

143 FERC ¶ 61,037
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 12, 2013

In Reply Refer To:
North Carolina Electric Membership
Corporation
Docket No. ER13-939-000

Denise C. Goulet
Miller, Balis & O'Neil, P.C.
1015 Fifteenth Street, NW Twelfth Floor
Washington, DC 20005

Charles E. Bayless
North Carolina Electric Membership
Corporation
3400 Sumner Blvd
Raleigh, NC 27616

Dear Ms. Goulet and Mr. Bayless:

1. On February 14, 2013, North Carolina Electric Membership Corporation (NCEMC) requested a limited waiver of Sections 29 (Initiating Service) and 32 (Initial Study Procedures For Network Integration Transmission Service Requests) of Part III (Network Integration Transmission Service) of the PJM Open Access Transmission Tariff (Tariff) and of PJM Interconnection, L.L.C.'s (PJM) practices under those Tariff provisions, as well as any other provisions of the Tariff necessary to revise the Network Integration Transmission Service Agreement (NITSA)¹ and the associated transmission service reservation (Transmission Service Reservation). The NITSA was entered into between PJM and NCEMC on October 6, 2011 (NCEMC NITSA). NCEMC states that it has been authorized to represent that PJM supports its request for limited waiver. As discussed below, we grant the requested limited waiver of Sections 29 and 32 of Part III of the PJM Tariff.

¹ PJM Tariff, Attachment F, Service Agreement for Network Integration Service.

2. NCEMC proposes to revise the network resource on the NCEMC NITSA and Transmission Service Reservation from the Hamlet 5 Unit to the electrically-identical Hamlet 6 Unit, which are in the same plant and connected to the same bus. NCEMC states that the difference will be operationally undetectable at the Hamlet busbar.

3. NCEMC is a generation and transmission cooperative responsible for the full or partial power supply requirements of its twenty-five members throughout the State of North Carolina. NCEMC is owned by its distribution cooperative members who are located throughout the service areas of three investor-owned public utilities: Duke Energy Carolinas, LLC; Carolina Power & Light Company (Progress Energy Carolinas, Inc.); and Virginia Electric and Power Company (Dominion Virginia Power). PJM operates the transmission service system owned by Dominion Virginia Power and NCEMC purchases transmission service from PJM over Dominion Virginia Power's transmission facilities and participates in PJM's energy, ancillary services and capacity markets.

4. NCEMC's Hamlet Plant consists of five 56 MW Pratt & Whitney aeroderivative combustion turbines, including the Hamlet 5 Unit, and it resides in the Progress Energy Balancing Authority. NCEMC is currently constructing a sixth unit at the Hamlet Plant, Hamlet 6 Unit, which is electrically identical to the Hamlet 5 Unit, and has a planned in-service date of July 2013. NCEMC states that the Hamlet 5 Unit and Hamlet 6 Unit are identical and the information required under Section 29.2(v) of the Tariff is identical for both the Hamlet 5 Unit and the Hamlet 6 Unit.

5. PJM and NCEMC executed the NCEMC NITSA on October 6, 2011, designating NCEMC's Hamlet 5 Unit as a network resource to serve load in PJM with a start date of June 1, 2014 and a termination date of June 1, 2019. NCEMC states that its portfolio needs changed since the execution of the NCEMC NITSA and Hamlet 5 Unit has been committed elsewhere for a multi-year period beginning May 2013. Thus, NCEMC seeks to change the NCEMC NITSA designation to the electrically-identical Hamlet 6 Unit, scheduled to be placed in service in July 2013. NCEMC plans to bid the Hamlet 6 Unit into PJM's capacity market, Reliability Pricing Model (RPM) auction in May 2013.

6. Therefore, NCEMC requests limited waiver of Sections 29.2 and 32 of the PJM Tariff, to allow a change to the resource designation of the NCEMC NITSA from Hamlet 5 Unit to the Hamlet 6 Unit in time for the May 2013 RPM auction. NCEMC believes its limited waiver request meets the Commission's criteria for granting waivers. Specifically, NCEMC states that the Commission has granted tariff waivers where: (1) the underlying error was made in good faith; (2) the waiver was of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences, such as harming third parties.²

² See NCEMC Petition for Limited Tariff Waiver at 4, fn. 4.

7. NCEMC states that it acted in good faith believing that under the Tariff it could simply switch electrically-identical units at the same plant and connected to the same bus without initiating the study process required under Sections 29 and 32 of the Tariff. NCEMC states that it believed the designation of network resources was plant-specific and not unit-specific as NCEMC has experienced with other Balancing Authorities. Therefore, NCEMC believed, in good faith, that it could make a simple switch from Hamlet 5 Unit to Hamlet 6 Unit on the NCEMC NITSA.

8. NCEMC states that it seeks only a one-time waiver to revise the network resource on the NCEMC Transmission Service Reservation and NCEMC NITSA to an electronically identical unit in the same plant, bus and point of receipt as the existing network resources. NCEMC continues by stating that the remainder of the information that NCEMC included in the application for transmission service required under Section 29.2 will remain the same except for the name change from Hamlet 5 Unit to Hamlet 6 Unit.

9. NCEMC states that approval of the limited waiver request will remedy a concrete problem and allow it to participate in the RPM auction occurring in May 2013 without the unnecessary risk associated with bidding a unit into the RPM auction prior to having secured the required transmission service.³ NCEMC states that granting the waiver will not harm third parties because the outcome of the original study would have been the same had the Hamlet 6 Unit been studied instead of the Hamlet 5 Unit, because the units are electrically identical. Thus, granting the waiver would not result in harm to a party with a transmission service request in the queue at the time in which the Transmission Service Reservation was studied, or in any subsequent queue. NCEMC states that PJM has informed it that there have not been any requests for transmission service for the same path since NCEMC originally submitted its request in January 2011 and there are currently no pending transmission service requests in the queue for the same path.

10. NCEMC further requests that the Commission grant its waiver and issue an order by April 15, 2013, which is 60 days after the date of the filing.

11. Notice of NCEMC's filing was issued on February 15, 2013, with protests or interventions due on or before March 7, 2013. PJM did not oppose the request and no other protests or adverse comments were filed.

³ *Id.* 5.

12. We find that NCEMC has shown good cause for its request. The Commission has granted limited waivers in similar situations.⁴ We particularly note that PJM authorized NCEMC to state that it supports the request for waiver, and that no parties intervened to oppose the request or challenge NCEMC's assertions. Based on the record before us, it therefore appears that: (1) NCEMC's misunderstanding of Section 29.2(v) of the Tariff was indeed due to a good faith error; (2) the requested waiver is limited in nature; (3) granting the waiver would allow NCEMC to remedy a concrete problem; and (4) granting the waiver request would have no undesirable consequences, such as harming third parties. Accordingly, we grant waiver of Sections 29 and 32 of the PJM Tariff for the limited purpose of allowing NCEMC to change the NCEMC NITSA resource designation from the Hamlet 5 Unit to the Hamlet 6 Unit on the NITSA and Transmission Service Reservation as requested.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁴ See *New York System Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,108 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184 (2011); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,109 (2011); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157 (2010); *ISO New England, Inc.*, 122 FERC ¶ 61,297 (2008).