

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

FirstEnergy Solutions Corp.)	
Allegheny Energy Supply Company, LLC,)	Docket No. EL12-19-000
Complainants)	
v.)	
)	
PJM Interconnection, L.L.C.,)	
Respondent)	

**MOTION FOR LEAVE TO ANSWER
AND ANSWER OF PJM INTERCONNECTION, L.L.C.**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213, hereby seeks leave to answer certain interventions, comments, protests and answers to the complaint and request for fast track processing of FirstEnergy Solutions Corp. and Allegheny Energy Supply Company, LLC (“FirstEnergy Solutions” and “AE Supply,” respectively, and collectively “FirstEnergy Companies”), filed on December 28, 2011 (“Complaint”).¹

I. BACKGROUND

On December 28, 2001, FirstEnergy Companies filed a complaint seeking to modify certain provisions found in Schedule 1 (“Schedule 1”) of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), as well as the parallel provisions of the Attachment K – Appendix of the PJM Open Access Transmission Tariff

¹ *Complaint and Request for Fast Track Processing of the FirstEnergy Companies*, FirstEnergy Solutions Corp. and Allegheny Energy Supply Company, LLC, Complainants v. PJM Interconnection, L.L.C., Respondent, Docket No. EL12-19-000 (Filed December 28, 2011)(“Complaint”).

(“Tariff”),² that govern the funding of Financial Transmission Rights (“FTRs”)³ because they believe the provisions have become unjust, unreasonable, unduly discriminatory and preferential due to recent events leading to inadequate funding of FTRs.

Under the present FTR funding rules, while the value of an FTR is based upon the difference between the Day-ahead prices at specified source and sink points on the transmission system, FTR holders are paid (or charged) based on congestion in both the Day-ahead and Real-time Energy Markets.⁴ FirstEnergy Companies seek immediate revisions to sections 5.2.5(a) and (b)⁵ of the Operating Agreement to align FTR revenue calculation with FTR pricing, which is to say, to calculate both values based on outcomes in the Day-ahead Energy Market. More specifically, FirstEnergy Companies seek to remove real-time (balancing) market outcomes from the calculation of the Transmission Congestion Charges. Additionally, recognizing that the proposed revisions to sections 5.2.5 (a) and (b) may create an underfunding of real-time congestion, FirstEnergy Companies seek revisions to the Operating Agreement “to allocate incremental real-time transmission congestion charges (whether negative or positive) to all customers of the transmission system on a pro rata basis or initiate settlement procedures to resolve this cost allocation issue, with instructions that any final cost allocation proposal should

²Schedule 1 of the Operating Agreement and Attachment K-Appendix of the Tariff are identical. For convenience, where PJM refers only to Schedule 1 of the Operating Agreement, such references are intended to encompass the corresponding provisions of Attachment K-Appendix of the Tariff, and vice versa.

³ Capitalized terms used and not otherwise defined herein have the meaning set forth in the PJM Open Access Transmission Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., Reliability Assurance Agreement Among Load Serving Entities in the PJM Region, and PJM Manuals.

⁴ See Operating Agreement, Schedule 1, Sections 5.2.3 and 5.2.5.

⁵ FirstEnergy Companies also seek changes to “any other corresponding provisions” of the Tariff and Operating Agreement that require that FTRs be funded based on both day-ahead and real-time Transmission Congestion Charges. Complaint at 30.

not result in FTR holders being responsible for incremental real-time congestion charges through the calculation of the value of their FTRs.”⁶

On January 13, 2012, PJM answered the Complaint, agreeing with FirstEnergy Companies that the current Operating Agreement provisions addressing the funding mechanism associated with FTRs should be modified to exclude real-time congestion costs from the FTR revenue calculus.

On January 13, 2012, numerous other parties also filed timely interventions, comments, protests and answers to the Complaint. PJM is now respectfully seeking leave to respond to some of these interventions, comments, protests and answers.

