

UNITED STATES OF AMERICA 117 FERC ¶ 61, 219  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Borough of Chambersburg, PA  
Town of Front Royal, VA

Docket No. EL06-94-000

v.

PJM Interconnection, L.L.C.

ORDER ON COMPLAINT

(Issued November 22, 2006)

1. In this order the Commission addresses a complaint filed by the Borough of Chambersburg, Pennsylvania and the Town of Front Royal, Virginia (collectively, Municipals) against PJM Interconnection, L.L.C. (PJM) regarding the method used by PJM to allocate Auction Revenue Rights (ARRs) to the Municipals covering the period from June 1, 2006 through May 31, 2007. ARRs are used by the Municipals and others to hedge against transmission congestion costs. The Commission finds that PJM has correctly applied its transmission tariff, and that it would not be appropriate to re-run the ARR allocation after parties already have made commitments based on that allocation. We therefore deny the complaint.

2. While we are sympathetic to the concerns raised by Municipals, we find that the appropriate proceeding in which to consider these concerns on a prospective basis is PJM's proposed revisions to its tariff to establish a Long-Term Transmission Rights (LTTR) product in Docket No. ER06-1218-000. The Commission will further address that issue in an order issued concurrently in that docket and will direct PJM to further examine and revise its ARR allocation process.

**I. Background**

3. Chambersburg is a political subdivision of the Commonwealth of Pennsylvania, with a population of approximately 17,800. Chambersburg owns and operates a not-for-profit electric utility system, serving more than 10,000 retail customers within its

corporate limits. Chambersburg has used Allegheny Power's transmission facilities for over 60 years to deliver power to Chambersburg's customers. Chambersburg currently takes delivery at the Grand Point substation on the Allegheny Power transmission system. The Town of Front Royal is a political subdivision of the Commonwealth of Virginia with a population of approximately 14,000. Front Royal owns and operates a not-for-profit electric utility system serving more than 7,000 customers within its corporate limits. Prior to incorporation into the PJM market in 2002, Front Royal has paid for and relied on the Allegheny Power transmission system where it takes delivery at several points.

4. Since the 2003/2004 planning period, and in accordance with the Open Access Transmission Tariff (Tariff or OATT) and PJM Operating Agreement, PJM allocates ARR to entities on an annual basis for the planning year that runs from June 1 to May 31. ARR are used by their holders as a hedge against transmission congestion costs by allowing the holders to receive proceeds from the conversion or sale of ARR into Financial Transmission Rights (FTRs). The process of allocating ARR is accomplished by PJM in two stages. At issue in this complaint is the allocation made in the first stage. Under stage 1, customers may request ARR by designating historical generation resources to serve historical load based on a reference year over specific transmission paths in an amount up to their peak load. According to the Tariff, PJM is required to determine whether the ARR requested are simultaneously feasible, and if not, is required to pro-rate ARR among the customers such that the number allocated are simultaneously feasible. This process ensures that there are sufficient revenues from transmission congestion charges to cover the ARR obligations in order to prevent under-funding.

5. In a related matter, on July 3, 2006, PJM filed with the Commission in Docket No. ER06-1218-000 proposed revisions to its tariff that establish a LTTR product to be effective on March 1, 2007. This filing is intended by PJM to fulfill the requirements of the Commission's recent rulemaking on long-term transmission rights.<sup>1</sup> Once approved, the LTTR market will be the new rule going forward. The Commission is issuing an order concurrently with this order on that proceeding.

## **II. The Complaint**

6. On August 1, 2006, the Municipals filed a complaint with the Commission against PJM, arguing that PJM has applied its OATT to under-allocate ARR to the Municipals

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<sup>1</sup> See *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, 71 Fed. Reg. 43564 (August 1, 2006), 116 FERC ¶ 61,077 (2006) (Long-Term Rule).

for the 2006/2007 planning period, thus depriving them of valuable revenue rights and exposing them to millions of dollars per year in unhedged congestion costs. The Municipals argue that the application of the tariff in this manner contravenes principles of cost causation and produces a result that is unjust unreasonable and is unduly discriminatory. As such, the Municipals ask that the Commission order PJM to reassess the ARR allocations for 2006/2007 and to refund to the Municipals the amounts that they overpaid in congestion costs. Additionally, the Municipals ask the Commission to direct that PJM pro-rate ARRs on a non-discriminatory basis such as using the magnitude of impact on the constrained facility. The Municipals state that while the instant complaint addresses only the ARR allocation for 2006/2007, they are protesting the PJM LTTR filing to prevent a recurrence of this harm prospectively.

7. Municipals assert that they have received 100 percent of their nominated ARRs in each of the previous years, thereby fully hedging their load. Municipals state that they nominate their ARRs from historical generation resources that were designated to be delivered to their load based on the 2002 historical reference year. However, while they have not materially changed their ARR nominations, power-supply resources, or loads for the 2006/2007 allocation, the Municipals' ARRs were prorated by PJM such that they received only approximately 53 percent of the quantity requested. Specifically, Chambersburg requested 54.1 MW of ARRs and was awarded 28.8 MW, 53 percent of its nomination. Front Royal requested 36.6 MW of ARRs and was awarded 19.9 MW, 54 percent of its nomination. They also acknowledge that other load-serving entities in the Allegheny Power zone of PJM also received similar reductions in their ARR allocations. Municipals assert that they have been located on, and purchased firm transmission service over, the Allegheny power transmission system for decades and have never experienced curtailment of that service in any material respect. Municipals argues that now, less than four years after Allegheny Power joined PJM, they find their firm transmission rights substantially degraded and their native load consumers exposed to millions of dollars in additional costs when, as we believe PJM concedes, Municipals have done nothing to warrant such treatment. Municipals complain that this is not what LSEs in the Allegheny Power zone, or for that matter the Commission, were told would happen by PJM when Allegheny Power joined PJM.

8. The Municipals argue that as a result of the decreased ARR allocations and the concomitant loss of revenue rights, Chambersburg will be exposed to an estimated \$5.7 million in additional congestion costs, and Front Royal will be exposed to an estimated \$3.3 million in additional congestion costs. Municipals argues that this represents a 31 percent increase in the retail revenues collected by Chambersburg from its native load customers for the 12 month period ending April 2006. As a result, Municipals complain that of the 46 percent reduction in its ARRs, Front Royal's 7,000 utility customers will be exposed to an estimated additional \$1.4 million in

unhedged congestion charges and an estimated \$1.9 million of lost FTR revenues for a total additional cost of \$3.3 million. Municipals argues that this means that each of the town's utility customers can expect to pay an additional \$470 per year for electricity, or around \$40 per month. Further, Municipals contend that the actual increase in costs to Chambersburg and Front Royal could be appreciably higher in the near future.

