

140 FERC ¶ 61,123  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

PJM Interconnection, L.L.C.

Docket Nos. ER11-2875-006  
ER11-2875-007  
ER11-2875-008

ORDER ACCEPTING COMPLIANCE FILING

(Issued August 10, 2012)

1. On May 4, 2012, PJM Interconnection, L.L.C. (PJM) submitted a tariff filing in compliance with a Commission order issued April 4, 2012.<sup>1</sup> For the reasons discussed below, we accept PJM's compliance filing.

**Background**

2. On February 1, 2011, the PJM Power Providers Group (P3) filed a complaint seeking revisions to PJM's Minimum Offer Price Rule (MOPR), which is aimed at preventing buyer market power in PJM's capacity market.<sup>2</sup> The MOPR is designed to prevent the exercise of buyer market power by ensuring that new resources cannot use offers below competitive levels to suppress clearing prices.<sup>3</sup> In its complaint, P3 argued that the MOPR had become ineffective and must be revised. On February 11, 2011, PJM filed related Tariff revisions proposing to adopt in part P3's requests.

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<sup>1</sup> *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,011 (2012) (April 2012 Order). PJM submits its compliance changes in three separate sub-dockets, based on the superseding effective dates. Unless otherwise noted, we refer to PJM's compliance filings in the singular.

<sup>2</sup> See PJM Open Access Transmission Tariff (OATT) at Attachment DD, section 5.14(h).

<sup>3</sup> The tariff establishes benchmark competitive bids that are applied to resources that are subject to the MOPR.

3. On April 12, 2011, the Commission issued an order accepting in part, and rejecting in part, PJM's proposed Tariff revisions, subject to the submission of a compliance filing.<sup>4</sup> The April 2011 Order required PJM to propose Tariff revisions allowing for PJM and its Independent Market Monitor (IMM) to review unit-specific cost justifications for Sell Offers that have not cleared the MOPR screen. The April 2011 Order also found that the MOPR must be applied until a resource demonstrates that its capacity is needed by clearing in PJM's capacity auction near its full cost of entry. PJM submitted its compliance on May 12, 2011.

4. On November 17, 2011, the Commission issued an order addressing PJM's compliance filing along with requests for rehearing of the April 2011 Order.<sup>5</sup> The Commission required PJM to revise Attachment DD of its OATT, at section 5.14(h)5(ii), to make clear that requests for information made by PJM, or the IMM, during the unit-specific MOPR review process would be limited to "*reasonable* supporting information."<sup>6</sup> The Commission also required PJM to revise its Tariff to make clear that the duration of mitigation lasts until a resource clears in a PJM capacity auction. In addition, the Commission held that the MOPR may not be applied to external resources, unless it passed the following two-pronged test, whereby: (i) a specific, new external resource is identified as the sole support for the import; and (ii) a significant investment is made to provide capacity to the importing regional transmission provider.

5. PJM submitted a compliance filing in response to the November 2011 Order on January 27, 2012. In the April 2012 Order, the Commission accepted PJM's compliance filing, subject to the submission of an additional compliance filing. First, the Commission found that PJM had failed to revise section 5.14(h)5(ii), as required, to make clear that PJM/IMM information requests during the unit-specific review process would be limited to "reasonable" supporting information. Second, the Commission required PJM to remove the reference to "Planned" resources, in section 5.14(h)(4)(i), to make clear that the MOPR will apply to any generation capacity resource in the PJM-region submitted into a PJM capacity auction, unless a Sell Offer based on that resource cleared an auction for that or any prior delivery year.<sup>7</sup> Third, the Commission similarly required PJM to revise its Tariff to remove the word "Planned" for external resources and "make

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<sup>4</sup> *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 (2011) (April 2011 Order).

<sup>5</sup> *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145 (2011) (November 2011 Order).

<sup>6</sup> *Id.* P 252 (italics in the original).

<sup>7</sup> PJM's Tariff specifies that a Planned Generation Capacity Resource ceases to be regarded as such once it has received interconnection service, at which point it is treated as an "existing" resource. *See* PJM Reliability Assurance Agreement at 3.0.0.

clear that, however it chooses to describe the new external capacity resource, the external resource must not be able to avoid the MOPR before clearing an RPM auction simply by receiving interconnection service.”<sup>8</sup>

### **Compliance Filing**

6. PJM states that its compliance filing satisfies the requirements of the April 2012 Order. First, PJM proposes to limit PJM/IMM requests for information to “reasonably requested” information. Second, PJM proposes to remove the reference to “Planned” internal resources in section 5.14(h)(4)(i) of its Tariff, as relevant to internal resources. Third, PJM proposes revised Tariff language specifying that a Sell Offer from an external capacity resource will be subject to the MOPR if the offer is based solely on that resource and that resource requires sufficient transmission investment to deliver capacity into the PJM region, “unless a Sell Offer based on that resource has cleared an RPM Auction for that or any prior Delivery Year, or until a Sell Offer based on that resource clears an RPM Auction for that or any subsequent Delivery Year[.]”<sup>9</sup>

### **Notice of Filing and Responsive Pleadings**

7. Notice of PJM’s filing was published in the *Federal Register*, 77 Fed. Reg. 27,761 (2012), with interventions and protests due on or before May 25, 2012. A protest was timely-submitted by the North Carolina Electric Membership Corporation (NCEMC).

