

133 FERC ¶ 61,278  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

PJM Interconnection, L.L.C.  
and PJM Settlement, Inc.

Docket No. ES11-8-000

ORDER AUTHORIZING ISSUANCES OF SECURITIES  
AND APPROVING GUARANTY

(Issued December 30, 2010)

1. On November 1, 2010, as supplemented on December 3 and 13, 2010, PJM Interconnection, L.L.C. (PJM) and PJM Settlement, Inc. (PJM Settlement), (collectively, Applicants) filed an application pursuant to section 204 of the Federal Power Act (FPA)<sup>1</sup> seeking Commission authorization for the following: (1) PJM Settlement to guarantee obligations of PJM (PJM Settlement Guaranty); (2) a line of credit provided by PJM to PJM Settlement, not to exceed PJM's available capacity on its bank working capital line of credit (PJM Line of Credit); and (3) a line of credit provided by PJM Settlement to PJM up to \$158.1 million (PJM Settlement Line of Credit). These arrangements are in connection with the formation of PJM Settlement as the counterparty to transactions in the PJM markets.<sup>2</sup> We will grant authorizations as discussed below.

**I. Background**

**A. Parties**

2. PJM is a regional transmission organization that administers the PJM Open Access Transmission Tariff (PJM OATT), operates the PJM Interchange Energy Market and related capacity and ancillary services markets, and conducts the day-to-day operations of the bulk power system in the PJM region.

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<sup>1</sup> 16 U.S.C. § 824c (2006).

<sup>2</sup> See *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207 (2010) (September 3 Order).

3. PJM Settlement is a nonprofit member organization formed on October 20, 2010 on a non-stock basis as a central counterparty for trades in the PJM markets. PJM Settlement will not own any capital assets. As provided in the Support Services Agreement between Applicants, PJM Settlement will pay PJM for services needed by PJM Settlement to perform its functions. PJM Settlement will recover its costs through the cost-based rates set forth in Schedule 9-PJM Settlement to the PJM Settlement tariff.

**B. Prior Filings**

4. On May 5, 2010, PJM submitted for filing revised tariff sheets to the PJM OATT and the PJM Amended and Restated Operating Agreement (PJM Operating Agreement) designating PJM Settlement the counterparty to all transactions in the PJM markets. PJM Settlement will serve as the counterparty to market participants' transmission and ancillary services transactions, purchases and sales in PJM's energy markets, purchases and sales of capacity in the Reliability Pricing Model auctions, purchases and sales of Financial Transmission Rights (FTRs) in auctions, and the contractual rights and obligations of holders of FTRs and Auction Revenue Rights.<sup>3</sup> PJM Settlement will assume certain billing and settlement functions currently performed by PJM.<sup>4</sup> As of January 1, 2011, PJM Settlement will begin functioning as the counterparty and will be a public utility.<sup>5</sup>

5. The Commission conditionally accepted the proposed tariff revisions, subject to PJM making a compliance filing that included revised tariff sheets for PJM and PJM Settlement.<sup>6</sup> The Commission further directed PJM to explain the proposed financing and the capital structure of PJM Settlement, and whether PJM

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<sup>3</sup> PJM Interconnection, L.L.C., Application, Docket No. ER10-1196-000, at 1-2, 5 (filed May 5, 2010) (May 5 Application).

<sup>4</sup> *Id.* at 19. PJM Settlement will be compensated by market participants for its costs in providing the billing and other services that PJM no longer will be providing. Currently, those costs are incurred by PJM and recovered in PJM's administrative services charges through the stated rates set forth in Schedule 9 of the PJM Tariff. Once PJM Settlement commences operations, these costs will be incurred by PJM Settlement rather than PJM.

<sup>5</sup> *Id.* at 24-25.

