

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

H-P Energy Resources LLC)	
)	
v.)	Docket No. EL07-____-000
)	
PJM Interconnection, L.L.C.)	

**COMPLAINT OF
H-P ENERGY RESOURCES LLC
REQUESTING A SHORTENED ANSWER PERIOD
AND FAST TRACK PROCESSING**

Pursuant to Sections 206 and 306 of the Federal Power Act (“FPA”), 16 U.S.C. §§ 824e and 825e, and Rules 206 and 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.206 and 385.212 (2007), H-P Energy Resources LLC (“H-P”) hereby files this Complaint against PJM Interconnection, L.L.C. (“PJM”) for PJM’s unjust and unreasonable actions in violation of its own rules, the FPA, and Commission precedent thereunder. H-P requests that the Commission order PJM to cease and desist from these violations and to certify the Incremental Import Capability (“IIC”) for merchant transmission projects S119 and S120 (“Projects S119 and S120”) so that these projects can be offered as Qualifying Transmission Upgrades (“QTU”) in the Reliability Pricing Model (“RPM”) Base Residual Auction that commences October 1, 2007. H-P also requests a shortened answer period and fast track processing.

Fast track processing is appropriate because the IIC into the “MAAC+APS”¹ Locational Deliverability Area (“LDA”) from Projects S119 and S120 would reduce capacity prices to consumers by an estimated \$234,000,000 for the 2009-2010 Delivery

¹ Mid-Atlantic Area Council and Allegheny Power System

Year.² These projects are precisely the kind of market response to locational capacity price signals that RPM was designed to promote, yet are being thwarted by the arbitrary actions of PJM that are the subject of this Complaint.³ PJM's actions undermine the upcoming RPM auction by arbitrarily excluding projects that fully complied with all legitimate rules and that reasonably relied on PJM commitments.

In the context of the RPM auctions it is noteworthy that barriers to entry in PJM have artificially raised energy and capacity prices to the benefit of incumbent transmission owners.⁴ No merchant transmission project in response to energy congestion,⁵ and no merchant transmission project in response to capacity constraints,⁶

² Under the planning period parameters for this auction, available at <http://www.pjm.com/markets/rpm/downloads/planning-period-parameters.xls>, each 100 MW of IIC into the MAAC+APS LDA reduces the clearing price by \$4.36/MW-day. H-P conservatively estimates 200 MW of IIC from these projects. When the price reduction of \$8.72/MW-day (twice \$4.36/MW-day) is applied to unhedged load in the MAAC+APS LDA of approximately 73,500 MW (reliability requirement of 78,489 MW less Capacity Emergency Transfer Limit "CETL" of 4,941 MW), the cost reduction for load is \$234,000,000. The foregoing assumes the IIC affects the clearing price on the Variable Resource Requirement ("VRR") curve at a point below \$148.81/MW-day. If the clearing price on the VRR curve is above \$148.81/MW-day then the cost reduction would be approximately \$146,000,000. These cost reductions assume that the MAAC+APS LDA is constrained (clears at a price above the RTO (Rest of Market) price).

³ As discussed herein, a month ago PJM sought to unilaterally impose a requirement for QTU participation in the upcoming auction that there be an Upgrade Construction Service Agreement in place. When H-P pointed out the tariff requirement that only a Facilities Study Agreement was supposed to be necessary for QTU participation, PJM retracted that unilateral requirement. But PJM developed a new unilateral requirement, the subject of this Complaint, which would effectively eliminate all merchant transmission from participation in RPM.

⁴ "... low barriers to market entry ... simply do not exist in PJM..." "... congestion ...rewards entrenched asset owners for not relieving constraints and for blocking others that might." PJM Industrial Customer Coalition, "Whitepaper: Changing the Direction of PJM's Dysfunctional Energy Markets," August 2007 (pages 4 and 9).

⁵ Two merchant transmission projects, Projects M05 and R12, have been paid for by H-P but PJM has not to date provided any financial rights for either project. Project M05 was the subject of the proceedings in *H-P Energy Resources LLC v. PJM Interconnection, L.L.C.*, Docket No. EL06-62-000, *et al.* A settlement was approved by the Commission in an Order issued March 22,

has ever been built in PJM despite billions of dollars in energy congestion and capacity constraint charges to consumers. The intercession of the Commission is necessary to remove barriers to entry that artificially raise prices to consumers and prevent competitive market prices in PJM.

H-P respectfully requests that the Commission shorten the answer period to August 27, 2007 -- one week after the filing of this Complaint. This shortened time is necessitated by the need for PJM's IIC determinations in order for these projects to participate in the Base Residual Auction on October 1, 2007 (with credit required to be posted two weeks prior). H-P has served this Complaint on PJM on the date of filing, and PJM is fully knowledgeable of all matters discussed herein. H-P respectfully requests that Commission expedite its review of the Complaint and PJM's answer and issue an order as soon as possible in advance of the Base Residual Auction to permit H-P to arrange financing and credit for the projects.

I.

STATEMENT OF THE CASE

A. Projects At Issue.

2007, *PJM Interconnection, L.L.C.*, 118 FERC ¶ 61,235, under which the binding determination of financial rights will occur in the future.

⁶ There were 0 MW of merchant transmission allowed by PJM in the first two RPM auctions. <http://www.pjm.com/markets/rpm/downloads/20070531-rpm-0708-bra-settlement.xls> and <http://www.pjm.com/markets/rpm/downloads/20070713-bra-results-08-09.xls> (0 MW of Incremental CTRs and 0 MW of Cleared Qualifying Transmission Upgrade). Strategic Transmission, LLC, an affiliate of H-P, is attempting to have Project S16 included in the upcoming auction. That attempt is the subject of the pending complaint in *Strategic Transmission, LLC v. PJM Interconnection, L.L.C.*, Docket No. EL07-63-000.

Projects S119 and S120 are merchant transmission projects intended to increase import capability into the potentially constrained MAAC+APS LDA. They are the quintessential projects contemplated by the RPM construct as developed by stakeholders and approved by the Commission.

1. Project S119.

Project S119 advances the upgrade of wavetraps on the Lexington-Dooms 500 kv circuit in the Dominion zone by three years, from June 1, 2012 to June 1, 2009.⁷ According to PJM, the Lexington-Dooms 500 kv circuit fails the Mid-Atlantic load deliverability test in 2012.⁸ Analysis indicates that upgrading this circuit earlier than 2012 will increase overall import capability into the MAAC+APS LDA for the 2009-2010 Delivery Year. Accordingly, Project S119 would advance this upgrade to June 1, 2009.

2. Project S120.

Project S120 involves the upgrade of limiting equipment on the Bristers-Ox 500 kv circuit, also in the Dominion zone. According to PJM, this circuit and one other are the most limiting facilities for the Capacity Emergency Transfer Limit (“CETL”) into the

⁷ Upgrade of the Lexington-Dooms 500 kv circuit by wavetraps replacement is network upgrade b0457, <http://www.pjm.com/planning/project-queues/upgrade-projects.html> (“Baseline” tab). This network upgrade has an estimated capital cost of \$300,000. Project S119 advances the in-service date of the network upgrade from June 1, 2012, to June 1, 2009.

⁸ Excerpt from PJM’s presentation to the Transmission Expansion Advisory Committee on May 9, 2007, <http://www.pjm.com/committees/teac/downloads/20070509-reliability-analysis-update.pdf> (slide 38), is provided as Appendix A.

