

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C.

July 26, 2005

In Reply Refer To:
PJM Interconnection, L.L.C.
Docket Nos. ER05-10-000
ER05-10-003 (not consolidated)

Wright & Talisman, P.C.
Barry S. Spector
1200 G Street, NW, Suite 600
Washington, DC 20005-3802

Dear Mr. Spector:

1. On April 25, 2005, PJM Interconnection, L.L.C. (PJM) filed in Docket No. ER05-10-000 an updated analysis of the regulation service market in the PJM West/South regulation zone performed by PJM's Market Monitor (April 25 Filing). The Commission accepts PJM's updated analysis.
2. On June 1, 2005, PJM filed in Docket No. ER05-10-003, in compliance with the Commission's order issued on April 29, 2005,¹ (compliance filing) revised tariff sheets to amend the PJM Open Access Transmission Tariff (OATT) and Operating Agreement to specify that offers for regulation service by American Electric Power Company (AEP) and Virginia Electric Power Company (Virginia Power) or their affiliates in the PJM West/South regulation zone shall be cost-based and to enumerate the components of such cost-based offers. The Commission accepts PJM's compliance filing.

Background

3. On October 1, 2004, PJM filed to revise the PJM Tariff to permit market-based rate offers, capped at \$100/MWh, for regulation service in the PJM West/South regulation zone (October 1 Filing) to become effective on the integration of Virginia

¹ *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,134 (2005) (April 29 Order).

Power into PJM.² In the October 1 Filing, PJM committed to file an updated market analysis prior to the integration of Virginia Power into PJM, based on the experience in the market following the integration of AEP and Dayton Power & Light (DP&L) into PJM.

4. On April 25, 2005, PJM submitted the updated analysis of the competitiveness of the regulation market both before and after the integration of Virginia Power, based on its experience with the integration of AEP, DP&L and Duquesne Light Company (Duquesne), along with an analysis by PJM's Market Monitor. In the April 25 Filing, PJM requested privileged treatment for certain portions of the filing, including information relating to suppliers' market shares and capacities, and redacted those portions in the public version of the filing.

5. In the April 29 Order, the Commission accepted for filing PJM's tariff revisions to permit market-based rate offers for suppliers of regulation service in the PJM West/South Regulation Zone, subject to the condition that the offers by AEP and Virginia Power be mitigated at the operating cost of regulation service plus a \$7.50 adder and that PJM make a compliance filing within 30 days to reflect the method for determining the rates for regulation service. The tariff sheets were to become effective the date on which Virginia Power integrates with PJM. The April 25 Filing was not a basis for the conclusions reached in the April 29 Order.

Procedural Matters

6. Notice of the April 25 Filing was published in the *Federal Register*, 70 Fed. Reg. 25,560 (2005), with comments, protests, and interventions due on or before June 6, 2005. On June 6, 2005, American Municipal Power – Ohio, Inc. (AMP-Ohio) filed a protest of the April 25 Filing.

7. Notice of PJM's compliance filing was published in the *Federal Register*, 70 Fed. Reg. 33,468 (2005), with comments, protests, and interventions due on or before June 17, 2005. None was filed.

8. AMP-Ohio first requests that the Commission disregard PJM's unsupported assertions in the transmittal letter of the April 25 Filing regarding the competitiveness of the regulation services market in the PJM West/South Regulation Zone, in which, AMP-Ohio argues, PJM attempts to contradict the updated market analysis performed by PJM's

² The filing also included cost-based rates to be applied until the market-based rates were to become effective.

Market Monitor. While AMP-Ohio acknowledges that the April 29 Order effectively addresses its concerns about PJM's request to extend bid-based pricing for regulation service in the PJM West/South regulation zone and thus may make its request in this regard moot, AMP-Ohio contends that this issue is important because PJM should be neutral on the competitive issues addressed in the April 25 Filing. AMP-Ohio contends that PJM should not put itself in the position of advocating or promoting the extension of bid-based pricing for regulation service where its own Market Monitor has raised substantial doubts about the appropriateness of that step because such advocacy is inappropriate for a regional transmission organization.

9. Second, AMP-Ohio argues that PJM's request for privileged treatment of important market information on suppliers of regulation service and their market shares contained in the April 25 Filing should be denied. According to AMP-Ohio, protection from public disclosure is typically limited to pricing information or similar proprietary data that would, if disclosed, give other market participants an unfair competitive advantage. By contrast, public disclosure of the identity of particular suppliers of regulation service and their respective market shares would not cause competitive injury and would, instead, benefit the public by putting other market participants on the alert for actions that may represent an exercise of market power. Finally, AMP-Ohio contends that, in any event, the April 29 Order itself discloses information of the type claimed by PJM to require privileged treatment, so any possible need for protection has been rendered academic.

Discussion

April 25 PJM Filing

10. We reject AMP-Ohio's request that we disregard any statements in PJM's transmittal letter that contradict the PJM Market Monitor's findings. The Commission finds no basis to strike comments of any filer, simply because they may or may not coincide with the statements of the PJM Market Monitor. PJM has every right to express its views on the conclusions reached by its Market Monitor. Moreover, the Commission did not base any portion of the April 29 Order on the April 25 Filing. Thus, granting or denying AMP-Ohio's request could not have any effect on the rights of any of the parties, and its request is thus moot.

11. Similarly, we reject AMP-Ohio's request that we deny privileged treatment to portions of the April 25 Filing. The May 6, 2005 notice of the April 25 Filing directed PJM to provide each party a protective agreement that could be used to obtain an unredacted version of the April 25 Filing. PJM responded that, on October 28, 2004, PJM had filed with the Commission and served on each entity designated on the service list a protective agreement allowing the parties to the proceeding to review confidential

material filed in this proceeding. As AMP-Ohio and the other parties have had full access to the materials filed in this proceeding, including the April 25 Filing, AMP-Ohio is not aggrieved by the grant of confidential treatment. Moreover, the information on suppliers' market shares and capacities and other redacted information in the April 25 Filing is privileged or confidential commercial or financial information, and we agree with PJM that disclosure of this non-public information could potentially harm the competitive position of PJM members. Further, we find that, since the April 25 Filing did not form the basis of the April 29 Order, there is not sufficient public interest to require disclosure of such information so that the public can understand the basis of the Commission's order.

12. We will accept for filing PJM's April 25 updated analysis.

Cost-Based Offers for Regulation Service

13. We find that PJM has fully satisfied the requirements of the April 29 Order, and we will accept PJM's compliance filing effective on May 1, 2005, as requested.

By direction of the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

APPENDIX

The following tariff sheets are accepted effective May 1, 2005:

**Revisions to the PJM Open Access Transmission Tariff ("PJM Tariff") and the
Operating Agreement ("Operating Agreement") Regarding Regulation Service in
the PJM West/South Regulation Zone
Docket No. ER05-10-003**

**PJM Interconnection, L.L.C.
FERC Electric Tariff
Sixth Revised Volume No. 1**

Eighth Revised Sheet No. 359 Superseding Seventh Revised Sheet No. 359
First Revised Sheet No. 359A Superseding Original Sheet No. 359A
Fifth Revised Sheet No. 377 Superseding Fourth Revised Sheet No. 377

**PJM Interconnection, L.L.C.
Third Revised Rate Schedule FERC No. 24**

Sixth Revised Sheet No. 94 Superseding Fifth Revised Sheet No. 94
Original Sheet No. 94A
Fifth Revised Sheet No. 109 Superseding Fourth Revised Sheet No. 109
Fourth Revised Sheet No. 110 Superseding Third Revised Sheet No. 110