UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt Hébert, Jr.

PJM Interconnection, L.L.C.) Docket No. ER99-2028-000

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued April 13, 1999)

On February 11, 1999, the Commission issued an order directing the PJM Interconnection, L.L.C. (PJM) to file new Fixed Transmission Rights (FTR) auction procedures within 90 days of the date of issuance of the order. 1/ In accordance with the February Order, on March 2, 1999, PJM filed revisions to Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) and the same revisions to Attachment K of the Pennsylvania-New Jersey-Maryland Open Access Transmission Tariff (PJM OATT). In the revisions, PJM sets forth detailed procedures governing the FTR auction (Compliance Filing). PJM requested a waiver of the 60-day notice requirement in 18 C.F.R. § 35.3, and an effective date of April 13, 1999. We conditionally approve the Compliance Filing, with the modifications discussed in the body of this order.

I. Background

In its order of November 25, 1997, the Commission conditionally approved a proposal to restructure the Pennsylvania-New Jersey-Maryland power pool. 2/ In the Restructuring Order, the Commission conditionally approved a locational marginal pricing scheme (LMP) which imposed charges on customers who used the PJM transmission system during congestion periods. As part of the LMP proposal, firm point-to-point and network transmission service customers were entitled to FTRs, which were credits against congestion charges. 3/

1/ Atlantic City Electric Company, et al., 86 FERC ¶ 61,147 (1999) (February Order).

2/ PJM Interconnection, L.L.C., et al., 81 FERC ¶ 61,257 (1997) (Restructuring Order), reh'g pending.

3/ Id. at 62,253-61.

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At the conclusion of the Restructuring Order, the Commission directed the PJM to file a proposal to address the lack of price certainty that might exist under the LMP scheme. On December 31, 1997, the PJM Supporting Companies 4/ filed proposed amendments to Schedule 1 of the Operating Agreement to implement an auction of FTRs, which they concluded was one way to address the lack of price certainty. On March 25, 1998, PJM itself made a filing and supported the FTR auction proposal of the PJM Supporting Companies. 5/

On February 11, 1999, the Commission issued its February Order. While observing that the PJM Supporting Companies' FTR auction proposal "has promise," the Commission found that the proposal lacked clarity and too many important details. Thus, it rejected the proposal, and directed PJM to develop, with stakeholder input, another FTR auction proposal that addresses the Commission's concerns within 90 days. 6/ In addition, the Commission directed PJM to include in its Compliance Filing a description of the methods available to FTR holders for reconfiguring their receipt and delivery points outside of an auction context. 7/.

Description of the Compliance Filing

On March 2, 1999, PJM made the Compliance Filing and PJM's Members Committee unanimously ratified it on March 26, 1999. 8/

4/ The PJM Supporting Companies were Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PP&L, Inc., Potomac Electric Power Company and Public Service Electric and Gas Company.

5/ 86 FERC at 61,523.

6/ Id. at 61,527.

7/ Id. at 61,528. Reconfiguring means changing one receipt/delivery point combination that comprises a transmission path to a different receipt/delivery point combination. FTRs are associated with a particular receipt/delivery point combination for firm point-to-point and network transmission service.

8/ Letter from counsel for PJM dated March 26, 1999.

PJM filed revised pages to the PJM OATT and Operating Agreement 9/ establishing an FTR auction. The FTR auction procedures are substantially the same as those included in PJM Supporting Companies' earlier proposal. FTR auctions would be conducted monthly and would make available to interested bidders all FTRs that are unassigned at the time of the auction, as well as any FTRs offered for sale by current FTR holders. PJM would use a computerized linear programming (LP) model to evaluate the bids and offers, and to establish FTR prices for each transmission path. 10/ PJM would reconfigure the available FTRs so as to maximize the value to bidders of the FTRs sold, subject to a requirement that all FTRs sold must be simultaneously feasible with outstanding FTRs that are not offered for sale in the auction. Prices determined in the auction would be market clearing prices based on the bids submitted.

In selecting the most valuable set of FTRs, PJM may reconfigure some or all of the FTRs offered for sale. Such reconfiguration would not reduce the amount of FTRs held by other FTR holders who do not participate in the auction. PJM will post the results of the auction within two business days after the close of the auction.

