

140 ¶ FERC 61,222
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.	ER11-4628-000
		ER11-4628-001
		ER11-4628-002
		ER11-4628-003

ORDER ON COMPLIANCE
AND CLARIFICATION

(Issued September 20, 2012)

1. On July 13, 2012, PJM Interconnection, L.L.C. (PJM) submitted a compliance filing including tariff changes to its Open Access Transmission Tariff (OATT), Reliability Assurance Agreement among Load Serving Entities (LSE) in the PJM Region (RAA), and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) addressing its proposal to integrate Price Responsive Demand (PRD) into its capacity and energy markets. The compliance filing was made in response to a Commission order issued in this proceeding on May 14, 2012.¹ On June 13, 2012, PJM had also submitted a request for clarification in this proceeding. For the reasons discussed below, we accept PJM's compliance filing, subject to conditions, and grant the requested clarifications.²

I. Background

2. On September 23, 2011, PJM submitted proposed tariff changes intended to support the development of PRD, an initiative allowing end-use customers to vary their loads in response to wholesale electricity prices. In an order issued December 14, 2011, the Commission accepted and suspended PJM's filing for a five month period to become

¹ *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,115 (2012) (May 14 Order).

² Docket Nos. ER11-4628-001, -002 and -003 address the compliance filing. Docket No. ER11-4628-000 addresses the request for clarification.

effective May 15, 2012, subject to refund, and to the outcome of a staff-led technical conference. The staff technical conference was held on February 14, 2012.³

3. In the May 14 Order, the Commission accepted PJM's filing, subject to a number of conditions. In PJM's first compliance filing, to be made 60 days from the date of the order, it was required to: (i) include definitions of automation and supervisory control in its tariff; (ii) clarify the description of the transition period; and (iii) include the methodology it will use to impose charges on LSEs for PRD committed in the base residual auction and the third incremental auction.⁴ The Commission noted that PRD committed in the base residual auction appropriately used the final zonal capacity price to calculate the charges and credits for PRD providers, "resulting in zero net charges" for the committed PRD, and found that this same principle should apply relative to the third incremental auction.

4. Another compliance filing, to be made six months from the date of the May 14 Order, addressed rules that would allow non-LSE PRD providers to submit PRD Curves in the day-ahead and real-time markets.

II. PJM's Compliance Filing

5. On July 13, 2012, PJM filed revisions to its OATT, Operating Agreement, and RAA to comply with the May 14 Order.⁵ The compliance filing: (i) adds definitions of automation and supervisory control to PJM's tariff; (ii) clarifies the description of the transition period; and (iii) explains that the current tariff proposal already sets forth the methodology for assessing capacity charges for LSEs, including those that commit PRD in connection with either the base residual auction or third incremental auction.

6. Notice of PJM's July 13, 2012 compliance filing was published in the *Federal Register*, 77 Fed. Reg. 16,827 (2012), with interventions and protests due on or before August 3, 2012. Duke Energy Corporation (Duke) filed an intervention.

III. PJM's Clarification Request

7. First, PJM seeks clarification that the May 14 Order's directive (item (iii) in the 60-day compliance filing) concerning charges and credits for PRD did not preclude PJM from explaining and demonstrating in its compliance filing that the Commission's concerns are sufficiently addressed by PJM's existing tariff. In particular, PJM explains that the amount LSEs pay for their capacity obligation is determined by the size of their

³ *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,204 (2011) (December 14 Order).

⁴ *Id.* P 82.

⁵ These changes were submitted under Docket No. ER11-4628-001.

capacity obligation, as determined by their Obligation Peak Load, and the Final Zonal Capacity Price. PJM states that there are no distinct components of an LSE's Obligation Peak Load attributable to the Base Residual Auction and the Third Incremental Auction. Thus, PJM argues that there is no Third Incremental Auction capacity obligation to reduce if additional PRD commitments are made in the Third Incremental Auction. PJM points to the existing Tariff provisions that provide that the incremental auctions have an incremental effect on the Final Zonal Capacity Price, based on the additional quantities of capacity that clear in each incremental auction. Thus, PJM concludes that there is no reason to modify the Tariff as it already prescribes that capacity cleared in the incremental auction has only an incremental effect on the capacity charges ultimately assessed to LSEs.