Municipals point out that under PJM's modeling, the governing constraint for them is the Bedington-Black Oak line. Municipals observe that PJM's filing in the scarcity pricing docket identifies the Bedington-Black Oak line as one of the scarcity pricing regions.<sup>2</sup>

9. The Municipals claim that PJM has applied its Tariff to prorate ARR's not on the basis of the effect on the binding constraint as provided by the Tariff, but rather on the basis of the amount of power associated with an entity's ARR nominated source and sink pairs that flows over the constrained facility as a percentage of the entity's load. The Municipals argue that this approach does not measure what the Tariff mandates must be measured, *i.e.*, the "effect" on the constrained facility. The Municipals argue that PJM's interpretation of the Tariff guarantees that the Municipals, by virtue of being located near a constrained facility, in this case the Bedington-Black Oak line, will be pro-rated out of proportion to the impact their loads have on the constrained facility.

10. Municipals argue that PJM's interpretation of the ARR pro-ration rule will always result in LSEs like the Municipals, that have historically relied upon a transmission facility to meet their service obligations, being cut first, with the concomitant loss of revenue rights and exposure to transmission congestion costs, in order to permit other transactions to wheel through the constrained facility at less risk to any exposure to congestion. Municipals explain that an load serving entity (LSE) with a 10 MW load could have 80 percent of its power flow over a constrained facility by virtue of its location adjacent to, and historical dependence upon, that facility, and another entity moving power to serve load in Eastern PJM could have a 1,000 MW transaction, of which only 200 MW is flowing over the constrained facility at the same time. Yet, Municipals argue under PJM's reading of the ARR pro-ration rule, PJM would dramatically cut the ARR's allocated to the 10 MW LSE and, with that pro-ration, lessen the chances of having to cut the ARR's associated with the 200 MW flow, if at all. Municipals contend that the result is a methodology for pro-rating most severely those entities that have the greatest percentage of their power delivered over the Bedington-Black Oak line, not the entities contributing the most to the constraint.

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<sup>2</sup> Municipals cites *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,076 (2006).

11. Municipals contend that PJM's application of its ARR Proration Rule is also inconsistent with PJM's method for assigning cost responsibility for transmission system upgrades. Municipals state that in the Regional Transmission Expansion Plan (RTEP) process, PJM assesses cost responsibility for transmission system reliability upgrades based on total zonal contribution to the flow on the constrained facility that must be upgraded. Municipals assert that when assessing cost responsibility for RTEP purposes, PJM looks at each zone's total contribution to power flows on the constrained line, as opposed to limiting that review to the percentage of each LSE's flows that must move over the constrained facility. Municipals argue that logic and a rational approach to accounting for the responsibility of constraints and congestion dictate that PJM use the same approach in prorating ARRs.

12. The Municipals assert that PJM bears the burden of demonstrating with concrete evidence the reasonableness of the reduction in ARR allocations to LSEs in the Allegheny Power zone. They contend that the Commission has previously found that if PJM was not able to award FTRs to all existing firm customers, it must justify why the resulting allocation is reasonable and why other mitigating measures should not be adopted.<sup>3</sup>

13. The Municipals claim that PJM's inclusion of 2,000 MWs of unscheduled (loop) flows as "Steady State Flows" in its models appears to be unsupported. In determining simultaneous feasibility, PJM assumed the existence of 2,000 MW of steady state (24 hours a day, 365 days of the year) unscheduled flows and included that assumption in its simultaneous feasibility test. This was a change in its modeling approach that PJM made without first vetting it through the committee process and without informing the members prior to the allocation process that this would be done. More significantly, PJM included these 2,000 MW despite the fact that there is no empirical or other basis for this number.

14. Municipals argue that PJM has pointed to load growth as being a cause for this year's drastic reduction in the ARRs allocated to the Municipals and others. However, neither Chambersburg's loads nor Front Royal's loads have grown significantly in the last several years.<sup>4</sup> Municipals complain that PJM has alluded to approximately 6,000 MW of additional ARR nominations as a factor in reducing the Municipals' ARRs and state PJM's reference to these additional ARR allocations is not at all clear.

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<sup>3</sup> Complaint at 14.

<sup>4</sup> Municipals state that, Front Royal, has seen load shrink from last year's allocation period.

Municipals also argue that the specific source or cause of the additional ARR nominations has not been identified by PJM.

15. Municipals request that the Commission establish the date of the filing of this Complaint as the refund effective date for this case. Municipals request that the Commission direct PJM either to: (1) reallocate ARRs to Municipals consistent with a just and reasonable application of the Tariff as the Commission may order it modified and refund to Municipals such amounts as would return them to the financial position that they would have been in if their ARRs had not been improperly prorated; or (2) provide some other mechanism by which Municipals would be returned to the position that they would have been in if their ARRs had not been improperly prorated.

16. The Municipals state that if PJM's pro-rations are found to be permissible under the Tariff, then the Tariff is unjust, unreasonable and unduly discriminatory as applied to the Municipals, and requests that the Commission order PJM to reassess the appropriate ARR allocations and refund any amounts the Municipals may have over-paid in congestion costs caused by PJM's reduction in ARR allocations, and order PJM to fashion an ARR rule that prorates ARRs in a manner that does not impose disproportionate and discriminatory burden on the Municipals.

### **III. Notice of Filings, Interventions, Protests, and Answers**

17. Notice of the Municipal's complaint was published in the *Federal Register*, 71 Fed. Reg. 45,812 (2006), with comments, interventions and protests due on or before August 23, 2006. Allegheny Electric Cooperative, Inc., the American Public Power Association, the MD Municipalities,<sup>5</sup> Allegheny Energy Companies, and Dominion Resource Services, Inc. filed comments. PJM and the Municipals filed answers.

### **IV. Answer to Complaint**

#### **A. PJM Answer**

18. PJM answers that the complaint should be dismissed because it properly applied a Commission-approved method for allocating ARRs and in doing so has complied with the filed rate doctrine. In approving the pro-ration methodology, PJM states the Commission reviewed an illustrative example submitted by PJM and that no parties protested that filing. PJM also states that, in accordance with the filed rate doctrine

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<sup>5</sup> Maryland Municipalities include the City of Hagerstown and the Towns of Thurmont and Williamsport.

principles of retroactive ratemaking, the Commission is precluded from changing the 2006/2007 allocation and upsetting the certainty of the ARR allocations. PJM also states that the appropriate forum to address the allocation methodology prospectively is in the LTTR docket.

19. PJM states that the pro-ration methodology is consistent with the physics of the system in that entities that cause the greatest flows on the constraint have more ARRs pro-rated than more distant loads that produce less flow on the constraint.<sup>6</sup> PJM states that were it to prorate all ARR requests equally, irrespective of their proportionate impacts on the constraint, PJM would be ignoring the approved Tariff. Moreover, PJM argues that there would be a number of unjust and unreasonable consequences, including significant reductions in market participants' ARRs even when they have little impact on constraints, as well as the "ripple effect" of such pro-rations across the PJM region, without regard to impacts on the particular constraint in question.