In comparison with the PJM Supporting Companies' FTR auction proposal, the Compliance Filing provides greater detail in several areas. For example, the Compliance Filing provides additional detail concerning the time and scope of FTR auctions. The Compliance Filing clarifies that an offer or bid specifying a particular megawatt quantity of FTRs shall constitute an offer to sell or a bid to purchase a quantity of FTRs equal to or less than the specified quantity. Also, the Compliance Filing provides that quantities must be specified to the nearest tenth of a megawatt and must be greater than zero. The Compliance Filing provides more detail regarding how prices and winning

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9/ Attachment K-Appendix to its Open Access Transmission Tariff and Schedule 1 of its Amended and Restated Operating Agreement.

10/ Linear programming is a mathematical technique that allows an analyst to determine what amounts of specified variables (such as FTRs along various transmission paths) will best meet a specified objective, subject to specified constraints and restrictions. Here, PJM would use an LP model to choose the amount of FTRs on various paths to be allocated to various bidders. The objective would be to maximize the net total auction value to bidders based on the bids submitted by participants. The constraints and restrictions would include physical capacity limits of the various transmission lines.

bidders are determined. Also, PJM attached to its Compliance Filing a simplified example that illustrates the auction process.

Reconfiguring FTRs outside of the Auction

As required by the February Order, PJM provides information on how FTR holders can reconfigure their receipt and delivery points outside of an auction context. PJM describes three ways in which an FTR holder may reconfigure its FTRs outside the auction process. These include: (1) purchasing and selling existing FTRs in a secondary market; (2) requesting additional firm point-to-point service and receiving FTRs with it; and (3) requesting a reconfiguration of network service FTRs. 11/

II. Notice of filing, interventions and protests

Notice of PJM's Compliance Filing was published in the Federal Register, 64 Fed. Reg. 12,163 (1999), with comments, protests and interventions due on or before March 15, 1999. The Maryland Public Service Commission (Maryland Commission) filed a notice of intervention, and Member Systems of the New York Power Pool (New York Pool Members), and Old Dominion Electric Cooperative (Old Dominion) filed timely, unopposed motions to intervene. Old Dominion's motion included a protest. Enron Power Marketing, Inc. (Enron), US Generating Company jointly with PG&E Energy Trading-Power, L.P.(US Gen-PG&E), and Electric Clearinghouse, Inc. (Clearinghouse) filed separate requests to intervene out-of-time. Clearinghouse included a protest with its pleading. With the exception of the pleadings of Clearinghouse and Old Dominion, none of the pleadings raised substantive issues.

On April 6, 1999, PJM filed a motion for permission to answer Clearinghouse's protest together with an answer.

III. Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1998), the timely, unopposed motions to intervene of New York Pool Members and Old Dominion, and the Maryland Commission's notice of intervention, serve to make them parties to this proceeding.

We will grant the motions to intervene out-of-time of Clearinghouse, Enron and US Gen-PG&E given their interests, the early stage of the proceeding and the lack of undue prejudice or delay.

11/ Compliance Filing, Transmittal Letter at 10-11.

While parties are not entitled as a matter of right to answer a protest, 18 C.F.R. § 385.213 (1998), we will accept PJM's answer to Clearinghouse's protest because it assists our understanding of the issues before us.

The FTR Auction Proposal

We conditionally accept PJM's proposed FTR auction procedures, with the modifications described below. The auction would benefit market participants and provide greater price certainty. Moreover, the revised language describing the FTR auction procedures adequately addresses the Commission's concerns noted in the February Order regarding the lack of both clarity and details found in the PJM Supporting Companies' earlier proposal.

In its protest, Old Dominion supported the Compliance Filing, but Old Dominion contended that the costs of administering the FTR auction should not be recovered through the PJM Scheduling charge since all transmission customers pay that charge whether they use the FTR auction process or not. Old Dominion argues that only those customers who cause the costs to be incurred should pay for them. 12/ We reject Old Dominion's request for a ruling on the proper mechanism by which PJM should recover the costs of administering the FTR auction as premature. This cost recovery issue was not before us in the February Order, and we do not reach it here. It is well-established Commission policy to limit the scope of compliance filing proceedings to the compliance filing itself. 13/

Clearinghouse

Clearinghouse raises three broad criticisms of the Compliance Filing. First, it objects to many of the mechanics of the FTR auction. With two exceptions, we conclude that the proposed mechanics are reasonable and need not be changed.