8. Second, PJM argues that under its reading of the May 14 Order, at P 94, the extent to which, and circumstances under which, PRD providers that are not LSEs will be entitled to submit PRD curves may be determined through the stakeholder process. PJM states that in the introductory paragraphs of its order, the Commission stated that PJM needs "to revise its proposed tariff to provide rules for non-LSE PRD providers to submit PRD Curves in the day-ahead and real-time markets."⁶ However, PJM states the Commission further elaborated on this compliance filing requirement P 94 of the discussion:

We agree that the PRD program would be enhanced if estimated load reductions in response to wholesale prices provided through non-LSE PRD providers were reflected in both PJM's day-ahead and real-time energy markets. PJM should work to develop rules to allow appropriate information sharing through its stakeholder process, and provide the related tariff changes in a compliance filing within six months of the date of this order. Allowing non-LSE PRD providers to submit PRD Curves in the day-ahead market would improve reliability and the economic efficiency of PJM's markets. PJM may develop rules aimed at creating robust coordination between non-LSE PRD providers and LSEs, as proposed by [Exelon Corporation (Exelon)], or rules that allow PJM to distinguish LSE's loads working with a non-LSE PRD provider from the LSE's other loads to avoid two different groups estimating demand in the day-ahead market for the same load. PJM may also consider rules allowing for the deviation charges to be assessed to non-LSE PRD providers.⁷

⁶ May 14 Order, 139 FERC ¶ 61,115 at P 4. A PRD Curve documents the willingness of a PRD load to reduce demand to specified levels, or by specified amounts, in response to specified price levels. *See* PJM Reliability Assurance Agreement, Schedule 6.1 at section D(4).

⁷ *Id.* P 94.

9. Accordingly, PJM requests that the Commission clarify that the extent to which, and circumstances under which, PRD providers that are not LSEs will be entitled to submit PRD curves may be determined through the stakeholder process and that they are not obligated to adopt one of the alternatives mentioned in P 94 of the order.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), the timely unopposed motion to intervene serves to make Duke a party to the proceeding in which this motion was filed.

B. Substantive Matters

11. Except as otherwise noted below, we find that PJM's compliance filing satisfies the directives of the May 14 Order. In the May 14 Order, the Commission conditionally accepted PJM's initial filing, subject to PJM revising its tariff to include the methodology it will use to impose charges on LSEs for PRD committed in the base residual auction and the third incremental auction.⁸ PJM, in its compliance filing, states that there is no separate charge for PRD because PRD is funded through an existing mechanism used to charge LSEs for capacity, i.e., the Locational Reliability Charge, which is the product of the LSE's unforced capacity obligation and the Final Zonal Capacity Price. PJM explains that the Tariff already includes the incremental effects of the Third Incremental Auction in the Final Zonal Capacity Price, and thus does not need to make tariff changes to include these effects. While this explanation responds to the concerns we identified in the May 14 Order with respect to the third incremental auction, PJM also notes in its response that it adjusts the Final Zonal Capacity Price to guarantee that the PRD Credit is fully funded.⁹ However, it is unclear how the current tariff, at section 5.14(f) or elsewhere, provides a mechanism, or documents the methodology, for PJM to modify the Final Zonal Capacity Price to fully fund the total amount of cleared supply and PRD committed. Because it appears that this price adjustment could significantly affect jurisdictional capacity rates, it should be included in the filed tariff.¹⁰ Accordingly, we direct PJM to provide additional detail, at section 5.14(f), specifying the methodology it will use

⁸ *Id.* P 82

⁹ See PJM transmittal letter at n.22 (citing PJM OATT at Attachment DD, section 5.14(f) and noting that "when PRD is committed, the Final Zonal Capacity Price will be adjusted slightly to ensure that PRD Credits are fully funded.")

¹⁰ See [City of Cleveland v. FERC, 773 F.2d 1368](#), 1376 (D.C. Cir. 1985).

for adjusting the Final Zonal Capacity Price to fully fund PRD, in an additional compliance filing to be made within 30 days of the date of this order.¹¹

12. We grant PJM's second request for clarification. While we expect PJM to consider carefully all options, including the ones listed in the order, the May 14 Order required only that PJM work through its stakeholder process to develop a method to allow PRD commitments made from PRD Providers that are not LSEs to be included in both the day-ahead and real-time markets. PJM must make a compliance filing, within 6 months of the date of the May 14 Order, reflecting any related tariff changes, or an explanation of the problems encountered in developing such provisions.

The Commission orders:

(A) PJM's compliance filing is hereby accepted, subject to the submission of an additional compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

(B) PJM's request for clarification of the May 14 Order is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹ See, PJM Interconnection, L.L.C, 139 FERC ¶ 61,130, at P 81 (2012).