MAAC+APS LDA for the 2009-2010 Delivery Year.⁹ Project S120 would increase the rating of this limiting facility and thereby increase the import capability into the MAAC+APS LDA.

B. 2009-2010 Base Residual Auction Requirements.

H-P submitted Projects S119 and S120 to PJM on July 31, 2007, in full compliance with PJM's requirements for participation in the 2009-2010 Base Residual Auction. PJM's communication to all stakeholders dated July 25, 2007 (Appendix C hereto) stated as follows (emphasis added):¹⁰

Market Participants that want to offer a Planned Generation Resource or Qualifying Transmission Upgrade (QTU) in the 2009/2010 Base Residual Auction (scheduled to open on October 1, 2007) must provide PJM with advance notification of their intent to offer into the 2009/2010 Base Residual Auction by August 17, 2007. *Advance notification will enable PJM to process the Impact Study Agreement for the Planned Generation Resource or a Facilities Study Agreement for a QTU prior to the opening of the 2009/2010 Base Residual Auction bidding window.*

The Planned Generation Resource or *QTU must be in a queue that precedes the T queue* in order for PJM to proceed with approving the Planned Generation Resource or QTU for participation in the 2009/2010 Base Residual Auction.

⁹ PJM posted the limiting facilities for each LDA, by year of the RPM Transition Period, at this location on its website, <http://www.pjm.com/planning/downloads/ceto-cetl-faq.pdf> (Response # 8), provided as Appendix B hereto. The Bristers-Ox 500 kv circuit is one of the two limiting facilities for the MAAC+APS LDA for the 2009-2010 Delivery Year.

¹⁰ As previously noted, in a prior communication to stakeholders dated July 19, 2007, PJM sought to unilaterally impose a requirement for QTU participation in the upcoming auction that there be an Upgrade Construction Service Agreement in place prior to the auction. H-P pointed out to PJM in an email later that day that this requirement was unlawful because Section 2.57(c) of Attachment DD of the PJM Tariff required only a Facilities Study Agreement for QTU participation. PJM then retracted that unilateral requirement in the July 25, 2007 communication with the changes shown redline (the redlining is PJM's) (Appendix C).

Projects S119 and S120 are in the S queue, which precedes the T queue. Thus, these projects fully satisfied PJM's requirements for participation in the 2009-2010 Base Residual Auction.

C. PJM's Misapplication of Its Business Rules.

At the August 9, 2007 initial meeting among PJM, H-P and the transmission owner (Dominion) to discuss these projects there was no indication that either project would be deemed ineligible to participate in the upcoming auction (notes of the meeting are attached as Appendix D). However, subsequent to the meeting, PJM emailed H-P stating that Projects S119 and S120 would be barred from participation in the auction because H-P had failed to submit an IIC determination request for these projects 90 days before the start of the auction (Appendix E). H-P had submitted the request 60 days before the start of the auction (Appendix F).

PJM sought to justify a 90-day period for IIC requests by reference to a 90-day advance notice period for requests for Incremental Capacity Transfer Right ("ICTR") determinations. The 90-day *ICTR* rule was established by PJM on or about April 17, 2007, in Version 10.2 of the RPM Business Rules, when PJM unilaterally changed the previous 60-day *ICTR* requirement to a 90-day *ICTR* requirement. This change from 60 days to 90 days for *ICTRs* was not explained or justified to stakeholders, and is inconsistent with the 60-day *ICTR* rule in the FAQs and training slides posted on the PJM website.

Furthermore, application of a 90-day rule to IICs is nonsensical in that such a change in the advance notice period would eliminate merchant transmission as a potential

resource in the RPM construct. PJM only releases the information necessary to identify a potential QTU 90 days (three months) before a Base Residual Auction; thus, by requiring notice of a QTU at the same time it releases the information needed to analyze and propose a QTU, PJM would effectively eliminate merchant transmission from participating in RPM.

On August 12, 2007, H-P informed PJM that it had met all of PJM's requirements in good faith. H-P complained of the arbitrary nature of PJM's refusal to provide the IICs for Projects S119 and S120 (H-P's email is Appendix G). On August 14, 2007, PJM responded, saying that it could not provide the requested information because of Projects S119 and S120's "queue position" (Appendix H),

On that same day H-P informed PJM that the projects were in the S queue and thus satisfied PJM's explicit condition for participation in the upcoming auction. And while H-P offered to allow additional time for PJM to provide the IICs to the extent that was the problem, PJM has not responded to that offer and has refused to entertain the possibility of auction participation. This Complaint addresses the reasons given by PJM for that refusal.

II.

ARGUMENT

**PJM'S MISAPPLICATION OF ITS BUSINESS RULES
AND ITS ARBITRARY CREATION OF A NEW RULE
TO RETROACTIVELY DISQUALIFY H-P'S PROJECTS
FROM AUCTION PARTICIPATION ARE
UNJUST AND UNREASONABLE,
AGAINST THE PUBLIC INTEREST, AND
VIOLATE COMMISSION ORDERS AND POLICIES.**

Projects S119 and S120 were submitted to PJM in full compliance with, and in reliance upon, the rules and requirements governing auction participation. As part of the S queue these projects satisfied PJM's explicit requirements for participation in the upcoming RPM auction. Nevertheless, after these projects were submitted to PJM, PJM arbitrarily created a new unwritten rule designed to disqualify these projects, in disregard of its own auction participation commitment to stakeholders.

PJM's actions violate FPA section 205 and frustrate the resource investment that RPM is intended to promote. Moreover, PJM's new rule would effectively eliminate merchant transmission from the RPM construct by requiring that merchant transmission projects be submitted to PJM at the same time that PJM releases the information a market participant needs in order to analyze and propose potential projects.

As detailed below, PJM's actions to retroactively disqualify Projects S119 and S120 from auction participation are unjust and unreasonable, against the public interest, and in violation of Commission Orders and policies. This Complaint demonstrates that:

- Projects S119 and S120 were submitted in good faith in full compliance with all written rules and requirements and in reliance upon PJM's express condition for auction participation.
- The misapplication by PJM of its own rules and practices is unlawful and would eliminate merchant transmission from the RPM construct contrary to Commission Orders and policies.
- PJM should facilitate the entry of new infrastructure instead of arbitrarily creating rules that prevent entry.
- It is unjust and unreasonable for PJM to unilaterally create, without prior notice, any new rule or requirement that is applied retroactively so as to keep market participants from auction participation.

- It would be unjust and unreasonable for consumers to bear higher prices that result from disallowing auction participation by Projects S119 and S120.

For these reasons, as detailed below, the Commission should direct PJM to cease and desist from these unlawful actions and to immediately certify IICs for Projects S119 and S120 so that these projects can be offered as QTUs in the upcoming RPM auction.

A. Projects S119 and S120 Were Submitted in Good Faith in Full Compliance with All Written Rules and Requirements and in Reliance Upon PJM's Conditions for Auction Participation.

Projects S119 and S120 were submitted in good faith to PJM in full compliance with PJM's requirements for participation in the upcoming auction and in reliance on PJM's conditions for auction participation.

PJM's communication to all stakeholders dated July 18, 2007 (as modified July 25, 2007, in response to H-P's objection regarding another unlawful restriction on auction participation), provided as follows (Appendix C, emphasis added):

Dear Members,

PJM requests Market Participants that want to offer a Planned Generation Resource or Qualifying Transmission Upgrade (QTU) in the 2009/2010 Base Residual Auction to provide advance notification of their intent to offer. The purpose of the advance notification is to provide PJM with enough time to process and execute an Impact Study Agreement for a Planned Generation Resource or a Facilities Study Agreement for a QTU by the established deadline.