II. MOTION FOR LEAVE TO ANSWER

PJM recognizes that the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2), do not permit answers to interventions, comments, protests and answers unless otherwise ordered by the decisional authority. PJM respectfully requests that the Commission accept this answer, as it has done in other similar circumstances⁷, to help clarify the issues, ensure a complete record and to assist the Commission in its disposition of FirstEnergy Companies’ Complaint. In this answer, PJM specifically addresses protests that address a different issue than the allocation issue raised by FirstEnergy Companies in their Complaint. Through this response, PJM details a process that will allow analysis of the underfunding issue to go forward while ensuring that it not become a block to the timely resolution of the more targeted issue raised by FirstEnergy Companies in their Complaint. Accordingly, PJM believes

⁶ Complaint at 34-35.

⁷ See, e.g., *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,012 at P 35 (2009), *New York Indep. Sys. Operator, Inc.*, 123 FERC ¶ 61,206 at 29 (2008) (accepting otherwise impermissible answers because they provided information that assisted the Commission in the decision-making process); see also, *California Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,202 at 5 (2008); *Idaho Power Co.*, 95 FERC ¶ 61,482 at 62,717 (2001); *accord Cambridge Elec. Light Co.*, 95 FERC ¶ 61,162 at 61,523 (2001).

that the information provided herein will be useful to the Commission's decision and will provide a more complete record. Therefore, for these reasons, PJM submits this answer and respectfully requests that the Commission waive the prohibition in Rule 213(a)(2) to the extent necessary to permit PJM to respond to the comments and protests in this proceeding.

III. ANSWER

Based on the interventions, comments, protests and answers to the Complaint, parties are confusing and/or combining two separate issues, only one of which is directly related to the issue and relief sought by FirstEnergy Companies' in their complaint. Specifically, protestants seek to merge two distinct issues: (1) the settlement aspect of the FTR rules, i.e., the funding calculus for FTRs, which presently includes real-time congestion and which FirstEnergy Companies seek to change; and (2) the causes of FTR underfunding, which admittedly has increased over recent years. The Complaint contends that including real-time congestion in funding what is, in essence, a day-ahead product, the FTR, is unjust and unreasonable. That's all it argues. Nevertheless, several parties seek to expand the scope of this proceeding to examine the underlying cause of the underfunding and, more particularly, renew their prior attacks on PJM's Simultaneous Feasibility Test ("SFT") model, in both its design and implementation.⁸

PJM respectfully requests that the Commission decline invitation to re-examine PJM's SFT design and implementation, recognizing that it very recently addressed these questions, upholding both the integrity of the SFT model and acknowledging the judgment PJM necessarily

⁸ See, e.g., Motion to Intervene, Comments and Limited Protest of PPL EnergyPlus, LLC at 5-7, 15-19 ("PPL Protest"); Comments of the Independent Market Monitor for PJM at 5 ("PJM IMM Comments"); Motion to Intervene and Protest of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. at 8-12 ("Constellation Protest"); Motion to Intervene and Comments of Hess Corporation at 3, 5 ("Hess Comments"); Motion to Intervene and Joint Comments of American Electric Power Service Corporation and Dominion Resources Services, Inc. at 12 ("AEP/Dominion Comments"); and Answer of Exelon Corporation to FirstEnergy Complaint at 2, 5-6 ("Exelon Answer").

exercises in implementing this model to meet the competing interests of wide open access to the transmission system with FTR revenue adequacy.⁹ This request, however, should in no way be taken to suggest that PJM believes the recent increased incidence and extent of FTR underfunding is acceptable or beyond investigation. To the contrary, PJM has conducted extensive analysis and identified several factors contributing to FTR revenue inadequacy.¹⁰ PJM's Answer in this docket, described these factors generally and explained that the "root cause" of recent revenue inadequacy is a downward trend in "balancing congestion"¹¹ which is predominately (although not exclusively) caused by (1) an increase in congestion along the PJM borders; and (2) increased amounts of unexpected transmission outages over the past few years.¹² And while the complex factors affecting underfunding are not the subject of this proceeding, PJM will commit here to developing for stakeholder review and discussion a comprehensive report detailing the circumstances resulting in FTR underfunding. In explaining the causes of recent increased underfunding, the report will explore options to address these causes. In light of this explanation, the report will additionally examine SFT modeling assumptions and inputs and

