UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION
) )
New Jersey Energy Associates,
A Limited Partnership
) )
Docket No. ER15-952-000
) )

MOTION TO INTERVENE AND COMMENTS OF
PJM INTERCONNECTION, L.L.C.

Pursuant to rules 212, 213, and 214 of the Rules of Practice and Procedure of the
Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.212, 385.213, and
385.214, PJM Interconnection, L.L.C. ("PJM") moves to intervene and submits comments
regarding the waiver request of New Jersey Energy Associates ("NJEA") in the above-captioned
proceeding.

I. MOTION TO INTERVENE

PJM is a Commission-established Independent System Operator and Regional
Transmission Organization.¹ PJM is a transmission provider under, and the administrator of, the
PJM Open Access Transmission Tariff ("Tariff") and the Amended and Restated Operating
Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"), operates energy and
capacity markets, plans regional transmission expansion improvements to maintain grid
reliability and relieve congestion, and conducts the day-to-day operations of the Transmission
System² in the PJM Region. On January 30, 2015, NJEA filed a petition with the Commission in
the above-captioned proceeding³ requesting waiver of certain provisions of section 1.10.2 of


² All capitalized terms that are not otherwise defined herein shall have the same meaning as they are
defined in the Tariff or Operating Agreement.

³ Petition of New Jersey Energy Associates, a Limited Partnership For Waiver Of PJM Tariff and
Operating Agreement, Docket No. ER15-952-000 (filed January 30, 2015) ("Waiver Request").
Attachment K-Appendix of the Tariff\(^4\) in order to recover approximately $1.3 million in gas balancing costs.\(^5\) As the administrator of the Tariff and Operating Agreement, PJM has an independent interest in this proceeding that no other party can adequately represent, and PJM should be granted intervenor status.\(^6\)

II. CORRESPONDENCE AND COMMUNICATIONS

PJM designates the following persons to receive all notices and communications regarding this proceeding:

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III. COMMENTS

a. **PJM Generally Supports NJEA’s Waiver Request**

PJM generally supports NJEA’s Waiver Request under the specific facts and circumstances at issue in this proceeding. Admittedly, there is no Tariff or Operating Agreement provision that permits recovery of gas balancing costs. While the gas balancing losses NJEA experienced are generally a routine cost of doing business for generators under normal operations that are not recoverable under the Tariff or Operating Agreement, the extreme system conditions, current gas market rules and price volatility of the gas markets in late January 2014 resulted in NJEA incurring extraordinary losses. Not allowing NJEA to recover

\(^4\) Attachment K-Appendix of the Tariff is identical to Schedule 1 of the Operating Agreement. Where PJM refers herein to provisions of Attachment K-Appendix of the Tariff, those references also are intended to encompass the parallel provisions of Schedule 1 of the Operating Agreement.

\(^5\) See Waiver Request at 1, 13-15.

\(^6\) See 18 C.F.R. § 385.214(b)(2).
these costs would result in an inequitable and confiscatory outcome. PJM will not opine on the
justness and reasonableness of the specific costs for which NJEA seeks compensation.
However, as a matter of policy, PJM believes it is appropriate and equitable for NJEA to be
made whole for reasonable unrecovered fuel costs incurred during the cold weather events of
late January 2014, equal to its verifiable actual gas costs, minus any offsetting revenues
received from the subsequent sale of that gas, given the operational challenges of illiquid gas
markets, the extraordinarily high price of gas, existing pipeline rules, lack of transparency of the
gas market, and lack of coordination between the gas and electric markets.\(^7\) PJM’s position in
this matter is further influenced by the Commission Staff’s finding of no evidence of widespread
or systemic market manipulation by gas marketers during January 2014.\(^8\)

Duke Energy Corporation (“Duke”), Old Dominion Electric Cooperative (“ODEC”) and
Calpine Energy Services, L.P. (“Calpine”) requested waiver of various Tariff and Operating
Agreement provisions and asked to be compensated for gas balancing costs due to factual
situations that were similar to what NJEA experienced in January 2014.\(^9\) Since January 2014,
PJM’s stakeholders have examined a host of issues related to gas-electric coordination and fuel
security, including whether changes were needed to PJM’s governing documents to allow for
recovery of gas balancing costs. At present, PJM’s stakeholders have not endorsed any rule
changes related to recovery of gas balancing losses. This is because PJM’s stakeholders and

\(^7\) See Analysis of Operational Events and Market Impacts During the January 2014 Cold Weather Events,
dated May 8, 2014 and available through PJM’s internet website at
http://www.pjm.com/~media/documents/reports/20140509-analysis-of-operational-events-and-market-
imacts-during-the-jan-2014-cold-weather-events.ashx (“Cold Weather Report”) (providing background
and analysis on the cold weather events of January 2014).

\(^8\) See 2014 Report on Enforcement, Docket No. AD07-13-008, at 28 (November 20, 2014) (available on

Inc. and Duke Energy Lee II, LLC Against PJM Interconnection, L.L.C. and PJM Settlement, Inc. or, in the
Alternative, Request for Waiver filed by Duke Energy Corporation, Docket No. EL14-45-000 (filed May 5,
2014) (“Duke Complaint and Waiver Request”); Petition of Old Dominion Electric Cooperative For Waiver
of PJM Tariff and Operating Agreement Provisions in Order to Make ODEC Whole For Certain January
2014 Operations, Docket No. ER14-2242-000 (filed June 23, 2014); Request for Limited Waiver of
PJM are awaiting Commission action on the previously submitted waiver requests of Duke, ODEC and Calpine before re-examining whether changes are needed to PJM’s governing documents to allow for recovery of gas balancing costs.