<sup>6</sup> *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207 (2010) (September 3 Order). In an order being issued concurrently, the Commission accepts those filings. *PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,277 (2010).

will guarantee the financial commitments of PJM Settlement, and whether the proposal will trigger any filing requirements under FPA sections 204 and 305.<sup>7</sup>

### C. Application

6. On November 1, 2010, Applicants filed, pursuant to FPA section 204, their request for Commission authorization of the following: (1) PJM Settlement to guarantee obligations of PJM; (2) a line of credit provided by PJM to PJM Settlement, not to exceed PJM's available capacity on its bank working capital line of credit; and (3) a line of credit provided by PJM Settlement to PJM in an amount not exceeding the cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse. The PJM Settlement Guaranty is an unconditional guarantee by PJM Settlement of the financial obligations of PJM. Applicants state that the PJM Settlement Guaranty facilitates maintaining an appropriate "entity"<sup>8</sup> credit rating for both PJM and PJM Settlement.<sup>9</sup> Applicants further contend that the creditworthiness of PJM today, and both PJM and PJM Settlement in the future, is based not on their assets and liabilities, but on the agreement of the PJM members to cover any losses when there are defaults. Thus, PJM Settlement's achievement of an investment-grade credit rating via the anticipated "entity" credit rating assures market participants that the central counterparty to transactions in the PJM markets is creditworthy. Applicants indicate that the ability of PJM to maintain an investment-grade credit rating will allow PJM ongoing access to cost-efficient third-party financing arrangements.

7. Applicants state the PJM and the PJM Settlement Lines of Credit will assist PJM Settlement in its function as a counterparty in the PJM markets, as authorized in the September 3 Order, without additional costs to PJM's customers. Applicants argue that the lines of credit will facilitate efficient cash flow management, permitting either entity to use cash that is available to its affiliate, thereby avoiding any increases in costs to market participants that would arise from alternative third-party financing for their short-term cash needs.

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<sup>7</sup> 18 U.S.C. § 824d (2006).

<sup>8</sup> The Commission understands the Applicants to mean by "entity" credit rating that their goal is to obtain credit ratings for PJM and PJM Settlement that are at the same rating level and that are at the same level at which PJM is currently rated.

<sup>9</sup> PJM will also guarantee the obligations of PJM Settlement. However, this guaranty is not subject to the Commission's jurisdiction under section 204 because it does not guarantee any securities of PJM Settlement. See *UtiliCorp United, Inc.*, 59 FERC ¶ 61,220, at 61,759 (1992).

8. The PJM Line of Credit will allow PJM to loan to PJM Settlement its available capacity on its bank working capital line of credit. The PJM Settlement Line of Credit will allow PJM Settlement to loan to PJM an amount not exceeding the cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse.

9. Applicants seek Commission action on or before December 31, 2010.

**D. Amendment**

10. On December 8, 2010, the Commission notified Applicants that their filing was deficient and required them to submit further information. On December 13, 2010, Applicants filed a response to the deficiency letter (Amendment).

11. The Amendment includes revised financial statements and clarifies that the Applicants are amending their application to request authority for PJM to borrow up to \$158.1 million from PJM Settlement pursuant to the PJM Settlement Line of Credit. According to Applicants, this amount represents the largest historical amount of members' prepayments held by PJM. The interest rate on the PJM Settlement Line of Credit will be 6.05 percent, which is the same interest rate utilized on PJM's working capital line of credit with the National Cooperative Services Corporation (NCSC).

12. The Amendment also states that PJM and PJM Settlement will together recover the costs of operating PJM, including principal and/or depreciation expense, interest expense and financing costs, pursuant to Schedule 9 of the PJM OATT. PJM Settlement will recover its costs, including the costs of servicing the debt associated with the credit line from PJM, through the formula rate set forth in Schedule 9-PJM Settlement. PJM has a stated rate to recover its costs, which is set forth in Schedules 9-1 through 9-6 of the PJM OATT.