20. PJM states that pursuant to sections 7.4.2(f) and 7.5 of the Appendix to Attachment K of the Tariff, it completed a simultaneous feasibility test to determine whether the ARRs requested were simultaneously feasible. PJM explains that in making the simultaneous feasibility determination, as required by section 7.5 of the Appendix to Attachment K of the Tariff, PJM used "power flow models of contingency-constrained dispatch" taking into account generation and transmission facilities outages, and "based on reasonable assumptions about the configuration and availability of transmission capability during the period." PJM contends that it followed the directions of the Tariff precisely.

21. PJM argues that for the 2006/2007 planning year, the first stage ARR requests were not simultaneously feasible. Accordingly, PJM states that pursuant to section 7.4.2(f) of the Appendix to Attachment K of the Tariff, it was required to pro-rate the ARR requests in order to maintain feasible flow over transmission facilities. PJM asserts that the pro-rations all were in accordance with the filed pro-ration methodology. PJM states that section 7.4.2.(f) of the Appendix to Attachment K to the Tariff states that ARRs "are prorated and allocated in proportion to the megawatt level requested and in inverse proportion to the effect on the binding constraints." PJM explains that the pro-ration process uses distribution factors (DFAX) to measure the effect of an ARR request on a binding constraint. PJM explains that for each ARR megawatt requested, PJM measures the flow that the request will place on a constrained facility—the distribution factor. PJM also explains that the ARR requests by the Municipals had significant distribution factors on the Bedington-Black Oak transmission corridor as high as

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<sup>6</sup> Answer at 9.

45.7 percent, compared with the average distribution factor for requests from all customers of less than 5.0 percent. Therefore, PJM states that as a result of the high distribution factors for the Municipals, their total ARR requests were prorated 45 percent to 50 percent. PJM states that over 2,500 MW of ARRs requested for 2006/2007 were not granted including over 700 MW over the Bedington-Black Oak line.<sup>7</sup>

22. PJM contends that it is undisputed that it prorated ARRs precisely in accordance with its filed illustrative example. PJM argues that while Municipals disagree with the use of this methodology, it is the filed rate, and neither PJM nor the Commission can direct a different pro-ration methodology for the 2006/2007 planning year. PJM argues that Municipals incorrectly portray it as having attempted to justify the pro-rations based on the contributing factors or causes (load growth, different ARR elections of market participants, loop flow), but that is not the case. PJM contends that pro-rationing is required by the Tariff and Operating Agreement regardless of the cause.

23. PJM explains that the first stage ARR requests submitted for the 2006/2007 planning year included approximately 6,200 megawatts more requests for the Bedington-Black Oak transmission corridor than for the 2005/2006 planning year. PJM also explains that the increase in requests was caused in part by load growth and in part by changes in transmission customers' ARR request patterns. PJM asserts that the ARR requests for 2006/2007 had an increased focus on the Bedington- Black Oak path because of an increasing congestion trend on the path. PJM states that another factor contributing to the unavailability of ARRs in 2006/2007 was the greater loop flow that PJM currently experiences on its system.

24. PJM also states that because the Bedington-Black Oak corridor already was constrained, the increased loop flow, even though it consumed a small portion of the transmission capability of the transmission corridor, caused the need for additional pro-ration on this path. PJM asserts that it is required to model the expected conditions on the system. Thus, PJM contends that including loop flows that are expected was required. PJM further contends that contrary to Municipals' contentions, it has sufficient data available to determine loop flows between PJM and its neighboring control areas. PJM argues that loop flow patterns are well documented and are monitored by PJM market performance personnel on a monthly basis. PJM also argues that Municipals are mistaken that the ability of PJM to measure loop flow is at issue in stakeholder forums. PJM states that the issue regarding loop flow that has been raised in stakeholder forums concerns the identification of the entities that are causing the loop flow and how it should be addressed, not whether the loop flow exists or can be measured. PJM argues that until

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<sup>7</sup> Answer at 13.

some other solution is achieved to stop loop flow or to charge those who cause it, PJM must include the expected loop flows in its ARR model. PJM contends that if it did not include the loop flow, it would not be following the Tariff and Operating Agreement which states that PJM should only award that amount of ARRs that will enable PJM to be revenue sufficient in paying out FTRs congestion credits. PJM contends that ignoring actual flows on the system that limit transfer capability is not permissible, under the Tariff.

25. PJM states that the methodology that it used for the pro-ration of ARRs is the identical method that PJM used for earlier required pro-rations when Commonwealth Edison Company (ComEd), American Electric Power (AEP), and Dayton Power and Light Company (Dayton) joined PJM. PJM explains that for the allocations that required pro-ration, it followed the same methodology directed by the Tariff and Operating Agreement that it followed in the 2006/2007 planning year allocation. PJM states that the Commission accepted those pro-rations, using the identical pro-ration methodology used here, as consistent with the PJM Tariff.<sup>8</sup> PJM asserts that its pro-ration methodology ensures the least amount of pro-rations by pro-rating proportionately greater those ARRs that have the most effect on relieving the binding constraints that prevented full ARR awards. PJM contends that contrary to the Municipals' contentions, the methodology is non-discriminatory and does not violate cost causation principles. PJM asserts that the rationale of the pro-ration methodology is to provide each ARR request with its proportional share of the available flow capability on the constrained transmission line.

26. PJM contends that it made the ARR allocations for the 2006/2007 planning year in accordance with the filed rate, and, therefore, the Commission cannot upset those allocations. PJM argues that to do so through a retroactive change to the planning year's allocations would constitute prohibited retroactive ratemaking. PJM also argues that the filed rate doctrine prohibits the Commission from altering an approved filed rate retroactively.<sup>9</sup> PJM complains that this prohibition of retroactive ratemaking permits customers to know in advance the consequences of their decisions. PJM asserts that there

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<sup>8</sup> PJM cites *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,090 (2004) (order accepting initial FTR allocation for initial period following the ComEd integration); *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,223, *order on reh'g*, 108 FERC ¶ 61,269 (2004) (order accepting initial ARR allocation for the new ComEd zone); *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,246 (2004) (order accepting initial FTR allocation for the initial period for the new AEP and Dayton zones).

<sup>9</sup> PJM cites *Ark. La. Gas Co. v. Hall*, 453 U.S. 571, 578 (1981).

would be a significant disruptive effect were the Commission to change the ARR allocations in the middle of the planning year. PJM believes that such disruption and lack of regulatory certainty are the very principles upon which the filed rate doctrine is based. PJM contends that in this case, all market participants that received ARRs for the 2006/2007 planning year have relied upon the ARRs they received to plan their transactions for the planning year. PJM explains that over 150 market participants received ARRs and have converted their ARRs to FTRs for the planning year and otherwise participated in the annual FTR auction for the year based on the ARR allocations they received.

27. PJM contends that even if the Commission could lawfully make a change to the allocation process in the midst of the planning year, there is no practical way to implement such a change. PJM argues that the annual FTR auction already has occurred, based on the ARR allocations. PJM also argues the FTRs that were sold in the auction have been and continue to be used to hedge congestion for the holders of those FTRs. PJM believes that there is no practical way to “unscramble these eggs.”

