

UNITED STATES OF AMERICA 87 FERC ¶61,299
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. ER99-2340-000

ORDER ACCEPTING FOR FILING AMENDMENTS TO OPEN ACCESS
TARIFF AND OPERATING AGREEMENT, AS MODIFIED

(Issued June 17, 1999)

In this order, we accept for filing, as modified, proposed amendments to the PJM Interconnection L.L.C. Open Access Transmission Tariff (PJM Tariff) and to the PJM Interconnection L.L.C. Amended and Restated Operating Agreement (PJM Operating Agreement), filed by PJM Interconnection L.L.C. (PJM).

I. Background

A. The Application

On March 31, 1999, PJM submitted for filing a new Part IV to the PJM Tariff and a new Schedule 6A to the PJM Operating Agreement, which, together, establish application procedures and cost responsibility rules for the interconnection of additional generation capacity (additions of new generation as well as increases in capacity of existing generating plants) to the PJM transmission system. PJM explains that procedures do not exist in the PJM Tariff for merchant plants to arrange interconnections where they are unable to specify in advance the transmission service they may require.¹ PJM proposes that the interconnection customer pay the cost of grid upgrades that would not have been incurred under PJM's Regional Transmission Expansion Plan (RTEP) "but for" such interconnection request.² To the extent an interconnection were to reduce PJM's planned expansion costs, the interconnection customer would receive a commensurate reduction in its costs of interconnection.³ PJM notes that there is a broad consensus as to the need for interconnection procedures and that this proposal is the outcome of an extensive stakeholder process and the approved governance procedures, which has wide, although not unanimous, support.⁴

¹Transmittal Letter at 1.

²Id. at 16-19.

³Id.

PJM requests an effective date of April 1, 1999.⁵

B. Notice, Interventions, Protests and Answers

Notice of PJM's filing was published in the Federal Register, 64 Fed. Reg. 17,656 (1999), with protests and interventions due on or before April 20, 1999.

Baltimore Gas and Electric Company (BG&E) and PJM Industrial Consumer Coalition (PJM Industrial) filed timely motions to intervene in support of PJM's filing.

Allegheny Power Service Corporation (Allegheny Power), Cinergy Services, Inc. (Cinergy), Constellation Power Development, Inc. (Constellation), Duke Energy Trading and Marketing, L.L.C. (Duke), Member Systems of the New York Power Pool (Member Systems), PP&L, Inc. (PP&L), and Tenaska, Inc. (Tenaska) filed timely motions to intervene, raising no substantive issues.

Columbia Electric Corporation (Columbia Electric), the Electric Power Supply Association (Electric Power Supply), Liberty Electric Power, LLC (Liberty Electric), Public Service Electric and Gas Company (PSE&G), Sithe Energies, Inc. (Sithe), and U.S. Generating Company and P&G Energy Trading - Power, L.P. (US Gen and PGET) filed timely motions to intervene and protests.

The Mid-Atlantic Power Supply Association (Mid-Atlantic), Old Dominion Electric Cooperative (Old Dominion), and Statoil Energy, Inc. (Statoil) filed timely motions to intervene and protests and requests for hearing.⁶

On May 6, May 20, and June 1, 1999, respectively, Delmarva Power & Light Company (Delmarva), Enron Power Marketing, Inc., (Enron) and the California Electricity Oversight Board (California Board) filed motions to intervene out-of-time, raising no substantive issues.

On May 5, 1999, PSE&G and PJM filed answers to the protests.
II. Discussion

⁴Id. at 2-3 & n. 2.

⁵Id. at 3.

⁶On June 9, 1999, Statoil amended its filing and moved for expedited consideration.

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding. We find good cause to grant Delmarva's, Enron's and the California Board's untimely motions to intervene, given their interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay. While our rules do not normally permit answers to protests,⁷ we find that good cause exists here to accept PSE&G's and PJM's answers because they provide information that is helpful to the Commission's resolution of the issues in this proceeding.

B. Interconnection Request Procedures

PJM states that it has received many requests for the interconnection of additional generation capacity to the PJM transmission system. It explains that, currently, neither the PJM Tariff nor the PJM Operating Agreement specifies procedures regarding studies, priorities, or cost responsibilities for such projects. PJM notes that merchant plants that are unable to specify in advance the transmission service that they may require do not have any procedures under the PJM Tariff for submitting their requests and learning what transmission upgrades may be necessary for their projects. PJM proposes to establish rules for processing these requests so that it can accommodate requests for the connection of additional generation to the PJM transmission system in a fair and non-discriminatory manner.

