144 FERC ¶ 61,121
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C. Docket No. ER13-1654-000

ORDER CONDITIONALLY ACCEPTING TARIFF PROVISIONS AND DIRECTING AN INFORMATIONAL FILING

(Issued August 9, 2013)

I. Introduction

1. On June 10, 2013, PJM Interconnection, L.L.C. (PJM) filed revisions to the Open Access Transmission Tariff (Tariff) and the Amended and Restated Operating Agreement of PJM (Operating Agreement). The proposed revisions define up-to congestion (UTC) transactions and clarify the rules concerning the use of such transactions. PJM states that its proposed revisions are designed to reflect the evolution of the UTC product from a financial hedge of real-time congestion charges associated with physical transactions to a purely virtual product. PJM asserts its proposed revisions are limited and do not substantively change the current nature of the UTC product.

2. For the reasons discussed below, we accept, subject to a compliance filing, PJM's proposed revisions. PJM is also directed to submit an informational filing as discussed below.

II. Background

3. PJM states that UTC transactions were originally created as a mechanism to hedge exposure to real-time congestion charges between the source and sink of physical energy imports, exports, or wheel-through transactions in PJM.[1] These transactions have been a part of the PJM two-settlement energy market since June 1, 2000.[2]

4. UTC bids permit transmission customers to specify how much they are willing to pay for congestion by bidding a certain limit for the spread between the locational marginal prices (LMP) at the transaction's source and sink. If the LMP spread is equal to or within the specified limit, the transaction will be scheduled in the day-ahead market.

5. According to PJM, UTC transactions have increasingly been used by financial market participants as virtual transactions[3] and less by physical market participants as a congestion management tool.[4] According to PJM, the most significant increase in the number of submitted and cleared UTC transactions began in 2010, when UTC transactions were no longer required to make transmission service reservations.[5] The number of UTC transactions that cleared increased from 85,000 in January 2010 to 680,000 in September 2012. PJM also asserts that the increase can be attributed to UTC transactions not being assigned operating reserve charges. PJM explains that this may have motivated financial market participants to shift from using Increment Offers (INC) and Decrement Bids (DEC) to using UTC transactions.

---

[1] Transmittal Letter at 3.

[2] *PJM Interconnection, L.L.C.*, 91 FERC ¶ 61,148 (2000).

[3] Traditional virtual transactions include Increment offers (INC) and Decrement bids (DEC). An INC is an offer in the day-ahead market to supply virtual generation whereas a DEC is a bid in the day-ahead market for virtual demand. In the two-settlement system, an INC/DEC can create a positive revenue stream by arbitraging the expected difference between the day-ahead and real-time LMP at a specific pricing node. A UTC transaction, which functions similar to a paired INC and DEC in the day-ahead market, can create a positive revenue stream by arbitraging the expected difference between the day-ahead and real-time market LMP spread at the source and sink pricing nodes.

[4] Transmittal Letter at 7.

[5] *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,244 (2010).

III. Proposed Changes

6. First, PJM proposes to establish a formal definition of a UTC transaction as a virtual transaction and to distinguish a UTC transaction from other virtual transactions such as INCs and DECs.[6] PJM states that, under the proposed definition, a UTC transaction consists of a paired source and sink designation, as well as a price and megawatt quantity. Further, the definition will also limit the LMP spread between a UTC transaction's source and sink points, and limit the eligible source-sink paths to those listed on PJM's website. PJM also proposes to make additional changes to the Tariff and Operating Agreement for internal consistency with PJM's proposed definition of the UTC transactions.

7. Second, PJM proposes to apply the Financial Transmission Rights (FTR) forfeiture rule to UTC transactions. PJM explains that currently, under Section 5.2.1(b) of Schedule 1 of PJM's Operating Agreement, if a company or one of its affiliates submits an INC or a DEC at or near the source or sink location of one of its FTRs which results in a higher LMP spread in the day-ahead energy market than in the real-time energy market, then the profit for that particular FTR will be forfeited.[7] PJM proposes to apply this FTR forfeiture rule to UTC transactions and to evaluate UTC transactions based on the distribution factor of the flow from the transaction source to the transaction sink on a given constraint impacting an FTR path.[8] PJM argues that this rule change will consistently apply the FTR Forfeiture Rule to all virtual transactions.

