

171 FERC ¶ 61,025
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Radford's Run Wind Farm, LLC
v.
PJM Interconnection, L.L.C.

Docket No. EL18-183-000

ORDER ON PAPER HEARING AND REQUIRING A COMPLIANCE FILING

(Issued April 16, 2020)

1. On June 26, 2018, pursuant to §§ 206, 306, and 309 of the Federal Power Act (FPA)¹ and Rule 206 of the Rules of Practice and Procedure,² Radford's Run Wind Farm, LLC (Radford) submitted a complaint (Complaint) against PJM Interconnection, L.L.C. (PJM), stating that PJM did not determine or certify Incremental Capacity Transfer Rights (ICTR) as a result of the System Impact Study for its interconnection request.
2. On November 15, 2018, the Commission issued an order granting the Complaint,³ in part, and establishing paper hearing procedures to assess whether a Customer-Funded

¹ 16 U.S.C. §§ 824e, 825e, 825h (2018).

² 18 C.F.R. § 385.206 (2019).

³ *Radford's Run Wind Farm, LLC v. PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,121 (2018) (November 2018 Order) (finding that PJM should have determined any ICTRs available to Radford that result from the increased CETL from its Customer-Funded Upgrade in performing the System Impact Study).

Upgrade made by Radford increased the Capacity Emergency Transfer Limit (CETL) of a Locational Deliverability Area⁴ and, thus, should have been eligible for ICTRs.⁵

3. In this order, we find that the PJM Tariff required PJM to use the information available to PJM at the time it completed the System Impact Study for Radford's interconnection request when it evaluated the Radford Upgrade for ICTRs, based on the project's 47 megavolt amperes (MVA) increase in the rating of the Loretto-Wilton Center 345 kV line,⁶ and that PJM provides no citation to a PJM Tariff provision that would enable PJM, in determining the ICTRs, to use data that did not exist at the time of the System Impact Study. Therefore, we require PJM to make a compliance filing within 60 days of the date of this order detailing its determination on ICTRs for the Radford Upgrade using the information available to PJM at the time it completed the System Impact Study.

I. Background

4. The PJM Open Access Transmission Tariff (OATT or Tariff) defines an ICTR as "a Capacity Transfer Right allocated to a Generation Interconnection Customer or Transmission Interconnection Customer obligated to fund a transmission facility or

⁴ A Locational Deliverability Area is defined as a geographic area within the PJM Region that has limited transmission capability to import capacity to satisfy such area's reliability requirement, as determined by PJM in connection with preparation of the Regional Transmission Expansion Plan and as specified in Reliability Assurance Agreement, Schedule 10.1. PJM Intra-PJM Tariffs, L-M-N, OATT Definitions – L – M - N, 21.1.0 (Locational Deliverability Area).

⁵ Customer-Funded Upgrade is defined as "any Network Upgrade, Local Upgrade, or Merchant Network Upgrade for which cost responsibility (i) is imposed on an Interconnection Customer or an Eligible Customer pursuant to Tariff, Part VI, section 217, or (ii) is voluntarily undertaken by a New Service Customer in fulfillment of an Upgrade Request. No Network Upgrade, Local Upgrade or Merchant Network Upgrade or other transmission expansion or enhancement shall be a Customer-Funded Upgrade if and to the extent that the costs thereof are included in the rate base of a public utility on which a regulated return is earned." PJM Intra-PJM Tariffs, OATT, Definitions - C-D (Customer-Funded Upgrade). CETL shall mean the capability of the transmission system to support deliveries of electric energy to a given area experiencing a localized capacity emergency as determined in accordance with the PJM Manuals. PJM Intra-PJM Tariffs, RAA Article 1, RAA Article 1 -- Definitions, 29.0.0.

⁶ Line ratings are expressed in MVA because conductor ratings are based on current carrying capability. ICTRs are expressed in megawatts (MW) because the capacity market measures real power capability.

upgrade, to the extent such upgrade or facility increases the transmission import capability into a Locational Deliverability Area, or a Capacity Transfer Right allocated to a Responsible Customer in accordance with Tariff, Schedule 12A.”⁷ ICTRs are allocated to a New Service Customer⁸ obligated to fund a transmission facility or upgrade through a rate or charge specific to such transmission facility or upgrade, to the extent such transmission facility or upgrade increases the transmission import capability into a Locational Deliverability Area.⁹

5. If a Base Residual Auction results in a positive locational price adder with respect to a Locational Deliverability Area, holders of an ICTR into that Locational Deliverability Area receive a payment equal to the average weighted locational price adder multiplied by the megawatt amount of ICTRs allocated to the holder.¹⁰