13. The Amendment also clarifies that PJM Settlement is requesting authorization of the PJM Settlement Guaranty, in which PJM Settlement will guarantee the financial obligations of PJM. Applicants state that the purpose of the PJM Settlement Guaranty to enable PJM and PJM Settlement to obtain an "entity" credit rating for two companies at the same investment grade level that PJM currently maintains. Applicants state that, if PJM Settlement were unable to receive authorization for PJM Settlement to guarantee the full amount of PJM's obligations, PJM potentially would not receive a credit rating that maintains the status quo, and as a result, may have to borrow funds at interest rates that might be higher because of a lower credit rating.

14. Applicants clarify that they are not seeking waiver from the *Westar* Conditions.<sup>10</sup> They state that the credit lines for which authorization is sought will be used for utility purposes. The debt will be unsecured and no utility assets will be purchased using the credit lines, as they are only intended for short-term cash management and to meet operating expenses.

15. Applicants reiterate their request for Commission action no later than December 31, 2010, in advance of the date PJM Settlement becomes a public utility and the effective date of the PJM tariff revisions associated with the establishment of PJM Settlement.

## **II. Notices of Filing, Interventions, and Protests**

16. Notice of the original application was published in the *Federal Register*, 75 Fed. Reg. 68,777, with interventions and protests due on or before November 22, 2010. The amendment was likewise noticed, with protests due on or before December 17, 2010.

17. Old Dominion Electric Cooperative, Exelon Corporation, and North Carolina Electric Membership Corporation filed timely motions to intervene. American Electric Power Service Corporation filed a timely motion to intervene. Shell Energy North America (U.S.), L.P. (Shell), and Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc., and Constellation Power Source Generation, Inc. (Constellation) filed timely motions to intervene and protests. PSEG Energy Resources & Trade LLC, Public Service Electric and Gas Company, and PSEG Power LLC (PSEG) filed a timely motion to intervene and protest. Applicants filed an answer to the protests on December 7, 2010. On December 14, 2010, Shell filed a motion for leave to reply, and on December 17, 2010, Shell filed an answer to the amendment. On December 23, 2010, Constellation filed a motion for leave to reply to the amendment.

### **A. Protests**

#### **1. Shell Energy and PSEG**

18. Shell is concerned that the structure in which PJM and PJM Settlement provide guarantees to each other will degrade the credit quality from the status quo. Shell asserts that PJM Settlement has no assets, that its source of working capital is funds to be borrowed from a bank by PJM and that it must loan any cash it receives from market participants to PJM on an unsecured basis. Further, Shell

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<sup>10</sup> See *Westar Energy, Inc.*, 102 FERC ¶ 61,186, *order on reh'g*, 104 FERC ¶ 61,018 (2003) (*Westar*).

notes that PJM Settlement has received a guaranty from PJM, which has no funds of its own, and that PJM Settlement must guarantee “all amounts owed by PJM.” Shell asserts that it would be reluctant to grant unsecured credit to a counterparty with these characteristics, particularly where, if PJM incurred civil liability due to employment issues, such liability would be guaranteed by PJM Settlement.

19. Shell further argues that PJM Settlement should remain a “lockbox” and not pay to PJM the money it receives as the counterparty to transactions in the PJM markets. PJM is not a market participant, and Shell argues that the cash paid by market participants to PJM Settlement is for the purpose of paying to other market participants, and, therefore, should not leave PJM Settlement. Shell states that, as market participants will now be exposed to PJM Settlement as their exclusive counterparty, PJM Settlement should not be permitted to offer a guarantee to PJM, and payments should not be diverted for purposes other than payments to its counterparties. Shell states that, if PJM Settlement is to be the counterparty to all market participants, it should be creditworthy and the funds it receives must be exclusively dedicated to payments to its counterparties.

20. Shell expresses concern that, if PJM Settlement were to default, it is unclear how losses would be socialized. Further, if PJM Settlement provides a guarantee to PJM, it is unclear what would happen if PJM were to default.

