

141 FERC ¶ 61,096  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

PJM Interconnection, L.L.C.

Docket No. ER09-1063-006

ORDER DENYING REHEARING

(November 5, 2012)

1. The Pennsylvania Public Utility Commission (Pennsylvania Commission) seeks rehearing of an order issued in this proceeding on April 19, 2012.<sup>1</sup> For the reasons discussed below, we deny rehearing.

**I. Background**

2. In Order No. 719, the Commission required regional transmission organizations (RTO) and independent system operators (ISO) to reform their existing market rules, or otherwise demonstrate their ability, to ensure that energy prices, during an operating reserve shortage, will appropriately reflect the value of energy.<sup>2</sup> In its compliance filing, submitted June 18, 2010, PJM proposed tariff changes, noting that its existing shortage pricing rules apply only in maximum generation emergencies, not in the case of a reserve shortage.

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<sup>1</sup> *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,057 (2012) (April 19 Order).

<sup>2</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281, at P 165, *et seq.* (2008), *order on reh'g*, Order No. 719-A, FERC Stats. & Reg. ¶ 31,292 (2009), *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

3. In the April 19 Order, the Commission found that PJM's pricing mechanism, subject to the revisions PJM had proposed in its June 18, 2010 compliance filing, and subject to certain additional conditions and the submission of an additional compliance filing, satisfied the requirements of Order No. 719.<sup>3</sup> The April 19 Order also addressed the Pennsylvania Commission's proposed "circuit breaker" provision – a proposed tariff requirement that would be triggered if the cumulative hours of shortage pricing exceed a given threshold (such as 30 hours over a 10-day period).<sup>4</sup>

4. The Commission further noted that it had found in Order No. 719-A that, if higher shortage prices result, those prices could be expected to attract investment in both demand response technology and generation leading to lower prices in the long run. The Commission also noted that, under PJM's proposal, prices would reflect the accurate cost of marginal resources needed to provide power and avoid manual load dumps in the PJM region. The Commission further noted that, under PJM's proposal, shortage pricing would only be effective when the system is short, with respect to reserves, and the operating reserve demand curve would act to decrease prices once the reserve shortage is mitigated. The Commission added that PJM's Open Access Transmission Tariff (OATT) gives PJM the discretion to consult with owners of the transmission grid and the ability to respond to emergency circumstances, and would not require PJM to implement, or rely on, circuit breaker provisions.<sup>5</sup>

## **II. Request for Rehearing and Answer**

5. The Pennsylvania Commission challenges the Commission's rejection of its request that PJM's tariff contain a "circuit breaker" provision. The Pennsylvania Commission argues that, whatever its theoretical merits, shortage pricing is an untested major modification to PJM's existing energy market that has the potential to do enormous harm in a short period of time in the event of market failure, mishap, or catastrophe. Despite excess capacity on the PJM system, and even with market power mitigation rules in place, shortage pricing could potentially cause many hours of very high prices and

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<sup>3</sup> April 19 Order, 139 FERC ¶ 61,057 at P 6.

<sup>4</sup> *Id.* PP 227, 230. The Pennsylvania Commission proposed, alternatively, that should PJM prospectively determine that hours of shortage pricing may exceed a certain threshold (for instance, due to an event resulting in the loss of facilities), PJM be required to file with the Commission a description of the recent and/or anticipated circumstances, including an estimate of the potential impact on prices and consumers.

<sup>5</sup> *Id.* PP 231-32. The Commission nevertheless directed PJM to report to stakeholders concerning market responses to prices exceeding \$1,000/MWh, and to consider whether changes would be warranted.

substantial transfers of wealth from consumers to producers. The Pennsylvania Commission also argues that, in cases of market failure or natural disaster, shortage pricing would not provide meaningful investment signals.