12/ Old Dominion's Motion at 2, citing Northern States Power Company (Minnesota and Wisconsin), 64 FERC ¶ 61,324 at 63,379 (1993).

13/ See, e.g., Florida Power & Light Company, 83 FERC ¶ 61,187 at 61,773 n.9 (1998). We note also that PJM will be performing unbundling studies and reviewing its cost recovery mechanisms preparatory to making a filing later in 1999 unbundling its costs. PJM Interconnection, L.L.C., 86 FERC ¶ 61,017 at 61,044 (1999).

Moreover, the PJM Members Committee unanimously endorsed the entire Compliance Filing. 14/

Clearinghouse complains that the use of an LP model to evaluate bids is overly complex. If the Commission accepts the use of the LP model, however, Clearinghouse requests that the model be posted. We agree with PJM that an LP model is an acceptable tool for use in the FTR auction. An LP model allows PJM to ascertain how to reconfigure receipt/delivery point combinations so as to maximize their FTR value to bidders. It allows PJM to evaluate which among the many sets of FTR paths provides the greatest value to bidders. We agree with Clearinghouse, however, that details of the model should be made available to market participants, since the model determines the quantities of FTRs awarded and their prices. In its answer, PJM responds that it cannot provide details of the model to market participants, even with a confidentiality agreement because the program is proprietary to its vendor. Nevertheless, we will require that details be made available to market participants given the importance of the model as noted above. However, consistent with our decision regarding the New England Power Pool, 15/ we direct PJM to work with interested parties to reach an agreement regarding precisely what information will be made available to participants. To the extent that some information is proprietary to the model vendor, PJM may require market participants to sign confidentiality agreements prohibiting transfer of the information or using it for other purposes; we see no reason why such safeguards would be inadequate.

Clearinghouse also contends that all offers and bids must be posted upon receipt. Consistent with recent orders concerning Independent System Operators (ISO) in New York and New England, 16/ we will allow PJM to keep bids confidential for a six-month period (to alleviate problems of commercial sensitivity), but we direct PJM to post on its web site bid information thereafter. This will promote market transparency and aid in monitoring the market.

Clearinghouse states that the auction should begin and end during normal business hours, rather than at midnight as PJM proposes. We disagree. The auction will be open continually over a five-day period, which provides ample time for

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14/ See supra note 8 and accompanying text. The PJM Members Committee consists of all PJM stakeholder groups.

15/ New England Power Pool, 87 FERC ¶ 61,045 (1999).

16/ Central Hudson Gas & Electric Corp., et al., 86 FERC ¶ 61,062 (1999); New England Power Pool, 87 FERC ¶ 61,045 (1999).

participants to submit bids and offers during normal business hours, should they choose to participate only in those hours.

Clearinghouse argues that PJM must specify in the PJM OATT how it will determine whether FTRs sold in the auction are previously unassigned FTRs held by PJM or offered for resale by a third party. We do not agree that the PJM OATT requires further explanation. As PJM notes in its Answer, any unassigned FTRs always will be sold before those offered by third parties because the unassigned FTRs are costless to PJM. 17/

Finally, Clearinghouse recommends that PJM run its power flow model and post the results on the Open Access Same Time Information System (OASIS) before the beginning of the auction so that participants will know what FTRs are available. We disagree. PJM will not know the total amount of FTRs available until the close of the auction, when all offers to sell FTRs have been submitted.

Second, Clearinghouse complains about the FTR auction rules. With one exception, we reject the complaints.

Clearinghouse objects to PJM's proposal to establish a single price for each FTR path. It recommends instead that each winning bidder pay its bid price and that each winning offerer of FTRs receive its offer price. We conclude that establishing a single price for each path is reasonable. It is consistent with other ISO-administered auctions accepted by the Commission for capacity, energy, ancillary services, and transmission services, for example, in PJM itself as well as in California, NEPOOL and New York. 18/

Clearinghouse complains that the proposal allows transmission owners to keep auction revenues, and thus, could allow them to exceed their revenue requirements. We reject this complaint. The proposal would treat revenues from FTR sales in the auction in the same way as revenues from FTR sales outside the auction. 19/

17/ PJM's Answer at 12.