6. Incremental Capacity Transfer Rights received by a New Service Customer shall be effective for 30 years from, as applicable, commencement of Interconnection Service, Transmission Service, or Network Service for the affected New Service Customer or the life of the pertinent facility or upgrade, whichever is shorter, subject to any

⁷ PJM Intra-PJM Tariffs, I-J-K, OATT Definitions – I – J - K, 9.0.0 (Incremental Capacity Transfer Right). A Capacity Transfer Right is defined as “a right, allocated to a [Load Serving Entity] serving load in a Locational Deliverability Area, to receive payments, based on the transmission import capability into such Locational Deliverability Area, that offset, in whole or in part, the charges attributable to the Locational Price Adder, if any, included in the Zonal Capacity Price calculated for a Locational Delivery Area.” PJM Intra-PJM Tariffs, C-D, OATT Definitions – C-D, 18.1.0 (Capacity Transfer Right).

⁸ New Service Customers are defined as “all customers that submit an Interconnection Request, a Completed Application, or an Upgrade Request that is pending in the New Services Queue.” See PJM Intra-PJM Tariffs, I-J-K, OATT Definitions – I – J - K, 9.0.0.

⁹ PJM Intra-PJM Tariffs, OATT, Attachment DD § 5.16 (a). Network Upgrades are defined as modifications or additions to transmission-related facilities that are integrated with and support the Transmission Provider’s overall Transmission System for the general benefit of all users of such Transmission System. PJM Intra-PJM Tariffs, L-M-N, OATT Definitions – L – M - N, 21.1.0 (Network Upgrades).

¹⁰ PJM Intra-PJM Tariffs, OATT ATT DD.5.16, OATT ATTACHMENT DD.5.16 Incremental Capacity Transfer Rights, 2.1, § 5.16 (b) (Incremental Capacity Transfer Rights).

subsequent *pro-rata* reallocations of all Capacity Transfer Rights (including Incremental Capacity Transfer Rights) in accordance with the PJM Manuals.¹¹

II. Radford Complaint

7. On June 26, 2018, Radford filed a complaint contending that PJM failed to follow the provisions of its Tariff regarding the determination and certification of ICTRs for its transmission project.¹² Radford contended that PJM was obligated under the Tariff to include an ICTR determination with the System Impact Study performed as a result of its interconnection request.¹³ Specifically, Radford argued that Section 234.1 of the Tariff states that a New Service Customer that reimburses the transmission provider or undertakes responsibility for constructing upgrades “*shall be entitled to receive any Incremental Capacity Transfer Rights associated with such required facilities and upgrades...*”¹⁴ Radford further stated that PJM “*shall determine the increase in Capacity Emergency Transfer Limit resulting from the interconnection or addition of . . . a Customer-Funded Upgrade in the System Impact Study for the related New Service Request.*”¹⁵ Radford argued that ICTRs should have been determined with respect to modeling assumptions for its required Customer Funded Upgrade as a result of the System Impact Study for its interconnection request.

8. In its Complaint, Radford stated that, in December 2015, PJM provided a System Impact Study and identified the need for Radford to mitigate the overload on the Loretto-Wilton Center 345 kV line (Radford Upgrade).¹⁶ In July 2016, Radford, ComEd, and PJM

¹¹ PJM Intra-PJM Tariffs, OATT, 234.4, OATT 234.4 Duration of Incremental Capacity Transfer Rights, 0.0.0 (Duration of Incremental Capacity Transfer Rights).

¹² Radford owns and operates a 306 MW wind facility located in Chestnut, Illinois, interconnected to the Commonwealth Edison (ComEd) transmission system within the PJM region.

¹³ With its Complaint, Radford included an affidavit of Thomas M. Piasick (Piasick Affidavit).

¹⁴ Complaint at 3 (emphasis added).

¹⁵ *Id.* (emphasis added).

¹⁶ *Id.* at 6. Radford explained that the rating for the Loretto-Wilton Center 345 kV line had to be raised by at least 41.5 MVA to relieve the overload attributed to the project. The Radford Upgrade consisted of raising two towers on the Loretto-Wilton Center 345 kV line and increased the emergency rating of the Loretto-Wilton Center 345 kV line by 47 MVA from 1280 MVA to 1327 MVA. *Id.*

executed an Interconnection Service Agreement (ISA) that required the funding of the Radford Upgrade.¹⁷ During 2015, PJM also evaluated and approved a Long Term Market Efficiency Project to address congestion on the Loretta-Wilton Center 345 kV line that it awarded to ComEd.¹⁸

9. Radford contended that, for the ComEd Locational Deliverability Area, the Loretto-Wilton Center 345 kV line was the limiting facility¹⁹ and that, with the Radford Upgrade, the Loretto-Wilton Center 345 kV line was no longer the limiting factor. As a result, Radford argued that the Radford Upgrade should be entitled to ICTRs.