8. Third, PJM notes that its current market rules specify a daily limit of 3,000 that PJM may apply on the number of virtual transactions, currently limited to INCs and DECs, which a market participant can submit in the day-ahead energy market. As part of explicitly defining a UTC transaction as a virtual transaction, PJM proposes to extend this limit to UTC transactions.

---

[6] PJM also proposes to change the definition of virtual transactions, which now includes both INCs and DECs, as well as UTC transactions. Transmittal Letter at 11-13.

[7] Section 5.2.1(c) of the Operating Agreement clarifies that "at or near a delivery or receipt bus of a Financial Transmission Right" refers to a bus where seventy-five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected at any other bus is reflected in the constrained path between the subject delivery and receipt buses acquired for that Financial Transmission Right in the relevant auction.

[8] Section 5.2.1(b) of Schedule 1 of the Operating Agreement.

9. Fourth, PJM proposes to move the specific value of the bid/offer limit, applicable to all virtual transactions, from the Operating Agreement into Manual 11. PJM asserts that this change will provide it the flexibility to expeditiously lower the limit in order to maintain day-ahead market software performance, if needed.

10. Fifth, PJM proposes to revise its Tariff and Operating Agreement to change the defined term "Increment Bid" to "Increment Offer."

IV. Notice of Filing and Responsive Pleadings

11. Notice of PJM's filing was published in the *Federal Register*, 78 Fed. Reg. 36,765 (2013), with interventions and protests due on or before July 1, 2013. Timely-filed motions to intervene were filed by Duke Energy Corporation, NRG Companies, Great Bay Energy LLC, Monterey MA LLC, Solios Power LLC, Red Wolf Energy Trading, XO Energy MA LP, SESCO Enterprises LLC, and Exelon Corporation. The Independent Market Monitor (IMM) and the Financial Marketers Coalition (Financial Marketers)[9] filed timely motions to intervene and comments. Motions to intervene out-of-time were filed by Twin Cities Power LLC, Cobalt Capital Partners, LLC, and DC Energy, Inc.

12. Financial Marketers support the FTR forfeiture rule as applied to UTC transactions, given that it will be calculated utilizing paths within a certain proximity to the market participant's FTR position, rather than by a comparison to the highest or lowest priced path on the entire PJM system. Financial Marketers assert that this implementation is a far more reasonable approach than that currently being applied to INC and DEC transactions. Financial Marketers also support PJM's assertion that UTC transactions are an important trading option that brings price convergence to the market and provides valuable congestion management tools for all market participants.[10]

13. The IMM filed comments supporting the objectives outlined in PJM's proposals. However, the IMM states that PJM should be required to submit an additional filing that consistently applies operating reserve charges to all virtual transactions. The IMM also states PJM should be required to reinstitute the rule that limits UTC transactions to source or sink at an interface bus.[11]

[9] Financial Marketers consist of XO Energy MA, LLC, SESCO Enterprises, LLC, Red Wolf Energy Trading, Monterey MA, LLC, Solios Power, LLC, and Great Bay Energy, LLC.

[10] Financial Marketers Comments at 3-6.

[11] IMM Comments at 7.

14. On July 15, 2013, PJM and Financial Marketers filed answers to the IMM's comments.

15. In its answer, PJM argues that the IMM's comments are directed at provisions outside the filing and thus are beyond the scope of this proceeding. Specifically, PJM acknowledges that, although it had a prior practice of requiring an interface bus to be used for at least one of the pricing points for UTC transactions, since transmission service reservations are no longer required for UTC transactions, there is no reason for PJM to continue to require that UTC transactions source or sink at interface pricing points.[12]

16. PJM also disputes the IMM's understanding of how operating reserve charges are assessed to UTC transactions.[13] Specifically, PJM states that, while UTC transactions, INCs, and DECs are all purely financial virtual transactions that do not contemplate the physical transfer of energy in real time, UTC transactions are distinct from INCs and DECs because UTC transactions do not create energy imbalance deviations. PJM argues that this is the basis for not allocating any operating reserve charges to UTC transactions. PJM notes that, in theory, UTC transactions can impact physical unit commitment or dispatch when they create congestion, but any such impact is expected to be minimal.[14] PJM also notes that stakeholder consensus has not been reached on the issue, and suggests that the IMM pursue the issue of whether to assess operating reserve charges to UTC transactions in the ongoing PJM stakeholder process. Similarly, in responds to the IMM's comments, Financial Marketers state that since UTC transactions do not cause operating reserve charges, they should not be assessed operating reserve charges. Finally, Financial Marketers argue the IMM's comments exceed the scope of PJM's proposal.[15]

17. On August 2, 2013, the IMM filed an Answer and a Motion for Leave to Answer the answers of PJM and Financial Marketers.