The proposed interconnection request procedures are generally modeled on the transmission request procedures of the pro forma tariff. One difference between the proposed application procedures and the pro forma tariff transmission application procedures is that PJM will provide, within 30 days of the application, an up-front, preliminary feasibility assessment to give the applicant an initial, ballpark estimate of the cost of interconnecting at a particular site. In addition, as a means of limiting applications to serious projects, PJM proposes that applicants make a nonrefundable deposit of \$10,000 and, before any facilities studies commence, demonstrate that they have applied for any necessary air permits.⁸ By contrast, the pro forma tariff requires a refundable deposit equal to one month's charges.

⁷See 18 C.F.R. § 385.213(a)(2) (1998).

⁸Transmittal Letter at 4-6. PJM explains that the purpose of the nonrefundable \$10,000 deposit is to discourage interconnection customers from using PJM merely to obtain advice about generation development rather than asking PJM to process requests for projects that they are actually planning to construct.

PJM also proposes that an applicant make a \$50,000 deposit if it asks PJM to proceed with a System Impact Study (with any amount over actual cost refundable).⁹ PJM explains that, three times each year, it will conduct a comprehensive System Impact Study, to be completed within 120 days, which would consider all pending interconnection requests.¹⁰ By contrast, the pro forma tariff establishes a preliminary time frame of 60 days for completion of each separate System Impact Study.

If an applicant asks PJM to proceed with a Facilities Study, PJM proposes that the applicant make a deposit of \$100,000 (or the estimated facility study cost, if higher), with any amount over actual cost refundable.¹¹ Under the PJM Tariff, there is no established time frame for the completion of Facilities Studies.¹² By comparison, the pro forma tariff establishes a preliminary time frame of 60 days for the completion of a Facilities Study. Under the PJM Tariff, Regional Transmission Owners (TOs) will perform all Facilities Studies and some of the System Impact Studies (for local, non-grid facilities). PJM will coordinate these studies.¹³ PJM notes that these procedures apply to all requests for generation projects that exceed 10 MW, including requests from the TOs.¹⁴

PJM further explains that, upon completion of a Facilities Study, PJM ISO will recommend the necessary facilities and upgrades. The TO or the interconnection customer may offer alternatives to PJM ISO's recommendation which the ISO can accept or reject. If PJM ISO rejects the alternative, the TO or the customer has the option of pursuing its alternative through the ADR procedures.¹⁵ Finally, a TO may require the execution of a separate Interconnection Agreement between the merchant generator and the TO to whose facilities the merchant generator will

⁹Id. at 6-7.

¹⁰Id. at 7-8.

¹¹Id. at 8.

¹²Id. at 8-10.

¹³Id. at 6-12.

¹⁴PJM states that it will develop streamlined procedures for generation projects of less than 10 MW because many modifications to the rating of existing units fall within this range and an addition of this size is not likely to have a material impact.
Id. at 4 n.3.

¹⁵Id. at 19-21.

We find that the proposed application procedures are consistent with or superior to the pro forma tariff and, as discussed further below, are reasonable for processing applications that involve the addition of new generating capacity in the context of a multi-system ISO. We also find acceptable the requirement for a non-refundable deposit. This should limit requests to serious proposals and discourage generators from using PJM as a consultant to study the feasibility of projects that they do not seriously contemplate constructing.

C. Application Procedures

1. Deadlines

Columbia Electric complains that procedures in the PJM Tariff do not reflect the 60-day time frames set forth in the pro forma tariff for the completion of studies. Electric Power Supply and Statoil express concern that the lack of established time frames for Facilities Studies may result in endless delays.¹⁷ These intervenors recommend that PJM establish a nine-month, beginning-to-end, time frame for its studies. They further recommend that, if PJM cannot meet this timetable, we require PJM to notify the developer of the source of the delay and to meet

with the developer to determine whether some action or concession by the developer can expedite the process.¹⁸

We do not agree that the proposed procedures depart from the time frames set forth in the pro forma tariff. The pro forma tariff does not bind the transmission provider to a 60-day time frame. While the pro forma tariff states that the transmission provider should work diligently to complete studies in less than 60 days, the transmission provider may take more time as long as it explains to the applicant the reason that it needs additional time. The Commission adopted the pro forma tariff procedures with the expectation that most transmission service requests would not involve the interconnection of new generation capacity to the system, i.e., many system studies would simply evaluate

¹⁶Id. at 11.

