

98 FERC ¶ 61,072  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

PJM Interconnection, L.L.C.  
Allegheny Power

Docket No. RT01-98-002

ORDER ON COMPLIANCE FILING, ACCEPTING RATES  
FOR FILING, SUBJECT TO SUSPENSION  
AND ESTABLISHING HEARING PROCEDURES

(Issued January 30, 2002)

On September 10, 2001, PJM Interconnection, L.L.C. (PJM) and Allegheny Power (Allegheny) (collectively, Applicants) submitted a compliance filing in response to the July 12, 2001 order issued in this proceeding.<sup>1</sup> As discussed below, we will accept those portions of the compliance filing sufficient to allow Allegheny and PJM to form "PJM West." However, nothing in this order constitutes approval of PJM West, as a regional transmission organization (RTO) or the PJM RTO proposal, pending in Docket No. RT01-2-000. Specifically, we will accept Allegheny's rates for filing, subject to a nominal suspension and the outcome of an evidentiary hearing. We will accept all other revisions included in Applicants' compliance filing, subject to the outcome of related proceedings, as identified herein.

This order will serve the public interest by broadening the current scope and regional configuration of PJM, without further delay, and without prejudging any other pending issue relating to the parties' participation in an RTO. These approvals represent an important step forward in implementing a standard market design over multiple control areas and reliability councils.

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<sup>1</sup>PJM Interconnection, L.L.C. and Allegheny Power, 96 FERC ¶ 61,060 (2001), reh'g pending (PJM West RTO Order).

## Background

On March 15, 2001, Applicants filed a joint proposal, in this proceeding, in response to the Commission's order on RTOs.<sup>2</sup> Applicants' proposal called for Allegheny to join the PJM RTO, as proposed by PJM in Docket No. RT01-2-000.<sup>3</sup> Included in Applicants' filing were the necessary agreements establishing PJM West, including (i) the PJM West Implementation Agreement (Implementation Agreement); (ii) the West Transmission Owners Agreement among PJM and Certain Owners of Electric Transmission Facilities (West TOA); and (iii) the PJM West Reliability Assurance Agreement (West RAA). In addition to these agreements, Applicants' filing included a separate proposal made by Allegheny to assess certain transitional surcharges that would permit Allegheny to recover the costs it claimed it would incur in connection with its participation in the PJM RTO.

In the PJM West RTO Order, we reviewed Applicants' RTO proposal based on the RTO characteristics and functions set forth in Order No. 2000. We provisionally approved Applicants' filing, subject to the findings set forth in the PJM RTO Order. With respect to Allegheny's rate proposals, we required Allegheny to provide additional support for its proposed revenue neutrality mechanism and zonal rates. We also required Allegheny to propose a mechanism to hold existing network customers harmless in connection with the start up of PJM West. In addition, we required Applicants to file revisions to PJM's open access transmission tariff (OATT), PJM's amended and restated operating agreement (Operating Agreement), and the West RAA, generally consistent with our rulings in the PJM RTO Order.

Applicants state that the revisions included in their compliance filing generally parallel PJM's compliance filing in Docket No. RT01-2-002.<sup>4</sup> Specifically, Applicants state that the PJM OATT has been modified, at Part IV and elsewhere, to make clear that PJM will be solely responsible for interconnection studies and all other aspects of the

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<sup>2</sup>Regional Transmission Organizations, FERC Stats. & Regs. ¶ 31,089 (1999) (Order No. 2000), order on reh'g, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), aff'd, Public Utility District No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001).

<sup>3</sup>See PJM Interconnection, L.L.C., et al., 96 FERC ¶ 61,061 (2001) (PJM RTO Order), reh'g pending.

<sup>4</sup>PJM made its compliance filing on September 10, 2001. It remains pending at this time.

interconnection process. In addition, Applicants state that they have added dispute resolution procedures to the PJM OATT, at Attachment C, for resolving disputes relating to the use of PJM's data for calculating available transmission capacity (ATC) and total transmission capacity (TTC) and data provided by transmission owners (TOs). Finally, Applicants state that the PJM OATT has been revised at Section VII.B of Attachment M to provide that all reports of the PJM market monitoring unit will be provided to the Commission at the same time that they are provided to the PJM Board.

In addition to these revisions, Applicants state that they have revised PJM's Operating Agreement, at Schedule 6 (regional transmission expansion planning protocol). Applicants state that Schedule 6 has been revised to expand participation in the planning process, enhance the transparency of this process, and to ensure that PJM bears the responsibility for planning studies. Schedule 6 has also been revised to provide that entities other than TOs may construct and own facilities that are included in the final regional plan.

