

123 FERC ¶ 61,145
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PJM Interconnection, L.L.C.

Docket No. OA08-9-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued May 15, 2008)

1. On October 11, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) submitted its compliance filing as required by Order No. 890.² In this order, we accept PJM's filing, as modified. We also require PJM to make an additional compliance filing within 30 days of the date of this order.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability (ATC), open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have been approved as independent system operators (ISO), or regional transmission organizations (RTO), were

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

directed to submit, within 210 days after publication of the Final Rule in the *Federal Register* (i.e., by October 11, 2007),³ section 206 compliance filings that contain the non-rate terms and conditions set forth in Order No. 890 or demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT. The Commission also aligned the compliance filing deadlines for ISOs and RTOs and their transmission-owning members and required public utility transmission owners whose transmission facilities are under the control of RTOs or ISOs to make any necessary tariff filings required to comply with Order No. 890 within 210 days after the publication of Order No. 890 in the *Federal Register* (i.e., October 11, 2007).⁴

II. Compliance Filing

4. PJM states that its compliance filing includes revisions to the PJM OATT specifically required by Order No. 890, additional revisions to certain PJM OATT terms, as required to conform with PJM's Order No. 890 revisions, or, with respect to certain matters, a demonstration that its existing OATT provisions are consistent with, or superior to, the revised provisions of the *pro forma* OATT. In addition, PJM proposes to retain many of its previously-accepted variations from the *pro forma* OATT. PJM has reflected an effective date of October 11, 2007 in its proposed tariff sheets.

5. Furthermore, PJM submitted a revised version of Attachment C (Methodology to Assess Available Transfer Capability) to its OATT as required by Order No. 890. PJM states that it uses the available flowgate capacity methodology and coordinates its available transfer capability (ATC) calculations with its neighboring systems through various interregional/joint operating agreements.

III. Notice of Filing and Responsive Pleadings

6. Notice of PJM's filing was published in the *Federal Register*, 72 Fed. Reg. 59,282 (2007), with interventions and protests due on or before November 1, 2007. Motions to intervene were timely filed by the Public Service Commission of Maryland; the NRG Companies; Beacon Power Corporation (Beacon Power); American Electric Power Service Corporation; Long Island Power Authority; Old Dominion Electric Cooperative;

³ On July 27, 2007, the Commission issued an order extending the compliance filing date until December 7, 2007 for transmission providers to submit an Attachment K to their OATTs describing the regional and coordinated planning process consistent with Order No. 890. *See Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103, at P 2, 5 (2007). PJM's compliance filing, in Docket No. OA08-32-000, is accepted by the Commission in a separate order issued contemporaneous with this order.

⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 157, 161.

Exelon Corporation; Pennsylvania Office of Consumer Advocate; and North Carolina Electric Membership Corporation (NCEMC). Comments supportive of PJM's filing were filed by Beacon Power.

IV. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ the timely, unopposed motions to intervene submitted by the entities noted above serve to make them parties to this proceeding.

B. Compliance Issues

8. We accept PJM's compliance filing, as modified, to be effective October 11, 2007. We also direct PJM to make an additional compliance filing, within 30 days of the date of this order, addressing each of the matters identified below.

1. Proposed Deviations from the *Pro Forma* OATT

9. The Commission required ISO and RTO transmission providers to submit FPA section 206 compliance filings, within 210 days after the publication of the Final Rule in the *Federal Register*, that contain the non-rate terms and conditions set forth in the Final Rule or that demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT.⁶

10. PJM states that as an RTO it has existing practices that are consistent with or superior to the reforms adopted in Order No. 890 and has not adopted certain revisions that would upset the market designs used by PJM. Specifically, PJM claims that as an RTO with a real-time energy market, it is not adopting conditional firm point-to-point transmission service.⁷ Similarly, PJM is not adopting some of the *pro forma* redispatch provisions regarding the biennial reassessment of redispatch service or study requests

⁵18 C.F.R. § 385.214 (2007).

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 157.

⁷ *Citing* Order No. 890 at P 992 ("the Commission finds that it would be inappropriate to require RTOs and ISOs with real-time energy markets to adopt the provisions for conditional firm point-to-point service.")

regarding redispatch service, explaining that those provisions are more limited than the redispatch already provided by PJM's energy markets.⁸

11. Additionally, PJM states that it is not adopting the *pro forma* Schedule 9, "Generator Imbalance Service," because its energy markets already provide this service. PJM explains that any deviations are charged locational marginal prices in the real-time energy market. However, PJM's proposal does include the Schedule 4, "Energy Imbalance Service," with certain *pro forma* revisions. PJM states that the *pro forma* revisions were incorporated as feasible to accommodate previously-accepted variations.