6. The Pennsylvania Commission proposes that PJM be required to file a report with the Commission if the cumulative hours of shortage pricing in fact exceed a threshold of 30 hours over a 10-day period, or if PJM prospectively expects that the hours of shortage pricing may exceed a threshold. If the Commission determined that the threshold were activated, the Pennsylvania Commission also proposes that all purchases of energy or ancillary services above a price threshold (such as \$1,000/MWh) would temporarily be compensated on an out-of-market basis (cost plus an adder) rather than establishing market-clearing prices above the threshold.

7. On June 5, 2012, PJM submitted an answer to the Pennsylvania Commission's rehearing request.

### **III. Procedural Matters**

8. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2012), prohibits answer to requests for rehearing. Accordingly, we reject PJM's answer.

### **IV. Commission Determination**

9. We deny the Pennsylvania Commission's request for rehearing. Order No. 719 did not require RTOs to include a "circuit breaker" that suspends shortage pricing in cases of prolonged market disruption. Rather, Order No. 719 indicated that any such safety cap would need to be evaluated in the context of the individual method chosen by the RTO to institute shortage pricing.<sup>6</sup>

10. Of the options available, PJM chose to establish a demand curve for reserves with an \$850/MWh reserve price cap and a \$1,000/MWh energy offer price cap, after a three year period. PJM did not see the need for any additional cap, and the Pennsylvania Commission has failed to identify circumstances unique to PJM's Filing that would make PJM's compliance filing unjust and unreasonable for failing to include an additional "circuit breaker" or safety cap.

11. As noted above, the Commission directed PJM in the April 19 Order to provide a report to stakeholders starting in April 2013, that analyzes market participants' response to prices exceeding \$1,000/MWh on an annual basis and to review this analysis to determine whether any changes to the synchronized and primary reserve penalty factors

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<sup>6</sup> Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 200.

are warranted for subsequent delivery years.<sup>7</sup> To the extent PJM should find that additional provisions are necessary, regarding these matters, PJM has the authority to make a section 205 filing to propose them, following its required report on these issues to its stakeholders. As such, a requirement that PJM file a report with the Commission, as proposed by the Pennsylvania Commission, is unnecessary, given that PJM is required to report to stakeholders. And, as noted, PJM has authority to act if it determines that an emergency requires the suspension of shortage pricing to address imminent harm to reliability or consumers.<sup>8</sup> In its role as an RTO, PJM has a responsibility to determine when/if such an emergency filing should be made with the Commission and can apply for a waiver of the Commission's 60-day prior notice requirement under such circumstances. The Commission will act in its full capacity to process any such filings in an expedited manner. We also note that PJM's Independent Market Monitor (IMM) evaluates and monitors PJM's market rules, can initiate changes to the market rules through the appropriate stakeholder processes, and can make a referral to the Commission if there is reason to believe market design flaws exist.<sup>9</sup> We encourage PJM and the IMM to coordinate under these circumstances.

12. Other than the theoretical potential for high prices, however, the Pennsylvania Commission has not made a sufficient record as to whether a circuit breaker is needed. Further, the Pennsylvania Commission has not provided any support for its proposed threshold of a suspension of shortage pricing if the shortage pricing event exceeds 30 hours over a 10-day period. It also has not explained why such a duration would be unusual or would be due to prolonged market failure.<sup>10</sup> Finally, there is no record evidence that would indicate that the Pennsylvania Commission's approach would be just and reasonable.

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<sup>7</sup> *Id.* P 232.

<sup>8</sup> PJM OATT at Section 9.2(b).

<sup>9</sup> *Id.* at Attachment M, sections IV(D) and (J).

<sup>10</sup> For example, this set of conditions could be satisfied if shortage pricing occurred in only three peak hours a day for ten days during a particular hot summer period. The Pennsylvania Commission has not shown why establishing a shortage price for these hours would not send proper price signals for emergency demand response and that additional generation resources may be needed. *See* Order No. 719, FERC Stats. & Reg. ¶ 31,292 at P 192.

The Commission orders:

The Pennsylvania Commission's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.