

149 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

PJM Interconnection, L.L.C.

Docket No. EL15-15-000

ORDER TO SHOW CAUSE

(Issued November 20, 2014)

1. In this order, pursuant to section 206 of the Federal Power Act (FPA)¹ and Rule 209(a) of the Commission's Rules of Practice and Procedure,² the Commission directs PJM Interconnection, L.L.C. (PJM) to either: (1) revise its Open Access Transmission Tariff (PJM Tariff) to provide that a generation or non-generation resource owner will no longer receive reactive power capability payments after it has deactivated its unit and to clarify the treatment of reactive power capability payments for units transferred out of a fleet; or (2) show cause why it should not be required to do so.

I. Background

2. PJM determines the amount of reactive power necessary to maintain transmission voltages on its transmission system within acceptable limits. Schedule 2 of its Tariff refers to this service as Reactive Supply and Voltage Control from Generation Sources Service (Reactive Service). PJM compensates resources for their capability to produce reactive power based on the generation or non-generation resource owner's Commission-approved revenue requirement for Reactive Service (Reactive Service tariff).³ Schedule 2 of the PJM Tariff provides, in relevant part:

¹ 16 U.S.C. § 824e (2012).

² 18 C.F.R. § 385.209(a) (2014).

³ PJM posts generators' annual reactive revenue requirements on its website in a chart rather than including them in the PJM Tariff, in Schedule 2. This chart lists the

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[G]eneration facilities and non-generation resources capable of providing this service that are under the control of the control area operator are operated to produce (or absorb) reactive power. Thus, Reactive Supply and Voltage Control from Generation or Other Sources Service must be provided for each transaction on the Transmission Provider's transmission facilities. . . . Each month, the Transmission Provider shall pay each Generation or other source Owner an amount equal to the Generation or other source Owner's monthly revenue requirement as accepted or approved by the Commission.⁴

3. On September 24, 2014, Sunbury Generation LP (Sunbury), which owns an approximately 436 MW electric generating facility in the PJM region, filed with the Commission a Notice of Cancellation, in Docket No. ER14-2936-000, to terminate its Reactive Service tariff.⁵ It requested waiver of the Commission's prior notice requirements⁶ to permit the Notice of Cancellation to become effective approximately two months prior, on July 18, 2014, to coincide with the date Sunbury had already deactivated its four coal-fired generating units that had been providing Reactive Service to PJM.⁷ Sunbury attached to its filing a May 14, 2014, letter from PJM approving a deactivation request Sunbury had previously submitted to PJM, in which PJM stated:

annual and monthly revenue requirement for every provider of reactive power in each PJM zone. *See PJM Interconnection, L.L.C.*, Docket No. ER08-339-000 (Feb. 13, 2008) (delegated letter order).

⁴ PJM, Intra-PJM Tariffs, OATT, Schedule 2.

⁵ Sunbury Generation LP September 24, 2014 Notice of Cancellation of Reactive Supply and Voltage Control Tariff, Docket No. ER14-2936-000 (Sunbury Filing). Contemporaneous with this Order, the Commission is accepting Sunbury's Notice of Cancellation of its Reactive Service tariff, effective July 18, 2014, as requested, and requiring Sunbury to repay any Reactive Service payments received from PJM after the effective date. The Commission finds in that order that Sunbury has deactivated its four coal-fired generating units, such that they are no longer capable of providing Reactive Service in the PJM region, so it is no longer appropriate for Sunbury to have a Reactive Service tariff associated with these units on file.

⁶ 18 C.F.R. § 35.15 (2014).

⁷ Sunbury Filing at 2.