21. Regarding PJM’s Board of Directors, Shell states that, in the initial application under section 204, the names of the personnel, directors, or officers of PJM Settlement were not disclosed, with the exception of one individual who signed the compliance filings. Shell notes that, under FPA section 305 and section 45.2 of the Commission’s regulations,<sup>11</sup> directors, officers, and any other person performing executive duties or functions for both PJM and PJM Settlement are required to file for approval to hold an interlocked position. In addition, Shell requests that the Commission require that PJM and PJM Settlement clarify whether such directors and officers may make FPA section 205 filings for revisions to PJM Settlement’s tariff. Shell argues, because these individuals are distinct from the PJM Board of Managers, and owe a fiduciary duty to PJM Settlement, their counterparties should know who they are and what authority they hold.

22. PSEG supports Shell’s protest. PSEG states that granting the requested authorizations would result in an undercapitalized and financially exposed counterparty. Moreover, PJM and PJM Settlement did not properly disclose the directors, officers, and governance of PJM Settlement.

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<sup>11</sup> 18 C.F.R. § 45.2 (2010).

23. Shell responded to Applicants' response to the deficiency letter with two concerns. The first is that the lines of credits are asymmetrical in that PJM may borrow \$93.1 million more than that available to PJM Settlement. Shell also raises a concern that Applicants have created a new legal entity but have treated that new legal entity as if it were an internal component of PJM.

## **2. Constellation**

24. Constellation argues that the PJM and PJM Settlement Guaranties are not structured in the standard form of guaranties used in the marketplace. Constellation states that such documents typically identify the guarantor, the obligor, and the beneficiary/obligee; the documents provided identify the guarantor and obligor, but not the beneficiary/obligee. Constellation is concerned that the documents provided make it appear that PJM Settlement is the beneficiary/obligee, and not PJM members, and that, in case of a default, a court might question the standing of an independent and individual PJM member to seek payment by the guarantor. To remedy this, Constellation proposes revisions to PJM Settlement Guaranty so that it will conform more closely with industry standards, including designating the beneficiary/obligee as PJM members.<sup>12</sup>

25. In its motion for leave to reply, Constellation reiterated its concerns regarding the form of the guaranties. Constellation also requested that the Commission require Applicants to justify the amendment's changes to the application, specifically, raising the amount of the line of credit of PJM that PJM Settlement could draw on from \$50 million to \$65 million, and the amount that PJM could borrow from PJM Settlement from the amount not exceeding the cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse to \$158.1 million.

## **B. Answer**

26. Applicants characterize the protests as out-of-time requests for rehearing of, and collateral attacks on, the September 3 Order. Applicants state that Shell's concerns about the corporate structure, capitalization, financing arrangements, and guaranties of PJM Settlement have nothing to do with the limited issues before the Commission. Applicants state that they have broad discretion in determining the corporate structure and making their business decisions, and the Commission should not interfere with such matters.

27. Specifically, Applicants state that Shell misunderstands the proposed financial arrangements and the nature of the PJM Settlement Guaranty and the lines of credit. Applicants assert that the mutual guaranties and lines of credit

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<sup>12</sup> Shell echoes these concerns. Shell Protest at 9 n.29.

between PJM and PJM Settlement will allow the entities to obtain an “entity” credit rating from Moody’s Investors Service (Moody’s) at the same level as PJM’s current credit rating. The credit worthiness of PJM and PJM Settlement is based on their ability to collect any losses from the PJM members in the event of a default; the mutual guaranties ensure that there is no gap in the right to collect the unpaid billings of one member from all of the PJM members under the PJM and PJM Settlement Tariffs and PJM Operating Agreement, which, in turn, facilitates Moody’s issuance of an investment grade “entity” credit rating.

28. Applicants further state that PJM Settlement’s financial structure is not inadequate. Applicants note that PJM Settlement will not own capital assets, but state that PJM Settlement will have a source of income through Schedule 9 of the PJM Settlement tariff. Further, according to Applicants, PJM Settlement could obtain capital assets or financing in the future if needed.