⁹ See *PPL EnergyPlus, LLC v. PJM Interconnection, L.L.C.*, 134 FERC ¶ 61,263 (2011) ("PPL March 31st Order"), *reh'g denied*, 136 FERC ¶ 61,060 (2011) ("PPL July 27th Order"), *appeal docketed*, No. 11-1341 (D.C. Cir Sept. 23, 2011).

¹⁰ See PJM Answer at 4-5, 14. See also PJM IMM Comments at 2 ("PJM has done significant work and made useful suggestions for resolving the FTR funding issues . . .").

¹¹ "Balancing Congestion" refers to congestion that occurs in PJM's Real-time (or "balancing") Energy Market, which is not forecast and therefore considered in PJM's Day-ahead Energy Market. System conditions are never exactly the same in real-time as captured in the Day-ahead Energy Market. One primary reason is that the Day-ahead Energy Market is based solely on the bids and offers of Market Participants; PJM does not incorporate its own load forecast into the Day-ahead Energy Market model. Since conditions are always different in real-time than they were in the Day-ahead Energy Market model, real-time congestion differs from Day-ahead congestion, and that difference can be either positive or negative.

¹² PJM Answer at 14-18. PJM will not burden further this pleading with detailed explanation of the causes of increased balancing congestion. PJM, together with its stakeholders, has done much work over the last 12 months to identify causes and examine solutions to this problem. See, <http://www.pjm.com/committees-and-groups/task-forces/fortf.aspx>. This effort is ongoing and, as explained in this pleading below, PJM will organize these findings and recommendations in a formal report to PJM stakeholders by May 1, 2012.

will consider the impact of existing Operating Agreement provisions guaranteeing full ARR allocations to Stage 1A firm transmission customers on the question of underfunding. The report will offer recommendations for changes, if any, to existing rules and/or processes and practices undertaken by PJM in allocating ARRs. The report will be prepared by PJM's Markets Division with input sought from PJM's independent market monitor, Monitoring Analytics ("IMM"). PJM further commits to publish this report to the PJM stakeholders by May 1, 2012.

Nevertheless, balancing congestion will always exist – it is inherently unavoidable – and its potential to contribute to FTR underfunding will likewise always exist, to the extent it remains a factor included in the calculating FTR revenues.¹³ For this reason, PJM continues to agree with FirstEnergy Companies that the costs of balancing congestion are more equitably reassigned by removing the cost of real-time congestion from FTR holders, whose FTR values are determined solely based on congestion price differences in the Day-ahead Energy Market, and assigning such costs to market participants in the Real-time Energy Market. Examining those pleadings that address the actual allocation question posed by FirstEnergy Companies' Complaint (as opposed to those charging that PJM is somehow causing the balancing congestion contributing to

¹³ FTR underfunding will always exist if transmission performance is less than reasonably expected. Underperformance of the transmission system can occur due to unexpected outages or reductions in ratings, and negative balancing congestion will always be a possibility given the existence of inherent uncertainties (as described above) that underlie each and every attempt to forecast a complicated system like PJM that has multiple factors influencing transfer capability and the ability to move power. PJM must strike a reasonable balance between the goal to maximize the use of the transmission system through allocation of transmission rights and at the same time also ensuring that FTRs are fully funded. If PJM would seek to completely eliminate FTR funding exposure due to the transmission performance uncertainties described above, it would be forced to take an extremely conservative approach to granting firm transmission service (which is to say, allocating ARRs) and thus severely and conservatively reduce availability of FTRs. Not only would such an approach be unreasonable, it would be prohibited by PJM's rules. *See* Operating Agreement, Schedule 1, Section 7.4.2 (h) and (i).