28. PJM argues that the Municipals did not file their complaint prior to other entities relying upon the filed allocation process and the resulting ARR allocations for the 2006/2007 planning year. PJM states that the Municipals were aware of the results of the ARR allocation process and the ARRs allocated to them in March of 2006. PJM contends that because the ARR allocation for the 2006/2007 planning year would not become effective until June 1, 2006, the Commission could have addressed the allocations, upon request, before their effective date. PJM points out that in other proceedings where the Commission has taken action regarding pro-rations of ARRs or FTRs, the Commission took final action prior to the effective date of the allocations. For example, PJM states that regarding the allocation of ARRs in the ComEd zone for the first full planning year after the ComEd integration into PJM, the Commission acted by May 28, 2004, prior to the June 1 effective date of the allocation.<sup>10</sup>

29. PJM contends that because the Commission already found the allocation method that it used to be just and reasonable, and PJM followed that method for the allocations for the 2006/2007 planning year, the Commission has no basis to investigate the justness and reasonableness of the allocation method for the period that the complaint covers. PJM argues that no change can be made to the process for allocating ARRs or the resulting ARR allocations themselves until June 1, 2007. PJM states that regarding the periods following June 1, 2007, Municipals specifically state that PJM’s long-term

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<sup>10</sup> PJM cites *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,233, *order on reh’g*, 108 FERC ¶ 61,269 (2004).

transmission rights proposal in Docket No. ER06-1218-000 may solve their concerns regarding the ARR allocation process. PJM also stated that Chambersburg submitted proposed modifications to PJM's long-term transmission rights proposal that would resolve its concerns regarding the ARR allocation process going forward.

30. PJM argues that the complaint should be denied in its entirety. PJM asserts that if for any reason, however, the Commission were to grant relief to the Municipals regarding the ARR allocation for the 2006/2007 planning year, the Commission should specify how other market participants should contribute to the relief either in the form of retroactive reallocation of ARRs/FTRs or uplift to other market participants. PJM explains that if additional ARRs are to be awarded that are not simultaneously feasible, then congestion charges will not produce sufficient revenues to adequately fund all FTRs. PJM contends that if the Commission intends that PJM simply spread this revenue inadequacy among the other FTR holders, it should so state. Alternatively, PJM argues that if the Commission determines that PJM should change the ARR allocations of others in the midst of the planning year, thus redistributing the revenues from the FTR auction and terminating FTRs converted from earlier ARR allocations, it should specifically so state and identify the ARR holdings that should be changed and how PJM is to make retroactive billing adjustments to account for any reallocation of ARRs.

31. PJM contends that the Municipals failed to follow the Commission's Rule 206(c),<sup>11</sup> failing to serve all affected parties. PJM asserts that the Commission's rules specifically require that "[a]ny person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complainant." Accordingly, PJM contends that if the Commission does not simply dismiss the complaint, the Commission should require proper service and await further comments from affected parties before action on the complaint.

#### **B. Other Parties**

32. MD Municipalities argue that they have historically relied upon the same constrained facility, the Bedington-Black Oak line, as the Municipals, and have received an ARR allocation for this line. MD Municipalities contend that like Municipals, they have experienced a significant and unexplained reduction in their 2006/2007 ARR allocation because of the pro-rationing by PJM.

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<sup>11</sup> PJM cites 18 C.F.R. § 385.206(c).

33. MD Municipalities contend that they have purchased transmission service from Allegheny for many years prior to Allegheny joining PJM. MD Municipalities assert that since Allegheny joined PJM they have purchased network integration transmission service under the PJM OATT. Additionally, MD Municipalities assert that prior to 2006, they received 100 percent of the ARR that they requested during stage 1.

34. MD Municipalities state that their stage 1 historic ARRs were reduced in 2006/2007 by approximately 44 percent of their nominated ARRs. Further, MD Municipalities note that while they obtained an additional 41 percent of their total ARRs during stage 2 these ARR paths are far less valuable. The MD Municipalities contend that they received ARRs that were not only less valuable to them, but were also of a quantity that fell significantly short of meeting their net system peak load requirement for 2006. MD Municipalities anticipate that these types of reductions will continue under PJM's current application of the ARR pro-ration rule.

35. MD Municipalities contend that, as a result of the ARR reductions, they were forced to incur significantly increased congestion costs. MD Municipalities argue that the increased congestion costs for the single month of June 2006 totaled over \$1 million. Individually, MD Municipalities state the increased costs were: (1) City of Hagerstown - \$851,550; (2) the Town of Thurmont - \$153,442; and (3) the Town of Williamsport - \$29,402. MD Municipalities complain that these costs were the direct result of PJM's application of the ARR pro-ration rule. MD Municipalities explain that prior to June 2006, their congestion costs were handled under the terms of a fixed price contract with Dominion Energy Marketing, Inc. Since June 2006, the MD Municipalities' state congestion costs have been handled under the terms of a fixed price contract with Allegheny Energy Supply Company, LLC and MD Municipalities ARRs and FTRs are assigned to Allegheny for the term of the contract.

36. MD Municipalities complain the significant reduction in ARRs is not attributable to them. MD Municipalities contend their native load has seen only slight growth over the past decade. Despite this, MD Municipalities, who have historically paid for and relied upon the transmission system to serve their native load, argue that they have seen a significant reduction in their ARRs. Under this interpretation, MD Municipalities contend that because of their location near the constrained line, they will always have a high proportion of their load flowing over the constrained Bedington-to-Black Oak line and as a result, will always have significant reductions in ARRs and argue that they face the likelihood of continued significant pro-ration of their nominated ARRs.

37. MD Municipalities contend that the PJM pro-ration rule results in the loads that have paid for constrained facilities and are located near those facilities (and are therefore required to use them) having their ARRs reduced in favor of loads that did not pay for the facilities. MD Municipalities contend that their nominated ARRs cannot

possibly have that significant an effect on the constrained Bedington-Black Oak line that would warrant pro-rating their ARR in half. MD Municipalities argue that this result does not comport with the plain language of section 7.4.2(f) or with the LSE's historic transmission rights.

38. MD Municipalities complain that PJM's pro-rationing of their historic transmission entitlements is also inconsistent with section 217 of the Federal Power Act (FPA) and the Commission's proposed Long Term Firm Transmission Rights Rule (Order No. 681), which requires that LSEs be provided sufficient transmission rights to meet their service obligations. Municipalities contend that PJM's pro-rationing of their historic transmission entitlements is inconsistent with section 217 and Order No. 681 because it fails to provide MD Municipalities an adequate right to an allocation of firm transmission rights on the transmission system they have paid to support. MD Municipalities complain that the quantity of rights provided to them is too insufficient and too uncertain to provide the stability and long-term planning contemplated by the Commission in Order No. 681.

39. MD Municipalities argue that PJM's application of its ARR pro-ration rule is also inconsistent with PJM's method of assigning cost responsibility for transmission system upgrades required as part of PJM's RTEP. MD Municipalities argue that PJM should not allocate cost responsibility differently when allocating ARRs than when allocating the costs of proposed transmission upgrades designed to solve the constraints giving rise to the need to prorate ARR allocations.