29. Applicants also state that the mutual lines of credit for PJM and PJM Settlement are to maintain costs at current levels. PJM agreed to provide short-term loans to PJM Settlement, so PJM Settlement would not have to bear the costs of short-term borrowings. Similarly, PJM Settlement will provide short-term loans to PJM because PJM will no longer hold market participant funds. Pursuant to the PJM Operating Agreement, PJM is required to repay PJM Settlement by the date that PJM Settlement is obligated to pay market sellers. PJM members’ agreement to pay any defaults ensures that, in the event of a default, market participants will be paid by PJM Settlement.

30. Applicants argue that the Commission should reject Constellation’s proposed modifications. Applicants argue that the purpose of the mutual guaranties is only to facilitate PJM and PJM Settlement maintaining an “entity” credit rating that is at the same level as PJM’s current credit rating. According to Applicants, PJM members have never had the right to guarantees in the PJM market. However, under the proposed PJM OATT and PJM Settlement Tariff and Operating Agreement, PJM members have certain rights to payments from PJM and PJM Settlement, which are not the same as the rights in the guaranties. The guaranties are promises by PJM and by PJM Settlement to each other to make good on a failure of the other to pay when due. The rights held by the PJM members, on the other hand, ensure that amounts PJM Settlement collects from market participants for transactions in the PJM markets will be paid to market participants to whom PJM Settlement owes funds. According to Applicants, any modification of the guaranties is beyond the scope of the September 3 Order, and the Commission should not expand the guaranties to apply to PJM members.

31. Regarding concerns related to the officers or directors of PJM and PJM Settlement, Applicants identify the directors and officers of PJM Settlement, noting that they are employees with daily responsibility in billing and setting

PJM's markets. However, they note that none of them are corporate officers of PJM, and thus prior authorization from the Commission is not required to hold a position with PJM Settlement. Applicants further contend that the authority held by the board and officers of PJM Settlement is specified in the PJM Settlement by-laws, which were submitted as a compliance filing to the Commission.

### **III. Discussion**

#### **A. Procedural Matters**

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

33. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer because it has provided information that assisted us in our decision-making process.

#### **B. Authorization**

34. FPA section 204(a) provides that requests for authority to issue securities or provide guarantees shall be granted if the Commission finds that the issuance: (1) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service; and (2) is reasonably necessary or appropriate for such purposes.<sup>13</sup>

35. We conclude that Applicants' application meets the standards of FPA section 204. Applicants' proposal is for a lawful object within their corporate purposes, is consistent with their performances as public utilities, and will not impair their abilities to perform services as public entities. In addition, we find that Applicants' proposal is compatible with the public interest because the structure should not impose any additional costs on the members of PJM. Accordingly, we authorize the following:

- a. PJM is hereby authorized to make available to PJM Settlement its available capacity on its \$50 million Line of Credit with NCSC. PJM Settlement is authorized to borrow from PJM the available capacity on its \$50 million Line of Credit with NCSC.

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<sup>13</sup> 16 U.S.C. § 824c(a) (2006).

- b. PJM Settlement is hereby authorized to issue short-term debt securities in the form of a line of credit. PJM Settlement is hereby authorized to make available to PJM pursuant to a Line of Credit, the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million at an interest rate of 6.05 percent. PJM is authorized to borrow from PJM Settlement pursuant to a Line of Credit the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million at an interest rate of 6.05 percent.
- c. PJM Settlement is hereby authorized to guarantee the obligations of PJM. The amount of the guaranty is limited to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.

36. The lines of credit and guaranty, as Applicants state, facilitate efficient cash flow management, permitting either entity to use cash that is available to the other, in an effort to avoid any increases in costs to market participants that would arise from alternative third-party financing for short-term cash needs. The PJM Line of Credit, as authorized herein, will allow PJM Settlement to access the available credit, up to the amount not used by PJM, of PJM's current \$50 million line of credit with NCSC;<sup>14</sup> PJM Settlement may borrow the unused portion of this line of credit from PJM.<sup>15</sup> The PJM Settlement Line of Credit, as authorized herein, permits PJM to borrow from PJM Settlement the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.<sup>16</sup>

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<sup>14</sup> No additional authorization is necessary for the continued use of this line of credit by PJM as it has already been authorized by the Commission through March 31, 2011. *PJM Interconnection, L.L.C.*, 126 FERC ¶ 62,253 (2009).