12. PJM is also proposing to maintain previously accepted variations providing that only requests for monthly transmission service may be preempted by requests for long-term firm point-to-point transmission service or network integration transmission service, and that such monthly customers will not have any right of first refusal. PJM explains that these provisions assist in the orderly processing of high volumes of transactions on the PJM transmission system; therefore, PJM has not adopted the *pro forma* OATT language in section 13.2 providing that (i) if the transmission system becomes oversubscribed, requests for longer term service may preempt requests for shorter term service, and (ii) a customer with shorter term service may exercise a right of first refusal to match any longer term request or equal duration service with a higher price.

13. Additionally, PJM is retaining previously accepted variations that require a transmission customer to notify PJM of its intent to exercise any rollover rights within 30 days of a competing request that PJM could not satisfy without performing a system impact study. Section 2.2 of the *pro forma* OATT requires only that a transmission customer make known its intentions to exercise any rollover rights no less than one year prior to the expiration date of the service agreement. PJM claims that given the long-term planning needs of its customers and the high volume of transactions in PJM, the deviation maximizes the use of the PJM transmission system.

14. In Order No. 890, the Commission recognized that some of the changes adopted in Order No. 890 may not be as relevant to ISO and RTO transmission providers as they are to non-independent transmission providers. The Commission stated that revisions to the *pro forma* OATT are not intended to upset the market designs used by existing ISOs and RTOs, and that ISOs and RTOs may well have adopted practices that are already consistent or superior to the reforms adopted in Order No. 890.⁹ We recognize that PJM's proposed deviations from the *pro forma* OATT reflect the actual market design

⁸ The Order No. 890 *pro forma* OATT at sections 13.5, 15.4, 19.1, and 19.3 includes provisions regarding the biennial reassessment of redispatch service or study requests regarding redispatch service.

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 158.

used by PJM, and find these deviations to be consistent with or superior to the *pro forma* OATT, except as otherwise addressed below.

2. Creditworthiness

15. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.¹⁰

16. We have reviewed PJM's filing and find that its creditworthiness procedures are incomplete. Specifically, PJM has not provided sufficient information as to how it will apply agency credit ratings when determining an applicant's credit score. PJM should explain how an applicant's credit rating will be used to determine the amount of unsecured credit awarded. We direct PJM to file, within 30 days of the date of this order, a further compliance filing that addresses its creditworthiness standards consistent with Order No. 890.

3. Energy Imbalance

17. In Order No. 890, the Commission established a three-tiered approach for addressing imbalances: (1) imbalances of less than or equal to 1.5 percent of the scheduled energy (or 2 MW) will be netted on a monthly basis and settled financially at 100 percent of incremental or decremental cost at the end of each month; (2) imbalances between 1.5 and 7.5 percent of the scheduled amounts (2 to 10 MW) will be settled financially at 90 percent of the transmission provider's system decremental cost for overscheduling imbalances that require the transmission provider to decrease generation or 110 percent of the incremental cost for underscheduling imbalances that require generation in that control area; and (3) imbalances greater than 7.5 percent of the scheduled amounts (or 10 MW), will be settled at 75 percent of the system decremental cost for overscheduling imbalances or 125 percent of the incremental cost for underscheduling imbalances.

18. PJM proposes that it not be required to adopt these *pro forma* provisions. PJM states that the Commission's *pro forma* deviation bands have little application to its markets. In PJM most customers serving load take network service, under which the operation of its spot market resolves any imbalances that might otherwise arise. PJM adds that the PJM OATT, at Schedule 4, already includes previously-accepted variations

¹⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

from the *pro forma* OATT with established deviation bands and charges applicable to PJM's point-to-point transmission service. However, PJM states that, currently, it has no point-to-point customers. Finally, PJM argues that its adoption of the *pro forma* revisions would upset the operation of its markets and require PJM to incur unnecessary costs to change its settlements system.