40. APPA expresses strong concerns to the Commission regarding insufficient allocations of FTRs to its LSE members in regional transmission organization (RTO) regions, and supports the Municipals in this docket (both APPA members) in their attempts to redress their insufficient FTR allotments. APPA contends that the Municipals make a persuasive case that PJM's actions complained of violate its own tariff. APPA states that even assuming *arguendo* that PJM has not violated its tariff, the Municipals make a powerful argument that PJM's actions nonetheless violate FPA sections 205 and 206. APPA argues putting aside the tariff and legal arguments and looking only at the damage PJM's actions have wrought, the situation cries out for redress. APPA states that Front Royal's customers are being required to pay forty dollars a month more in their electric bills because, among other things, PJM tinkered with the inner workings of the black box that constitutes its simultaneously feasibility model. APPA argues that PJM did so to account for factors not caused by and totally beyond the control of Chambersburg and Front Royal, *e.g.*, loop flows, substantial increases ARR nominations by other customers, and load growth (virtually all of which occurs outside the Allegheny Power zone).

41. APPA contends that something is very wrong when RTOs can, without warning, lay such financial burdens upon small LSEs completely dependent upon them for transmission service, substantially endangering their continued ability to meet their service obligations to their end-use customers. APPA asserts that FPA section 217(b)(4) requires the Commission to take action in this docket to remedy the very substantial harm Municipals have already suffered and continue to suffer.

42. APPA states that the Municipals are currently unhedged for very substantial congestion costs associated with the transmission service required from their existing designated network resources to their existing network loads. They take service over existing transmission facilities on which they have relied and for which they have paid for decades. APPA argues that at most, these network customers would pay their *pro rata* share of the redispatch costs needed to maintain transmission service from their previously qualified network loads to their previously qualified network resources under OATT sections 33.2 and 33.3. APPA asserts that it would be difficult for PJM or this Commission to convince these APPA members that the transmission service PJM has provided them commencing June 1, 2006 is “consistent with or superior to” Order No. 888 OATT transmission service in this respect. APPA argues that PJM’s failure to meet the “consistent with or superior to” standard of Order No. 888 provides yet another formula rationale to grant the Municipals the relief they seek.

43. Constellation states that the Commission should reallocate as a remedy only in such cases where a true error exists with respect to PJM’s business operations, *i.e.*, non-compliance with PJM’s agreements; but takes no position at this time regarding the substance of the complaint. However, Constellation states that if the Commission rules to grant Municipals some form of relief and/or decides to reform ARR allocations as proposed by Municipals, the Commission should grant such relief and/or apply such reforms not only to Municipals, but to all customers, across all load in PJM.

44. Constellation comments that the notion that Municipals’ and the Allegheny Power zone’s loads have not increased, but that load has increased in other parts of PJM resulting in increased use of certain transmission system lines, does not mean that load growth for Municipals and other LSEs in the Allegheny Power zone should be treated differently than growth in other areas of PJM. Constellation explains that the PJM rules are clear that ARRs will be pro-rated to the extent necessitated by changes on the system, such as load growth. Constellation states that the rules do not guarantee ARRs as Municipals appear to allege. Constellation also states that PJM by its nature is a joint power pool which allocates costs and benefits among its market participants. Constellation asserts that Municipals receive a number of benefits as a member of PJM (such as sharing reserves and economic dispatch from over 160,000 MW of generation). Constellation argues that Municipals should not be allowed to share the economic

benefits of PJM in some situations and opt out of the costs of PJM participation in specific situations where they do not benefit economically.

45. Constellation agrees with Municipals' argument that prior to PJM's inclusion of 2,000 MW of unscheduled loop flows in the 2006/2007 allocation process, PJM should have informed members. However, Constellation does not agree with Municipals' implied suggestion that each change in PJM's assumptions should be vetted through the PJM committee process. Constellation argues that these types of decisions should not be made based on stakeholders votes. Furthermore, Constellation contends that the problem is not quantity, *i.e.*, how many ARR's should be allocated, but whether the ARR's can be fully funded as contemplated through the FTR market. Constellation asserts that if the loop flow is real and there is under-funding of FTRs, then regardless of how many ARR's are allocated, the market participants would not receive any additional financial hedges of congestion.

### C. Reply Comments

46. In its reply, PJM argues APPA's broad attack on the ARR allocation process is simply misplaced in this docket and does not advance resolution of the limited issues raised in this proceeding. PJM also argues that APPA's rhetoric cannot serve to expand the limited scope of this proceeding, as defined by the complaint.

47. PJM contends that while it was required to prorate the ARR requests this year for certain transmission paths, PJM did not act without advance warning, as APPA claims. PJM states that, the approved Tariff and Operating Agreement spell out the ARR pro-ration methodology for requests that are not feasible. Moreover, PJM states that it posts congestion by path throughout the year, along with all planned transmission upgrades, such that market participants can anticipate the transmission paths that will be constrained and where increased annual requests for ARR's may lead to the potential for pro-rationing. PJM also states that prior to the annual ARR requests and allocations, PJM posts a list of the key system upgrades scheduled for the upcoming year.<sup>12</sup> PJM argues that because PJM followed its approved Tariff and Operating Agreement, the Commission should reject APPA's arguments, dismiss the complaint, and address long-term transmission rights in the docket where those issues are pending.

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<sup>12</sup> PJM states that the posted list of these key upgrades prior to the 2006/2007 allocation is available at <http://www.pjm.com/markets/ptr/downloads/upgrade-2006-2007.xls>.

48. PJM argues that contrary to APPA's claims, PJM did not "tinker" with a "black box" in applying its simultaneous feasibility test to the ARR requests for the year. To the contrary, PJM contends that market participants (as well as APPA) are fully aware that the PJM Tariff and Operating Agreement require that "[a]ll Auction Revenue Rights must be simultaneously feasible." PJM contends that there was no change to the simultaneous feasibility test this year, as APPA claims. PJM asserts that it modeled system capability as required by Tariff and Operating Agreement. PJM states like most transmission systems, loop flow from neighboring systems is present on the PJM system. Despite APPA's protestations, PJM argues that the simultaneous feasibility test must take account of this loop flow. Otherwise, PJM contends it would be awarding ARRs for which there is no transmission capability, ignoring the Tariff's direction that actual capability drive the analysis. PJM asserts that contrary to APPA's assertions, including loop flows in the ARR simultaneous feasibility test was not a use of "factors not caused by and totally beyond the control of Chambersburg and Front Royal," but rather was an analyses of transmission capability required by the Tariff to accurately determine whether all ARRs would be simultaneously feasible and to prevent any under-funding of ARRs. PJM also asserts that it did not impermissibly add load growth only of others in the ARR simultaneous feasibility test.