<sup>15</sup> Currently, PJM has a \$50 million line of credit. PJM has requested authorization for a \$65 million line of credit. *PJM Interconnection, L.L.C.*, Docket No. ES11-12-000, Application (filed December 21, 2010). That application is currently pending before the Commission.

<sup>16</sup> We find that the lines of credit between PJM and PJM Settlement do not need to be equal; PJM and PJM Settlement will perform different functions and therefore will have different cash needs at different times.

37. We also find that the PJM Settlement Guaranty of PJM's obligations is likewise compatible with the public interest. The PJM Settlement Guaranty facilitates achieving and maintaining an "entity" credit rating for both PJM and PJM Settlement, consistent with PJM's current credit rating.<sup>17</sup> Such credit ratings are within the corporate purposes of Applicants and consistent with performance as public utilities because they enable the continuation of the public utility services currently provided by PJM and will not impair PJM Settlement's ability to provide service as a public utility. Further, the PJM Settlement Guaranty avoids the potential for a lowered credit rating for one or both entities, which could raise costs above present levels.

38. Finally, we agree with Applicants that ultimately the creditworthiness of PJM today, and both PJM and PJM Settlement in the future under the tariff provisions proposed, is not primarily based on their assets and liabilities, but on the PJM members' agreement among themselves to pay any losses due to default.<sup>18</sup> However, consistent with the limits in the PJM Settlement Line of Credit, we will limit the amount of the PJM Settlement Guaranty, at any given time, to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.

39. Typically, the Commission utilizes the financial information required under 18 C.F.R. § 34.4 to support an interest coverage calculation in order to make a determination under section 204 that the undertaking "will not impair its ability to perform" service as a public utility.<sup>19</sup> Here, however, provisions in the PJM OATT and PJM Operating Agreements allow Applicants to recover their costs from PJM members through Schedule 9 of the PJM Settlement Tariff, Schedules 9-1 through 9-6 of the PJM OATT, and section 15.2 to the PJM –Intra-PJM tariffs for administrative services. Thus the Applicants service of the proposed obligations in connection with the two lines of credit and the guaranty will not

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<sup>17</sup> PJM's current credit rating by Moody's is Aa3, as of August 19, 2010.

<sup>18</sup> Default Allocation Assessment, section 15.2.2 of PJM Interconnection - Intra-PJM Tariffs, effective September 17, 2010 (formula for allocating defaults among PJM members).

<sup>19</sup> In cases where applicants are unable to meet the interest coverage test of twice its total interest expenses, it does not necessarily mean that the Commission would deny an application. Other data may show that the proposed new debt will not impair the applicants' ability to perform as a public utility. Further, we note that meeting the test does not always mean that the Commission will authorize an application. *See, e.g., Startrans IO, L.L.C.*, 122 FERC ¶ 61,253, at P 18 n.7 (2008).

impair their ability to perform their services as public utilities. Additionally, interest on the line of credit paid by PJM to PJM Settlement and vice versa will net to zero, and therefore, there will be no impairment when viewing PJM and PJM Settlement as a whole.

