

135 FERC ¶ 61,228
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

PJM Interconnection, L.L.C.

Docket No. ER11-2875-001

PJM Power Providers Group

v.

Docket No. EL11-20-001

PJM Interconnection, L.L.C.

(not consolidated)

ORDER GRANTING REHEARING FOR
FURTHER CONSIDERATION AND ESTABLISHING
TECHNICAL CONFERENCE

(Issued June 13, 2011)

Tolling Order

1. Rehearing has been timely requested of the Commission's order issued in this proceeding on April 12, 2011.¹ In the absence of Commission action within 30 days

¹*PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 (2011) (April 12 Order). In the April 12 Order, the Commission accepting proposed tariff revisions submitted by PJM Interconnection, L.L.C. (PJM), subject to condition, and addressing a related complaint submitted by the PJM Power Providers Group (P3).

from the date the rehearing request was filed, the request for rehearing, and any timely requests for rehearing filed subsequently,² would be deemed denied.³

2. In order to afford additional time for consideration of the matters raised, rehearing of the Commission's order is hereby granted for the limited purpose of further consideration, and timely-filed rehearing requests will not be deemed denied by operation of law.

Technical Conference

3. Among the specific rehearing requests presented, petitioners challenge the Commission's finding that self-supply Sell Offers for Planned Generation Capacity Resources submitted into PJM's Reliability Pricing Model (RPM) base residual auction are and should be subject to PJM's Minimum Offer Price Rule (MOPR).⁴ Specifically, the April 12 Order accepted PJM's clarification that planned generation resources designated by a load serving entity as self-supply are subject to an offer floor based on their entry costs until clearing in the base residual auction.⁵ PJM stated that it never intended to exempt self-supply offers from the MOPR and that the tariff language in question referred to self-supply in the context of the construction of a revised supply curve after the MOPR was triggered and sell offers were re-priced.⁶ Because PJM sought to no longer construct a revised supply curve, PJM proposed, and the Commission accepted, the elimination of this ambiguous tariff language and the insertion of a clarifying cross-reference.⁷

² *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange*, 95 FERC ¶ 61,173 (2001) (clarifying that a single tolling order applies to all rehearing requests that were timely filed).

³ 18 C.F.R. § 385.713 (2011).

⁴ April 12 Order, 135 FERC ¶ 61,022 at P 191.

⁵ PJM's then-existing MOPR provided that PJM "shall accept Sell Offers . . . in accordance with the following priority and criteria for allocation: (i) first, all Sell Offers in their entirety designated as self supply" PJM OATT, Attachment DD at Section 5.14(h)(4).

⁶ PJM February 11, 2011 Filing at 20.

⁷ See proposed PJM OATT, Attachment DD at Section 5.2 ("Any [Self-Supply] Sell Offer shall be subject to the minimum offer price rule set forth in section 5.14(h).").

4. The April 12 Order further noted that, under PJM's tariff, an alternative is provided through the Fixed Resource Requirement (FRR) allowance, for those load serving entities seeking to bring new generation resources into the PJM capacity market without risk of being mitigated under the MOPR.⁸ The April 12 Order explained that the FRR option is the alternative for load serving entities that wish to secure their own capacity resources outside of a competitive market, whether as directed by state-authorized integrated resource plans or pursuant to other considerations. The April 12 Order concluded, however, that to protect the integrity of PJM's wholesale capacity markets under RPM, new self supply seeking to participate in the RPM market must compete with other planned generation on the same competitive basis.

5. A number of petitioners challenge the Commission's determinations relating to self-supply. Dominion Resources Services, Inc. (Dominion), for example, asserts that the Commission failed to consider Dominion's arguments regarding the negative consequences of restricting flexible participation in PJM's RPM capacity market and failed to explain why utilities engaged in state-sanctioned integrated resource planning and certification processes should not be permitted to sell excess capacity or meet capacity shortfalls in the RPM market. Likewise, the National Rural Electric Cooperative Association (NRECA) claims that the Commission's findings will deny utilities that own or have rights to capacity the authority to use this capacity toward meeting their capacity obligations and thus force these utilities to purchase unneeded capacity through the RPM processes. The PJM Load Group questions the adequacy of the Commission's findings in the absence of additional procedures to more thoroughly explore issues related to self-supply.⁹

⁸ *Id.* P 192. An entity that chooses the FRR alternative submits an FRR capacity plan to PJM, a long-term plan for the commitment of capacity resources to satisfy the entity's capacity obligations. The area covered by the plan is: (i) the service territory of an investor-owned utility; (ii) the service area of a public power entity or electric cooperative; or (iii) a separately identifiable geographic area that is bounded by wholesale metering, or similar appropriate multi-site aggregate metering, and for which the FRR entity has or assumes the obligation to provide capacity for all load (including load growth) within such area. *See* PJM Reliability Assurance Agreement at Schedule 8.1.

⁹ The PJM Load Group is comprised of the following entities: American Public Power Association; American Municipal Power, Inc.; ArcelorMittal USA, LLC; Old Dominion Electric Coop.; American Municipal Power, Inc.; PJM Industrial Customer Coalition; Public Power Association of New Jersey; Duquesne Light Co.; Borough of Chambersburg, PA; Blue Ridge Power Agency; Delaware Municipal Electric Corp.; Electricity Consumers Resource Council; North Carolina Electric Membership Corp.; Pennsylvania Office of Consumer Advocate; and Maryland Office of People's Counsel.

6. In order to fully explore the issues raised on rehearing regarding the applicability of PJM's MOPR to self-supply, we direct Commission Staff to convene a technical conference within 45 days of the date of this order. We further direct Commission Staff to establish appropriate post-technical conference comment procedures and other additional procedures as may be required. Details relating to the technical conference will follow in a separate notice.

7. At the technical conference, Commission Staff will seek additional information regarding PJM's self-supply proposal and petitioners' related assertions on rehearing.

The Commission orders:

(A) Rehearing of the April 12 Order is hereby granted for further consideration, as discussed in the body of this order.

(B) Commission Staff is hereby directed to convene a technical conference, within 45 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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