19. We reject PJM's proposed deviations from the *pro forma* energy imbalance provisions. The Commission acknowledged, in Order No. 890, that an organized market such as PJM's can provide an efficient and non-discriminatory means of settling imbalances. While we agree that it is appropriate that PJM continue to base its imbalance penalties on the applicable locational marginal price (LMP), we are not persuaded that PJM's adoption of the Commission's *pro forma* deviation bands, in the context of Schedule 4, would be burdensome or otherwise inappropriate. In fact, Schedule 4 already incorporates imbalance deviation bands. PJM's Schedule 4 penalty levels, however, are substantially higher than those adopted in Order No. 890. PJM, moreover, provides no explanation as to why these penalties are appropriate or should be retained. Finally, we note that while no PJM customer currently takes point-to-point service, PJM's OATT still includes Schedule 4. Accordingly, we direct PJM to either remove its Schedule 4, adopt, in its compliance filing, the *pro forma* deviation bands and associated penalty levels, or further justify the retention of its proposed variations.

20. Additionally, Order No. 890 modified Schedule 4 to permit energy imbalance service to be provided by generating units as well as other non-generation resources.¹¹ PJM's Schedule 4 does not expressly permit non-generation resources to provide energy imbalance service, and PJM has not provided an accompanying explanation. In the event that PJM does not remove its Schedule 4, we direct PJM to adopt provisions that allow non-generation resources to provide energy imbalance service within 30 days of the date of this order.

4. Imbalance Energy Revenue Distribution

21. In Order No. 890, the Commission determined that charges for both energy and generator imbalances would be based upon a tiered approach that reflects incremental costs. The Commission also required transmission providers to credit revenues in excess of incremental costs to all non-offending customers. As a result, the Commission directed transmission providers to develop, as part of their Order No. 890 compliance filings, a mechanism for crediting such revenues to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.¹² PJM has not responded to the Commission's directive

¹¹ *Id.* P 888.

¹² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 663, 667, 727.

regarding the distribution of imbalance revenues in Order No. 890.¹³ If PJM chooses to keep its Schedule 4, it must file, within 30 days of the date of this order, a further compliance filing that proposes, consistent with Order No. 890, a mechanism to credit revenues above the transmission provider's incremental costs to all non-offending transmission customers (including affiliated transmission customers) and to the transmission provider on behalf of its own customers.

5. Rollover Rights

22. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.¹⁴

23. PJM has included the rollover reforms in section 2.2 and section 2.3(b) of its revised tariff sheets, with a requested effective date of October 11, 2007. However, in a separate filing made by PJM in Docket No. OA08-32-000, which we are approving in an order issued contemporaneous with this order, PJM's compliance revisions to Schedule 6 of the Operating Agreement, setting forth its transmission planning process, are made effective December 7, 2007. Order No. 890 specifies that rollover reforms are not to become effective until after a transmission provider's transmission planning process is accepted. Therefore, we direct PJM to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2 and section 2.3(b). PJM should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of Schedule 6 of its Operating Agreement, requesting an effective date commensurate with the date of that filing.

6. Methodology to Assess Available Transfer Capability

24. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs (e.g., contract path, network ATC, or network Available Flowgate Capacity (AFC)). The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for its scheduling, operating and planning horizons.¹⁵ Further, the

¹³ *Id.* P 727.

¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

¹⁵ *Id.* at *pro forma* OATT, Att. C; *see also id.* P 323.

actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.¹⁶

25. We have reviewed PJM's filing and find that its revised Attachment C does not provide the link to the PJM website with the actual mathematical algorithms. Therefore, PJM's filing fails to comply with Order No. 890. We direct PJM to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide the link to the PJM website with the actual mathematical algorithms, as required in Order No. 890.

26. *Available Flowgate Capacity:* In Order No. 890, the Commission required that if a transmission provider uses an AFC methodology to calculate ATC, it must: (i) explain its definition of AFC; (ii) explain its AFC calculation methodology; (iii) explain its process for converting AFC into ATC for OASIS posting; (iv) list the databases that are used in its AFC assessments; and (v) explain the assumptions used in its AFC assessments regarding the load levels, generation dispatch, and modeling of both planned and contingency outages.¹⁷

27. We have reviewed PJM's filing and find that contingency outages used for AFC calculation are not listed clearly. Therefore, PJM fails to comply with Order No. 890. We direct PJM to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide the information on the contingency outages used for AFC calculation.

28. *Existing Transmission Commitment:* In Order No. 890, the Commission required a transmission provider to explain: (i) its definition of ETC; (ii) the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load) and non-OATT customers (including, if applicable, an explanation of assumptions on the selection generators that are modeled in service) for both the operating and planning horizons; (iii) how point-to-point transmission service requests are incorporated; (iv) how rollover rights are accounted for; and (v) its processes for ensuring that non-firm capacity is released properly (e.g., when real-time schedules replace the associated transmission service requests in its real-time calculations).¹⁸

29. We have reviewed PJM's filing and find that PJM's revised Attachment C does not provide a clear definition for ETC and does not explain its calculation methodology used to determine the transmission capacity set aside for native load and non-OATT

¹⁶ *Id.* P 325, 328.