40. As PJM Settlement is a new public utility, PJM Settlement is directed to submit, for informational purposes,<sup>20</sup> and on a *pro forma* basis, a Balance Sheet, Income Statement, and Statement of Cash Flows within 60 days of the date of this order in the manner described in the regulations based on the financial data of PJM over the most recent 12 month period, in this instance, for calendar year 2010, for the services that PJM Settlement will be assuming from PJM. The financial data, while based on PJM's actual costs and revenues for the services to be undertaken by PJM Settlement, should be presented as though PJM Settlement had performed those services over that same 12-month period. The *pro forma* statements should reflect the effects of the financial undertakings for which PJM Settlement has received authorization in this order.<sup>21</sup>

41. In *Westar*, the Commission announced four restrictions on all future public utility issuances of secured and unsecured debt.<sup>22</sup> First, public utilities seeking authorization to issue debt backed by a utility asset must use the proceeds of the debt for utility purposes. Second, if any utility assets that secure debt issuances are divested or "spun off," the debt must follow the asset and also be divested or spun off. Third, if any of the proceeds from unsecured debt are used for non-utility purposes, the debt must follow the non-utility assets. Specifically, if the non-utility assets are divested or spun off, then a proportionate share of the debt must follow the divested or spun off non-utility asset. Finally, if utility assets financed by unsecured debt are divested or spun off to another entity, then a proportionate share of the debt must also be divested or spun off. Applicants state

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<sup>20</sup> The Commission does not intend to act on or notice this informational filing.

<sup>21</sup> We take this opportunity to remind Applicants that, absent waiver, they must comply with the regulations for providing financial statements in all future filings under section 204. By way of example, Applicants may only use year-end financial statements when submitting an Application prior to April 30th of the following year. All other times of year Applicants must provide the previous four consecutive quarters, provided that the 12-month period ended no more than four months prior to the date of filing the application, of financial data for each of the balance sheet, income statement, and statement of cash flows. Thus, providing the financial statements for the most recent six-month period and the most recent fiscal year would not comply with the Commission's regulations.

<sup>22</sup> *Westar*, 102 FERC ¶ 61,186 at P 20-21.

in their Amendment that this application complies with the *Westar* conditions, because the credit line authorizations being sought will be used for utility purposes and also Applicants will not purchase any utility assets using the credit lines as they are only intended for short-term cash management to meet operating expenses.

42. Finally, as to any issues raised by the protests that we have not addressed above, such as those concerning the form of the guaranty, the counterparty structure, and interlocking positions, the Commission has previously stated, “a section 204 proceeding is not a vehicle to inquire into every issue that an objecting party may urge upon the Commission – including those that bear little, if any relationship to the securities issuances or assumptions of obligations or liabilities at issue that are more properly pursued elsewhere, or that are not ripe for consideration.”<sup>23</sup> For this reason, we agree with Applicants that concerns related to, e.g., the form of the guaranty, the counterparty structure and interlocking positions are not material to the Commission’s determination under section 204.

The Commission orders:

(A) PJM is hereby authorized to make available to PJM Settlement its available capacity on its \$50 million Line of Credit with NCSC. PJM Settlement is authorized to borrow from PJM the available capacity on its \$50 million Line of Credit with NCSC.

(B) PJM Settlement is hereby authorized to issue short-term debt securities in the form of a line of credit. PJM Settlement is hereby authorized to make available to PJM pursuant to a Line of Credit the lesser of the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse or \$158.1 million at an interest rate of 6.05 percent. PJM is authorized to borrow from PJM Settlement pursuant to a Line of Credit the lesser of the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse or \$158.1 million at an interest rate of 6.05 percent.

(C) PJM Settlement is hereby authorized to guarantee the obligations of PJM. The amount of the guaranty is limited to the amount of cash that PJM Settlement holds due to remittances from market participants that PJM Settlement is not yet obligated to disburse up to \$158.1 million.

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<sup>23</sup> *Montana Alberta Tie Ltd.*, 128 FERC ¶ 61,217, at P 20 (2009) (quoting *Robbins Resource Recovery Partners*, 68 FERC ¶ 61,359, at 62,455 (1994)).

(D) These authorizations are effective as of the date of this order and terminate two years thereafter.

(E) The authorizations granted in Ordering Paragraphs (A), (B), and (C) above are without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost or any other matter whatsoever now pending or which may come before this Commission.

(F) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any security to which this order relates.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.