Market Participants that want to offer a Planned Generation Resource or Qualifying Transmission Upgrade (QTU) in the 2009/2010 Base Residual Auction (scheduled to open on October 1, 2007) must provide PJM with advance notification of their intent to offer into the 2009/2010 Base Residual Auction by August 17, 2007. *Advance notification will enable PJM to process the Impact Study Agreement for the Planned Generation Resource or a Facilities Study*

Agreement for a QTU prior to the opening of the 2009/2010 Base Residual Auction bidding window.

The Planned Generation Resource or *QTU must be in a queue that precedes the T queue* in order for PJM to proceed with approving the Planned Generation Resource or QTU for participation in the 2009/2010 Base Residual Auction.

In full compliance with PJM's communication to stakeholders, and in reliance on that communication, H-P submitted Projects S119 and S120 in the S queue (the queue that precedes the T queue) and gave PJM the requested advance notice of intent to offer the projects as QTUs in the auction (the advance notice was provided August 1, 2007, and is attached as Appendix F).

Thus, H-P did precisely what PJM requested and required in its July 18, 2007, communication to stakeholders. PJM specifically stated that the advance notice would enable qualifying projects to participate in the upcoming auction: "The purpose of the advance notification is to provide PJM with enough time to process and execute ... a Facilities Study Agreement for a QTU by the established deadline."

Despite H-P's full compliance with PJM's requirements, PJM is now refusing to process the projects for participation in the auction. PJM's refusal is particularly unreasonable in view of the fact that it already has developed and posted the RPM model for the 2009-2010 Delivery Year, which includes the CETL into the MAAC+APS LDA,¹¹ and identified the Bristers-Ox 500 kv circuit as one of two limiting facilities for the CETL.¹² Thus, all PJM needs to do to certify the IICs for these projects is to run the

¹¹ The RPM planning parameters for the three RPM transition years were posted by PJM on February 2, 2007, at this location on its website, <http://www.pjm.com/markets/rpm/downloads/planning-period-parameters.xls>.

¹² As previously noted, this PJM posting made March 16, 2007, is Appendix A hereto.

existing model to determine the IICs from relief of the limiting equipment on these circuits.¹³

B. The Misapplication of PJM's Rules and PJM's Reliance on a New Unwritten Rule Are Unlawful and Would Eliminate Merchant Transmission from the RPM Construct Contrary to Commission Orders and Policies.

The two subsections below show: (1) PJM's misapplication of its rules is unlawful and is not supported by reference by another rule; and (2) even if PJM had the authority to unilaterally create and apply a new unwritten rule, that rule would be arbitrary and capricious because it would eliminate merchant transmission from the RPM construct contrary to Commission Orders and policies. In other words, both PJM's boot and its bootstrap are flawed.

¹³ As set forth in the Statement of the Case, no problem with project participation in the upcoming auction was claimed at the initial meeting between PJM, H-P and Dominion on August 9, 2007. On August 17, 2007, PJM claimed that it did not have time to review other S queue projects for a possible effect on Projects S119 and S120, specifically whether an earlier in time *generation* project might require the Project S119 and/or S120 upgrade thereby giving the earlier project the right to the upgrade. PJM offered no support for its inability claim, nor did it explain why it had stated the opposite to stakeholders (Appendix C). Nor has PJM responded to H-P's outstanding request that it validate the queue positions that were given Projects S119 and S120 (the time stamps are later than H-P's delivery to PJM). In any event, regarding PJM's claim, H-P has reviewed the S queue projects in the Dominion zone (Appendix I) and has identified no projects that would implicate Projects S119 and S120 auction participation. However, to ensure that PJM's inability claim, and the hypothetical possibility of an earlier project effect, do not frustrate Projects S119 and S120's ability to participate in the auction, H-P agrees that as a condition of auction participation that in the event an earlier project has the right to an upgrade that it will convey Project S119/S120 to that earlier project upon such terms and conditions as the Commission deems just and reasonable. Thus, if PJM is truly unable to review the S queue as it previously committed to do, H-P is willing to assume the risk of the hypothetical possibility identified by PJM so that Projects S119 and S120 can participate in the auction. Under H-P's assumption of risk, consumers can only benefit from the participation of the upgrades in the auction, and no sponsor of a generation project can be adversely affected.

1. There Is No Underlying Legitimacy to the ICTR Rule or Its Extension by Analogy as an IIC Rule.

PJM's only stated rationale for its assertion that IICs must be submitted 90 days in advance of an auction comes from RPM "Business Rules" 396 and 398 that have a 90-day advance notice rule for ICTRs. However, the 90-day ICTR rule has no underlying legitimacy. The 90-day ICTR rule first appeared on April 17, 2007, in Version 10.2 of the RPM business rules. To the best of H-P's knowledge, all prior versions of the RPM business rules contained a 60-day rule for ICTRs.

The change from 60 days to 90 days for ICTRs, to the best of H-P's knowledge, was never explained or justified to stakeholders.¹⁴ It simply appeared in Version 10.2.

Moreover, the changed business rule is inconsistent with the posted FAQ on this subject, which continues to require *60 days* for ICTRs.¹⁵ FAQ 29 states (emphasis added):

29. Is [there] a timeline for certifying incremental CTRs?

a. Participants must request PJM to certify the Incremental CTRs into the constrained LDAs modeled in RPM at least *60 days* prior to the Base Residual Auction. PJM will certify the Incremental CTRs into the constrained LDA at least 45 days prior to the Base Residual Auction.

¹⁴ It does appear that this version of the business rules was part of a mass of material comprising agenda item 2a at the April 25, 2007 meeting of the Market Implementation Committee, <http://www.pjm.com/committees/mic/downloads/20070425-item-2a-rpm-business-rules-redlined.pdf>. The minutes of that meeting do not reflect any discussion of the business rules or changes in them, <http://www.pjm.com/committees/mic/minutes/20070425-minutes.pdf>.

¹⁵ <http://www.pjm.com/services/courses/downloads/20070329-rpm-training-faqs-clean.pdf>. These FAQs are posted under "RPM Reference Materials." There is another set of FAQs posted under "RPM Training Material" that states 90 days.

In addition to this FAQ 29 stating a 60-day rule for ICTRs, PJM's stakeholder presentation dated May 4, 2007, also contains this 60-day requirement (emphasis added):¹⁶

Participants must request PJM to certify Incremental CTRs at least *60 days* prior to the BRA Auction.

In addition to these contradictory PJM postings, the Commission has specifically required in the context of RPM that PJM business rules cannot deviate from tariff provisions. In its Order on Rehearing involving the RPM construct, the Commission agreed with the PJM Industrial Customer Coalition ("PJMICC") that PJM business rules cannot deviate from the tariff:¹⁷

210. We agree with PJMICC that PJM must follow its accepted tariff in implementing RPM. PJM's business rules cannot deviate from the provisions of its tariff.

H-P respectfully submits that the 90-day ICTR rule deviates from the PJM tariff because the rule denies ICTRs to projects that undisputedly satisfy all the *tariff* requirements for ICTRs that are set forth in Section 2.57 of Attachment DD of the PJM tariff.