Applicants state that they have also modified the West RAA, at Section 7.8, to provide that the PJM Board will have authority to establish and to change the reliability criteria applicable in the PJM control area. Applicants state that with these revisions, the Reliability Committee's role will be advisory only. In addition, Applicants state that at Schedule 3 of West RAA, they have deleted the deficiency charge proposed in their initial filing and intend to address this issue in a future filing.<sup>5</sup> In addition to these revisions, Allegheny states that it has revised its rates proposal as required by the PJM West RTO Order.<sup>6</sup> These revisions are discussed below.

On December 3, 2001, Allegheny made an additional filing in this proceeding requesting a modified effective date for PJM West. Allegheny requests that in lieu of the previously requested effective date of January 1, 2002, the Commission permit PJM West to become effective on the first day of the calendar month beginning at least thirty days after the date of our order (under these circumstances, on March 1, 2002). Allegheny states that PJM does not oppose its request.

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<sup>5</sup>The filing at issue was made by PJM on December 31, 2001 in Docket No. ER02-658-000. It remains pending at this time.

<sup>6</sup>PJM states that it takes no position on Allegheny's rate proposals.

### Notice of Filing and Responsive Pleadings

Notice of Applicants' compliance filing was published in the Federal Register, with interventions, comments, or protests due on or before October 1, 2001.<sup>7</sup> Protests were timely filed by the following parties: American Municipal Power-Ohio, Inc. (AMP-Ohio); Allegheny Electric Cooperative, Inc. and Old Dominion Electric Cooperative (Cooperative Customers); the City of Hagerstown, Maryland<sup>8</sup> (Hagerstown, *et al.*); and the Borough of Chambersburg, Pennsylvania (Chambersburg). These protests are addressed below. On October 11, 2001, Allegheny filed an answer responding to the protests.

### Discussion

#### Procedural Matters

Rule 213 of the Commission's Rules of Practice and Procedure,<sup>9</sup> prohibits an answer to a protest unless otherwise permitted by the decisional authority. We are not persuaded to allow Allegheny's answer to a protest.

#### Analysis

For the reasons discussed below, we will accept Applicants' compliance filing in order to allow Allegheny and PJM to form PJM West, effective March 1, 2002, as requested. We will require Applicants to file conforming tariff sheets within 30 days of the date of this order, necessary for the formation of PJM West, including conforming tariff sheets applicable to the PJM OATT, the PJM Operating Agreement, the PJM West Implementation Agreement, the West TOA, and the West RAA. We will accept Allegheny's rates for filing, subject to a nominal suspension and the outcome of an evidentiary hearing. Nothing in this order will constitute approval of PJM West as an RTO or the PJM RTO proposal, currently pending in Docket No. RT01-2-000.

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<sup>7</sup>66 Fed. Reg. 49,011 (2001).

<sup>8</sup>Joined by the Town of Thurmont, Maryland, the Town of Williamsport, Maryland, and the Town of Front Royal, Virginia.

<sup>9</sup>18 C.F.R. § 385.213 (2001).

A. PJM OATT and Operating Agreement

As noted above, the changes to the PJM OATT and Operating Agreement made by Applicants in their compliance filing generally parallel the changes filed by PJM in PJM's RTO compliance filing in Docket No. RT01-2-002. PJM's compliance filing remains pending at this time. Accordingly, we will accept Applicants' proposed changes for filing, to become effective March 1, 2002, subject to the outcome of PJM's RTO proceeding in Docket No. RT01-2-002. Applicants are directed to file conforming tariff sheets within 30 days of the date of this order, necessary to establish PJM West.

B. West RAA Compliance Issues

PJM made a section 205 filing, in Docket No. ER02-658-000, on December 31, 2001, that would have the effect of further modifying the West RAA. Specifically, PJM proposes revisions to the West RAA to (i) better coordinate the capacity procedures and markets under the West RAA with those in effect for PJM's existing control area; (ii) place a ceiling on the exposure of load-serving entities to capacity deficiency charges under the West RAA; and (iii) expand membership in the West RAA reliability committee. Given the pendency of these proposed changes, we will accept Applicants' proposed revisions to the West RAA, subject to the outcome of our ruling in Docket No. ER02-658-000.

C. Allegheny's Proposed Rates

In the PJM West RTO Order, we required Allegheny to provide additional support for its proposed revenue neutrality mechanism and to make certain changes to the rates applicable to the Allegheny zone. We also required Allegheny to revise the divisor used to develop the zonal rate by (i) subtracting the coincident peak megawatt amount of load served by each firm point-to-point transaction and adding the reserved MW amount associated with each of those transactions; and (ii) reflecting firm transmission rights (FTRs) demand rather than monthly network load.

