

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Midwest Independent Transmission) Docket No. ER11-4081-000
System Operator, Inc.)

**MOTION TO INTERVENE OUT-OF-TIME
AND MOTION FOR LEAVE TO ANSWER
AND LIMITED ANSWER
OF PJM INTERCONNECTION, L.L.C.**

Pursuant to Rules 212, 213 and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213 and 385.214 (2011), PJM Interconnection, L.L.C. (“PJM”)¹ respectfully moves to intervene out-of-time and respectfully seeks leave to provide this limited answer to the answer of the Midwest Independent Transmission System Operator (“MISO”) submitted in the above referenced proceeding (the “MISO Answer”).²

I. Motion For Leave To Answer

PJM respectfully requests that the Commission grant its motion for leave to answer because it will help clarify the record and contribute to an understanding of the issues. The Commission’s rules provide that a party may answer a request for a rehearing in circumstances where the decisional authority permits the answer for good cause shown.³ The Commission has permitted answers that clarify the record, contribute to an understanding of the issues or assist the decision-making process.⁴

¹ PJM is a Commission-established Regional Transmission Organization. PJM is the administrator of, and transmission provider under, the PJM Open Access Transmission Tariff. PJM additionally operates various energy, capacity and energy-related markets, and conducts the day-to-day operations of the bulk power system, in the PJM region.

² PJM and MISO are sometime referred to individually as “RTO” collectively as the “RTOs”.

³ 18 C.F.R. Section 385.213(a)(2).

⁴ See, e.g., *Xcel Energy Operating Cos.*, 123 FERC ¶ 61,053, at P 10 (2008) (accepting pleadings that provided information useful in the decision-making process); *Morgan Stanley Capital Group, Inc. v. New York Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (2000) (accepting answer “helpful in the

II. Answer

On July 20, 2011, MISO filed to include in MISO’s Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“MISO Tariff”) proposed capacity construct or Resource Adequacy Requirement (“RAR”) enhancements (“MISO RAR Filing”). MISO Answer responds to several protests filed in this proceeding which according to MISO contend that capacity deliverability should not be a topic of discussion in the subject proceeding.⁵ While PJM takes no position on the MISO RAR Filing and its proposed revisions to the MISO Tariff, PJM disagrees with MISO’s request that the Commission issue an order in this proceeding directing PJM and MISO to work together to amend their existing Joint Operating Agreement to address what MISO describes as “administrative and artificial capacity deliverability barriers.”⁶ Such an order is unnecessary for the reasons described below.

PJM and MISO and our respective stakeholders are already engaged in ongoing discussions regarding MISO’s cross-border capacity portability proposal. In March 2011, MISO and PJM began communications to coordinate steps on getting a joint PJM MISO team together to work on capacity portability. At that time MISO provided PJM with a brief outline “White Paper” describing the high level concept of MISO-PJM Capacity Portability.

PJM remains unconvinced that it is necessary to add a capacity portability provision to the JOA as PJM does not believe there are any “artificial” barriers to cross-border capacity sales. Should the RTOs’ combined stakeholders decide that a provision

development of the record”); *New York Indep. Sys. Operator, Inc.*, 91 FERC ¶ 61,218, at 61,797 (2000) (allowing answer “useful in addressing the issues arising in these proceedings”); *Central Hudson Gas & Elec. Corp.*, 88 FERC ¶ 61,138, at 61,381 (1999) (accepting pleadings because they helped to clarify the issues).

⁵ MISO Answer at page 14.

⁶ MISO Answer at page 15.

could be beneficial, PJM further believes that any such proposal must provide for the acquisition of the required firm transmission service to guarantee deliverability of Capacity Resources committed to one RTO but located in the other. PJM is concerned that the MISO proposal in its current form may not provide sufficient assurance that firm service will be available. Nevertheless, on at least two occasions in March and July 2011, PJM's and MISO's senior staff met to discuss MISO's capacity portability proposal. During the most recent discussion in July, PJM agreed to provide MISO with opportunities to present MISO's capacity portability proposal to PJM's stakeholders at PJM's Markets and Reliability Committee ("MRC"). PJM informed MISO that PJM remained concerned with that MISO's capacity market structure under its RAR may not be similar enough to PJM's Reliability Pricing Model ("RPM") to provide sufficient benefits from MISO's capacity portability proposal; however, PJM agreed to assign staff to work with MISO to further develop the proposal provided PJM's stakeholders agreed to pursue the capacity portability proposal.

