

112 FERC ¶ 61,282
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

PJM Interconnection, L.L.C.

Docket No. ER05-319-002

ORDER DENYING MOTION TO INTERVENE OUT-OF-TIME AND DISMISSING
REQUEST FOR REHEARING

(Issued September 15, 2005)

1. On May 6, 2005, in Docket No. ER05-319-000, the Commission conditionally accepted an interconnection service agreement executed by PJM Interconnection, L.L.C. (PJM), Public Service Electric and Gas Company (PSE&G), and MM Hackensack Energy, LLC (Hackensack).¹ On June 6, 2005, PSE&G filed a motion to intervene out-of-time in the proceeding, as well as a request for rehearing and clarification of the May 6, 2005 Order.

2. PSE&G explains that it had not anticipated that this interconnection service agreement would be revised by the Commission and therefore did not move to intervene prior to filing its request for rehearing. It argues that the Commission should find good cause to allow its late intervention since it accepts the record as it currently exists and that the prejudice to other parties to the proceeding is likely to be small.

3. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such late intervention.² PSE&G states that it failed to intervene because it had not expected the Commission to revise the interconnection agreement.

¹ See *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,163 (2005).

² See, e.g., *See Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250 at P 7 (2003).

This justification does not meet the higher burden of late intervention after a dispositive order has been issued and PSE&G's motion to intervene out-of-time is thus denied.³

4. In addition, because PSE&G is not a party in this proceeding and so lacks standing to seek rehearing under the Federal Power Act and the Commission's regulations,⁴ we will dismiss PSE&G's request for rehearing and clarification.

The Commission orders:

(A) PSE&G's motion to intervene out-of-time is hereby denied, as discussed in the body of this order.

(B) PSE&G's request for rehearing and clarification is hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

³ See, e.g., *AES Warrior Run, Inc. v. Potomac Edison Co.*, 105 FERC ¶ 61,357 at P 12 (2003); *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250 at P 7 (2003); *Transcontinental Gas Pipe Line Corp.*, 77 FERC ¶ 61,270 at 62,134-35 (1996) ("[A]ny litigated proceeding before the Commission may serve as a vehicle for precedential decisions, and movants are not justified in sitting on their rights, passively anticipating a regulatory outcome favorable to their own interests.").

⁴ See 16 U.S.C. § 8251(a) (2000); 18 C.F.R. § 385.713(b) (2005).