III. Commission Order

10. On November 15, 2018, the Commission issued an order granting the complaint, in part.²⁰ In particular, the Commission found that, based on Sections 234.1 and 234.2 of the Tariff, “PJM should have determined any ICTRs available to Radford that result from the increased CETL from its Customer-Funded Upgrade in performing the System Impact Study.”²¹ The Commission also stated that it was unable to determine, based on the record, whether Radford should have been allocated ICTRs had PJM followed its Tariff and found that additional information was necessary. The Commission established paper hearing procedures to assess whether the Radford Upgrade should have resulted in any ICTRs.²²

IV. Responses to Paper Hearing Procedures

11. Initial and reply comments were filed by both Radford and PJM.²³ In addition, motions to file answers and answers were filed by PJM on March 5, 2019 and by Radford on March 14, 2019.

¹⁷ *Id.*

¹⁸ Radford stated that PJM determined that the ComEd Market Efficiency Project passed the market efficiency test by adding in the capacity benefit resulting from the August 2015 Base Residual Auction for the 2018/2019 Delivery Year. *Id.* at 8-9.

¹⁹ *Id.*

²⁰ November 2018 Order, 165 FERC ¶ 61,121 at P 23.

²¹ *Id.* P 25.

²² *Id.* P 28.

²³ With its initial comments, PJM included an affidavit by Steven Herling (Herling Affidavit).

12. PJM explains that, while the Radford Upgrade was identified in a final System Impact Study that was completed in December 2015, only later in January 2016, did PJM develop the planning model used to define the planning parameters, including CETL values, for the May 2016 Base Residual Auction for the 2019/2020 Delivery Year.²⁴ PJM contends that the best information for ICTRs, a long-term forward commitment, should also be forward looking. PJM asserts that there is no basis for requiring PJM to look backwards (e.g., prior to December 2015) and rely on planning models and CETL values used in auctions before the Radford Upgrade was identified to calculate the ICTRs made available by that upgrade. PJM argues that the ICTRs, which will be in effect for up to 30 years, should instead be determined based on conditions that are as close in time as reasonably possible to the period when the ICTRs will be in effect (i.e., January 2016).²⁵

13. PJM explains that, had it made an ICTR determination in the System Impact Study in December 2015, the need to calculate the ICTRs using the latest CETL information would have required PJM to either (1) issue the System Impact Study in January 2016 or (2) issue a System Impact Study in December 2015 with an explicit placeholder for the ICTR calculation to be provided when the 2019/2020 Base Residual Auction Planning Model became available.²⁶

14. PJM maintains that the Radford Upgrade does not increase CETL to the ComEd Locational Delivery Area and is therefore not entitled to ICTRs. PJM states that the method PJM employed to make this determination was the same as that used to determine the planning parameters for the 2016 Base Residual Auction, including the CETL values for the ComEd Locational Delivery Area. PJM explains that both voltage and thermal analyses are conducted to determine the CETL into a Locational Delivery Area, and the lower of those calculations, whichever is more limiting, sets the CETL for the Locational Delivery Area for the Delivery Year applicable to the Base Residual Auction.²⁷

15. PJM explains that the Radford Upgrade and the ComEd Market Efficiency Project are both upgrades that address thermal overloads on the Loretto-Wilton 345 kV line. PJM states that, when it calculated the CETL for the 2016 Base Residual Auction, a thermal rating increase, whether it was provided by the Radford Upgrade or the ComEd Market Efficiency Project, did not increase the CETL for the ComEd Locational Deliverability

²⁴ PJM Initial Comments at 4.

²⁵ *Id.* at 4-5.

²⁶ *Id.* at 6.