Based on the totality of these circumstances – the unilateral, unjustified change in the previous 60-day period, the inconsistency with other guidance to stakeholders, and the deviation from the PJM tariff, the 90-day ICTR rule lacks underlying legitimacy. In any event it is wholly inappropriate for PJM to attempt to apply a 90-day rule to the IIC process even if a 90-day rule legitimately applied to the ICTR process.

¹⁶ <http://www.pjm.com/markets/rpm/downloads/training/module-e.pdf> (slide 67).

¹⁷ *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,318, at P 210 (2007).

2. Creation of the New Unwritten Rule by Analogy Cannot Be Valid Because It Would Eliminate Merchant Transmission from the RPM Construct, Contrary to Commission Orders and Policies.

Even if a 90-day rule were legitimate for ICTRs (which as demonstrated above, it is not), PJM's claim that the ICTR rule should be applied by analogy to IICs is fundamentally unsound. The analogy cannot be valid because if 90 days were the rule for IICs, merchant transmission would be eliminated from the RPM construct, contrary to Commission Orders and policies.¹⁸

PJM posts "steady state" planning period parameters three months before the start of the auction (posting approximately February 1 with the auction starting approximately May 1). As set forth in Appendix F of the RPM Settlement,¹⁹ "3 months before BRA [Base Residual Auction]" PJM posts the planning period (also known as "delivery year") parameters as follows:

- Post Parameters for Delivery Year (DY)
 - Preliminary PJM Region/Zonal Peak Load Forecasts and ILR Forecasts by LDA
 - IRM, Pool-wide Average EFORD, and FPR
 - Demand Resource Factor
 - PJM Region Reliability Requirement and VRR Curve for PJM Region

¹⁸ In this regard it is important to recognize the difference between IICs for QTUs, and ICTRs. The QTUs for which IICs are determined are *potential* projects offered into an auction – if the offered price clears the project is committed to go forward and if the offered price does not clear the project does not go forward. On the other hand, ICTRs are provided to *existing* network upgrades arising from merchant generation or transmission projects. Thus, a 90-day rule for ICTRs would not eliminate upgrades that already exist, whereas a 90-day rule for QTUs would eliminate potential projects that are denied absolutely critical information. This is an important distinction making PJM's rule creation by analogy wholly inappropriate.

¹⁹ "Settlement Agreement and Explanatory Statement," *PJM Interconnection, L.L.C.*, Docket Nos. EL05-148 and ER05-1410, filed September 29, 2006 ("RPM Settlement").

- LDA Reliability Requirements and VRR Curves for the LDAs to be modeled in BRA (including the CETO and CETL information)
- Transmission Upgrades expected to be in service for DY
- CONE and Net E&AS values used in VRR Curves

Market participants must know these planning period parameters in order to identify potentially viable QTUs. The Explanatory Statement for the RPM Settlement (pages 16-17) acknowledges that PJM posts constrained LDA and other critical information:

To ensure the market has other information that may influence prices and capacity commitments, the Settlement Agreement (section II.H.2) provides that PJM will post, at least three months before each Base Residual Auction, the CETO and CETL values for all LDAs; the LDAs that do not have the potential to bind because they are not constrained LDAs; the LDAs for which a separate VRR Curve has been established; and the separate curve and associated data (e.g., LDA Reliability Requirement, projected Interruptible Load for Reliability, applicable Cost of New Entry, and applicable Net Cost of New Entry) for each such LDA.

If PJM's 90-day rule were adopted for QTUs, then market participants would have to propose QTUs *at the same time* PJM releases the planning period parameters -- an obvious impossibility. Thus, PJM's arbitrary new unwritten rule would effectively eliminate merchant transmission from the RPM construct by denying potential QTU sponsors absolutely vital information.

Elimination of merchant transmission from RPM would violate the Commission's intent that merchant transmission be able to meaningfully participate in RPM to help ensure that RPM prices are just and reasonable. The Commission stated in its "Initial Order on Reliability Pricing Model" as follows:

We are encouraged by PJM's proposal for considering generation, transmission and demand response together in the Base Residual Auction. Only when these three interrelated components of the PJM market place are working together will PJM be able to meet established reliability criteria, keep

markets robust and competitive, and ensure stable operation. The inclusion of these resources is consistent with Commission policy supporting development of these resources.

PJM Interconnection, L.L.C., 115 FERC ¶61,079, P. 84 (2006); *see also PJM*

Interconnection, L.L.C., 117 FERC ¶61,331, P. 139 (2006) (“...under the Settlement, transmission can compete with both generation resources and demand responses to provide solutions to capacity constraints...”).²⁰

Thus, not only is PJM’s assertion that a 90-day applies to IIC requests incorrect, but it is contrary to Commission policy and the Commission Order approving the RPM construct for PJM.

C. PJM Should Facilitate the Entry of New Infrastructure Investment Instead of Erecting Barriers to Entry.

The fundamental objective of the RPM construct is to create appropriate price signals for new resources. RPM provides different capacity prices in different areas (LDAs) so as to attract infrastructure investment to areas that need more resources. The new resources can be new generation in constrained areas, new transmission bridging unconstrained and constrained areas, and/or new demand response in constrained areas.

²⁰ In the RPM proceeding, PJM stated that RPM was designed to allow merchant transmission to participate. “RPM is designed to allow (but not require) planned transmission upgrades that provide incremental increases in import capability into constrained areas to be offered into the auctions.” Reply Comments of PJM Interconnection, L.L.C. on Paper Hearing Issues, *PJM Interconnection, L.L.C.*, Docket No. ER05-148-000, *et al.*, filed June 16, 2006 (page 25). “... if a cost-effective transmission project ‘offers into the auction for anything less than the premium in-zone generators seek, then loads in the zone benefit, and will pay the reduced premium to the transmission sponsor, rather than paying the higher premium demanded by the in-zone generation owner.’” Brief of PJM Interconnection, L.L.C. on Paper Hearing Issues, *PJM Interconnection, L.L.C.*, Docket No. ER05-148-000, *et al.*, filed May 19, 2006 (page 22).

A critical prerequisite for the success of RPM is the ability of new resources to freely and timely enter the market in response to price signals. If new resources are delayed or otherwise hindered, the only consequence of RPM is to artificially inflate prices paid by load (consumers) for existing resources.²¹

Consumer interests have pointed out the barriers to entry in PJM: "... low barriers to market entry ... simply do not exist in PJM...." and "...congestion ...rewards entrenched asset owners for not relieving constraints and for blocking others that might."²²

As described above, Projects S119 and S120 are the quintessential response to the RPM construct. As noted in the previous section, projects such as these are specifically provided for in the RPM construct as approved by the Commission.

PJM should be doing everything possible to ensure that new resources such as these can enter the PJM market as quickly and easily as possible. The overarching responsibility of PJM is to provide reliable service at the lowest reasonable cost. As the Commission recently noted:²³

As an RTO, PJM assumed responsibility to plan the regional transmission grid to meet the needs of the region as whole, with emphasis on achieving reliable supply at the lowest reasonable cost.

²¹ Inflated capacity prices due to delay or other hindrance of new resources would not be just and reasonable and should not be borne by consumers. This principle should apply to all public utilities, including regional transmission organizations such as PJM.

²² PJM Industrial Customer Coalition, "Whitepaper: Changing the Direction of PJM's Dysfunctional Energy Markets," August 2007 (pages 4 and 9).

²³ *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at P. 6 (2007).

