricing Region should become effective immediately, rather than at the end of the summer, because the scarcity pricing signals are needed this summer, when energy prices are likely to be high. In particular, the PJM Suppliers filed an emergency motion on June 30, 2008, asking the Commission to implement the new scarcity pricing region immediately. According to PJM Suppliers, if implementation of the new scarcity pricing region is delayed, demand response will be inhibited and both consumers and sellers will be unable to see the true value of energy.

6. The Commission will accept the Tariff and Operating Agreement revisions establishing the APSouth Scarcity Pricing Region.

7. We will make the new APSouth Scarcity Pricing Region effective as of the date of this letter order. In response to the commenters seeking immediate implementation of the new scarcity pricing region, PJM states that it is not opposed to an effective date earlier than its originally requested August 28, 2008 effective date. Accordingly, we will allow an earlier effective date for the establishment of the new APSouth Scarcity Pricing Region.³

8. PJM Suppliers assert that, pursuant to the scarcity pricing settlement approved by the Commission in Docket Nos. EL03-236 and EL04-121,⁴ PJM is not required to make a section 205 filing with the Commission to implement a new scarcity pricing region, but rather, an informational filing of the new region is sufficient. PJM responds that, in the case of changes to the Operating Agreement, its governance practices require a stakeholder process followed by a filing under section 205 or 206.⁵ The Commission finds that in establishing a new scarcity pricing region, PJM must make a formal filing under the Federal Power Act. Although the determination of whether a region qualifies as a scarcity pricing region involves application of the previously-approved criteria set

³ 16 U.S.C. § 824d (2006); *see, e.g., Portland General Electric Co.*, 98 FERC ¶ 61,050 at 61,133 (2002) (absent agreement of the filing utility, the Commission will not order an effective date earlier than the filing utility's requested effective date).

⁴ PJM Suppliers Motion at 1, 4, *citing PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,076 (2006).

⁵ PJM July 10, 2008 answer at 4.

forth in Section 6A.2.2 of Schedule 1 of the PJM Operating Agreement, the actual establishment of the new region involves changes to the language of PJM's Tariff and Operating Agreement.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.