18/ Pacific Gas and Electric Company, et al., 81 FERC ¶ 61,122 (1997); New England Power Pool, 85 FERC ¶ 61,379 (1998); Central Hudson Gas & Electric Corp. et al., 86 FERC ¶ 61,062 (1999).

19/ Net revenues from the sale of FTRs are taken into account in computing the transmission owner's cost of service used in determining the revenue requirement for a rate case. Compliance Filing, Transmittal Letter at 7.

Clearinghouse argues that the one-month term and the 0.1-MW minimum quantity for FTRs in the auction do not match the needs of the market. It also recommends allowing bidders to specify a minimum quantity. We see no need to alter these features of the Compliance Filing, which has unanimous support from the PJM Members Committee. Moreover, participants desiring different terms or needing to specify minimum quantities may purchase FTRs outside the auction, either directly from PJM or in the secondary FTR market.

Clearinghouse states that PJM has specified no tie-breaker rule for situations where two identical bids are submitted and there are insufficient FTRs. In its Answer, PJM states that in the event of a tie, each bidder will receive a pro rata share of the FTRs that can be awarded. We find this tie-breaker rule acceptable and we direct PJM to revise its Compliance Filing accordingly.

We direct PJM's Market Monitoring Unit to evaluate these rules and provisions, in a report to the Commission to be filed August 1, 2000, after reviewing the first year of experience with the FTR auction.

Third, Clearinghouse complains about the characteristics of FTRs. It argues for removing restrictions on the purchase of network FTRs, for addressing the relationship of FTRs and transmission loading relief (TLR) procedures, for addressing the issue of price certainty when LMP is negative, and for adding a provision in the PJM OATT clarifying that FTRs will be available from the PJM Trading Hubs. 20/ These issues involve the nature of FTRs themselves, and not the proposed FTR auction. They are therefore beyond the scope of this proceeding. 21/

In the February Order, we directed PJM to consult with stakeholders in developing the Compliance Filing. In its answer, PJM advises that the stakeholders did participate in developing the Compliance Filing, but that the complaints made by Clearinghouse in this compliance proceeding were not raised in the stakeholder discussions before the Compliance Filing was filed. Our expectation in giving this instruction to PJM in the February Order was that there would be full and open discussion about refining the FTR auction. We believe as a general proposition that full and open discussion among interested parties often leads to better and more reasonable decisions. We intend for ISOs such as PJM to be a forum in the first instance for stakeholders to work out their differences, wherever

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20/ PJM's FTR Business Rules already specify that FTRs may be acquired to and from the hubs.

21/ 83 FERC at 61,773 n.9.

possible, so that they need not come to the Commission. We stress to the stakeholders of PJM that our expectation and belief persist.

Reconfiguring FTRs outside the auctions

The Commission stated in the February Order that the ability to reconfigure FTRs will help to alleviate price uncertainty and improve the liquidity of FTR markets. 22/ In the Compliance Filing, PJM proposes to allow reconfiguration of FTRs in the context of an auction (albeit with some limitations, for example, FTRs purchased through the auction would have a term of one month). In addition, to ensure that FTR holders face no unnecessary impediments to reconfiguring their receipt and delivery points, the Commission in the February Order also directed PJM to provide a description of the procedures by which FTR holders can reconfigure their receipt and delivery points outside of an auction context. 23/ PJM has provided the requested description in the Compliance Filing.

PJM states that it provides three ways for FTR holders to reconfigure receipt and delivery points outside of an auction: (1) purchasing and selling existing FTRs in a secondary market; (2) requesting additional firm point-to-point service and receiving the FTRs that go with it; and (3) requesting a reconfiguration of network service FTRs. By filing this description, PJM has complied with the February Order's directive that a description be filed. We conclude from PJM's description that FTRs may be reconfigured outside the auction under the specified conditions.

Clearinghouse argues that, while PJM has provided a description of the process of reconfiguration, as the February Order required, PJM has failed to provide adequate flexibility to reconfigure points for FTRs associated with firm point-to-point transmission service. Clearinghouse states that PJM provides for reconfiguration of FTRs for firm point-to-point customers only through requests for additional firm point-to-point service, while PJM will allow network customers to reconfigure their FTRs on a daily basis. 24/

22/ 86 FERC at 61,258.

23/ Id.