In addition, PJM is obligated to use “Reasonable Efforts” in the interconnection process, which are efforts “substantially equivalent to those a Party would use to protect its own interest.”²⁴ The adoption of a new unwritten rule, and its retroactive application to disqualify projects submitted in good faith, are not “Reasonable Efforts” in the interconnection process and are not consistent with the “lowest reasonable cost” obligation of PJM.

D. PJM Should Have Announced Rules in Time for Market Participants to Comply Instead of Retroactively Disqualifying Proposed Projects.

Even if it were assumed for the sake of argument that Projects S119 and S120 should have – for whatever reason – been submitted to PJM earlier than July 31, 2007, it was incumbent upon PJM to have specified such an earlier-in-time date so that market participants could timely qualify for the upcoming auction. In this case, H-P met the time requirement that PJM laid out to stakeholders, but PJM is now breaching its reciprocal commitment to stakeholders.

Having reasonably relied on PJM’s statement of the required time and terms for participation in the upcoming RPM auction, it would inequitable, unjust and unreasonable for H-P’s projects to be retroactively disqualified.²⁵ It also would be unjust

²⁴ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P. 67 (2003).

²⁵ *See, e.g., New York Independent System Operator, Inc. v. Astoria Energy LLC*, 118 FERC ¶ 61,216, at PP 36-37 (2007) (protecting market participant which reasonably relied upon RTO representation, particularly where alternative could delay new generation in capacity-constrained area); *Braintree Electric Light Department*, 116 FERC ¶ 61,121, at P 22 (2006) (protecting market participant which reasonably relied on RTO representation).

and unreasonable for consumers to pay higher prices resulting from that disqualification, as discussed in the next section.

E. It Would Be Unjust and Unreasonable to Force Consumers to Pay Higher Prices Due to PJM Disallowing Auction Participation by Projects S119 and S120.

Higher prices that result from barring auction participation by qualified resources should not be borne by consumers. Such prices would be unjust and unreasonable.

H-P conservatively estimates the artificial cost burden on consumers at \$234,000,000. Under the planning period parameters for the upcoming auction,²⁶ each 100 MW of import capability into the MAAC+APS LDA reduces the clearing price by \$4.36/MW-day. H-P conservatively estimates 200 MW of IIC from these projects. When the price reduction of \$8.72/MW-day (twice \$4.36/MW-day) is applied to unhedged load in the MAAC+APS LDA of approximately 73,500 MW (reliability requirement of 78,489 MW less CETL of 4,941 MW), the cost reduction for load is \$234,000,000.²⁷ This amount could be much higher if the IIC is more than the 200 MW conservatively estimated by H-P.

As previously noted, the Commission has held that merchant transmission is an integral part of the RPM construct. Moreover, the Commission has noted that the ability

²⁶ <http://www.pjm.com/markets/rpm/downloads/planning-period-parameters.xls>.

²⁷ This estimate assumes the IIC affects the clearing price on the VRR curve at a point below \$148.81/MW-day. If the clearing price on the VRR curve is above \$148.81/MW-day then the cost reduction would be approximately \$146,000,000. These cost reductions assume that the MAAC+APS LDA clears at a price above the RTO (Rest of Market) price. If there is no price difference then there would be no consumer benefit from the projects.

of market participants to rely on RTO communications is especially important when it enables entry of new resources consistent with encouragement of a robust market.²⁸

F. Conclusion.

PJM unilaterally adopted a new unwritten rule without any justification, applied it retroactively to disqualify projects submitted in good faith in full compliance with all written rules and requirements, and would effectively eliminate new transmission as a resource responding to price signals under the RPM construct. Not only is this unjust and unreasonable treatment of the subject projects, but if allowed it would artificially raise prices to consumers in disregard of Commission Orders and policies recognizing merchant transmission as an integral resource in the RPM construct.

III.

RELIEF REQUESTED

H-P respectfully requests that the Commission order PJM to provide IICs for Projects S119 and S120, allow these projects to participate in the upcoming Base Residual Auction, and grant such other relief as the Commission may find just and reasonable.

IV.

REQUEST FOR FAST TRACK PROCESSING

²⁸ *New York Independent System Operator, Inc. v. Astoria Energy LLC, supra*, at P 37.

Because this Complaint involves issues with a potentially huge consumer impact (conservatively estimated at \$234,000,000), H-P respectfully requests fast track processing, including a shortened answer time by PJM of August 27, 2007 -- one week after the filing of this Complaint. This shortened time is necessitated by the August 17, 2007 date for PJM's IIC determinations, and by the start of the Base Residual Auction on October 1, 2007 (with credit required to be posted two weeks prior). H-P served this Complaint on PJM on the date this pleading was filed, and PJM is fully knowledgeable of all matters discussed herein. H-P respectfully requests that Commission issue an order as close as possible to September 1, 2007, so that H-P can arrange financing and credit for the projects.

V.

COMMUNICATIONS

The names and addresses of the persons to whom communications are to be addressed are:²⁹

Jon L. Brunenkant*
Joelle K. Ogg*
Brunenkant & Cross, LLP
805 15th Street, N.W., Suite 1101
Washington, D.C. 20005
Telephone: 202-408-0700
brunenkant@bc-law.net
ogg@bc-law.net

²⁹ H-P respectfully requests waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.203(b)(3) (2006), to permit designation of more than two persons for service and communications.

Robert J. Patrylo, Chief Executive Officer*
H-P Energy Resources LLC
626 Creek Lane
Flourtown, PA 19031
Telephone: 215-836-9787
rpatrylo@comcast.net

* Designated to receive service in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2007).

VI.

RULE 206 REQUIREMENTS

Action or Inaction Alleged to Violate Statutory Standards or Regulatory Requirements (Rules 206(b)(1)) — PJM has refused to identify on a timely basis the Incremental Import Capability (“IIC”) values for Projects S119 and S120 and thereby is blocking these projects from auction participation. This conduct is unjust and unreasonable and against the public interest, and inconsistent with the Commission's Orders approving the RPM construct in PJM.

Legal Bases for Complaint (Rule 206(b)(2)) — PJM is required by rule, tariff and Commission policy to provide IIC values to qualified projects on a timely basis and it has not done so.

Issues Presented as They Relate to the Complainant (Rules 206(b)(3)) — The issues presented involve PJM's compliance with its own conditions for RPM auction participation, its attempt to apply a new rule retroactively that would eliminate merchant transmission from the RPM construct, its failure to make “reasonable efforts” to interconnect the projects, its failure to timely announce rules so that market participants

could comply, and the unjust and unreasonable consumer prices that would result if the foregoing is not rectified.

Impacts on Complainant (Rule 206(b)(4)-(b)(5)) — Complainant has not received the requisite determination of IICs, and Projects S119 and S120 cannot participate in the upcoming RPM auction without those determinations.

Related Proceedings (Rule 206(b)(6)) -- Complainant is not aware of any proceedings that are directly related.

Specific Relief Requested (Rule 206(b)(7)) -- The identification of IICs for these projects, conservatively estimated at 200/MW-day, and Commission direction to PJM to allow these projects to participate in the Base Residual Auction for the 2009-2010 Delivery Year.

Documents that Support the Complaint (Rule 206(b)(8)) -- Documents supporting the Complaint are provided in the appendices.

Dispute Resolution (Rule 206(b)(9)) -- Complainant has attempted, unsuccessfully, to resolve this dispute informally.

Form of Notice (Rules 206(b)(10)) — Complainant has included with this Complaint a form of notice.