²⁷ *Id.*

Area because a voltage collapse concern on the Dumont-Wilton 765 kV line was more constraining.²⁸

16. In response, Radford repeats arguments from its Complaint that the Radford Upgrade had a priority position over the ComEd Market Efficiency Project in the transmission queue. Radford states that the Radford Upgrade would have been part of the ComEd Market Efficiency Project if the Radford Upgrade had not already been entirely allocated to and funded by Radford.²⁹ Radford argues that PJM identified the Loretto-Wilton Center 345 kV line as the most limiting facility for the ComEd Locational Delivery Area for the Base Residual Auction conducted in August 2015 for the 2018/2019 Delivery Years.³⁰ Radford maintains that the base case for the 2015 Base Residual Auction was the only one that existed at the time of the 2015 System Impact Study, and had PJM used that base case for the determination of ICTRs for the 2015 System Impact Study, Radford would be entitled to 279 MWs of ICTRs. Radford based its determination of ICTRs on the increase in CETL of the Loretto-Wilton Center 345 kV line created by the ComEd Market Efficiency Project. Radford states that, because the Interconnection Construction Service Agreement was not executed until July 2016, Radford would be entitled to certification of the ICTRs with respect to the forward-looking 2020/2021 Delivery Year.³¹

²⁸ *Id.* at 7. PJM explains that the thermal rating on the Loretto-Wilton Center 345 kV line is 1,280 MVA without the ComEd Market Efficiency Project and Radford Upgrade, and, at that rating, the thermal analysis calculates CETL for capacity deliveries into the ComEd Locational Delivery Area as 5,199 MW. PJM states that, because the CETL identified by the thermal analysis is higher than the CETL of 5,160 MW identified in the voltage analysis, the voltage analysis was the limiting factor. As a result, the rating increase on the Loretto-Wilton Center 345 kV line provided by either the Radford Upgrade or the ComEd Market Efficiency Project does not provide any increase to the ComEd Locational Delivery Area CETL. PJM Initial Comments, Herling Affidavit at 6.

²⁹ Radford Initial Comments at 5-6. Radford notes that the Radford Upgrade increased emergency rating of the Loretto-Wilton Center 345 kV line by 47 MVA from 1280 MVA to 1327 MVA, and that the ComEd Market Efficiency Project further increased the rating of the Loretto-Wilton Center 345 kV line to 1528 MVA.

³⁰ *Id.* at 6-7.

³¹ *Id.* at 8.

17. Radford contends that there are many instances in which PJM uses the most recently available model, not a future model to determine ICTRs.³² Radford argues that there is no authority in the PJM Tariff to allow PJM to either delay issuing a System Impact Study or provide for the use of a placeholder in the determination of ICTRs.³³ Radford further argues that PJM's support for using the 2016 Base Residual Auction study assumptions is nothing more than a post-hoc rationalization of its failure to award Radford ICTRs as a result of the 2015 System Impact Study.

18. Radford further contends that, if the CETL for the 2019/2020 Delivery Year is used to determine ICTRs, then the voltage-based limit in setting the ComEd CETL for the 2019/2020 Delivery Year should be recalculated,³⁴ and Radford should be awarded 101 MW of ICTRs into the ComEd Locational Deliverability Area, based on this recalculated voltage limitation.

19. PJM responds to Radford's contention by stating that the System Impact Studies cited by Radford are either not representative of generator interconnection studies or mistakenly reference ICTRs in the calculation of other interconnection rights, such as Incremental Auction Revenue Rights.³⁵ PJM acknowledges that in the three projects cited by Radford, i.e., Projects Z2-053, Z2-069, and Z2-072, PJM released three SIS reports on March 31, 2015 estimating the upgrades based on past data needed to support the requested IARRs. PJM issued revised SISs *on June 10, 2015* to estimate the ICTRs that would result from the estimated upgrades, based on the past conditions expected for the 2018/2019 Delivery Year.³⁶ PJM asserts that the System Impact Studies cited by Radford do not undermine PJM's point about looking to the "best information," which is closest in time to the System Impact Study.³⁷

20. PJM also answers that Radford's alternative calculation of the ComEd Locational Deliverability Area CETL for the 2019/2020 Delivery Year is unsupported and incorrect,

³² Radford Reply Comments at 2 (citing ICTRs for the 2018/2019 Delivery Year that were identified in June 2015 SIS for projects Z2-053, Z2-069, and Z2-072 using currently available modeling information).

³³ *Id.* at 7.

³⁴ Radford contends that the recalculated voltage limitation should be 5,320 MW rather than the 5,160 MW as calculated by PJM. *Id.* at 12-13.

³⁵ PJM Answer at 3-6.

³⁶ *Id.* at 6 (emphasis added).