49. PJM argues that APPA is wide off the mark in questioning whether the ARR allocation methodology of the PJM Tariff meets the "consistent with or superior standard" for deviations from the *pro forma* Order No. 888 open access transmission tariff. PJM asserts that the Commission already addressed the justness and reasonableness of the provisions of the PJM Tariff concerning ARR allocations and pro-rations when it accepted them. PJM contends the Commission order accepting the ARR allocation methodology as just and reasonable constitutes a finding that PJM's tariff is consistent with or superior to the *pro forma* tariff. Further, PJM contends that such issues should be addressed in the Commission's proceeding concerning revisions to the Order No. 888 *pro forma* tariff, not here.

50. PJM contends that new section 217(b)(4) of the FPA, upon which APPA relies, does not support APPA's contentions. PJM argues that the FPA provides that the Commission is to exercise its authority in a manner that "facilitates the planning and expansion of transmission facilities" so that load-serving entities can meet their service obligations, and in a manner that "enables load-serving entities to secure firm transmission rights" on "a long-term basis." PJM argues that this proceeding concerns neither planning and expansion of transmission facilities nor long-term transmission rights.

51. Municipals argue that even if the current pro-ration is consistent with the 2003 compliance filing, the fact that Municipals did not protest the compliance filing does not

mean they have waived their right to file a complaint. Municipals contend that even if PJM's filed example and pro-ration methodology were somehow consistent with the tariff language on file with the Commission, this is not a bar to a subsequent finding that the tariff itself is unreasonable.

52. Municipals contend that the example PJM provided in 2003 to demonstrate how pro-ration would be done used two large transactions of the same size traveling over a relatively small facility. Municipals argue that the real case is that Chambersburg's nominated 54.1 MW of ARR and Front Royal's nominated 36.6 MW of ARRs over a large, regional facility with a capacity of 2,400 MW when there was an increase of over 6,900 MW of ARR nominations over the same facility.

53. Municipals argue that PJM has applied its Tariff to pro-rate ARRs—not on the basis of the effect on the binding constraint—but rather on the basis of the percentage of power associated with an entity's ARR nominated source and sink pairs that flows over the constrained facility. Municipals contend that this approach does not measure what the Tariff mandates must be measured—the effect on the constrained facility.

54. Municipals contend that contrary to PJM's assumptions, reallocating ARRs is not the only alternative to remedying the harm being done to the Municipals. Municipals state that PJM itself has recognized, one remedy is the payment of monies to compensate for the resulting congestion costs.<sup>13</sup> Municipals also state another may be the use of uplift charges.<sup>14</sup>

55. Municipals assert that PJM's argument that the Municipals could have filed the complaint sooner is unfair. Municipals state they delayed filing their complaint in order to be certain that they understood the facts surrounding what PJM did, and at least ostensibly why PJM did what it did, in the 2006/2007 ARR allocation. Municipals also argue that they forestalled the filing of their complaint in order to exhaust every opportunity, formal and informal, to resolve this dispute without litigation. Municipals state that they held meetings with and corresponded with PJM personnel between March

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<sup>13</sup> Municipals cite *PJM Interconnection, L.L.C.*, August 3, 2006 Letter of Transmittal at 4, filed in Docket No. EL06-55-002 (proposing to allocate surplus funds; *inter alia* to fully fund FTRs).

<sup>14</sup> Municipals cite *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,246 at P 31 (2004) (requiring payments to LSEs via uplift charges spread across all load in PJM when insufficient FTRs existed to provide a hedge to holders of long-term firm point-to-point transmission contracts as well as to network service customers).

and July 2006, including meeting in July 2006 with a representative of the Commission's Dispute Resolution Service. Municipals state that this forbearance should be commended, not manipulated to make a rhetorical point.

56. Municipals argue that PJM's answer underscores the lack of transparency plaguing PJM's ARR allocation process. Chambersburg contends that part of the difficulty in preparing the complaint, and part of the delay in filing the complaint, was the complete lack of transparency in PJM's ARR pro-ration methodology. Municipals also contend that PJM has not provided sufficient information to understand fully the reasons for the reduction in the ARR pro-rations. Municipals argue for example, that PJM states that its network service peak load was 14,400 MW higher than in the previous year. However, Municipals complain that PJM provides no information regarding this significant increase in load growth. Similarly, Municipals also complain that PJM discusses loop flow as a reason for reducing the Municipals' ARRs, stating that loop flow assumption was based on loop flow patterns experienced during the preceding year. Municipals contend that PJM does not explain whether or to what degree this loop flow was caused by sources or sinks external to PJM, or what level of loop flow it assumes is flowing on the Bedington-Black Oak line. Municipals contend that the processes by which PJM strips away the transmission rights that load-serving entities have historically held must, at a minimum, be transparent. Municipals contend that in this case they are not; instead they are encased in a black box.

## V. Discussion

### A. Procedural Matters

57. Pursuant to rule 214, 18 C.F.R. § 385.214, all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers because they have provided information that assisted us in our decision-making process.

58. PJM argues that the Municipals failed to serve all affected parties, and that the Commission should dismiss the complaint or require proper service and await further comments from affected parties before acting on the complaint. We decline to do so. Rule 206(c) of the Commission's Rules of Practice and Procedure require that any person filing a complaint must serve a complaint on the respondent and anyone "the complainant

reasonably knows that may be expected to be affected by the complaint.”<sup>15</sup> PJM was served appropriately. We do not find that the Municipals’ failure to serve other parties requires dismissal of the complaint. PJM has not explained how the Municipals could reasonably know with any certainty which parties would have been affected by an increase in the ARR allocation to the Municipals, and we will not dismiss the complaint because the Municipals did not provide service to every entity of the PJM system. Also, the Commission issued a notice of the complaint, and such notice was published in the Federal Register.

### **B. Commission Determination**

59. The Commission finds that PJM has appropriately applied its tariff; and therefore, we reject the Complainants’ claims that PJM misapplied its tariff and violated the filed rate doctrine with respect to the ARR allocation for the current year, which has already begun. Under the Tariff, in the first stage of PJM’s annual ARR and FTR allocation process, annual ARRs are allocated to network and long-term firm transmission customers based on historical usage for a base reference year. For the Complainants, the base year is 2002, the year they were integrated into PJM. In the second stage of the allocation process, the remaining system capacity is allocated to network and long-term transmission customers serving non-historic loads.

60. PJM uses a simultaneous feasibility test to ensure that the congestion payments due to awarded ARRs and FTRs can be funded from the congestion payments created in the energy market. This methodology effectively amounts to awarding ARRs and FTRs up to the physical capacity of the system. In fact, Schedule 1 section 7.5 of PJM’s Operating Agreement states, in part, that “the goal of the simultaneous feasibility determination will be to ensure that there are sufficient revenues from transmission congestion charges to satisfy all FTR obligations for the auction period under expected conditions and to ensure that there are sufficient revenues from the annual FTR auction to satisfy all ARR obligations.”<sup>16</sup> In other words, when system conditions reflect that ARRs or FTRs are not simultaneously feasible (*i.e.*, not revenue sufficient), PJM must employ the pro-ration methodology in order to ensure payment of congestion credits. Should PJM determine that ARRs or FTRs are not simultaneously feasible, it is required by the Tariff and Operating Agreement to pro-rate regardless of cause.

