

102 FERC ¶ 61,179  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER03-324-000

ORDER ACCEPTING TARIFF REVISIONS AND ACCEPTING AND SUSPENDING  
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT AND  
ESTABLISHING HEARING AND SETTLEMENT PROCEDURES

(February 19, 2003)

1. On December 20, 2002, PJM Interconnection, L.L.C. (PJM) submitted for filing an unexecuted network integration transmission service agreement (NITSA) for the Borough of Mont Alto, Pennsylvania (Mont Alto) and revisions to Attachment H-11 of PJM open access transmission tariff (PJM OATT) to reflect the settlement rate for network integration transmission service for Mont Alto in the Allegheny Power (Allegheny) zone. PJM requests waiver of the Commission's regulations to allow an effective date of December 1, 2002. As discussed below, the Commission accepts and suspends the NITSA, subject to refund, to be effective December 1, 2002, and sets it for hearing.<sup>1</sup>

In addition, the Commission accepts the revisions to Attachment H-11 of the PJM OATT, to become effective December 1, 2002. Finally, the Commission initiates settlement proceedings and holds the hearing in abeyance pending the outcome of those proceedings.

**Background and PJM's Filing**

2. PJM asserts that prior to December 1, 2002, Mont Alto took service under a grandfathered bundled wholesale contract with Allegheny. PJM contends that the

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<sup>1</sup>The end of the 60-day period of time for Commission action was February 18, 2003. On that day, however, all Federal government offices in the Washington, D.C. Metropolitan Area, including the offices of the Federal Energy Regulatory Commission, were officially closed as a result of a severe snow storm that affected the area.

contract expired by its own terms on November 30, 2002, and Monte Alto has been taking transmission service under the PJM OATT since that time.

3. PJM's filing includes the NITSA under which Mont Alto is taking transmission service under the PJM OATT. PJM submits that the NITSA reflects an "Other Supporting Facilities" charge based on direct assignment of the distribution facilities used to service Mont Alto. PJM asserts that the methodology used to calculate this charge is the same methodology used to calculate similar charges for other customers.<sup>2</sup>

4. Also included in the filing is Attachment H-11 to the PJM OATT. PJM contends that Attachment H-11 sets forth the rates and charges for network integration transmission in the Allegheny zone. PJM asserts that, in connection with the implementation of the PJM West arrangements, Allegheny filed and the Commission accepted Attachment H-11 to the PJM OATT, which consists of individual customer credits designed to hold each customer harmless (revenue neutral) from the effect of changing from a load ration share of Allegheny's revenue requirement to a unit rate.<sup>3</sup> PJM submits that the revisions to Attachment H-11 in the instant filing specify the customer credits for Mont Alto. PJM contends that the specific credit for Mont Alto to maintain revenue neutrality was included in materials filed in Docket No. RT01-98 in support of credits for each wholesale customer. PJM asserts, however, that the credit for Mont Alto was not included in the tariff revisions submitted at that time because Mont Alto was not then taking service under the PJM OATT.

#### **Notice of Filing, Protest and Answer**

5. Notice of PJM's filing was published in the Federal Register, 68 Fed. Reg. 766 (2003), with comments, protests, or interventions due on or before January 10, 2003. Mont Alto protested the filing. On January 27, 2003, Allegheny filed an answer.

6. In its protest, Mont Alto asserts that it accepts, as filed, the revised Attachment H-11 to the PJM OATT, which reflects the settlement rate for network integration transmission service for Mont Alto; however, it cannot accept, as filed, the NITSA. Mont Alto contends that PJM has not furnished adequate support for the proposed "Other

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<sup>2</sup>This methodology is currently being litigated before the Commission by one of Allegheny's customers, Allegheny Electric Cooperative. See Allegheny Power, 97 FERC ¶ 61,274 (2002).

<sup>3</sup>See PJM Interconnection, L.L.C., 98 FERC ¶ 61,072 (2002).

Supporting Facilities" charge. Moreover, it submits that the contractual format proposed for Mont Alto differs from that used for other Allegheny customers, and that certain provisions of the NITSA are either incorrect or inadequate.

7. Mont Alto therefore requests that the NITSA be suspended. Mont Alto states, however, that it would not object if the Commission were to set hearing procedures, but held them in abeyance pending the establishment of technical conferences and/or settlement proceedings in order to allow the parties to resolve the issues raised.

8. On January 27, 2003, Allegheny filed an answer to Mont Alto's motion for suspension. Allegheny asserts that it does not object to a nominal suspension of the NITSA, and it supports Mont Alto's request that the Commission hold formal hearing procedures in abeyance pending a technical conference.

## **Discussion**

### **Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), all timely, unopposed motions to intervene and any motions to intervene out of time filed before the issuance of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. The Commission's Rules of Practice and Procedure do not permit answers to protests (18 C.F.R. § 385.213(a)(2)(2002)). However, the Commission finds good cause to admit Allegheny's answer since it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will insure a complete record upon which the Commission may act.

### **Analysis**

10. The Commission's preliminary review of the proposed NITSA indicates that it has not been shown to be just and reasonable, and maybe unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Mont Alto has raised material issues of fact regarding the NITSA that the Commission cannot summarily decide based on the evidence before it. Moreover, factual issues have been raised regarding the lack of supporting data used to calculate the fixed charge rate. Accordingly, the Commission will accept the NITSA for filing, suspend it for a nominal period, subject to refund, and set the matter for hearing, as ordered below. However, to allow the parties an opportunity to resolve the issues raised by Mont Alto on a mutually agreeable basis, the Commission will hold the hearing in abeyance and will establish settlement proceedings.

11. The Commission will accept for filing the revised Attachment H-11 to the PJM OATT. Mont Alto makes no challenge to this provision, and the Commission finds the revisions to be consistent with previously accepted provisions.

12. The Commission grants waiver of its 60-day notice requirement. Accordingly, the NITSA and the revised Attachment H-11 will become effective December 1, 2002.

The Commission orders:

(A) PJM's revision to Attachment H of the PJM OATT is accepted for filing, to become effective December 1, 2002.

(B) PJM's NITSA is accepted for filing and suspended for a nominal period, to become effective December 1, 2002, subject to refund.

(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 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulation under the Federal Power Act (18 C.F.R. Chapter 1), a public hearing shall be held concerning the justness and reasonableness of PJM's filing. As discussed in the body of this order, we will hold the hearing in abeyance to give the parties time to conduct settlement judge negotiations.

(D) Pursuant to section 375.304 of the Commission's regulations, 18 C.F.R. § 375.304 (2002), the Chief ALJ shall designate a Presiding ALJ for the purpose of conducting a hearing. The Presiding ALJ is authorized to conduct further proceedings pursuant to this order and the Commission's Rules of Practice and Procedure.

(E) Within sixty (60) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief ALJ on the status of the settlement discussions. Based on this report, the Chief ALJ shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief ALJ of the parties' progress toward settlement.

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(F) If the settlement judge procedures fail, and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief ALJ, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date the Chief ALJ designates the presiding judge, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 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 PJM, Interconnection, L.L.C.'s submission of a 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.