³⁷ *Id.* at 7.

and Radford's analysis does not support the contention that its upgrade increased CETL for the ComEd Locational Delivery Area for the 2019/2020 Delivery Year.³⁸

21. Radford answers PJM's response, stating that the Base Residual Auction model is the one closest to the time a System Impact Study is issued is not supported by the Tariff.³⁹ Radford notes that while the ICTRs for projects Z2-053, Z2-069 and Z2-072 were identified in June 2015, the Base Residual Auction model was done in January 2015.⁴⁰

V. Discussion

A. Procedural Matters

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority.⁴¹ We accept the answers of PJM and Radford because they have provided information that assisted us in our decision-making process.

B. ICTR Determination

23. The PJM Tariff required PJM to make a determination on ICTRs "in the System Impact Study,"⁴² which, for the Radford Upgrade, occurred in December 2015. However, in its comments, PJM explains that it relied on its January 2016 planning model for the May 2016 Base Residual Auction to make a determination regarding whether Radford was entitled to any ICTRs. We find that, consistent with its Tariff, PJM should have used the information available to PJM at the time it completed the System Impact Study for Radford's interconnection request (i.e., in December 2015) to evaluate the Radford Upgrade for ICTRs, based on the project's 47 MVA increase in the rating of the Loretto-Wilton Center 345 kV line.

24. PJM contends that ICTRs are long-term, forward commitments, and for that reason PJM maintains the best information for that long-term forward commitment should also be forward looking. PJM then asserts that the best forward-looking information for the

³⁸ *Id.* at 8-11.

³⁹ Radford Answer at 3.

⁴⁰ *Id.*

⁴¹ 18 C.F.R. § 385.213(a)(2) (2019).

⁴² PJM Intra-PJM Tariffs, 234.2, OATT 234.2 Procedures for Assigning Incremental Capacity Tra, 0.0.0 (Procedures for Assigning Incremental Capacity Transfer Rights).

Radford Upgrade was the upcoming 2016 model year planning model.⁴³ The PJM Tariff, however, provides that PJM must determine the ICTRs “in the System Impact Study,”⁴⁴ and this was also the requirement in this Tariff provision at the time of the Radford Upgrade System Impact Study in December 2015. PJM provided the System Impact Study that identified the Loretto-Wilson line upgrade assigned to Radford in December 2015. PJM provides no citation to a Tariff provision that would enable PJM, in determining the ICTRs, to use data that did not exist at the time of the System Impact Study but that subsequently became available, nor does PJM cite a Tariff provision that would allow it to use a placeholder.⁴⁵

25. PJM suggests that, had it known it would have to study the assignment of ICTRs to Radford, it would have delayed the System Impact Study until January of the following year to obtain more accurate data. PJM, however, points to no Tariff provision that permits it to delay a System Impact Study to obtain later data for ICTRs. In order to provide certainty and predictability in the interconnection process,⁴⁶ the PJM Tariff at the time of

⁴³ Herling Affidavit at 4.

⁴⁴ At the time of the Radford Upgrade, § 234.2 of the PJM Tariff provided: “[t]he Office of the Interconnection shall determine the increase in Capacity Emergency Transfer Limit resulting from the interconnection or addition of Merchant Transmission Facilities or a Customer-Funded Upgrade in the System Impact Study for the related New Service Request.” PJM Intra-PJM Tariffs, OATT, § 234.2 Procedures for Assigning Incremental Capacity Tra, 1.0.0.

Subsequent to the Complaint, PJM revised § 234.2 of the PJM Tariff, providing: After execution of a Facilities Study Agreement but prior to the issuance of an Interconnection Service Agreement or Upgrade Construction Service Agreement, a New Service Customer may request the Office of the Interconnection to determine the Incremental Capacity Transfer Rights as measured by the increase in Capacity Emergency Transfer Limit resulting from the interconnection or addition of Merchant Transmission Facilities or a Customer-Funded Upgrade identified in the System Impact Study for the related New Service Request. PJM Intra-PJM Tariffs, 234.2, OATT 234.2 Procedures for Assigning Incremental Capacity Tra, 2.0.0.

⁴⁵ PJM concedes that “PJM completed that planning model in January 2016, and posted to the PJM website, on February 8, 2016, the planning parameters (including the latest updated CETL values) determined using that model. Herling Affidavit at 4.