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<sup>15</sup> See 18 CFR § 385.210(c) (2006).

<sup>16</sup> See section 7.5 in Attachment K of PJM’s Tariff has a corresponding provision.

61. Under these circumstances, PJM is required by its Tariff and Operating Agreement to pro-rate by considering the impact pro-rationing will have on relieving the constraint that is limiting ARR and FTR allocations. PJM employs a methodology that results in reducing ARR and FTR allocations in proportion to the megawatts nominated and also in inverse proportion to the effect of the nominations on a constraint. According to PJM's existing market rules, the pro-rationing of requested ARRs and FTRs is accomplished in inverse proportion to the power distribution factor effect on the binding constraint as determined in the feasibility analysis. The Tariff states:

All Auction Revenue Rights must be simultaneously feasible. If all Auction Revenue Right requests made during the annual allocation process are not feasible then Auction Revenue Rights are prorated and allocated in proportion to the MW level requested and in inverse proportion to the effect on the binding constraint.<sup>17</sup>

62. The market rules apply to all customers nominating ARRs or FTRs under PJM's Tariff and Operating Agreement in the stage that is pro-rated. In the March 12, 2003 order accepting PJM's ARR allocation process, the Commission agreed with Consumers Energy Company that PJM had provided no definitional basis or illustrative examples demonstrating how an FTR request determined by PJM to be "not feasible" in a new zone, under section 5.2.2(e)(iii) of the PJM OATT, would be pro-rated and allocated in "inverse proportion to the effect on the binding constraints." There, the Commission required PJM to address this issue in a compliance filing.<sup>18</sup> In response to the Commission's specific request, PJM submitted a compliance filing in Docket No. ER03-406-002 on April 11, 2003 that contained an illustrative example of the ARR pro-ration calculation and how the inverse proportion language of its tariff would be applied. PJM stated that the example would be included in the PJM Manuals. No parties protested the illustrative example of the ARR pro-ration calculation in that filing and the Commission

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<sup>17</sup> See section 7.4.2(f) in Attachment K of PJM's Tariff and a corresponding provision in section 7.4.2(f) in Schedule 1 of PJM's Operating Agreement. See also section 5.2.2 (f)(i) in Schedule 1 of PJM's Operating Agreement and a corresponding provision in section 5.2.2 (f)(i) in Attachment K of PJM's Tariff regarding the identical pro-ration methodology used for Financial Transmission Rights.

<sup>18</sup> See *PJM Interconnection, L.L.C.*, 102 FERC ¶ 61,276 (2003) at P 34.

accepted the PJM compliance filing.<sup>19</sup> The example accepted by the Commission is consistent with PJM's allocation of ARR in this case. We, therefore, find that PJM has not violated its Tariff and Operating Agreement provisions in its ARR and FTR annual allocation process.

63. We also find that the Municipals' have failed to demonstrate that PJM implemented its tariff in a discriminatory manner. The Municipals complain that the method used by PJM to pro-rate ARRs is producing a discriminatory result because it pro-rates in inverse proportion to the power distribution effect that each entity has on the congested facility. For 2006/2007, all stage 1 ARR nominations, including the Municipals as well as all other customers, were pro-rated because transmission constraints on the Bedington-Black Oak line failed the simultaneous feasibility test, and therefore, prevented PJM from awarding 100 percent of the requests. Chambersburg nominated 54.1 MW of ARRs and was awarded only 28.8 MW, or approximately 53 percent of its nomination level. Front Royal requested 36.6 MW in the first stage and it was awarded only 19.9 MW, or approximately 54 percent of its nomination level. However, the higher pro-ration of the ARRs nominated by the Municipals in the 2006/2007 annual allocation process reflects non-discriminatory implementation of PJM's existing market rules.

64. PJM's existing market rules treat each megawatt of ARRs requested by each customer equally and allocates percentages of the congested line based on the relative percentages of the ARR's requested. Because each ARR megawatt nominated by the Municipals requires the use of a larger amount of flow on the limiting constraint (Bedington-Black Oak) than each ARR nominated by other customers, the percentage reduction in the ARRs allocated to the Municipals from their requested amount was greater than for other customers whose ARRs used less of the congested line. For example, according to PJM, the ARR nominations made by Front Royal and Chambersburg had a significant power distribution factor impact on the Bedington-Black Oak line – as high as 45.7 percent. However, the average power distribution factor for ARR megawatt nominations from all other customers on the Bedington-Black Oak line

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<sup>19</sup> See *PJM Interconnection, L.L.C.*, 106 FERC ¶ 61,049 (2004), at P 39 (January 28 Order). The illustration is also provided in PJM Manual 06, *Financial Transmission Rights* available at [www.pjm.com/contributions/pjm-manuals/manuals.html](http://www.pjm.com/contributions/pjm-manuals/manuals.html) pages 25-26. See also Attachment A.

was less than 5.0 percent.<sup>20</sup> In addition, PJM states that 2,500 MW of other ARR nominations were not awarded to other market participants due to the application of the pro-ration methodology, including over 700 MW of ARRs pertaining to the Bedington-Black Oak line.<sup>21</sup> Given that Chambersburg and Front Royal, like all other customers, were pro-rated based on the “power distribution factor” impact that their ARR megawatt nomination had on the limiting constraint, we find that the annual ARR allocation process was implemented in a non-discriminatory manner.

65. PJM, therefore, applied its pro-rationing methodology consistent with its filed Tariff and we see no basis for upsetting customer expectations with respect to the ARR allocation for the current year. However, under the PJM allocation process, Chambersburg and Front Royal, as well as other similarly situated LSEs, received a far lower level of ARRs on a transmission line that they have historically relied upon to serve load and for which they had previously received an allocation for their full request. The Municipals state they are not asking to be guaranteed that they will experience no congestion, nor are they asking to be immunized from paying their fair share of congestion. But they do maintain that they should be entitled to continue to receive ARRs over a path they have traditionally used. Tying stage 1 of the allocation process to historical usage of resources to promote long-term certainty is consistent with PJM’s stated intent. When the Commission accepted PJM’s pro-rationing methodology, it did not expect it to result in significant levels of pro-ration for certain LSEs for transmission lines that they historically relied upon to serve their load. The Commission expected that PJM’s ARR allocation procedures would meet the reasonable needs of load serving entities, including the Municipals. In light of the significant pro-ration of ARRs experienced by the Municipals in the current year, the Commission is concerned that the ARR allocation procedures may not be achieving its original objectives. Therefore, in an order issued concurrently in Docket No. ER06-1218-000, we are directing PJM to re-evaluate its ARR allocation process to ensure that it will result in meeting the reasonable needs of all LSEs and not impose disproportionate burdens on certain LSEs, such as the Municipals.