¹⁷We note that Statoil proposes a number of other procedures that could lengthen the process, e.g., requiring customer "acceptance" of a study before proceeding to the next step.

¹⁸Columbia Electric at 5-8; Electric Power Supply at 5-6.

changes to the power flows as a result of changing the use of existing resources. It is reasonable to conclude that, when an application under the pro forma tariff involves the interconnection of new generation capacity, a transmission provider would often need more time than the 60-day period presumed appropriate for more routine requests. Moreover, in the context of a multi-system ISO, which is receiving frequent and multiple requests for new generator interconnections, it is appropriate to conduct system studies at periodic intervals (here three times a year) to consider all pending requests together. Finally, we have no basis to impose a nine-month, beginning-to-end, time frame on PJM. We expect that one of the critical terms that PJM and the applicant will agree upon at the beginning of a Facilities Study is an estimate of the specific time need to complete the processing of the application, the options available to the developer to affect that timetable, and the communication requirements during the study period.

2. Involvement of TOs

Sithe is concerned that the procedures involving the TOs may allow them to erect unreasonable barriers to entry. Sithe notes that the TOs, as owners of existing generation and affiliates of other merchant developers, are competitors of other developers. Sithe argues that the TOs may seek to use their control or influence over the interconnection studies to shift costs onto new generation in the form of interconnection costs. Sithe proposes the following modifications to the PJM Tariff: (1) PJM, with the assistance of an independent consultant, must have the ability to review and modify the TO's assumptions regarding projected system load and upgrades; (2) developers should have the option to request that PJM or an independent third party conduct Facilities Studies, rather than the TOs; (3) PJM should have the ability to overrule a TO's unreasonable objections to the conclusions of PJM's System Impact Study; and (4) PJM must have full authority and responsibility to resolve expeditiously any dispute with a TO involving upgrades.¹⁹

Columbia Electric is concerned that a TO will be able to delay new generation by requesting ADR if its proposed upgrade alternative is not accepted, thereby holding projects hostage. Electric Power Supply shares these concerns and argues that the proposed sequential approach is inefficient and open-ended, and would allow recalcitrant TOs to delay interconnection projects. Columbia Electric is also concerned that the requirement to execute an interconnection agreement with a TO will provide the means for a TO to delay a project. Columbia Electric argues that a duplicative interconnection agreement is unnecessary and at odds with the "one-stop shopping" principle for an ISO. Columbia Electric contends that, if the Commission accepts this

¹⁹Sithe at 3-5.

requirement, it should require the TO to specify its criteria early in the process and to meet specific deadlines for completing the agreement.²⁰

We will accept PJM's proposed procedures for filing. The parties most knowledgeable about the transmission system are the TOs and it is reasonable for PJM to contract with them to perform the studies initially, as would have been the case if an TO were providing transmission service under an individual open access tariff.²¹ However, unlike the situation involved under an individual tariff, PJM will have decision-making authority and the authority to dictate all aspects of the study process, including the time allowed for an TO to proffer alternatives. Moreover, we conclude that any need for independent third parties to conduct Facility Studies is a matter best left to the discretion of PJM.

We do not agree with Columbia Electric's assertion that the requirement to enter into an interconnection agreement with a TO invalidates the one-stop shopping concept inherent in an ISO. Unlike other transmission service requests, the interconnection of new generation requires physical changes to the facilities of the TO. An appropriate interconnection agreement is simply an essential element of the transmission service provided under the PJM Tariff.

However, we agree that the TO should identify each of its interconnection requirements early in the process, and we expect that PJM will ensure that this occurs. Finally, we note that the option to proffer alternatives and to challenge PJM's rejection of those alternatives through the ADR procedures applies equally to the applicant. This provides the applicant with a vehicle to sponsor less costly projects.

3. Study Deposits

Old Dominion argues that the interconnection customer should not be required to pay a \$100,000 deposit before proceeding with a Facilities Study if the estimated cost of the study is less than \$100,000.²²

We see no reason to change PJM's proposed procedure, which allows PJM to avoid computing a case-specific facilities charge estimate for projects unless the study is likely to exceed

²⁰Columbia Electric at 1-3, 8-10; Electric Power Supply at 6.