⁴⁶ See *Neptune Reg'l Transmission Sys., LLC v. PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,455, at P 23 (2005) (“Allowing repeated re-studies for possible speculative events occurring after a project joins the queue unfairly delays the ability of projects to

the Radford System Impact Study required PJM to do such studies twice per year on defined dates and for those system impact studies to conclude within 120 days of commencement.⁴⁷ The Tariff makes no mention of delaying the study to use different data to assess ICTRs. Moreover, even if PJM were permitted under the Tariff to delay Radford's System Impact Study, PJM has not addressed what other impacts on the System Impact Study would have resulted from such a delay. While we appreciate PJM's desire to use the most up-to-date data for all its analyses, we find PJM's suggested use of later data inconsistent with the certainty and predictability required by the Tariff provisions addressing the timing of studies. For these reasons, we direct PJM to award any ICTRs that would have been assigned to Radford as of December 2015, as PJM would have done had PJM followed its Tariff and require PJM to make a compliance filing, within 60 days of the date of this order, detailing any ICTRs that would have been awarded to Radford at the time of the Radford Upgrade System Impact Study.

26. If PJM determines Radford is entitled to ICTRs, PJM must determine whether Radford would have been entitled to payment relating to the Base Residual Auctions held in 2016, 2017, and 2018. The 2016 Base Residual Auction provides for payment during the 2019/2020 Delivery Year, and thus payments associated with the 2016 Base Residual Auctions already have been made. The 2017 and 2018 Base Residual Auctions provide for payment during the 2020/2021 Delivery Year and 2021/2022 Delivery Year, respectively. PJM will be expected to include any Radford ICTRs as a result of the Radford Upgrade for certification in the Base Residual Auctions for the 2020/2021 and 2021/2022 Delivery Years. The compliance filing should include PJM's recalculation of ICTRs for the 2020/2021 and 2021/2022 Delivery Years.

27. With respect to the 2019/2020 Delivery Year, section 206(b) of the FPA provides that upon the filing of a complaint, the Commission must establish a refund effective date that is no earlier than the date of the complaint and no later than five months subsequent to the date of the complaint. However, when faced with a tariff violation, the Commission has discretion to exercise its authority to remedy the tariff violation by rebilling affected entities, so that they receive charges and payments that are correctly determined pursuant

receive financing and commence construction.”), *aff'd sub nom. Pub. Serv. Elec. & Gas Co. v. FERC*, 485 F.3d 1164 (D.C. Cir. 2006).

⁴⁷ PJM Interconnection, L.L.C./Intra-PJM Tariffs, OATT 205.3 Timing of Studies; 0.0.0 (“The Transmission Provider shall use due diligence to complete the System Impact Studies within 120 days of the date the study commences.”). If PJM was unable to complete the study within four months, the tariff required PJM to “provide an estimated completion date, along with an explanation of the reasons why additional time is needed to complete the study.” *Id.*

to the filed-rate.⁴⁸ The value of ICTRs is based on the quantity of ICTRs that have been awarded, and parties have no expectation during the interconnection review process that an upgrade resulting in the award of an ICTR will have value in subsequent capacity auctions. The value of any ICTR depends on whether in later capacity auctions the Locational Deliverability Area is constrained. In this case, we see no reason not to require PJM to apply its Tariff correctly and to rebill parties for their correct quantity of ICTRs. Accordingly, we will exercise our discretion and require PJM to resettle payments for ICTRs resulting from the 2016 Base Residual Auction with a 2019/2020 Delivery Year and to rebill affected entities for that period. Within 60 days of the date of this order, PJM must submit, as part of its compliance filing, a refund report showing the resettled amounts.

The Commission orders:

(A) PJM is hereby directed to make a determination on ICTRs for the Radford Upgrade based on the information available to PJM at the time of the System Impact Study in December 2015, as discussed in the body of this order.

(B) PJM is hereby directed to make a compliance filing within 60 days of the date of this order, as discussed in the body of this order. Such compliance filing must include PJM's recalculation of payments for the 2020/2021 and 2021/2022 Delivery Years and a refund report based on the quantity of ICTRs awarded to Radford for the 2019/2020 Delivery Year, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴⁸ See *Koch Gateway Pipeline Co. v. FERC*, 136 F.3d 810, 815 (D.C. Cir. 1998) (recognizing that the Commission may order recalculation of payments for a tariff violation, but that the Commission has discretionary authority as to whether to order those refunds); *Exelon Corp. v. PPL Elec. Utils. Corp.*, 111 FERC ¶ 61,065, at P 29 (2005) (permitting correction to billing where the tariff has not been correctly applied to ensure that the filed-rate applies), *reh'g denied*, 114 FERC ¶ 61,298 (2006) (citing *IDACORP Energy L.P. v. FERC*, 433 F.3d 879 (D.C. Cir. 2006)).