Service on Respondent (Rule 206(c)) -- Complainant has served this Complaint by email and first-class mail on counsel for the Respondent as follows:

Vincent P. Duane, Esq.
General Counsel
PJM Interconnection, LLC
955 Jefferson Avenue
Norristown, PA 19403
duanev@pjm.com

Barry S. Spector, Esq.
Wright & Talisman, P.C.
1200 G Street, N.W.
Suite 600
Washington, D.C. 20005
spector@wrightlaw.com

VII.

CONCLUSION

WHEREFORE, for the foregoing reasons, H-P Energy Resources LLC respectfully requests that the Commission grant this Complaint and order PJM to cease and desist from violating its rules, the FPA, and Commission precedent thereunder, determine the Incremental Import Capability values for Projects S119 and S120, and allow these projects to participate in the Base Residual Auction for the 2009-2010 Delivery Year.

Respectfully submitted,

H-P ENERGY RESOURCES LLC

By /s/ Jon L. Brunenkant
Jon L. Brunenkant
Joelle K. Ogg
Brunenkant & Cross, LLP
805 15th Street, N.W., Suite 1101
Washington, D.C. 20005
202-408-0700
brunenkant@bc-law.net
ogg@bc-law.net

Its Attorneys

August 20, 2007

CERTIFICATE OF SERVICE

I hereby certify that this 20th day of August, 2007, I served a copy of this
Complaint with all appendices hereto upon counsel for PJM Interconnection, LLC.

/s/ Jon L. Brunenkant
Jon L. Brunenkant
Brunenkant & Cross, LLP
805 15th Street, N.W., Suite 1101
Washington, D.C. 20005
202-408-0700
brunenkant@bc-law.net

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

H-P Energy Resources LLC,
Complainant

v.

Docket No. EL07-____-000

PJM Interconnection, LLC,
Respondent

NOTICE OF COMPLAINT
REQUESTING FAST TRACK PROCESSING

(August __, 2007)

Take notice that on August 20, 2007, H-P Energy Resources LLC (H-P), pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824(e) and 825(e), and sections 206 and 212 of the Commission's Rules of Practice and Procedures, 18 CFR §§ 385.206 and 385.212, filed a complaint requesting a shortened answer period and fast track processing against PJM Interconnection, LLC (PJM) alleging that, in contravention of the Federal Power Act and the rules and policies governing the Reliability Pricing Model, PJM has failed to identify on a timely basis the Incremental Import Capability for merchant transmission projects S119 and S120 (upgrades of the Lexington-Dooms and Bristers-Ox 500 kv circuits).

H-P certifies that a copy of the complaint has been served on PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time _____, 2006

Kimberly D. Bose
Secretary

APPENDIX A



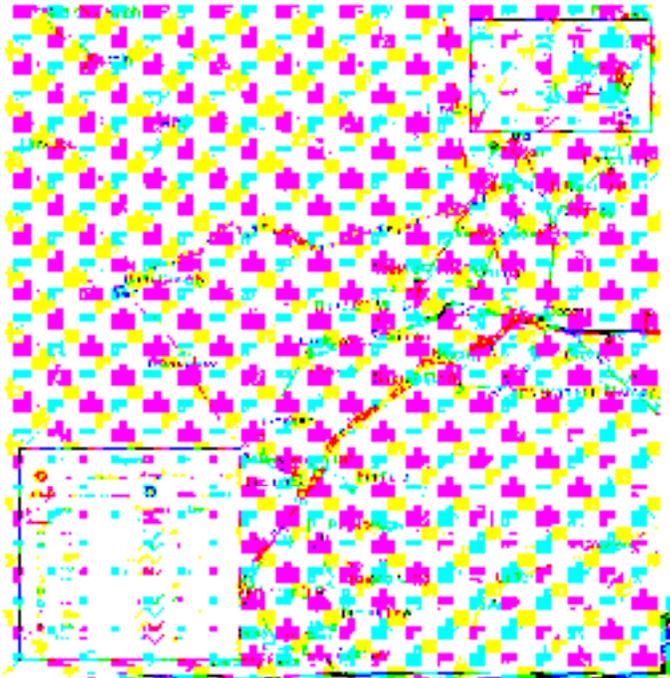
Dominion Transmission Zone

- **Mid-Atlantic Load Deliverability**

- Doms – Lexington 500 kV line overloads for the loss of Bath County – Valley 500 kV

- **Solution**

- Replace the wave traps at both Lexington and Doms
- Expected in-service date: 5/1/12
- Estimated cost: \$0.3 million



APPENDIX B

5. Could you provide a list of facilities for which "mean CEFO cost = 90% of rating and their loading distribution in the 10,000 generation outage scenario" from CEFL study for all LDAs and all three planning years?"

Answer: This would be an overwhelming amount of information. The list below is a subset of this information, namely the limiting facilities for each constrained area for all three planning years:

2007-08

EMAAC

Barnsbury - Flagtown 250 kV line

Postdam - Carleton 250 kV line

SWTCAAC

Brighton 500 250 kV transformer

Doubt - Aqua Duct 230 kV line

2008-09

EMAAC

Voltage drop problem in the northern MCP area

SWTCAAC

Brighton 500 250 kV transformer

Doubt - Aqua Duct 230 kV line

Station H - Aqua Duct 230 kV line

Doubt - Station H 250 kV line

Conestoga 500 250 kV transformer

Barnsbury H&H 500 250 kV transformer

2009-10

EMAAC-APR

Barnsbury - Cox 250 kV line

Mc Storm - Doubt 250 kV line

EMAAC

Gilbert - Gen Gardner 250 kV line

SWTCAAC

Doubt 500 250 kV transformer

Barnsbury H&H 500 250 kV transformer

Conestoga - Northwest 230 kV line

APPENDIX C

CORRECTION IN THE COMMUNICATION SENT ON JULY 19:

[Pjm-mc] Communication to Members re: Upcoming RPM Deadlines for 2009/2010 Delivery Year:

Dear Members,

PJM requests Market Participants that want to offer a Planned Generation Resource or Qualifying Transmission Upgrade (QTU) in the 2009/2010 Base Residual Auction to provide advance notification of their intent to offer. The purpose of the advance notification is to provide PJM with enough time to process and execute an Impact Study Agreement for a Planned Generation Resource or ~~an Upgrade Construction Agreement (UCSA)~~ a Facilities Study Agreement for a QTU by the established deadline. There are no adverse consequences to the Market Participant if they provide us with advance notification of their intent to offer a Planned Generation Resource or QTU in the 2009/2010 Base Residual Auction and the Market Participant does not actually offer the Planned Generation Resource or QTU in the 2009/2010 Base Residual Auction.

Market Participants that want to offer a Planned Generation Resource or Qualifying Transmission Upgrade (QTU) in the 2009/2010 Base Residual Auction (scheduled to open on October 1, 2007) must provide PJM with advance notification of their intent to offer into the 2009/2010 Base Residual Auction by August 17, 2007. Advance notification will enable PJM to process the Impact Study Agreement for the Planned Generation Resource or ~~an Upgrade Construction Service Agreement (UCSA)~~ a Facilities Study Agreement for a QTU prior to the opening of the 2009/2010 Base Residual Auction bidding window. Advance notification must be sent to rpm_hotline@pjm.com.