²¹We note that, as a matter of course, these studies must be conducted by the TO's transmission function, which is subject to the Commission's Standards of Conduct.

²²Old Dominion at 7-8.

\$100,000. We note that, under the pro forma tariff, a transmission requestor must make a refundable deposit equal to one month's service, and a service of only 50 MW would generate a deposit of about \$100,000. We conclude that the proposed level of deposit is reasonable for generation interconnections.

D. The Queuing Process

PJM proposes that, because there were no established procedures for requesting interconnection, the initial queue will merge those projects that did notify PJM of their desire for an interconnection and those projects that did not, but can demonstrate that they had "pre-existing continuing plans" for development before April 1, 1998. As discussed further below, we will accept without modification the queuing procedures, which were the outcome of a lengthy stakeholder process.

1. The Initial Queue

The queuing process is controversial because it affects the direct assignment of expansion costs. Although it had no specific procedures in place for interconnecting new generation in the absence of a request for transmission service, PJM states that it has maintained an informal queue based on the date it obtained notification that a project was seeking to interconnect with the PJM grid. PJM proposes to honor that queue, which includes more than 70 applicants, under its new procedures. However, PJM also proposes to allow entities that had not notified PJM of their interest in connecting with the grid to demonstrate that they could have submitted a completed interconnection request and received an earlier priority in the queue.²³ PJM requires that a corporate officer certify the documentation. PJM will review the documentation and assign a queuing date, so as to merge the two lists into a single queue. PJM will publish its queue list on its OASIS without naming the applicant, *i.e.*, it will identify only the interconnection bus and size of the project. PJM states that its proposal is superior to an open season which would hinder the interconnection

²³PJM states that these entities must, by the end of April, 1999, demonstrate that they had pre-existing, continuing plans to interconnect new generation or increase the capacity of existing generation and that they would have provided all of the information required under the proposed procedures at an earlier date. Documentation may include engineering and construction plans, evidence of on-site improvements to accommodate a generation project, identification of fuel delivery facilities, project budgets, reports reflecting project expenditures, and applications for necessary governmental approval and environmental permits. PJM will evaluate this information and, if it agrees to a queue placement, will post this information on OASIS within 30 days. Transmittal Letter at 14.

request process and the construction of new generation in the PJM control area and require recommencing all studies that are currently underway or completed for projects in the queue.²⁴

In the future, PJM will base queuing on application dates (first-come, first-served), although an applicant can lose its position in the queue if it fails to satisfy requirements, called milestones, that are intended to demonstrate that the generation project development is progressing at the same time as the interconnection process. Examples of milestones are execution of fuel delivery agreements and obtaining site permits.²⁵ Upon completion of the feasibility and system impact studies, PJM will add the studies to the queue list on its OASIS and make them public upon request.²⁶ The listing for a System Impact Study will include the name of the customers requesting interconnection and their priority in the queue.

Columbia Electric, Electric Power Supply, Sithe, Statoil, US Gen and PGET, and Mid-Atlantic argue that allowing new interconnection requests to jump ahead in the queue disadvantages those entities who formally notified PJM of their requests, by delaying and increasing the cost of their projects. They state that PJM has not explained the criteria it will apply to determine the placement of these no-notice projects. Sithe states that, while it may be necessary to assign priority rights to projects that were well along in commercial development, it is concerned about the arbitrary assignment of queue priority rights. Electric Power Supply shares this concern and argues that the grandfathering procedures should not turn into an open season for new projects to bump existing ones. Mid-Atlantic is concerned that the proposal will unduly favor incumbent generation owners and discriminate against new generation projects. US Gen and PGET contend that the claim by TOs that they did not know they needed to identify generation projects to the ISO for consideration is not credible, given that PJM has transferred responsibility for implementing open access transmission in PJM to the ISO. US Gen and PGET state that, while there may be certain limited circumstances that provide a compelling case for relief, policy considerations should restrict the extension of this relief to only a few cases. Sithe and Mid-Atlantic argue that the Commission should require PJM to set forth in the PJM Tariff objective, nondiscriminatory and transparent criteria for the assignment of queue priority rights. US Gen and PGET add that the ISO must adopt an open and transparent decision making process in this respect.²⁷

²⁴Id. at 12-15.

²⁵Id. at 10.

²⁶Id. at 6-8.

