UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Public Service Electric and Gas Company : Docket No. EL15-40-000
Complainant, :

v. :

PJM Interconnection, L.L.C. : Respondent. :

MOTION FOR LEAVE TO ANSWER AND ANSWER OF
PJM INTERCONNECTION, L.L.C.

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 1 PJM Interconnection, L.L.C. (“PJM”) moves for leave to file this reply to the answer submitted by Public Service Electric and Gas Company (“PSE&G”) 2 in response to PJM’s Motion to Dismiss submitted on February 13, 2015. 3 This response is for the limited purpose of addressing material misstatements that create a convenient but erroneous picture as to PJM’s process at issue in the PSE&G Complaint. 4

I. MOTION FOR LEAVE TO ANSWER

Although the Commission’s rules generally prohibit an answer filed in response to an answer, 5 the Commission has permitted such an answer when it clarifies issues in dispute, provides information to assist in the Commission’s decision-making process, or ensures that the

2 Public Service Electric and Gas Company v. PJM Interconnection, L.L.C., Answer to Motion to Dismiss, Docket No. EL15-40-000 (Feb. 18, 2015) (“PSE&G Answer”).
3 Public Service Electric and Gas Company v. PJM Interconnection, L.L.C., Motion to Dismiss Complaint and Postpone Answer Date, Docket No. EL15-40-000 (Feb. 13, 2015) (“Motion to Dismiss Complaint”).
PJM requests that the Commission grant this motion for leave to answer the PSE&G Answer because it corrects misstatements made by PSE&G regarding the transition actually proposed by PJM and accepted by the Commission and ensures that the record in this proceeding is complete and accurate.

II. ANSWER

A. **PSE&G’s Selective Quotations Conveniently Leave Out Critical Words Utilized by PJM in Describing its Process Pertaining to the Artificial Island Solicitation.**

PSE&G declares that PJM “argues it was free to ignore Order No. 1000 rules.”8 Contrary to PSE&G’s declaration, nowhere did PJM state that it was “free to ignore Order No. 1000.” Building on that hyperbole, PSE&G then unequivocally asserts that the “PJM ‘effective date defense’ is no defense because PJM committed to follow its Order No. 1000 rules for the Artificial Island solicitation and has reaffirmed that commitment continually over the last two years.”9 Once again, in its Answer, PSE&G provides the Commission with its version of what PJM said using the same edited quotes – almost word for word – that it used in its Complaint.10

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6 See, e.g., **Transcontinental Gas Pipeline Corp.**, 119 FERC ¶ 61,039, at P 15 (2007) (accepting an answer to an answer because the information assisted the Commission in its decision-making process); **Duke Energy Oakland, LLC**, 102 FERC ¶ 61,093, at P 10 (2003) (finding good cause to accept an otherwise impermissible answer because the answer assisted the Commission in understanding and resolving the issues involved in the proceeding); **Morgan Stanley Capital Group, Inc. v. N.Y. Indep. Sys. Operator, Inc.**, 93 FERC ¶ 61,017, at 61,036 (2000) (accepting an answer to an answer that was “helpful in the development of the record . . . .”).


9 PSE&G Answer at 2.

10 **Id.**, n. 2.

11 PSE&G Complaint at 27.
Most striking is PSE&G’s persistence in emphasizing the word “commitment” and ignoring that PJM’s commitment was qualified “to the extent feasible.” In fact, PJM’s actual statement was as follows:

PJM will implement its complete set of revisions in the next full 12-month or 24-month planning cycle following a final Commission order approving this compliance filing and any associated subsequent compliance filings. As the date of the Commission action is unknown, PJM commits herein that depending upon the stage of the planning cycle, PJM will implement whatever provisions proposed herein can be implemented without restarting a planning cycle mid-year so as not to “delay current studies being undertaken” pursuant to PJM’s existing RTEP process or “impede progress on implementing existing transmission plans.” PJM will clarify its exact transition upon receipt and review of the Commission’s final order on this compliance filing. As a result, projects, including proposals already received, under consideration in the planning cycle in which the Commission’s compliance order issues will be evaluated under the new rules to the extent feasible. In the interim, PJM will implement our current RTEP process consistent with our tariffs.