[I]f a generating unit is receiving Schedule 2 payments for Reactive Supply and Voltage Control, the generating unit owner must notify PJM when the unit is deactivated and make a timely FERC filing to terminate the Schedule 2 rate for such generating unit. Schedule 2 payments shall terminate on the Deactivation Date.⁸

4. PJM included comments in its intervention in response to Sunbury's Notice of Cancellation stating that it did not oppose Sunbury's requested effective date, but requesting that the Commission require repayment of any payments Sunbury received for providing Reactive Service under Schedule 2 of its Tariff after the July 18, 2014, deactivation date of its generating units. PJM stated that "Sunbury currently receives payments for providing [Reactive Service] under Schedule 2 of the PJM OATT."⁹

5. In addition to the Sunbury proceeding, the Commission recently approved updates to the Reactive Service revenue requirements for three subsidiaries of FirstEnergy Corp.: Monongahela Power Company, in Docket No. ER14-1882-000; Allegheny Energy Supply Company, LLC, in Docket No. ER14-1883-000; and FirstEnergy Solutions Corp., in Docket No. ER14-1886-000. According to the filing made by FirstEnergy Corp. to update the three revenue requirements, these three subsidiaries have fleet-wide Reactive Service revenue requirements covering their entire portfolio of assets.¹⁰ FirstEnergy Corp., however, transferred assets between the three subsidiaries after the Commission approved the revenue requirements, and deactivated other assets, thus changing the number of assets in each subsidiary's fleet that was capable of providing Reactive Service.¹¹ FirstEnergy Corp. asserted that the Commission and the PJM Tariff are silent about updates to Reactive Service revenue requirements when units are deactivated or transferred out of a fleet, but that "parties may agree among themselves regarding the allocation of revenues with respect to changes in ownership."¹²

⁸ Sunbury Filing, Attach. at 1.

⁹ PJM Interconnection, L.L.C. September 25, 2014 Motion to Intervene, Docket No. ER14-2936-000 (PJM Intervention).

¹⁰ FirstEnergy Corp. May 2, 2014 Filing at 5–7, Docket Nos. ER14-1882-000, ER14-1883-000, and ER14-1886-000 (FirstEnergy Filing).

¹¹ *Id.* at 7–8.

¹² *Id.* at 8.

II. Discussion

6. In this order, pursuant to section 206 of the FPA¹³ and Rule 209(a) of the Commission's Rules of Practice and Procedure,¹⁴ the Commission directs PJM to either: (1) revise its Tariff to provide that a generation or non-generation resource owner will no longer receive reactive power capability payments after it has deactivated its unit and to clarify the treatment of reactive power capability payments for units transferred out of a fleet; or (2) show cause why it should not be required to do so.

7. We take this action in light of PJM's intervention in the Sunbury proceeding, and from the FirstEnergy Corp. filing, as well as postings on the PJM website¹⁵ that suggest PJM continues to pay generation and non-generation resources for Reactive Service after units have deactivated. The PJM Tariff neither explicitly states that reactive power payments will cease when a generation or non-generation resource owner has deactivated a unit such that the unit is no longer capable of providing the service, nor does the PJM Tariff explain whether and how the reactive power payments are adjusted when a unit is transferred from a fleet.

8. The Commission is concerned that the PJM Tariff may be unjust and unreasonable, or unduly discriminatory or preferential, given the lack of clarity concerning termination or of change in payments for Reactive Service when generating units are no longer capable of providing reactive power or have been transferred out of a fleet, respectively. Paying for a service required under the Tariff where, as in the cases discussed above, the generation or non-generation resource owner is no longer capable of providing that service¹⁶ is unjust and unreasonable.¹⁷ In *Tennessee Gas Pipeline Co.*,¹⁸

¹³ 16 U.S.C. § 824e (2012).

¹⁴ 18 C.F.R. § 385.209(a) (2014).

¹⁵ PJM Interconnection, L.L.C., Planning, Generator Deactivation, Generator Deactivation Summary Sheets, PJM Generator Deactivations, <http://www.pjm.com/~media/planning/gen-retire/generator-deactivations.ashx> (Nov. 3, 2014).