MISO appeared at the MRC meeting on September 15, 2011, and presented its proposal to the PJM stakeholders.⁷ The feedback given to MISO by the PJM stakeholders was that the issue was not sufficiently developed and MISO had not demonstrated to the satisfaction of the PJM stakeholder the existence of a problem requiring changes to PJM's markets. The PJM stakeholders asked MISO to return with more fully developed proposal for further consideration in 2012.⁸ Instead, MISO now

⁷ The slide presentation used by MISO is posted on the PJM website at: <http://www.pjm.com/~media/committees-groups/committees/mrc/20110915/20110915-item-05b-capacity-portability-overview-and-benefits.ashx>

⁸ See, Minutes from the September 15, 2011 MRC meeting posted on the PJM website at: <http://www.pjm.com/~media/committees-groups/committees/mrc/20111012/20111012-draft-minutes-mrc-20110915.ashx>

seeks to bypass the stakeholder process and asks the Commission to direct PJM and MISO to work on JOA amendments without the benefit of stakeholder support.

Based on the foregoing, PJM respectfully requests that the Commission deny MISO's request for a Commission order in this proceeding directing PJM and MISO to amend the JOA as such an order is unnecessary.

Amendments to the JOA must be signed by the RTOs and accepted by the Commission pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d.⁹ Thus, absent mutual agreement between PJM and MISO on MISO proposal to amend the JOA, which is currently lacking, a Commission order requiring an amendment to the JOA could only be issued following a proceeding under section 206 of the Federal Power Act, 16 U.S.C. § 824e.¹⁰

III. Motion to Intervene Out-of-Time

PJM recently learned about MISO's request for a Commission determination in this proceeding ordering PJM and MISO to amend the JOA to address their capacity portability concerns. Up until that point in time, PJM had no reason to intervene to participate in this proceeding as a party; however, with this new request, PJM now has a substantial interest in this proceeding which cannot be adequately represented by any other party. Thus, PJM respectfully requests leave to intervene out-of-time with full rights to participate as a party

Rule 214 (b)(3) establishes a test to determine whether late intervention should be granted, including consideration of whether: (1) good cause exists for the failure to file the motion within the time prescribed, (2) any disruption of the proceeding might result from permitting intervention, (3) the movant's interest is not adequately represented by

⁹ See, JOA Section 18.12.

¹⁰ See also, JOA section 18.4.

other parties, (4) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention, and (5) the motion conforms the content requirements for motions to intervene. As discussed below, PJM satisfies each of these criteria.

Fist, PJM's filing of this intervention out-of-time is caused by recent injection by MISO of the request for a Commission determination in this proceeding ordering PJM and MISO to amend the JOA. Thus, good cause exists for the failure to file the motion within the time prescribed.

Second, PJM takes the record as is and only seeks to address the limited issue recently raised by MISO regarding the PJM MISO JOA. Thus, no party will be prejudiced or assume any additional burden as a result of the Commission granting this motion, nor will it cause any disruption of the proceeding.

IV. Communications

Pursuant to 18 C.F.R. § 385.203 (b)(3), PJM designates the following persons as those to receive all notices and communications with respect to this proceeding:

Steven R. Pincus
Assistant General Counsel
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Norristown, PA 19403
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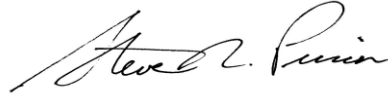
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Craig Glazer
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V. Conclusion

For the reasons stated above, PJM respectfully requests that the Commission grant the Motion to Intervene and the Motion for Leave to Answer and accept PJM's limited answer to the MISO Answer.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven R. Pincus". The signature is fluid and cursive, with the first name being the most prominent.

Steven R. Pincus
Assistant General Counsel
PJM Interconnection, L.L.C.

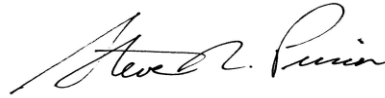
Craig Glazer
Vice President – Federal Government Policy
PJM Interconnection, L.L.C.

Dated: November 3, 2011

CERTIFICATE OF SERVICE

I hereby certify that this day I caused to be served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Norristown, PA this 3rd day of November 2011.



Steven R. Pincus
Attorney for PJM Interconnection, L.L.C.