

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

PJM Interconnection, LLC

Docket No. ER02-1333-001

ORDER DISMISSING REQUEST FOR CLARIFICATION

(Issued September 22, 2004)

1. The Commission here dismisses a request for clarification of its acceptance of tariff revisions filed in 2002 by PJM Interconnection, LLC (PJM) of terms and conditions for interconnection of new generation facilities.

Background

2. On March 18, 2002, PJM submitted for filing revised standardized terms and conditions for the interconnection of new generation facilities within the PJM transmission system and the construction of transmission upgrades and other interconnection-related facilities. PJM stated that its filing was unanimously endorsed by the PJM Members Committee and was developed through its regional stakeholder process, and largely achieved the goals that the Commission proposed in its Advance Notice of Proposed Rulemaking in Docket No. RM02-1-000, the rulemaking proceeding in which the Commission was then considering standardizing generator interconnection agreements and procedures.

3. On May 17, 2002, the Commission accepted PJM's tariff revisions, suspended them for five months, and made them effective on November 1, 2002 subject to refund and subject also to the Commission's final rule in Docket No. RM02-1-000.¹ We stated:

¹ Old Dominion Electric Cooperative v. PJM Interconnection, LLC, 99 FERC ¶ 61,189 (2002) (May 17 Order). In this order, in addition to ruling on PJM's new interconnection-related provisions, the Commission also ruled on a related complaint filed by Old Dominion Electric Cooperative (ODEC). Rehearing or clarification have not, however, been sought with regard to the Commission's ruling on that complaint.

In Docket No. RM02-1-000, the Commission is currently reviewing its policies on interconnection procedures including its interconnection pricing policies. PJM has assumed, in its filing, that the Commission will not seek to establish new policies for previously-established transmission organizations such as PJM, and that has not yet been decided. For example, PJM's proposal grants significant authority to the transmission owners in the interconnection process, which may ultimately not be consistent with the Commission's final rule in Docket No. RM02-1-000. . . . Thus, it is appropriate for us to suspend the effectiveness of PJM's tariff for five months.²

4. With regard to the authority that PJM's revisions would reserve to transmission owners in the interconnection process, the Commission further noted at footnote 5 of the order that PJM proposed that the Interconnection Agreement and Construction Service Agreement must be executed by the transmission owner, PJM, and interconnection customer.³

5. The PJM Transmission Owners (PJM TOs) have filed a request for clarification of the May 17 Order. They ask the Commission to clarify that:

[F]ootnote 5 of the Order – describing PJM's proposed tariff requirement that the Interconnection Agreement and Construction Service Agreement must be executed by PJM, the generator, and the transmission owner – was not singled out as either (1) a basis for the maximum five-month suspension, or (2) an example of a perceived deviation from the [Notice of Proposed Rulemaking (NOPR) in Docket No. RM02-1-000].⁴

² May 17 Order at 61,773 (footnotes omitted).

³ May 17 Order at 61,773 n.5. *See* PJM OATT, section 36.8, Interconnection Service Agreement:

Upon completion of the Generation Interconnection Facilities Study . . . the Transmission Provider shall tender to each Generation Interconnection Customer an Interconnection Service Agreement . . . and a Construction Service Agreement . . . , to be executed by the Generation Interconnection Customer, the Interconnected Transmission Owner and the Transmission Provider.

⁴ PJM TOs' Request for Clarification at 1.

6. The PJM TOs state that the NOPR contemplates such tripartite agreements, and that the May 17 Order creates "an inference that PJM's three-party contract model is somehow at odds" with the Commission's general direction in Docket No. RM02-1-000.⁵ The PJM TOs therefore ask the Commission to clarify that footnote 5 "was not intended to be a criticism of PJM's filing, or serve as a basis for the Commission's determination that the filing warrants a maximum suspension period."⁶

Discussion

7. Since this request was filed, the Commission has issued its final rule in Docket No. RM01-2-000.⁷ Additionally, PJM filed, and on July 8, 2004 the Commission accepted (subject to the filing of revisions not relevant here), changes to PJM's existing Open Access Transmission Tariff (PJM Tariff) necessary to comply with Order No. 2003.⁸ These revisions did not alter PJM's earlier requirement for tripartite agreements (executed by the transmission owner, PJM and the interconnection customer). In the Interconnection Compliance Order, the Commission found that "PJM's compliance filing generally conforms to the requirements of Order No. 2003" and accepted it (subject to the filing of revisions not relevant here).⁹

8. Thus, the PJM TOs' concerns that the Commission (a) was expressing particular disapprobation of tripartite interconnection agreements in footnote 5 of the May 17 Order, and/or (b) might ultimately find those agreements inconsistent with the final rule developed in Docket No. RM01-2-000, have now been rendered moot by the fact that the

⁵ PJM TOs' Request for Clarification at 2.

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⁷ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 26, 2004), FERC Stats. & Regs., Regulations Preambles ¶ 31,160 (2004), *reh'g pending*.

⁸ PJM Interconnection, L.L.C., 108 FERC ¶ 61,025 (2004) (Interconnection Compliance Order).

⁹ Interconnection Compliance Order at P 1.

Commission has since accepted PJM's interconnection procedures (subject to the filing of revisions not relevant here), including tripartite interconnection agreements, as being in compliance with Order No. 2003.¹⁰ The Commission therefore dismisses the request for clarification.

¹⁰ In addition, in Order No. 2003 the Commission required tripartite agreements in circumstances when the transmission owner is not also the transmission provider. *See* Order No. 2003 at P 907-09:

In the NOPR, the Commission proposed that, along with the Interconnection Customer, the Transmission Provider, and, to the extent necessary, the Transmission Owner, must become signatories to the interconnection agreement. The intent was to require the Transmission Provider to sign the agreement, and if the Transmission Owner is a separate entity, to require it to sign as well. . . .

. . . .

We are replacing the proposed words "to the extent necessary" with the words "if the Transmission Owner is not the Transmission Provider" in the Final Rule provision. Thus, both must sign the interconnection agreement when the Transmission Owner is not also the Transmission Provider.

Additionally, in *Cinergy Services, Inc.*, 107 FERC ¶ 61, 260 at P 15 (2004), the Commission affirmatively required that Midwest Independent Transmission System Operator (Midwest ISO) enter into three-party interconnection agreements, stating that "in order to ensure that Midwest ISO has the ability to operate a safe and reliable transmission system, . . . we will require that Midwest ISO participate in the negotiations and become a signatory to the amendments [to pre-existing interconnection agreements between transmission owners and interconnection customers]. This process is to ensure that the amendments have been agreed to by the generating facility, transmission owner, and Midwest ISO, and are consistent with Midwest ISO's OATT."

The Commission orders:

The request for clarification is hereby dismissed.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.