²⁷See Columbia Electric at 17-18; Electric Power Supply at 4-5;

Liberty Electric maintains that PJM should not use the grandfathering procedures to delay requests that PJM has already received and which are well along. Liberty Electric states that the lack of procedures has already delayed its project (which was the subject of a request to PJM on May 15, 1998), and that PJM should not further penalize it through the grandfathering procedures. Liberty Electric suggests that PJM should immediately study the first 10 or so projects in the queue on the assumption that they have already been on hold too long.²⁸

PSE&G argues that it would be unlawful to discriminate against projects that did not file an interconnection request under procedures that did not exist. PSE&G argues that the fact that PJM maintained an informal list which it used to prioritize the projects it knew about is not relevant because, under the PJM Operating Agreement, PJM is required to consult with stakeholders before establishing priority rights for new generators. PSE&G states its understanding that PJM had not transferred responsibility for interconnection requests to the PJM ISO, but that the responsibility still resided with each TO. PSE&G supports the compromise proposed here which would merge the informal list that PJM maintained with the projects that TOs were developing, as long as PJM does not hold the TOs' projects to a higher standard with respect to documentation than the standard that applied to those applicants who are in the informal queue. That is, PSE&G supports the new queue, so long as it can join the queue by showing that it had an interest in adding new generation or expanding existing generation that it intended to interconnect with the PJM grid. PSE&G states that, otherwise, it may be "denied the right to use capacity on its own transmission facilities without prior notice that"²⁹ PJM was revising its rights.³⁰ Alternatively, PSE&G proposes that PJM hold an open season for applications for the connection of additional generation to the PJM transmission system.

In its answer, PJM strongly opposes an open season because it would delay the interconnection process and disadvantage those that notified PJM of their plans. PJM points out that, with an open season, generators would likely submit as many as 100 projects with a claim of equal priorities, and assigning cost responsibilities and connection sequences would become a morass. As to PSE&G's claim that it had no notice that notification to

Mid-Atlantic at 4-6; Sithe at 5-6; Statoil at 4-7; US Gen and PGET at 3-5.

²⁸Liberty Electric at 2-4.

²⁹PSE&G at 10.

³⁰PSE&G at 1-11.

PJM was required, PJM notes that during 1998 it consulted with every transmission owner, including PSE&G, to discuss its planned generation and transmission projects. PJM concludes that it reasonably expected that anyone planning a generation interconnection would expect to notify PJM.³¹

PJM also explains that, during the prescribed 30-day window, it received requests for queue additions from nine entities, covering 21 generation sites and involving about 8,600 MW.³² PJM adds, however, that many of these projects involve expansions of less than 100 MW and, therefore, are unlikely to affect any other projects in the queue. PJM adds that many of the other requests concern generation sites located where there are no competing projects in the queue, and, therefore, are also unlikely to affect other generation projects. PJM concludes that, while it has not completed its evaluation of the requests, it believes that there are no more than six projects that may

affect the queue and resulting cost responsibilities, if PJM decides to award them earlier queue priority.³³

We will accept PJM's proposal to establish an initial queue comprised of projects that did and did not notify PJM of their needs. This proposal reflects the outcome of a stakeholder process and the governance that the Commission approved, and most intervenors agree with the principle underlying the proposal to create a new queue, as well as the basic criteria (summarized at footnote 23) which the stakeholder process produced. Most of the intervenors' concerns focus not on these criteria but on how they will be applied in the specific instances. We will therefore direct PJM to provide requesting entities a thorough explanation of how it applied the criteria. Entities that disagree with PJM's implementation would, of course, be able to avail themselves of the PJM tariff's dispute resolution procedures.

2. Staying in the Queue

A number of intervenors express concern about the requirement to satisfy milestones in order to maintain a place in the queue. Columbia Electric, Electric Power Supply, Statoil, and Sithe assert that, while it may be reasonable to require a project to satisfy development milestones contemporaneous with PJM's performing Facilities Studies, PJM has not defined the milestones that it will impose. They suggest that milestones should: (1) be the product of mutual agreement between the

³¹PJM Answer at 2-7.

³²Id. at 5.