8. NCEMC’s protest concerns one aspect of the changes proposed by PJM in its May 4, 2012 compliance filing. Namely, NCEMC argues that PJM, in its proposed compliance revisions in section 5.14(h)(4)(ii) of Tariff Attachment DD, did not clarify that the MOPR does not apply to capacity imports from existing resources external to PJM, as it had been required to do by the November 2011 Order and April 2012 Order. NCEMC references the November 2011 Order,<sup>10</sup> which states that “it is reasonable to treat capacity imports as existing capacity, and thereby not subject them to the MOPR offer floor, except where a specific new external resource is identified as the sole support for

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<sup>8</sup> April 2012 Order, 139 FERC ¶ 61,011 at P 21.

<sup>9</sup> PJM requests that its proposed compliance revisions, in Docket No. ER11-2875-006, be made effective December 19, 2011, consistent with the effective date previously accepted by the Commission in this proceeding. As there have been succeeding changes to the underlying Tariff sections at issue, PJM filed identical, conforming revisions in Docket No. ER11-2875-007 and ER11-2875-008, to become effective January 31, 2012, and June 30, 2012, respectively.

<sup>10</sup> 137 FERC ¶ 61,145 at P 129.

the import and where a significant investment, such as a new transmission line, is made to provide capacity to the importing RTO.”<sup>11</sup>

9. NCEMC is concerned that, by simply eliminating the word “Planned” in its description of the application of the MOPR to external capacity resources, PJM’s proposed Tariff language can be read to apply the MOPR to capacity imports from existing external resources, and not solely to *new* external resources.

### **Discussion**

10. We accept PJM’s compliance filing. PJM has complied with the three requirements of the April 2012 Order. It has: (i) limited PJM/IMM requests for information to “reasonably requested” information; (ii) removed the reference to “Planned” internal resources, at Attachment DD, section 5.14(h)(4)(i) of its Tariff, as relevant to internal resources; and (iii) removed the reference to “Planned” as applied to external resources and, in a related revision, made clear, at section 5.14(h)(4)(ii), that a Sell Offer from an external capacity resource that has not cleared an RPM auction will be subject to the MOPR if the offer is based solely on that resource and that resource requires sufficient transmission investment to deliver capacity into the PJM region.

11. NCEMC protests the revised tariff language related to external resources. NCEMC believes that a potential reading of PJM’s Tariff could result in the MOPR being applied to capacity imports from existing external resources.

12. We do not find any reason to require further modifications of section 5.14(h)(4)(ii). The language proposed by PJM reasonably limits the application of the MOPR to new external resources and to resources that could be used to suppress capacity prices. In the April 2012 Order, the Commission directed PJM to revise section 5.14(h)(4)(ii) to make clear that, however PJM chooses to describe the term “new external capacity resource,” such a resource must not be able to avoid the MOPR before clearing a capacity auction simply by receiving interconnection service. PJM’s revised language and proposed deletions from section 5.14(h)(4)(ii), as shown in italics and strikeout below, eliminate the term “Planned” and provide that the MOPR applies to:

a ~~Planned External~~ Generation Capacity Resource *located outside the PJM Region (where such Sell Offer is based solely on such resource)* that requires sufficient transmission investment for delivery to the PJM Region to indicate a long-term commitment to providing capacity to the PJM Region, *unless a Sell Offer based on that resource has cleared an RPM Auction for that or any prior Delivery Year* ~~for the first Delivery Year in~~

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<sup>11</sup> NCMEC Protest at 3 (citing November 2011 Order, 137 FERC ¶ 61,145 at P 129).

~~which such resource qualifies as a Planned External Generation Capacity Resource, or submitted in any RPM Auction for that or any subsequent Delivery Year until an Sell offer based on that resource first clears an RPM Auction for that or any subsequent Delivery Year [.]~~<sup>12</sup>

13. By requiring that, before the MOPR will apply to an external capacity resource, the resource must be both the sole support for an import and that the import must require sufficient transmission investment for delivery to the PJM Region, section 5.14(h)(4)(ii) appropriately limits the application of the MOPR to those external capacity resources that pose a significant possibility of being used to suppress capacity prices. Any external resources that can use existing tie lines without requiring transmission investment for delivery to the PJM region are therefore exempt from the MOPR.<sup>13</sup> In addition, PJM's Tariff provides a method by which resources that do have to incur transmission investment can avoid offer mitigation under the MOPR based on particular circumstances affecting those resources. This "unit-specific" review permits market participants to seek a determination from the IMM, or PJM, that its sell offer is permissible because it is consistent with the competitive, cost-based, fixed, net cost of new entry were the resource to rely solely on revenues from PJM-administered markets.<sup>14</sup> In these circumstances, we find that PJM's proposed revisions to section 5.14(h)(4)(ii) satisfy the requirements of the April 2012 Order.

The Commission orders:

PJM's proposed Tariff changes are hereby accepted, to become effective as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>12</sup> Proposed PJM OATT at Attachment DD, section 5.14 (Clearing Prices and Charges), 5.4.3

<sup>13</sup> See PJM Transmittal letter at 4.

<sup>14</sup> See PJM OATT at Attachment DD, section 5.14(h).