

139 FERC ¶ 61,146
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 22, 2012

In Reply Refer To:
Beaver Run Solar Farm, LLC
Docket No. ER12-1369-000

Beaver Run Solar Farm, LLC
10 Wagaraw Road
Hawthorne, NJ 07506

Attention: Charles H. Shotmeyer

Reference: Request for Tariff Waiver and Queue Position Reinstatement

Dear Mr. Shotmeyer:

1. On March 26, 2012, Beaver Run Solar Farm, LLC (Beaver Run) filed a request for waiver of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT) regarding an elapsed deadline to return a Facilities Study Agreement and associated deposit.¹ In addition, Beaver Run requests that the Commission order the reinstatement of the Beaver Run power generation project to its February 27, 2012 interconnection queue position. For good cause shown, the Commission grants the requested waiver and directs PJM to reinstate the Beaver Run power generation project to its February 27, 2012 interconnection queue position.

2. Beaver Run states that it is a 12.5 MW power generation project located in Lafayette Township of Sussex County, New Jersey. Beaver Run also states that the power generation project has received all municipal planning, zoning, and environmental approvals and is fully permitted to begin construction. Further, Beaver Run states, since entering the interconnection queue, it has reliably paid for the cost of the Feasibility and System Impact Studies and additional costs that total \$809,475.

¹ PJM Open Access Transmission Tariff, Part IV, Subpart G, Section 111.3.

3. Beaver Run states that on January 24, 2012, PJM issued a System Impact Study that incorrectly identified the Beaver Run power generation project's output as 19.99 MW on the cover page. Beaver Run asserts that it did not take action to return the required Facilities Study Agreement to PJM by the February 27, 2012 deadline because it did not want to endorse a report with incorrect information.

4. Beaver Run states that, on February 28, 2012, it was advised the power generation project had been removed from the interconnection queue because Beaver Run had not met the 30-day deadline to return the Facilities Study Agreement. Beaver Run asserts that removal of the power generation project from the PJM interconnection queue will create a significant hardship for Beaver Run, noting the significant investment of time and money that it has already made in the project.

5. Notice of Beaver Run's filing was published in the *Federal Register*, with interventions and protests due on or before April 17, 2012. PJM filed a timely motion to intervene and comments. On April 18, 2012, Old Dominion Electric Cooperative (ODEC) filed an untimely motion to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), the Commission grants ODEC's out-of-time motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. We note that ODEC does not oppose the instant waiver request.

6. In its comments, PJM states that it takes no position on Beaver Run's request for waiver. PJM confirms that the System Impact Study report did incorrectly list the project size as 19.99 MW on the first page and notes that every reference to the project size within the report correctly listed the size of the project as 12.5 MW. In addition, PJM states that no subsequent projects would be impacted if the Commission grants Beaver Run's waiver request and orders the reinstatement of Beaver Run to its February 27, 2012 interconnection queue position.

7. The Commission has previously granted waivers of schedule requirements in RTO tariffs where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem must be remedied; and (4) the waiver does not have undesirable consequences.²

² See *Hydrogen Energy Cal. LLC*, 135 FERC ¶ 61,068 (2011); *ISO New England--EnerNOC, Inc.*, 122 FERC ¶ 61,297 (2008); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation, LLC*, 120 FERC ¶ 61,007 (2007).

8. The Commission finds that good cause exists to grant, to the extent necessary, the request for waiver. First, up to now, Beaver Run has submitted the Feasibility Study and Facility Impact Study Agreements and posted the associated deposits in compliance with the PJM Tariff's timeline. Beaver Run states that the reason it did not take action to return the required Facilities Study Agreement to PJM by the February 27, 2012 deadline was because it did not want to endorse a report with any conflicting information and not because it was unaware of the deadline.

9. Second, the waiver request is of limited scope, as Beaver Run seeks only a one-time waiver of a submission deadline that will not ultimately relieve Beaver Run's obligation to return the Facilities Study Agreement and associated deposit. Third, granting the requested waiver will avoid a lengthy postponement of construction that was to begin on March 1, 2012. In addition, Beaver Run states it has already invested hundreds of thousands dollars and further delay would cause severe economic hardship to the project. Fourth, PJM does not object to the waiver and states that granting waiver would have no adverse impact on PJM's interconnection queue and no undesirable consequences for third parties in the Northwestern New Jersey region.

10. Due to the specific and unique facts presented above, the Commission finds good cause to grant Beaver Run's request for waiver and reinstatement to its February 27, 2012 interconnection queue position.

The Commission orders:

The request for waiver is hereby granted, to the extent necessary, as discussed above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.