The Planned Generation Resource or QTU must be in a queue that precedes the T queue in order for PJM to proceed with approving the Planned Generation Resource or QTU for participation in the 2009/2010 Base Residual Auction. Planned Generation that is 20 MW or less may request an exemption from this requirement. Such requests may be granted at the Transmission Provider's discretion.

An Impact Study Agreement for a Planned Generation Resource and ~~an executed UCSA~~ a Facilities Study Agreement for a QTU must be received by PJM no later than September 26, 2007 in order for PJM to proceed with approving the Planned Generation Resource or QTU for participation in the 2009/2010 Base Residual Auction.

By August 17, 2007, PJM will certify Incremental Capacity Transfer Rights (ICTRs) for those network transmission upgrades (or advancements of network transmission upgrade) that requested Incremental ICTRs to be effective June 1, 2009. An executed UCSA for the network transmission upgrade must be received by PJM no later than August 29, 2007 in order for the network transmission upgrade to be eligible to receive Incremental CTRs effective June 1, 2009.

APPENDIX D

-----Original Message-----

From: Bob Patrylo [<mailto:rpatrylo@comcast.net>]

Sent: Thursday, August 09, 2007 10:55 AM

To: Egan, David M.

Cc: Elmy, Alan

Subject: Projects S119 and S120

Dave,

Thanks for hosting the kick-off meeting this morning for Projects S119 and S120. I thought I'd try to summarize our discussion while it was still fresh in my mind.

1. On August 1, 2007, we asked that these two projects (as well as two other projects) be offered into the BRA for Delivery Year 2009/2010, consistent with PJM's July 19 and July 25, 2007 emails. It is our belief that the upgrades will not affect impedance on the circuits. In the past (refer to Projects M05, R12, R90, S15 and S16) PJM used the Feasibility Study Agreement as the basis to complete a combined Feasibility Study/System Impact Study. Facilities Studies were not required, therefore signed Feasibility Study Agreements are all that are needed at this time to meet the QTU requirements.

2. The critical timeline for S120 (Bristers-Ox) is a determination by Dominion of the limiting equipment on the circuit and the increases in ratings attributed to the upgrade(s). For S119 (Lexington-Dooms) it is the determination of the ratings increase attributed to the wave trap replacements. Once these are determined, PJM needs to calculate the incremental import capability (ICTRs) for each QTU by August 17, 2007 to allow a mw quantity to be included in the BRA.

3. We believe there is no need for completed Feasibility/System Impact Studies and associated UCSAs prior to August 17, which is also consistent with the emails referred to in paragraph 1 above. These can be completed and executed later.

I trust this accurately reflects our discussion. Give me a call if you have any questions.

Regards,

Bob

Robert J. Patrylo
H-P Energy Resources LLC
215-836-9787
215-836-0973 fax
rpatrylo@comcast.net

APPENDIX E

-----Original Message-----

From: egand@pjm.com [mailto:egand@pjm.com]

Sent: Friday, August 10, 2007 5:19 PM

To: rpatrylo@comcast.net

Cc: schwed@pjm.com; duranj@pjm.com; hugeej@pjm.com; mallab@pjm.com; hermam@pjm.com; osmanm@pjm.com; John.Loftis@dom.com; Peter.Nedwick@dom.com; Harold.Payne@dom.com; Ken.Fugett@dom.com; elmya@pjm.com; herling@pjm.com; mcglyp@pjm.com; kernjon@pjm.com

Subject: S119 & S120 Kick-off Meeting Items

Bob,

Thank you for participating in the kick-off meeting on August 9, 2007 and providing your email summary (below). The following is a list of the people that participated in the kick-off meeting: David Egan - PJM EganD@pjm.com; Brinda Malladi - PJM; Mike Herman - PJM; Mohamed Osman - PJM; David Schweizer - PJM; John Loftis - Dominion Transmission John.Loftis@Dom.com; Peter Nedwick - Dominion Transmission; Harold Payne - Dominion Transmission Contracts; Ken Fugett - Dominion Transmission Contracts; Bob Patrylo - H-P Energy Resources LLC rpatrylo@comcast.net.

I concur with you that no Agreements are required for the BRA advance notification date of August 17, 2007. However, per the July 25 PJM communication to members that you cited in the kick-off meeting, "An Impact Study Agreement for a Planned Generation Resource and a Facilities Study Agreement for a QTU must be received by PJM no later than September 26, 2007 in order for PJM to proceed with approving the Planned Generation Resource or QTU for participation in the 2009/2010 Base Residual Auction." The Facilities Study Agreement requirement for a QTU identified in the July 25 PJM communication is consistent with the tariff language from Attachment DD §5.6.4. A prerequisite for a Facilities Study Agreement is a completed System Impact Study. Even if a Facilities Study is not required, it does not negate the need for a completed System Impact Study to participate.

On August 1 and at the kick-off meeting, you requested incremental import capability be determined for your projects. Whether you are offering ICTRs or QTU capability into the BRA, PJM must calculate a project's incremental import capability. PJM RPM Business Rules 396 & 398 request 90 days advanced notice prior to the BRA for determination of ICTRs (see attached document). While not specifically identified in the RPM Business Rules, because the same calculation is necessary, the same time requirement is needed for QTU incremental import capability determinations. Also, PJM is evaluating project requests with queue priority ahead of yours. As a result of the insufficient request time and your queue position, we are unable to provide your incremental import capability determination by your requested date of August 17, 2007.

PJM will continue to provide Reasonable Efforts (PJM OATT §1.36C) to complete the System Impact Study. If you have any questions or comments on this email, please contact me.

Sincerely,

David M. Egan

PJM Interconnection Planning

(610) 666-3156 w

(609) 280-1498 c

(610) 666-4779 f

EganD@pjm.com

APPENDIX F

-----Original Message-----

From: Bob Patrylo [mailto:rpatrylo@comcast.net]

Sent: Wednesday, August 01, 2007 9:50 AM

To: RPM HOTLINE PJM

Cc: Al Elmy

Subject: Re: BRA Delivery Year 2009-2010 - Notice of Intent to Offer Qualifying Transmission Upgrades and Request for Incremental Import Capability Determinations

Dear PJM:

Pursuant to the July 19, 2007 and July 25, 2007 emails, "Upcoming RPM Deadlines for the 2009/2010 Delivery Year," PJM is notified of our non-binding intent to offer the following Qualifying Transmission Upgrades into the Base Residual Auction for Delivery Year 2009-2010, and is requested to determine the respective incremental import capability (aka Incremental Capacity Transfer Rights) into potentially constrained Locational Deliverability Areas (LDAs):

1. Project S__ - Bristers-Ox 500 kv - submitted July 31, 2007. This project upgrades the limiting equipment on this circuit, which PJM has identified as one of two limiting facilities into the MAAC+APS LDA for Delivery Year 2009-2010.
2. Project S__ - Lexington-Dooms 500 kv - submitted July 31, 2007. This project advances wavetrapp replacement (baseline upgrade b0457) from June 1, 2012, to June 1, 2009.
3. Project R12 - Bedington-Nipetown 138 kv. PJM determined zero Incremental Capacity Transfer Rights for this project for Delivery Year 2008-2009 in a letter and email dated May 11, 2007. PJM is requested to make a determination for Delivery Year 2009-2010.
4. Project S16 - Gilbert-Glen Gardner 230 kv. PJM determined Incremental Capacity Transfer Rights of 197 MW into the Eastern MAAC LDA for this Delivery Year in an email dated May 23, 2007. We are notifying PJM of intent to offer this QTU into the auction.