³³Id.

generator seeking interconnection and PJM; and (2) reasonably mirror the economic and scheduling realities of project development. They further suggest that PJM set out the milestones in advance and require all similarly situated customers to meet the same milestones. Statoil suggests that, instead of milestones, PJM should impose penalties for withdrawing interconnection requests.³⁴

Old Dominion is concerned that external factors, such as state regulatory proceedings (e.g., where a certificate of public necessity is required before a generator can apply for air quality permits) may affect the ability of developers to satisfy milestones. Old Dominion contends that there should be some flexibility in the milestone criteria to account for these differences.³⁵

In its answer, PJM agrees that generators and PJM should negotiate milestones at the outset, and that milestones should be flexible. PJM states that, if the parties cannot agree on this issue, it will file an unexecuted interconnection agreement with the Commission, for its resolution of the matter. PJM further states that, while penalties may be useful, it cannot adopt such a measure until its members have first discussed it.³⁶

We will accept PJM's proposed queuing criteria as filed. Intervenor appear to be anticipating a dispute that may not materialize. PJM has not proposed standardized milestones, and we expect that PJM and its customers will negotiate these details and incorporate them in the study agreements that are called for by the interconnection process.

E. Queue Information on OASIS

Electric Power Supply is concerned about the inadvertent release of commercially sensitive information in the early stages of the interconnection study process and requests that the Commission disallow any study information on the OASIS other than the location and size of the project until a later stage in the process.³⁷ However, that is the only information that PJM proposes to release on its OASIS at this time.³⁸ Moreover, we note that a request for interconnection is simply a request for transmission service and the information that PJM makes available

³⁴Columbia Electric at 21-22; Electric Power Supply at 8-9; Statoil at 7-9; Sithe at 6-7.

³⁵Old Dominion at 1-2, 6-7.

³⁶PJM Answer at 7-8.

³⁷Electric Power Supply at 8.

³⁸Transmittal Letter at 5-6.

on OASIS for an interconnection request should be no more or less than for any other transmission service request.

F. Cost Responsibility Rules

PJM proposes to require an interconnection customer to pay the full cost of the facilities necessary to physically connect its generation capacity to the nearest PJM substation, plus the minimum necessary local and network upgrades that would not have been incurred under PJM's RTEP "but for" such interconnection request. Conversely, to the extent new generation capacity were to reduce PJM's planned expansion costs, the interconnection customer would receive a commensurate reduction in its costs of interconnection.³⁹

PJM states that its RTEP will reflect the needs of the system to integrate existing loads and resources, and that it will base cost responsibility for upgrades related to interconnection on how the interconnection changes that plan. PJM will directly assign the interconnection customer all costs of the facilities necessary to physically connect its generation capacity to the PJM substation, and the minimum amount of local and network upgrades needed that PJM would not have incurred under its RTEP "but for" such interconnection request.⁴⁰ PJM will compute the "but for" costs by comparing the costs under the existing RTEP with a revised RTEP that includes the new facilities and upgrades. PJM will reduce this difference in costs by any benefits to the RTEP that result from the added facilities and upgrades (such as the elimination of planned local or network upgrades).⁴¹ If PJM decides that it is more beneficial, pursuant to the RTEP, to construct upgrades in addition to the minimum upgrades necessary for interconnection, the customer will pay only the costs of the minimum upgrades.⁴² PJM proposes to roll the rest of the costs into the rates of all transmission customers, subject to Commission approval.⁴³ If another interconnection customer uses capacity added in response

³⁹Id. at 10-19.

⁴⁰Id. PJM's RTEP reflects transmission enhancements and expansions, load and capacity forecasts and generation additions and retirements for the next ten years and includes, at a minimum, which entity will own a transmission facility and how the costs will be recovered.

⁴¹Id. at 17. However, this reduction will not result in a charge of less than zero.

⁴²Id. at 17.

⁴³Id.

to an earlier requestor's application, PJM proposes to share the costs between the customers.⁴⁴ The proposal also includes ADR procedures for customers that may dispute their cost allocation.⁴⁵

PJM proposes to allow an applicant to request two types of interconnection. If the applicant wants PJM to accredit its generator as a Capacity Resource under the PJM Reliability Assurance Agreement, PJM will award the customer Capacity Interconnection Rights (CIRs) commensurate with the size (MW) of the accredited generation.⁴⁶ PJM explains that, because a Capacity Resource must be deliverable, consistent with a loss of load expectation, it must complete a more extensive study to determine what expansions it may need to guarantee delivery of the output of the unit to the PJM markets. PJM states that, if the customer does not want the generator designated as a Capacity Resource but wants it "used solely for energy sales," it may not require such extensive upgrades or studies because the "deliverability of the generating capacity will not be ensured." PJM claims that "the difference between the interconnections of a Capacity Resource and an Energy Resource is somewhat analogous to the difference between firm and non-firm service."⁴⁷

If the interconnection involves a Capacity Resource, PJM will award CIRs, which will entitle the holder to deliver the

⁴⁴Id. at 18 n.13.