The PJM West RTO Order also required Allegheny to propose a mechanism to hold all existing network customers harmless from the conversion from the rolling load ratio share calculation in Allegheny's currently effective OATT to the unit rate for network service under the PJM OATT. Allegheny was required to exclude all pre-Order No. 888 contract billing determinants in its derivation of its revenue requirement for reactive supply and voltage control service. Allegheny was also ordered to provide additional support for its estimate of lost revenues, specifically addressing pre-Order No. 888 contract revenues, point-to-point revenues associated with delivery within the

Allegheny control area, and ancillary service revenues, and to provide further support for the estimate of Allegheny's share of revenues associated with regional "through-and-out" service.

Allegheny was also required to show that its projection of benefits to others arising from the reduction in the PJM unit charges for administrative services was net of any increased costs PJM could be expected to incur as a result of the PJM West expansion. Allegheny was further required to provide additional support for the derivation of its unit charges and projected revenues for the transitional revenue neutrality charge and the transitional market expansion charge. The PJM West RTO Order required Allegheny to remove any PJM West start-up costs from the surcharges to be applied to existing PJM entities. Finally, Allegheny was required to recalculate its lost revenues and recovery mechanism to cover the transition period allowed, *i.e.*, for the rate effective period ending December 31, 2004.

Intervenors, in their protests, question the extent to which Allegheny has complied with these requirements. Chambersburg and Cooperative Customers, for example, question whether Allegheny has sufficiently supported the lost revenue claims associated with its transition surcharges, given the fact that Allegheny's lost revenue calculations are not clearly identified in Allegheny's compliance filing. Cooperative Customers point out that while Allegheny submitted various spreadsheets and charts with cost, load and revenue data, Allegheny failed to provide sufficient information regarding the derivation of this data, the assumptions used in deriving this data, or the basis underlying its assumptions.

Chambersburg also questions whether Allegheny has excluded all pre-Order No. 888 contract billing determinants from its revenue requirement for reactive power service. Chambersburg requests that Allegheny be required to file a revised Schedule 2 revenue requirement, which either explicitly excludes all pre-Order No. 888 contract billing determinants or provide detailed support for the inclusion of any pre-Order No. 888 contract billing determinants.

Intervenors also contend that Allegheny has not proposed an adequate hold-harmless mechanism for its existing network service customers. Cooperative Customers, for example, submit that they would not be held harmless under Allegheny's proposal and that to remedy this deficiency, Allegheny should be required to hold its existing network customers harmless on an individual basis. Hagerstown, *et al.*, argues that Allegheny's proposal will result in rate windfalls for certain network customers while requiring others to subsidize these windfalls. Finally, Intervenors question Allegheny's claims concerning certain of its start up costs. For example, Hagerstown, *et al.*, asserts

Docket No. RT01-98-002

- 7 -

that Allegheny's \$9.6 million in costs attributable to development expenses has neither been explained or justified.

We find that Interveners have raised legitimate issues of fact that have not been adequately answered by Allegheny in its compliance filing. Allegheny has not shown that its proposed rates are just and reasonable and we find that these rates may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We find that the issues raised by the Interveners raise factual matters that should be addressed in the context of evidentiary hearing.

In West Texas Utilities Company<sup>10</sup> we explained that when our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but not substantially excessive, we would generally impose a nominal suspension. Here our examination suggests that the proposed rates may not yield substantially excessive revenues. Accordingly, we will accept the proposed rates for filing, suspend them for a nominal period, and allow them to become effective March 1, 2002, subject to refund and the outcome of a hearing. We will require Applicants to file conforming tariff sheets within 30 days of the date of this order to reflect Allegheny's rates and the formation of PJM West.

The Commission orders:

(A) Applicants' proposed revisions to the PJM OATT, the PJM Operating Agreement, and the West RAA are hereby accepted for filing, to become effective March 1, 2002, subject to the conditions discussed in the body of this order. Applicants are hereby directed to file conforming tariff sheets within 30 days of the date of this order, with respect to these documents, and to make any conforming changes required to the PJM West implementation agreements, as previously filed, to accommodate the start up PJM West.

(B) Allegheny's rate proposals are hereby accepted for filing and suspended to become effective March 1, 2002, subject to refund and the outcome of a hearing, as discussed in the body of this order and in the ordering paragraphs below.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly Sections

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<sup>10</sup>18 FERC ¶ 61,189 at 61,374 (1982).

Docket No. RT01-98-002

- 8 -

205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedures and the regulations under the Federal Power Act (18 C.F.R. Chapter 1), a public hearing shall be held concerning the justness and reasonableness of all rate issues relating to the formation of PJM West, as discussed in the body of this order.

(D) A presiding administrative law judge, to be selected by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately 15 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, including a date for the submission of the company's case-in-chief, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.