In the meantime, PJM supports NJEA’s waiver request so that NJEA may be compensated for its actual unrecovered fuel costs, to the extent the Commission deems those costs to be just and reasonable, for several reasons. First, and most importantly, PJM needs to be able to rely on the owners and operators of generation resources in the PJM Region to comply with PJM’s dispatch instructions, particularly when PJM is experiencing emergency conditions. PJM fears that if generation owners and operators incur extraordinary losses due to the combination of current gas market rules, the disconnect between the gas and electric markets, and price volatility in the gas markets, they may hesitate to comply with PJM’s dispatch instructions. PJM cannot sustain long term reliable operations if generation owners and operators hesitate to comply with dispatch instructions because they fear they will incur costs they cannot recover under the Tariff or Operating Agreement.

Second, given the extraordinary nature and the specific facts and circumstances under which NJEA incurred the costs in question, for the sole purpose of granting its waiver request, PJM supports NJEA’s requested waiver to the extent necessary to compensate NJEA for the amount of its verifiable actual gas and other costs deemed reasonable by the Commission under the facts and circumstances of this case, minus any offsetting revenues received from the subsequent sale of that gas.

Last, PJM agrees with NJEA that its waiver satisfies the Commission’s standard for granting waiver in this case.10

b. Clarifications to Record

Notwithstanding PJM’s overall support for NJEA’s Waiver Request, PJM would like to clarify its position on two issues raised by NJEA:

10 See Waiver Request at 15-17.
First, NJEA noted that Duke had previously argued that the indemnification provisions of PJM’s Tariff entitled them to recovery for their gas balancing losses.\textsuperscript{11} NJEA stated that while it takes “no position with respect to applicability of the indemnification provisions of PJM’s tariffs to recovery of [the costs at issue], to the extent the Commission concludes that the indemnification provisions of PJM’s tariffs authorize PJM to make NJEA whole, and PJM in fact does so, NJEA will withdraw this waiver request.”\textsuperscript{12} While PJM supported (and continues to support) Duke’s requested waiver, PJM made clear in its answers filed in response to the Duke Complaint and Waiver Request and ODEC’s waiver request that it opposes any arguments that any indemnification provision in PJM’s Tariff, specifically section 10.3, allows PJM to compensate entities that have incurred gas balancing losses.\textsuperscript{13} For the same reasons, PJM reiterates that section 10.3 of the Tariff is not applicable to the gas balancing losses incurred by NJEA.

Second, some of the statements in the affidavits supporting the Waiver Request characterize PJM’s operators’ communications to NJEA’s operators as “directives.”\textsuperscript{14} PJM would like to clarify for the record that it did not issue a “directive” to NJEA to buy gas, but instead “instructed” them to do so. This distinction is important because “directives” have a very specific meaning in the context of PJM’s operators’ communications to PJM Members’ operators, most notably because they are related to the reliability of the bulk electric system and

\begin{footnotes}
\footnotetext[11]{See id. at 2 (referencing Duke Complaint and Waiver Request).}
\footnotetext[12]{Waiver Request at n. 7.}
\footnotetext[13]{See Answer of PJM Interconnection, L.L.C. to Complaint, and Response to Request for Waiver, Docket No. EL14-45-000 (filed May 27, 2014); Motion for Leave to Answer and Supplemental Answer of PJM Interconnection, L.L.C., Docket No. EL14-45-000 (filed June 26, 2014); see also Motion To Intervene And Comments of PJM Interconnection, L.L.C. In Support Of Petition And Waiver Request, Docket No. ER14-2242-000, at 22 (filed July 11, 2014).}
\footnotetext[14]{See Affidavit of Eric Linder at P 4 (". . . NEPM received scheduling instructions from PJM directing the South River CC to operate on Monday, January 27, 2014 . . ."); Affidavit of Troy Mischke at P 4 (same).}
\end{footnotes}
North American Electric Reliability Corporation (“NERC”) standards. Such a “directive” was not given to NJEA by PJM here.

IV. CONCLUSION

PJM respectfully requests that the Commission (1) grant PJM’s motion to intervene in this proceeding and (2) consider PJM’s comments herein.

Respectfully submitted,

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15 Section 4.2.4 of PJM Manual 01 distinguishes dispatch or operating instructions from directives. The distinction is that directives are imminently vital to the reliability and operations of the bulk electric system and are related to real-time operations. The NERC glossary and PJM Manual 01 define directives this way and PJM dispatch operators and PJM Member operators have trained with this distinction in mind extensively. Dispatch or operating instructions are also important to operations but do not have the real-time or reliability criticality as directives. Instructions include communications such as day (or multiple days’) scheduling conversations, responding to operations questions, etc. These communications have the benefit of time to allow for additional discussion, clarification, and escalation which are not possible with directives. Often the communications between PJM operators and Member operators are initiated by questions related to equipment status, readiness, updates, etc. This type of communication can be initiated by either PJM or the Member. This informational communication in itself does not rise to the level of operational instruction or directive, but is useful to provide the Member or PJM with any relevant information they might need. It is part of PJM’s responsibility, if needed, to turn the informational communication into the appropriate dispatch or operational instruction or directive. PJM and its stakeholders are currently examining whether the protocols around system and generation operator communications warrant improvements in order to reduce uncertainty and risk to generators. See PJM Operating Committee - Gas Unit Commitment Coordination Problem Statement, (available at http://www.pjm.com/committees-and-groups/issue-tracking/issue-tracking-details.aspx?Issue={0635F694-D70D-486A-BE1D-BF720C6BD867}).
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Audubon, PA, this 20th day of February, 2015.

Steven Shparber,
Attorney for PJM Interconnection, L.L.C.