⁴⁵Id. at 19.

⁴⁶Id. at 21-23. A Capacity Resource is generation capacity that is used to satisfy a party's obligation to contribute to the pool's installed capacity under the PJM Reliability Assurance Agreement.

⁴⁷Id. at 7 n.8. PJM states that when the interconnection request involves a Capacity Resource, PJM will plan the PJM grid in a manner that allows the holder of CIR to integrate its Capacity Resource in a comparable manner to that in which each TO integrates its Capacity Resources to serve Native Load. PJM emphasizes that it does not mean that PJM will construct upgrades that would enable the generation to be delivered to every load in the control area, only that it will plan the transmission system in such a way that the composite of all Capacity Resources can reliably serve the composite of all PJM load. PJM would evaluate the ability of system operators to deliver the output of generation beyond the local load-serving area when there are generation insufficiencies in other load areas within the control area. PJM distinguishes this from an Energy Resource, which it is not relying upon to satisfy generation reliability requirements, but which can compete to displace Capacity Resources when economical. Id. at 21-23.

output of the Capacity Resource at the bus where it interconnects with the PJM grid.⁴⁸ CIRs will not entitle the holder to transmit its output to any other point on the PJM system. PJM proposes to allow customers to transfer CIRs. For example, if one customer retires a unit and another unit owned by another generator locates at the same bus, the first customer may transfer its CIRs to the other generation owner.

PJM states that its members discussed, but did not reach a consensus on, whether and to what extent Fixed Transmission Rights (FTRs) should be assigned to generation projects that pay for new transmission facilities to accommodate their projects. PJM hopes to resolve this issue and make any necessary filings with the Commission by December 31, 1999. Several intervenors⁴⁹ argue that PJM should assign FTRs to those who pay for such transmission upgrades. Rather than address this matter now, we will allow additional time for the stakeholder process to resolve this issue. However, as we have recently noted with regard to the New England Power Pool (NEPOOL), issues of congestion pricing, transmission rights, and assignment of expansion costs are interrelated.⁵⁰

PJM differs from NEPOOL in that we have already approved, and PJM has already implemented, congestion pricing and an FTR program. Nevertheless, delay on possible changes to the FTR program creates uncertainty. We will, therefore, require PJM to file a specific proposal regarding the assignment of FTRs by December 31, 1999. This filing should include an explanation of how the comprehensive proposal (the existing congestion management, the expansion pricing that we are accepting for filing in this order, and any proposed revisions to the FTR program) provides incentives for the efficient building and siting of generation and transmission facilities. Nothing in PJM's specific proposal regarding FTRs should preclude interconnection customers who become obligated to pay for transmission upgrades between the date of this order and December 31, 1999 from receiving FTRs or any other financial benefits that PJM may include in its December proposal.

Intervenors support the pricing proposal in principle, but raise a number of issues about implementation. US Gen and PGET are concerned about the baseline RTEP which, they contend, should be reliability-based and should not include plans for expansion to relieve congestion that is market driven and does not affect

⁴⁸Id. at 21-22.

⁴⁹See Electric Power Supply at 7; Columbia Electric at 20-21; Statoil at 9; and US Gen and PGET at 6.

⁵⁰New England Power Pool, 85 FERC ¶ 61,141 at 61,553 (1998).

reliability.⁵¹ US Gen and PGET contend that this will ensure that PJM manages congestion relief through the optimal siting of new generation or market driven transmission investment. US Gen and PGET contend that, if the RTEP includes expansions that relieve market-based congestion, an entity that pays for expansion in order to obtain the locational benefits would be at risk for changes in the transmission plan that might remove exactly the conditions that caused it to choose that location. US Gen and PGET argue that this would chill market-based investment that would otherwise take place to address congestion.⁵²