¹⁷ *Id.* at *pro forma* OATT, Att. C.

¹⁸ *Id.*

customers. Additionally, the explanation of how point-to-point transmission service requests are incorporated is unclear. Furthermore, PJM has not provided a clear description of how rollover rights are accounted for. Therefore, PJM fails to comply with Order No. 890. We direct PJM to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide a clear definition for ETC, an explanation of its calculation methodology used to determine the transmission capacity set aside for native load and non-OATT customers, an explanation of how point-to-point transmission service requests are incorporated, and a clear description of how rollover rights are accounted for.

30. *Transmission Reserve Margin*: In Order No. 890, the Commission required a transmission provider to explain: (i) its definition of TRM; (ii) its TRM calculation methodology (e.g., its assumption on load forecast errors, forecast errors in system topology or distribution factors and loop flow sources) for both the operating and planning horizons; (iii) the databases used in its TRM assessments; and (iv) the conditions under which the transmission provider uses TRM. If the transmission provider does not use TRM, it must so state.¹⁹

31. We have reviewed PJM's filing and find that PJM's revised Attachment C does not provide a clear definition for TRM and it does not present a detailed explanation of its TRM calculation methodology. PJM fails to provide a list of assumptions and databases used to calculate TRM. PJM also does not provide the list of conditions under which TRM is used. Therefore, PJM fails to comply with Order No. 890. We direct PJM to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide the above listed deficiencies regarding TRM.

32. *Capacity Benefit Margin*: In Order No. 890, the Commission required a transmission provider to provide a specific and self-contained narrative description detailing its CBM practice for both the operating and planning horizons. The narrative must include: (i) the identification of the entity that performs the resource adequacy analysis for CBM determination; (ii) the methodology used to perform generation reliability assessments (e.g., probabilistic or deterministic); (iii) an explanation whether the assessment method reflects a specific regional practice; (iv) the assumptions used in determining this assessment; and (v) the basis for the selection of paths on which CBM is set aside.²⁰

33. Furthermore, the Commission required a transmission provider to explain its definition of CBM and list the databases used in its CBM calculations.²¹ It also must

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*; see also *id.* P 337.

demonstrate that there is no double-counting of contingency outages when performing CBM, TTC and TRM calculations.²²

34. Finally, the Commission required a transmission provider to explain its procedure for allowing the use of CBM during emergencies. It must explain what constitutes an emergency, identify the entities that are permitted to use CBM during emergencies, and describe the procedures which must be followed by the transmission provider's merchant function and other load-serving entities when they need to access CBM. If the transmission provider's practice is not to set aside transfer capability for CBM, it must so state.²³

35. PJM's revised Attachment C provides that PJM determines and applies CBM to firm ATC calculations where PJM is the delivery point, and uses CBM values provided by coordination entities for non-PJM flowgates. PJM replicates several emergency scenarios to determine the import transfer limit, which represents a normalization of expected values. PJM evaluates the emergency import limits under summer peak conditions annually to assess whether the CBM value should be changed.

36. We have reviewed PJM's filing and find that PJM's revised Attachment C does not provide an adequate explanation of its CBM practice. PJM's revised Attachment C is lacking the required information to provide a clear picture on (i) who performs the resource adequacy assessment for CBM determination, (ii) the methodology used to perform generation reliability assessments, (iii) whether or not the assessment method reflects a specific regional practice, (iv) the assumptions used in this assessment and (v) the basis for the selection of paths on which CBM is set aside. Furthermore, PJM does not present a definition or a detailed explanation of its calculation methodology for CBM, has not listed the databases used for CBM calculation, and has not demonstrated that there is no double-counting of contingency outages when performing its CBM determination. PJM also does not present its procedures for allowing the use of CBM during emergencies. Specifically, PJM does not provide a clear definition of what constitutes an emergency, does not provide the list of entities that are permitted to use CBM during emergencies, and does not provide the procedure that needs to be followed by PJM's merchant function and other load-serving entities when they need to access CBM. Therefore, PJM fails to comply with Order No. 890. We direct PJM to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide the above identified missing explanations regarding the CBM-related requirements.

²² *Id.* at *pro forma* OATT, Att. C.

²³ *Id.*

The Commission orders:

(A) PJM's compliance filing is hereby accepted, as modified, effective October 11, 2007, as discussed in the body of this order.

(B) PJM is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.