In clarifying its transition in its Second Order No. 1000 Compliance Filing, PJM further stated:

The Commission also required that PJM provide “further information regarding PJM’s transition to the revised regional transmission planning process, including an explanation of how PJM will evaluate transmission projects currently under consideration.” As stated above, the effective date for the provisions establishing PJM’s new proposal window process will be January 1, 2014. Therefore, solutions for reliability violations and economic constraints identified prior to that date will be evaluated under PJM’s current regional transmission planning process. However, as PJM indicated in the October 25 Filing, PJM is implementing the new proposal window process to the extent feasible and practicable under its current process. In this regard, PJM already has begun pre-qualifying entities as potential Designated Entities using the same criteria as proposed in the October 25 Filing and is implementing a limited number of proposal windows.\(^\text{12}\)

While PJM stated that the opening of the Artificial Island solicitation prior to its requested Order No. 1000 effective date “offered a good opportunity to implement a proposal

window consistent with the revisions proposed in its October 25 Filing,” PJM qualified that the “solutions for reliability violations and economic constraints identified prior to that date will be evaluated under PJM’s current regional transmission planning process.” PSE&G offers nothing to rebut PJM’s statement. As such, the Commission should be especially wary about relying upon the selected edited quotes presented by PSE&G, which form the backbone of PSE&G’s meritless Complaint. PJM urges the Commission to ignore PSE&G’s Answer and dismiss the Complaint with prejudice.

**B. PSE&G’s Hyperbole About There Being No Process to Follow is Patently Incorrect.**

Alternatively, PSE&G argues that absent the Order No. 1000 competitive solicitation process “there is no other process in place.” Such hyperbole is once again simply inaccurate on its face. In fact, PJM has had a long standing transmission planning process in place, one that the Commission approved as compliant with Order No. 890. Moreover, in its July 19, 2012 *Primary Power* decision, the Commission clarified that its previous *Primary Power* order did not establish a preference for market participant sponsors of proposed projects or otherwise add requirements in PJM’s consideration of proposals under its regional planning procedures. Rather, “the PJM Tariff permits PJM to designate” either an incumbent or an “entity other than

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13 *Id.*, at 3.
14 PSE&G Answer at 3.
16 *Primary Power, LLC*, 140 FERC ¶ 61,052 (July 19, 2012) (“July 19 *Primary Power Order*”).
17 *Primary Power, LLC*, 131 FERC ¶ 61,015 (Apr. 13, 2010) (“April 13 *Primary Power Order*”).
18 July 19 *Primary Power Order* at P 1.
an incumbent transmission owner,” to build a project “included in the RTEP as a baseline reliability project or economic project.”

As to the process to follow, the Commission pointed to the then-existing pre-Order No. 1000 tariff and directed PJM to “designate projects under the relevant tariff provisions in a not unduly discriminatory manner, whether sponsored by transmission owners or others.”

In short, PJM’s existing process being used to address the Artificial Island solicitation has been reviewed and approved by the Commission in Order No. 890. Moreover, the potential for non-incumbents to participate in that process by submitting proposals was affirmed in *Primary Power*. To say that there is “no process” in place prior to Order No. 1000 for PJM to determine the more efficient or cost-effective solution simply writes off years of Commission orders reviewing and approving the process, including Order No. 2000, Order No. 890 and the Commission’s *Primary Power* decisions.

**C. The Commission Accepted PJM’s Transition, Including Artificial Island.**

In Order No. 1000, the Commission left it up to the transmission providers “to determine at what point a previously approved project is no longer subject to reevaluation and, as a result whether it is subject to the requirements of this Final Rule.” Consistent with the requirements of Order No. 1000, the Commission directed PJM in its First Compliance Order to:

[P]rove further information on compliance regarding PJM’s transition to the revised regional transmission planning process, including an explanation of how [PJM] will evaluate transmission projects under consideration before the effective date of PJM’s Order No 1000 compliance filing.

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19 April 13 *Primary Power* Order at P 62.
20 *Id.*, at P 62.
21 *See, supra*, n. 15.
22 Order 1000 at P 65.
The Commission found that

Regarding its transition to the revised regional transmission planning process, PJM explains that solutions for reliability violations and economic constraints identified prior to January 1, 2014, will be evaluated under PJM’s pre-Order No. 1000 regional transmission planning process. However, PJM states that it has begun implementing certain aspects of the revised regional transmission planning process, in particular the new proposal window process, ‘to the extent feasible and practicable’ under the current rules (emphasis added).24

PSE&G did not protest and the Commission found that “PJM’s explanation of how it will transition to the revised regional transmission planning process complies with the Commission’s directive in the First Compliance Order.”25 PSE&G’s arguments are simply an untimely collateral attack on the Commission’s May 15 Order, which PSE&G failed to preserve through the rehearing process. PSE&G cannot benefit from that legal infirmity by selectively editing PJM’s statements and using those selective edits to prosecute an unmeritorious complaint in the middle of PJM’s deliberations on the Artificial Island solicitation process.

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24 May 15 Order at P 25.
25 Id., at P 30.
III. CONCLUSION

Based on PSE&G’s inability to rebut PJM’s arguments raised in its Motion to Dismiss, the Commission should grant the relief requested in PJM’s Motion.

Respectfully submitted,

By: ___________________________

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Date: March 2, 2015

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in the captioned docket.

Date at Audubon, PA this 2nd day of March, 2015.

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