Please let me know of any questions regarding the above. Thank you for your consideration.

Bob

Robert J. Patrylo
H-P Energy Resources LLC
215-836-9787
215-836-0973 fax
rpatrylo@comcast.net

APPENDIX G

-----Original Message-----

From: Bob Patrylo [mailto:rpatrylo@comcast.net]

Sent: Sunday, August 12, 2007 5:55 AM

To: egand@pjm.com

Cc: Andy Ott; Stu Bresler; kernjon@pjm.com; mcglyp@pjm.com; herling@pjm.com; elmya@pjm.com; osmanm@pjm.com; hermam@pjm.com; mallab@pjm.com; hugeej@pjm.com; duranj@pjm.com; schwed@pjm.com; Vince Duane

Subject: RE: S119 & S120 Kick-off Meeting Items

David and Group,

Regarding your email of August 10, 2007, I am disappointed that PJM is refusing to determine incremental import capability values on August 17, 2007.

The PJM email to stakeholders on July 25, 2007, specifically said that a QTU seeking such a determination needed to be in the S queue. Projects S119 and S120 are in the S queue.

Regarding PJM's justification for refusing to provide such determinations, the cited PJM business rules do not apply to import capability determinations -- only to ICTR certification requests. PJM should not unilaterally take one rule (itself under question as an unsupported change in the previously posted business rule) and apply it in another context, particularly when to do so is to retroactively change communications that stakeholders have relied on and to retroactively disqualify QTUs that have followed all known rules and requirements.

Regarding PJM's claim to assert 90 days by analogy to ICTR certification requests, the analogy cannot be correct because it would effectively eliminate all merchant transmission from the RPM construct. PJM posts "steady state" planning period parameters approximately 90 days before the start of the auction (February 1 versus approximately May 1). Market participants must know the planning period parameters (CETLs, CETOs, VRR curves, planned upgrades, etc.) in order to identify potentially viable QTUs. If PJM's 90 day proposal were adopted for QTUs, then market participants would have to propose QTUs at about the same time PJM releases the planning period parameters -- an obvious impossibility. Thus, PJM is effectively proposing to eliminate merchant transmission from the RPM construct -- contrary to the RPM rules and the Commission's expectation that merchant transmission be able to meaningfully participate in RPM.

I also do not understand why PJM would not be able to provide these determinations. The model is known. The proposed projects are very simple. PJM has allowed zero import capability for QTUs (and zero ICTRs) in the two auctions thus far, so there is not likely to be an overwhelming number of such requests.

I am copying this email to Vince Duane, Andy Ott and Stu Bresler because it involves RPM market rules and the ability of merchant transmission to participate in RPM.

Because of the urgency of this matter, and the potential additional cost burden on consumers if PJM adheres to its position (we estimate this at \$234,000,000 in the upcoming auction -- the actual amount could be much higher), we would appreciate a response by end of business on Monday, August 13. If a favorable response is not received we will need to ask FERC to decide this matter as soon as possible thereafter.

Dave - I'll give you a call Monday afternoon.

Best regards,

Bob

APPENDIX H

-----Original Message-----

From: duranj@pjm.com [mailto:duranj@pjm.com]

Sent: Tuesday, August 14, 2007 3:44 PM

To: rpatrylo@comcast.net; egand@pjm.com

Cc: ott@pjm.com; Bresler@pjm.com; kernjon@pjm.com; mcglyp@pjm.com; herling@pjm.com; elmya@pjm.com; osmanm@pjm.com; hermam@pjm.com; mallab@pjm.com; hugeej@pjm.com; schwed@pjm.com; duanev@pjm.com

Subject: RE: S119 & S120 Kick-off Meeting Items

Mr. Patrylo,

We have reviewed your request and we understand your concerns. Unfortunately, we cannot provide the information you require in the time frame requested, due to the queue position of the projects. We are available to meet with you and further discuss this matter at your convenience.

Thank you,

Janine Durand, Senior Counsel
PJM Interconnection, LLC
Tel. 610-666-4485

APPENDIX I



Generation Interconnection Request Queues

Queue	Queue Date	PJM Substation	MW	MWC	Status	Feas	Imp	Fac	ISA	CSA	St	In Service	Fuel
S50	05/24/2007	Occoquan 230kV	18	18							VA	2007 Q2	
S52	05/29/2007	Morrisville 500kV	600	600							VA	2010 Q2	
S54	06/05/2007	Tazewell 138kV	130	130							VA	2009 Q4	
S77	07/31/2007	Clover 230kV	16	16							VA	2011 Q4	
S78	07/31/2007	Clover 230kV	19	19							VA	2012 Q2	
S79	07/31/2007	Chesterfield 230kV	27	27							VA	2011 Q2	
S80	07/31/2007	Chesterfield 230kV	20	20							VA	2010 Q4	
S81	07/31/2007	Basin 230kV	45	45							VA	2010 Q2	
S82	07/31/2007	Surry 230kV	20	20							VA	2009 Q2	
S83	07/31/2007	Surry 230kV	20	20							VA	2009 Q2	
S84	07/31/2007	Surry 230kV	20	20							VA	2009 Q2	
S85	07/31/2007	Surry 230kV	20	20							VA	2009 Q2	
S86	07/31/2007	Darbytown 230kv	20	20							VA	2009 Q2	
S87	07/31/2007	Darbytown 230kV	20	20							VA	2009 Q2	
S88	07/31/2007	Darbytown 230kV	20	20							VA	2009 Q2	
S89	07/31/2007	Darbytown 230kV	20	20							VA	2009 Q2	
S90	07/31/2007	Elizabeth River 230kV	20	20							VA	2009 Q2	
S91	07/31/2007	Elizabeth River 230kV	20	20							VA	2009 Q2	
S92	07/31/2007	Elizabeth River 230kV	20	20							VA	2009 Q2	
S93	07/31/2007	Remington 230kV	15	15							VA	2009 Q2	
S94	07/31/2007	Remington 230kV	15	15							VA	2009 Q2	
S95	07/31/2007	Remington 230kV	15	15							VA	2009 Q2	

S96	07/31/2007	Remington 230kV	15	15			VA	2009 Q2	
S97	07/31/2007	South Anna 230kV	20	20			VA	2013 Q2	
S98	07/31/2007	South Anna 230kV	20	20			VA	2013 Q2	
S99	07/31/2007	Possum Point 230kV	20	20			VA	2013 Q2	
S100	07/31/2007	Clinch River 198kV	80	80			VA	2012 Q1	
S102	07/31/2007	Ladysmith 230kV	170	170			VA	2009 Q2	
S108	07/31/2007	North Anna 500kV	20	20			VA	2010 Q2	
S109	07/31/2007	North Anna 500kV	20	20			VA	2010 Q2	
S110	07/31/2007	North Anna 500kV	65	65			VA	2010 Q2	
S111	07/31/2007	Surry 500kV	15	15			VA	2010 Q4	
S112	07/31/2007	North Anna 500kV	65	65			VA	2012 Q2	
S113	07/31/2007	Surry 230kV	15	15			VA	2010 Q4	
S114	07/31/2007	Surry 230kV	75	75			VA	2010 Q4	
S115	07/31/2007	Surry 230kV	75	75			VA	2011 Q2	

Submission Contents

COMPLAINT OF
H-P ENERGY RESOURCES LLC
REQUESTING A SHORTENED ANSWER PERIOD
AND FAST TRACK PROCESSING

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