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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 6, 2011

In Reply Refer To:
Edison Mission Marketing & Trading, Inc.
Exelon Generation Company, LLC
Docket No. ER11-2060-000

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Reference: Request for Limited Waiver

Ladies and Gentlemen:

1. On November 9, 2010, Edison Mission Marketing & Trading, Inc. (Edison) and Exelon Generation Company, LLC (Exelon) (collectively, the Applicants) filed a request for a limited waiver of section 7.8(a) of Schedule I of the Operating Agreement and Attachment EE of the Open Access Transmission Tariff (OATT) of PJM Interconnection, L.L.C. (PJM). As stated by the Applicants, the sole consequence of granting the request would be to permit PJM to change the sink identified in Edison's posted upgrade request (Upgrade Request) for Incremental Auction Revenue Rights without changing Edison's position in the New Service queue established under Article VI of the PJM OATT (PJM Queue). As discussed below, the Commission grants the request for limited waiver.
2. Section 7.8 of the PJM OATT details a process by which any party may elect to fully fund Network Upgrades in exchange for Incremental Auction Revenue Rights (ARR). Each of the Applicants has a separate section 7.8 Upgrade Request queued before PJM with the intent of relieving substantial ongoing transmission congestion on the Lake Michigan corridor between Northern Illinois and Northern Indiana.

3. The Applicants state that first Edison submitted its Upgrade Request, asking PJM to evaluate the cost of network upgrades that would make available 500 megawatts (MW) of Incremental ARR between two active trading hubs, NI-Hub (in Northern Illinois) and AD-Hub (in Ohio). The Applicants state that, shortly thereafter, Exelon submitted five upgrade requests of its own. In reviewing Edison's initial request, PJM determined that \$235 million of upgrades would be required. After a further review, however, PJM informed Edison that changing the sink from AD-Hub to DC-Cook would reduce the cost of the upgrades to \$39 million with negligible impact on the specific transmission congestion problems that Edison's upgrade request was intended to mitigate.

4. In order for PJM to allow Edison to formally proceed with a modified Upgrade Request, however, PJM determined that either Edison's position in the queue would need to be modified or else Edison must obtain a limited waiver from the Commission. The Applicants further state that PJM could only support the waiver request after PJM determined that the waiver would not adversely affect the rights of any party standing behind Edison's original upgrade request in the PJM queue. The Applicants state that, upon PJM's determination that Exelon would be the only party affected by a change to Edison's Upgrade Request, they subsequently reached an agreement in principle to share in the cost of the upgrades and associated Incremental ARRs produced by these upgrades.

5. The Applicants argue that Edison made good faith efforts to comply with the requirements of the PJM OATT and Operating Agreement by attempting to identify what appeared to be the most obvious nodes on the PJM system that defined the locus of the transmission congestion that was affecting sales from its generation assets. The Applicants argue that the requested waiver is of limited scope both because it involves a very unusual factual situation and because the waiver will only affect Edison's queue position. The Applicants argue that the waiver would resolve a concrete problem by permitting PJM to move forward with eliminating a significant cause of congestion on the system without the delay that would result without the waiver. Finally, the Applicants argue that the waiver would in no way harm any third party or produce other undesirable outcomes because the Applicants, identified by PJM as the only parties affected by the instant waiver, have agreed to treat Edison's original Upgrade Request as if it were a joint Upgrade Request, and PJM has agreed.

6. Notice of the Applicants' filing was published in the *Federal Register* with interventions, protests, or comments due on or before November 30, 2010.¹ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,² all timely, unopposed

¹ 75 Fed. Reg. 71,114 (2010).

² 18 C.F.R. § 385.214 (2010).

motions to intervene serve to make the entities that filed them parties to this proceeding. PJM filed a timely motion to intervene and comments in support.

7. In its comments, PJM states that the facts surrounding this request are unusual, in that a reasonably minor change in the sink will result in a significant reduction in the cost of such elective transmission upgrades to relieve congestion in the area. In addition, PJM confirms that, to its knowledge, Exelon is the only party affected by preserving Edison's original queue position but modifying the requested sink. PJM argues that granting this waiver will expedite this proposed enhancement to the transmission system. PJM also states that it is encouraged by the Applicants' willingness to use section 7.8 of the PJM OATT, which PJM states is an effective means of transmission development that, as of yet, has not been successfully used to fund the development of a project.

8. The Commission will grant the Applicants' unopposed request for limited waiver. Generally, the Commission has granted waiver requests when: (1) the applicant has been unable to comply with the provision at issue in good faith; (2) the waiver is of limited scope; (3) a concrete problem will be remedied by granting the requisite waiver; and (4) the waiver does not have undesirable consequences, such as harming third parties.³

9. The Commission finds that the Applicants' requested waiver satisfies the aforementioned conditions. Given PJM's statement that it has limited experience implementing section 7.8, and the corresponding difficulty associated with anticipating the results of a System Impact Study, we conclude that the underlying action that created the queue ordering problem was made in good faith. The Commission finds that the requested waiver is of limited scope and addresses a single concrete problem; allowing Edison to retain its position in the queue will avoid the delay associated with a new queue position and Edison will benefit from the appropriate reduction in the cost of such upgrades that it might otherwise not pursue. Finally, based on the Applicants' unopposed statements and especially PJM's confirmation, we conclude that no third parties will be harmed by granting this limited waiver.

By direction of the Commission

Kimberly D. Bose,
Secretary.

³ *E.g., Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010).