24/ Clearinghouse's Motion at 8. We note that Clearinghouse has not fully described the reconfiguration process for firm point-to-point customers. From our review of the Compliance Filing, it appears that, in addition to obtaining new receipt/delivery point combinations by buying additional

(continued...)

We do not believe the difference in flexibility that Clearinghouse notes between reconfiguration under network service and reconfiguration under firm point-to-point service is unreasonable. The processes for reconfiguration for the two types of transmission service are consistent with the provisions of the pro forma tariff and the provisions of the PJM OATT for firm point-to-point service and network service. 25/ The difference in flexibility for reconfiguring receipt/delivery point combinations and their associated FTRs noted by

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24/ (...continued)
point-to-point service, a firm point-to-point customer may modify existing receipt/delivery point combinations on a firm basis pursuant to section 22.2 of the PJM OATT. If it chooses the section 22.2 route, the firm point-to-point customer does not have to pay an additional deposit for the modified service, but it must begin the reservation process afresh. The customer maintains its priority over the original receipt/delivery point path while the new modified path is being approved. PJM OATT § 22.2.

PJM maintains at pages 7 and 8 of its answer that the section 22.2 route, as well as the purchase of additional service route, can be requested on a daily basis. According to PJM, network service customers may change receipt/delivery point combinations among previously designated network resources and loads on a daily basis as well, but they do not have to begin the application process afresh. They only have to begin the process afresh if they desire a receipt/delivery point combination that involves newly designated network resources and loads. PJM's Answer at 7-8.

25/ See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. and Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 Fed. Reg. 12,274 (1997), FERC Stats. and Regs. ¶ 31,048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998) (pro forma tariff at §§ 13.7, 22.1, 22.2, and 28.3); PJM OATT §§ 13.7, 22.1, 22.2, and 28.3. Under these provisions, a firm point-to-point customer may change its original receipt/delivery point combination for a new combination, but in that event, transmission service would be on a non-firm basis, and no FTRs would be allocated to that new combination. A firm point-to-point customer could get firm service for a new receipt/delivery point combination by arranging for additional firm service.

Clearinghouse inheres in the difference between the two types of transmission service.

We conclude with an additional point. PJM noted in its Compliance Filing that one of the ways FTR holders could reconfigure receipt/delivery point combinations outside the auction context was through requests for alteration in the configuration of network service FTRs. 26/ This description and related PJM OATT provisions 27/ indicate that network service customers are allowed to reconfigure their FTRs only between their network resources and their load. This requirement is from the pro forma tariff provisions that are intended to assure that the physical requirements of network service are satisfied. By contrast, in the proposed auction, PJM will reconfigure for periods of one month all FTRs offered for sale by FTR holders, including network service customers, without regard to maintaining a link between specific resources and loads. We encourage the PJM and stakeholders to continue their discussions about the FTRs, not only concerning different time periods for the FTR auction, but, in light of our interest in promoting a liquid and robust FTR secondary market, we encourage them to continue their discussions concerning whether further flexibility in reconfiguring FTRs outside the auction context is feasible and desirable as well.

The Commission orders:

(A) The Compliance Filing is hereby conditionally accepted, with the modifications set forth in the body of this order, and with an effective date of April 13, 1999, as requested by PJM.

(B) PJM is hereby directed to make further filings consistent with the discussion in the body of this order.

(C) PJM is hereby informed of the rate schedule designations in the attached Appendix.

By the Commission.

(S E A L)

David P. Boergers

David P. Boergers,
Secretary.

26/ Compliance Filing, Transmittal Letter at 11.

27/ PJM OATT §§ 28.1 and 30.7.

APPENDIX

PJM Interconnection, LLC
Docket No. ER99-2028-000
Rate Schedule Designations

	Designation	Description
(1)	Third Revised Sheet No. 14, Second Revised Sheet No. 130, Original Sheet Nos. 179A, 181A through 181G and First Revised Sheet Nos 179 through 180 under FERC Electric Tariff, Third Revised Volume No. 3	Revisions to Attachment K under PJM's Open Access Transmission Tariff establishing Fixed Transmission Auction Rights
(2)	Third Revised Sheet Nos. 3, 4, and 6, Fourth Revised Sheet Nos. 43 and 43A, First Revised Sheet Nos. 45 through 50 under Rate Schedule FERC No. 24	Revisions to the Operating Agreement establishing Fixed Transmission Auction