the underfunding) reveals that the majority of the parties agree with the proposed change, even if only as a viable short-term approach to FTR underfunding.¹⁴

IV. CONCLUSION

The Commission should resist the calls of those parties seeking to expand this proceeding to include a renewed examination into PJM's implementation of its SFT model. Not only are such calls a collateral attack on a recent Commission order whose appeal is now pending in the United States Circuit Court, but more importantly, they would disrupt the examination into these complex issues that remains ongoing by PJM, its stakeholders, and the IMM. Finally, resolving questions associated with how PJM models its system for purposes of allocating ARRAs will not remove the potential for balancing congestion, and therefore will not answer the question of where the costs of balancing congestion should be imposed – the very crux of the Complaint in

¹⁴ Exelon Answer at 1 (“Exelon agrees with the remedy proposed by FE to remove the real-time congestion costs from the calculation of FTR values and allocate those real-time congestion costs to all transmission customers.”); Comments of the NRG Companies in Support of Complaint and Request for Additional Analysis at 3 (“First, the Commission should grant the FirstEnergy Complaint and immediately direct PJM to cease deducting real-time congestion charges from its calculation of FTR revenues.”); PPL Protest at 2 (“Because FTR market participants should not be held solely responsible for funding the cost of real-time congestion, PPL EnergyPlus urges the Commission to accept the changes to the [PJM Tariff] that FE has requested to be implemented, and to do so prior to the commencement of the 2012/2013 planning year. . . .”); Motion to Intervene and Comments in Support of the Complaint by Edison Mission Marketing & Trading, Inc. at 3 (“[T]he Commission should issue an order by March 1, 2012 requiring PJM to revise its Tariff and OA to remove real-time congestion from its FTR calculations and to allocate real-time congestion shortfalls to all transmission customers on a *pro rata* basis in time for the upcoming 2012/2013 planning period.”); Motion to Intervene and Supporting Comments of the PSEG Companies at 2 (“The PSEG Companies instead support the FirstEnergy Companies’ proposed resolution – to remove real-time congestion costs from FTR market calculations beginning in the 2012/2013 planning year.”); Hess Comments at 2 (“Hess supports FE’s proposal to ‘eliminate the reference to real-time energy market in the calculation of transmission congestion charges that FTR holders receive.’”); Motion to Intervene and Comments in Support of DB Energy Trading LLC at 4, and Motion to Intervene and Comments in Support of DC Energy, LLC, Vitol Inc., and Brookfield Energy Marketing L.P. at 5 (supporting the FirstEnergy Companies’ Complaint and requesting that the Commission require PJM to amend its Tariff in a manner that makes all transmission system customers responsible for incremental real-time transmission congestion); Motion to Intervene and Comments of Financial Institutions Energy Group at 2, and Motion to Intervene and Comments of J. Aron & Company at 2 (supporting the FirstEnergy Companies’ complaint regarding the existing allocation of balancing congestion costs in the real-time market to FTR holders as being unjust and unreasonable, and supporting the proposal to link FTR settlements solely to LMPs in the day-ahead market).

this docket. For this reason, PJM respectfully requests that the Commission address only this question and find that the costs of congestion in the real-time market should not factor into the funding of FTRs, which by design are priced based on day-ahead market outcomes.

Respectfully submitted,



Craig Glazer
Vice President – Federal Government Policy
PJM Interconnection, L.L.C.
1200 G Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 202-423-4743
glazec@pjm.com

Jeanine Schleiden
Counsel
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Valley Forge Corporate Center
Norristown, PA 19403
(610) 666-4438
schlej@pjm.com

January 30, 2012

*On behalf of
PJM Interconnection, L.L.C.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Norristown, PA, this 30th day of January, 2012.



Jeanine Schleiden
Counsel
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Valley Forge Corporate Center
Norristown, PA 19403
(610) 666-4438
schlej@pjm.com