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<sup>20</sup> See PJM’s Answer To Complaint filed August 23, 2006 at 14. See also Attachment G of the Chambersburg and Front Royal v. PJM complaint letter from PJM to Mr. Blair D. Mitchell dated July 12, 2006, at 2.

<sup>21</sup> See PJM’s Answer To Complaint filed August 23, 2006 at 13. See also Attachment G of the Chambersburg and Front Royal v. PJM complaint letter from PJM to Mr. Blair D. Mitchell dated July 12, 2006, at 2 footnote 3.

66. We find Municipals' allegations that PJM's allocation process lacks transparency, unpersuasive. As PJM states, prior to the annual ARR requests and allocations, it posts a list of the key system upgrades scheduled for the upcoming year.<sup>22</sup> Additionally, PJM posts ARR and FTR information for current and past allocations for customers to evaluate.<sup>23</sup> Further, PJM has stated, in response to Front Royal's earlier request to provide "a list of all the LSEs, Investor-Owned Utilities, Transmission Owners and other entities that requested ARRs and the associated percentages of ARRs granted in response to those requests in the 2006-2007 Planning Period ARR allocation process," that such information reflects individual market participants' market positions and strategies and, as such, is confidential pursuant to PJM's market rules. PJM's Operating Agreement prohibits it from disclosing to its Members or to third parties documents or data that has been designated confidential.<sup>24</sup> PJM may only disclose confidential information to authorized persons pursuant to certain conditions (such as disclosing confidential information to other authorized persons who are parties to non-disclosure agreements). Therefore, we encourage Municipals to utilize PJM's stakeholder process to discuss concerns regarding information about ARR allocations and efforts to minimize pro-ration.

67. Further, the limiting constraint at issue has been identified as a frequently congested critical path since Allegheny's integration into PJM in 2002. For example, according to PJM, the Bedington-Black Oak line is a voltage limited transmission interface in the Allegheny Power zone that has been a weak point on the transmission system both prior to and since the integration of the Allegheny Power system into PJM in 2002.<sup>25</sup> In 2003, PJM identified the Bedington-Black Oak line as a frequently constrained facility associated with millions of dollars of congestion costs.<sup>26</sup> Additionally, according to PJM's 2004 State of the Market Report, the Bedington-Black Oak interface was one of the principal constraints limiting supply in the annual FTR

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<sup>22</sup> PJM states that the posted list of these key upgrades prior to the 2006-2007 allocation is available at <http://www.pjm.com/markets/ptr/downloads/upgrade-2006-2007.xls>.

<sup>23</sup> See PJM website at [www.pjm.com/markets/ptr/auction-user.html](http://www.pjm.com/markets/ptr/auction-user.html).

<sup>24</sup> See section 18.17 "Confidentiality" of PJM's Operating Agreement.

<sup>25</sup> See Attachment F of the Chambersburg and Front Royal v. PJM complaint interoffice memorandum dated May 19, 2006, at 1.

<sup>26</sup> See PJM 2003 State of the Market Report dated March 4, 2004, at 157 and 159.

auction. There, PJM also identified the Bedington-Black Oak line as the most frequently constrained facility in PJM during 2004 with 1,131 congestion event hours.<sup>27</sup> To add, PJM has established the Bedington-Black Oak line as a scarcity pricing region in its Tariff and Operating Agreement.<sup>28</sup> PJM acknowledges that over time this transmission corridor has become more constrained and as load growth has continued a reliability violation has been identified in the future which required a transmission upgrade in this area scheduled for 2008.<sup>29</sup> PJM believes that once those upgrades are complete pro-rating on the Bedington-Black Oak line for native load will be eliminated. In its request to designate the Allegheny Mountain Path as a National Interest Electric Transmission Corridor, PJM stated that recent regional transmission expansion planning analysis have demonstrated violations of the Bedington-Black Oak 500 kV voltage limit.<sup>30</sup> Therefore, the factors contributing to the need to pro-rate ARR were widely known prior to the 2006-2007 allocation.

68. As to APPA's attack on the 2006/2007 annual ARR and FTR allocation process as inconsistent with Order No. 888's obligations to serve network and firm point-to-point customers, this is a collateral attack on the Commission order accepting PJM's allocation process in 2003.<sup>31</sup> Therefore, we decline to reconsider the issue in this proceeding.

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<sup>27</sup> See PJM 2004 State of the Market Report dated March 8, 2005, at 40 and 214.

<sup>28</sup> See section 6A.2.1 "Established Scarcity Pricing Regions" in Attachment K of PJM's Tariff and a corresponding provision in Schedule 1 section 6A.2.1 of PJM's Operating Agreement.

<sup>29</sup> According to PJM's 2005 State of the Market Report at 67, "[t]he location and size of this line (Bedington-Black Oak) contributed to its substantial impact on the entire PJM system, with an average affected load of 3,912 MW and total gross congestion cost of \$921.6 million."

<sup>30</sup> See [www.oe.energy.gov/DocumentsandMedia/pjm\\_14.pdf](http://www.oe.energy.gov/DocumentsandMedia/pjm_14.pdf). Request of PJM Interconnection, L.L.C., for Early Designation of National Interest Electric Transmission Corridors dated March 6, 2006, at 27-28.

<sup>31</sup> See, e.g., *PJM Interconnection, LLC*, 102 FERC ¶ 61,276 (2003).

Docket No. EL06-94-000

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The Commission orders:

The complaint is denied as discussed in the body of the order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

**Attachment A**

Generally, PJM provided the following example in its compliance filing in Docket No. ER03-406-002:<sup>32</sup>

ARR/FTR #	Requested ARR	Path	Effect per MW on Line A-B	Resulting Line A-B Flow Impact
# 1	200 MW	A to B	0.50	100 MW
# 2	200 MW	C to D	0.25	50 MW

FTR/ARR Pro Ration Example:

- Line A-B capacity = 50 MW
- FTR Requests
  - (1) – 200 MW A to B FTR with 0.50 effect on Line A-B
  - (2) – 200 MW C to D FTR with 0.25 effect on Line A-B
- FTR requests cannot be fully allocated without exceeding Line A-B capacity
  - (200 MW) (0.50) = 100 MW
  - (200 MW) (0.25) = 50 MW

Total = 150 MW – line flow exceeds line capability by 100 MW
- FTR Pro Ration:
  - (1) 50 MW (200 MW / 400 MW) (1 / 0.50) = 50 MW
  - (2) 50 MW (200 MW / 400 MW) (1 / 0.25) = 100 MW
- FTR Request (1) allocated 50 MW and FTR request (2) allocated 100 MW
- Line A-B capacity fully allocated
  - – (50 MW) (0.50) = 25 MW
  - – (100 MW) (0.25) = 25 MW

Total = 50 MW – 50 MW line capability fully subscribed

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<sup>32</sup> See transmittal letter at page 7 Docket No. ER03-406-002 accepted in *PJM Interconnection, L.L.C.*, 106 FERC ¶ 61,049 (2004).