18. In its answer, the IMM asserts that its comments are within the scope of this proceeding given that PJM's filing provides the Commission its first opportunity to evaluate the definition and characteristics of UTC transactions as virtual transactions. Specifically, the IMM argues that PJM's filing provides the Commission the opportunity to review the appropriateness of PJM's decision to remove the restriction that UTC

[12] PJM Answer at 10.

[13] PJM Answer at 7.

[14] PJM Answer at 12-13.

[15] Financial Marketers Answer at 9-10.

transactions source or sink at interface pricing nodes in November 2012. The IMM also argues that there are no studies or data which support PJM's proposal to treat UTC transactions differently than other virtual transactions with respect to the allocation of operating reserve charges. In support, the IMM asserts that UTCs affect operating reserve charges from the congestion they create in the day-ahead market. The IMM also argues that the existing Tariff language provides for allocation of certain operating reserve charges based on deviations from day-ahead schedules rather than deviations in net energy imbalances, as implied by PJM.[16]

V. Discussion

19. We accept PJM's proposed tariff revisions, subject to the modifications described below. The proposed revisions improve market rule transparency and reflect the evolution of the UTC product from a day-ahead financial hedge of a real-time physical transaction to its present primary use as a purely virtual product.

A. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), the Commission will grant the late-filed motions to intervene of Twin Cities Power LLC, Cobalt Capital Partners, LLC, and DC Energy, Inc. given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

21. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers of PJM, Financial Marketers, and the IMM because they have provided information that assisted us in our decision-making process.

B. Definition of UTC Transactions and Virtual Transactions

22. PJM proposes to incorporate a new subsection (c-1) in Section 1.10.1A of its Operating Agreement to define a UTC transaction as follows:

> (c-1) A Market Participant may elect to submit in the Day-ahead Energy Market a form of Virtual Transaction that combines an offer to sell energy at a source, with a bid to buy the same megawatt quantity of energy at a sink where such transaction specifies the

[16] IMM Answer at 15.

> maximum difference between the Locational Marginal Prices at the source and sink. The Office of Interconnection will schedule these transactions only to the extent this difference in Locational Marginal Prices is within the maximum amount specified by the Market Participant. A Virtual Transaction of this type is referred to as an "Up-to Congestion Transaction." Such Up-to Congestion Transactions may be wholly or partially scheduled depending on the price difference between the source and sink locations in the Day-ahead Energy Market. The foregoing price specification shall apply to the price difference between the specified source and sink in the day-ahead scheduling process only. An accepted Up-to Congestion Transaction results in scheduled injection at a specified source and scheduled withdrawal of the same megawatt quantity at a specified sink in the Day-ahead Energy Market. *The source-sink paths on which an Up-to Congestion Transaction may be submitted are limited to those posted on the PJM internet site. Additionally, the maximum difference between the source and sink prices that a participant may specify shall be limited as specified in the PJM Manuals*. [*Emphasis added*]

23. While we find the definition of UTC transactions reasonable, we will not accept PJM's proposal to only specify on its website and in its manuals the eligible source-sink paths on which UTC transactions may be submitted and the maximum spread for UTC transactions. Such practices significantly affect the ability to use UTC transactions and therefore are not provisions PJM should have unilateral discretion to adopt or modify. These terms and conditions, or the criteria by which they are to be determined, instead must be included in the PJM tariff. We therefore accept the proposed tariff revisions on the condition that PJM submit revised tariff provisions in a compliance filing that establish criteria for determining, with appropriate justification, the valid source-sink paths for UTC transactions and the maximum spread between source and sink prices that a participant may specify. PJM's compliance filing is due within 30 days from the date of this order.

24. The IMM states PJM should be required to reinstitute the rule that limits UTC transactions to source or sink at an interface bus.[17] However, the IMM has not provided sufficient justification for finding that a more widespread use of UTCs is unjust and unreasonable at this time.