Electric Power Supply is concerned that the implementation is unclear in a number of respects. For example, Electric Power Supply is uncertain about: (1) how PJM will implement the "but-for" test; (2) how PJM will share the cost of expansion between multiple generators; and (3) how PJM will decide whether there are any system benefits that should be paid for by all customers.⁵³ Columbia Electric raises some of the same issues and questions how expansion for a Capacity Resource and an Energy Resource might differ. Columbia Electric also questions how the cost assignment to one project might be affected if another project with a higher priority withdraws after cost assignments have been made. It also questions how PJM will handle the situation where a project earlier in the queue has a later in-service date.⁵⁴

Electric Power Supply, Columbia Electric, and US Gen and PGET argue that, if a generator pays for system expansions that relieve congestion, it should be entitled to firm transmission rights.⁵⁵ Electric Power Supply and Statoil suggest that PJM should place the cost responsibility rules in the PJM Tariff rather than in the PJM Operating Agreement.⁵⁶ Finally, Columbia Electric argues that the Commission should examine the pricing proposal to determine if it constitutes prohibited "and" pricing, at least in the situation where the generator is also

⁵¹US Gen and PGET appear to be distinguishing between a transmission facility that must be expanded to ensure reliable service to loads and a facility that is properly sized for its load but is the subject of oversubscription because many sellers are competing to use the facility to serve the same load.

⁵²US Gen and PGET at 5-6.

⁵³Electric Power Supply at 6-8.

⁵⁴Columbia Electric at 12-17.

⁵⁵Columbia Electric at 16; Electric Power Supply at 7; US Gen and PGET at 6.

⁵⁶Electric Power Supply at 9; Statoil at 11-12.

the transmission customer, e.g., a point-to-point transmission service.⁵⁷

We share intervenors' concerns that the pricing proposal lacks certain details at this time. While the proposal's principles are sufficiently clear at this time, the implementing details are not. One of the reasons the Commission approved PJM as an ISO was to provide an impartial forum that will be in the best position to evaluate regional planning and expansion needs. We will not intervene at this early stage of the process to dictate, in the abstract, specific requirements for implementing the general pricing principles established by PJM. Once PJM begins to evaluate the 80 projects that are in the queue, it will be in a position to identify the critical implementation issues that face it and to evaluate how to address those issues. Thus, at this time, we will limit our review to PJM's pricing principles.

We note that PJM's proposal differs from that proposed in NEPOOL because generators will be required to pay the full cost of grid expansion, rather than a portion of the cost. As we noted in NEPOOL, this type of proposal forces the developer to consider the economic consequences of its siting decisions when evaluating its project options, and should lead to more efficient siting decisions.⁵⁸

Further, we do not agree with Columbia Electric that the proposal constitutes the type of "and" pricing that the Commission prohibits on individual utility systems. For most transactions in PJM the load will pay a charge for transmission service and the generator will pay the charge for the upgrades. This is not "and" pricing, since one person does not pay both charges.

Columbia Electric correctly notes, however, that in certain circumstances the generator (rather than the load) may be the transmission customer, e.g., when it exports its power to another control area and obtains point-to-point transmission service. In this case it is possible that the generator would pay both the charge for transmission service and the charge for the upgrades, and this would be an instance of impermissible "and" pricing. (We note that NEPOOL adopts a form of "or" pricing for these

⁵⁷Columbia Electric at 14-16.

⁵⁸New England Power Pool, et al., 87 FERC ¶ 61,043 at 61,185-86 (1990) (NEPOOL) (reh'g pending).

types of transactions, i.e., where there is a purchaser paying an access fee for full grid access and the generator must arrange a separate export path to reach an external load.⁵⁹) We note that PJM has not proposed pricing for this type of expansion. We will not address this issue until PJM proposes to do so.

Finally, we agree that PJM should include the proposed cost responsibility rules in the PJM Tariff rather than in the PJM Operating Agreement.⁶⁰ Accordingly, we will direct PJM to move the cost responsibility rules to the PJM Tariff.

The Commission orders:

(A) Delmarva's, Enron's, and the California Board's motions to intervene out of time are hereby granted.

(B) The PJM Tariff and PJM Operating Agreement, as modified, are hereby accepted for filing, without hearing or suspension, to become effective April 1, 1999, as requested.

(C) PJM is hereby directed to submit modifications, as discussed in the body of this order, within 30 days of the date of this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

⁵⁹New England Power Pool, et al., 83 FERC ¶ 61,045 at 61,232 & n. 34 (1998) (reh'g pending).

⁶⁰We note that PJM did not object to this proposal in its Answer.

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