¹⁶ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,192, at P 19, *order on reh'g*, 116 FERC ¶ 61,283 (2006) ("Contrary to what the Midwest ISO [transmission owners] contend, the fact that the reactive power which a generator is capable of producing is not used at some particular given time does not render the generator's filed rates based on reactive power capability unjust or unreasonable. Consistent with North American Electric Reliability Council (NERC) and Regional Reliability Council criteria and Good Utility Practice, Order No. 2003 requires generators

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for example, the Commission held that once a pipeline chooses to terminate a shipper's service, the customer no longer has an obligation to pay under its contract for that service.¹⁹

9. Based on the foregoing, pursuant to section 206 of the FPA, we direct PJM to either: (1) revise its Tariff to provide that a generation or non-generation resource owner will no longer receive reactive power capability payments after it has deactivated its unit and to clarify the treatment of reactive power capability payments for units transferred out of a fleet; or (2) show cause why it should not be required to do so. Within 30 days of the date of this order, PJM is required to submit Tariff revisions or to show cause why it should not be required to do so. In its filing, PJM should address payments related to deactivated or transferred units that do not comprise the entirety of the generation fleet under the applicable Reactive Service tariff.

10. Given that some generation and non-generation resource owners apparently continued to receive payments for Reactive Service after their units were no longer capable of providing that service, we have referred such concern to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.

to be capable of providing reactive power within a specified range when called upon. It is this *capability* for which generators are compensated under the Midwest ISO's Schedule 2. Accordingly, a generator is 'used and useful' if the generator is capable of providing reactive power.") (citations omitted) (emphasis in original); *see also Calpine Oneta Power, L.P.*, 119 FERC ¶ 61,177, at P 11 (2007) ("The Commission also explained that it has previously held that a generator is "used and useful" if the generator is *capable* of providing reactive power. Based on the record in these proceedings, the Commission found that, because the Oneta Facility is capable of producing reactive power, it meets the 'used and useful' test.") (citations omitted) (emphasis in original).

¹⁷ This situation is different from a generator that may be unable to provide the service for a short period of time, such as during maintenance or other outages. These kinds of situations are expected under the PJM Tariff for all generation and, absent a specific tariff provision, would not result in a reduction in monthly payments.

¹⁸ 102 FERC ¶ 61,075, *order on reh'g*, 103 FERC ¶ 61,275, *order on reh'g*, 105 FERC ¶ 61,120 (2003); *see also Transcontinental Gas Pipe Line Corp.*, 59 FERC ¶ 61,325, at 62,203 (1992) (authorizing repayment of contractual obligations when doing otherwise would result in demand charges for services that are not utilized).

¹⁹ *Id.* P 32 ("When service is suspended, a shipper's service is stopped and that shipper should not be held responsible for future charges.").

11. In cases where, as here, the Commission institutes a proceeding on its own motion under section 206 of the FPA, section 206(b) requires that the Commission establish a refund effective date that is no earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than five months after the publication date. Section 206(b) permits the Commission to order refunds for a 15-month period following the refund effective date. Consistent with our general policy of providing maximum protection to customers,²⁰ we will set the refund effective date at the earliest date possible in this docket, i.e., the date of publication by the Commission of notice of its intention to initiate such a proceeding in the Federal Register.

12. Section 206(b) also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. Assuming that PJM files Tariff revisions, we estimate that we would be able to issue our decision within approximately three months of the filing of tariff revisions.

The Commission orders:

(A) Pursuant to section 206 of the Federal Power Act, within 30 days of the date of this order, PJM must either: (1) revise its Tariff to provide that a generation or non-generation resource owner will no longer receive reactive power capability payments after it has deactivated its unit and to clarify the treatment of reactive power capability payments for units transferred out of a fleet; or (2) show cause why it should not be required to do so.

(B) The Secretary shall promptly publish in the Federal Register a notice of the Commission's initiation of this section 206 proceeding in Docket No. EL15-15-000.

(C) The refund effective date established pursuant to section 206(b) of the Federal Power Act will be the date of publication in the Federal Register of the notice discussed in Ordering Paragraph (B) above.

(D) Any interested person wishing to become a party to this proceeding (Docket No. EL15-15-000) must file a notice of intervention or motion to intervene, as appropriate, in accordance with Rule 214 of the Commission's Rules of Practice and

²⁰ See, e.g., *Seminole Elec. Coop., Inc. v. Fla. Power & Light Co.*, 65 FERC ¶ 61,413, at 63,139 (1993); *Canal Elec. Co.*, 46 FERC ¶ 61,153 at 61,539, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

Procedure (18 C.F.R. § 385.214) within 21 days of the date of issuance of this order. The Commission encourages electronic submission of interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and three copies of the protest or interventions to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.