---

[17] IMM Comments at 7.

C. Application of FTR Forfeiture Rule to UTC Transactions

25. PJM proposes to revise the FTR forfeiture rule described in Section 5.2.1 (b) of the Operating Agreement to apply to UTC transactions. Under the current forfeiture rule, a company or one of its affiliates that submits an INC or a DEC at or near the source or sink location of one of its FTRs which results in a higher LMP spread in the day-ahead energy market than in the real-time energy market will forfeit the profit associated with that particular FTR. With respect to UTC transactions, PJM proposes to revise Section 5.2.1 (b) to state that a customer will forfeit FTR congestion revenues if it "had an Up-to Congestion Transaction that was accepted by the Office of the Interconnection for an applicable hour in the Day-ahead Energy Market for a path at or near the path of the Financial Transmission Right."

26. In its transmittal letter, PJM also states that it proposes to apply Section 5.2.1(c) of its existing tariff to UTC transactions. Section 5.2.1 (c) of the PJM tariff states:

> For purposes of Section 5.2.1(b) a bus shall be considered at or near the Financial Transmission Right delivery or receipt bus if seventy-five percent or more of the energy injected or withdrawn at that bus and which is withdrawn or injected *at any other bus* is reflected in the constrained path between the subject Financial Transmission Right delivery and receipt buses that were acquired in the Financial Transmission Rights auction. [Emphasis added].

27. It is unclear from the filing how PJM intends to apply the "at any other bus" requirement in Section 5.2.1(c) to UTC transactions.[18] Therefore, our acceptance of PJM's proposal is conditioned on PJM including in its compliance filing an explanation of how PJM intends to apply Section 5.2.1 (b) and (c) to UTC transactions, including the "at any other bus" clause of Section 5.2.1(c). In addition, PJM must explain whether and how the calculations for UTC transactions would differ from the calculations for INCs and DECs , and, if so, explain the different approach for UTC transactions. The compliance filing is due within 30 days from the date of this order.

D. Allocation of Operating Reserve Charges to UTC Transactions

28. The IMM objects to PJM's current approach of allocating no operating reserve charges to UTC transactions while allocating operating reserve charges to other virtual

---

[18] The Financial Marketers suggest in their comments that PJM's application of Section 5.2.1 (c) to UTC transactions will differ from the method currently applied to INCs/DECs. Financial Marketers Comments at 3.

transactions. PJM and Financial Marketers contend that this issue is beyond the scope of the immediate proceeding. PJM further contends that such a distinction is justified because UTC transactions do not result in energy imbalance deviations and do not cause changes in unit commitment and dispatch based on energy imbalances.[19] Financial Marketers maintain that PJM has conducted studies showing that UTC transactions have *de minimis* effect on balancing reserve charges compared to other virtual transactions.

29. We agree that the issue of operating reserve cost allocation is beyond the scope of this proceeding, since PJM has not proposed changes to its current allocation.As evidenced in comments and PJM's Answer, whether and the extent to which UTC transactions should be subject to an allocation of operating reserve charges remains at issue. The studies to which Financial Marketers refer were based on 2011 data,[20] and, as PJM recognizes, the use of UTC transactions has changed dramatically since that date. Therefore, we direct PJM, pursuant to sections 304 and 307 of the Federal Power Act,[21] to submit an informational filing[22] no later than six months from the date of this order that provides an updated analysis of the impacts of UTC transactions and INCs/DECs on unit commitment, dispatch and operating reserve charges. The analysis should be based on the most current data available. The informational filing may also include updates concerning stakeholder progress in addressing this issue.[23]

<u>The Commission orders</u>:

(A) PJM's filing is hereby accepted, conditioned upon submission of a compliance filing within 30 days of the issuance of this order, as discussed in the body of this order.

---

[19] PJM Answer at 13.

[20] Financial Marketers Answer at 4.

[21] 16 U.S.C. § 825c, 825f (2006).

[22] The informational filing should be submitted through eTariff as a Data Response/Supplement the Record (code 150). This is an informational filing only and will not be noticed or subject to comments.

[23] We note that PJM stakeholders are currently discussing the allocation of operating reserve charges through the Energy Market Uplift Senior Task Force (EMUSTF).

(B) PJM is hereby directed to submit an informational filing within 6 months of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.