

171 FERC ¶ 61,208
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER20-1870-000

ORDER ON WAIVER REQUEST

(Issued June 15, 2020)

1. On May 20, 2020, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ PJM Interconnection, L.L.C. (PJM) submitted a request for a one-time waiver of the requirements of PJM Open Access Transmission Tariff (Tariff), Attachment DD, section 5.10(e), to allow PJM to use a revised updated PJM Region Peak Load Forecast for the Second Incremental Auction for the 2021/2022 delivery year, to reflect the impact of the unforeseeable economic consequences of the COVID-19 pandemic. As discussed below, we grant PJM's waiver request.

I. Background

2. Tariff, Attachment DD, section 5.10, lists the requirements by which PJM will clear each capacity market auction for a delivery year.² In relevant part, section 5.10 states:

The Office of the Interconnection shall clear each Base Residual Auction and Incremental Auction for a Delivery Year in accordance with the following:

- a) Variable Resource Requirement Curve
...
- b) Locational Requirements
...

¹ 18 C.F.R. § 385.207(a)(5) (2019).

² PJM, Intra-PJM Tariffs, OATT, Attach. DD.5.10 Auction Clearing Requirements (26.1.0), § 5.10.

- c) Resource Requirements and Constraints
...
- d) Preliminary PJM Region Peak Load Forecast for the Delivery Year
...
- e) Updated PJM Region Peak Load Forecasts for Incremental Auctions

The Office of the Interconnection shall establish the updated PJM Region Peak Load Forecast for a Delivery Year in accordance with the PJM Manuals by February 1, prior to the conduct of the First, Second, and Third Incremental Auction for such Delivery Year.

3. For the 2021/2022 delivery year, the Second Incremental Auction is scheduled to begin July 6, 2020.³

II. **Filing**

4. PJM states that it requests a one-time, prospective waiver of Tariff, Attachment DD, section 5.10(e), to allow it to use a revised updated PJM Region Peak Load Forecast for the upcoming 2021/2022 Second Incremental Auction.⁴ PJM states that the revisions are necessary to reflect a substantial change, due to the COVID-19 pandemic, in the economic forecast relied on by the peak load forecast.

5. PJM explains that it timely posted (before February 1, 2020) an updated PJM Region Peak Load Forecast for the 2021/2022 delivery year, and thus has complied with Tariff, Attachment DD, section 5.10(e).⁵ PJM states that the forecast, posted on PJM's

³ Following the Base Residual Auction for a delivery year three years in the future, PJM conducts Incremental Auctions for that delivery year to allow for replacement resource procurement as well as increases and decreases in resource commitments due to reliability requirement adjustments. Relevant to this proceeding, the Second Incremental Auction occurs in the July before the delivery year that starts the following June.

⁴ Transmittal at 1, 5, 10.

⁵ *Id.* at 2 (citing PJM Interconnection, L.L.C., *PJM Load Forecast Report* (Jan. 2020), <https://www.pjm.com/-/media/library/reports-notice/load-forecast/2020-load-report.ashx?la=en>).

website on December 30, 2019, included as an input an economic forecast released by Moody's Analytics in September 2019.⁶

6. PJM asserts that the requested waiver is required to ensure a more accurate load forecast given the major forecasted economic consequences of the COVID-19 pandemic and their impact on forecast PJM Regional load levels during the 2021/2022 delivery year.⁷ PJM explains that it received the updated economic forecast from Moody's Analytics in April 2020, initially calculated its impact on the updated PJM Region Peak Load Forecast, and presented this concern to stakeholders, many of whom encouraged PJM to seek necessary approvals to use the updated forecast.⁸ PJM states that the April report's forecast for third-quarter 2021 real gross domestic product is 7.1% lower than that assumed in PJM's current updated PJM Region Peak Load Forecast.⁹ PJM contends that this drop, along with the associated significant decrease in forecast peak load, is too large to ignore.¹⁰ PJM states that it is still refining its forecast revisions, but indications are that load reduction will be greater than one percent. PJM acknowledges that an auction parameter update close to an auction presents a risk of unsettling market participant expectations; however, PJM views that with the significant decrease in the forecast summer peak, without the revision PJM would conduct the upcoming Second Incremental Auction using a load forecast that is now significantly overstated.¹¹ PJM states that the waiver will permit use of an updated forecast "to align the auction parameters with currently expected conditions."¹²

7. PJM notes that on June 5, 2020, it will post a set of auction parameters based on the revised updated PJM Region Peak Load Forecast, indicating that those parameters are

⁶ *Id.* at 3-4 (citing PJM Interconnection, L.L.C., *Load Forecast Dev. Process*, <https://www.pjm.com/planning/resource-adequacy-planning/load-forecast-dev-process.aspx> (last visited by PJM on May 20, 2020) (showing the 2020 Load Forecast with a posting date of "12.30.19"))).

⁷ *Id.* at 1.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.* at 5-6.

¹² *Id.* at 5.

subject to the Commission's granting this waiver request.¹³ PJM requests that the Commission act on the waiver request by June 15, 2020, to provide clarity and certainty to market participants determining their bids and offers.¹⁴

8. In support of its waiver request, PJM states that the Commission has granted waiver requests in emergency or exigent circumstances, as well as to address inefficient market outcomes.¹⁵ PJM asserts further that its waiver request meets the Commission's criteria for granting waivers. First, PJM contends that it acted in good faith. PJM states that it complied with the posting requirements of Tariff, Attachment DD, section 5.10(e), on December 30, 2019, before the February 1, 2020 deadline. PJM asserts that therefore, it is filing this waiver request not out of necessity for compliance with its Tariff, but to respond proactively and prospectively to the unanticipated, rapid reduction in 2021 economic forecasting.¹⁶

9. Second, PJM contends that its waiver request is of limited scope.¹⁷ PJM states it seeks a one-time waiver to update the 2021 summer peak load forecasts for use in the July 2020 Second Incremental Auction for the 2021/2022 delivery year. PJM states that because it has already held the Base Residual Auction and First Incremental Auction for the 2021/2022 delivery year, capacity commitment levels, clearing prices, and zonal capacity prices are already largely set for that delivery year. Therefore, PJM contends, the updated forecast will primarily affect only those parties newly releasing or taking on capacity commitments in the Second Incremental Auction.

10. Third, PJM asserts that the waiver request addresses a concrete problem—the fact that the 2021 updated PJM Region Peak Load Forecast posted in December 2019 has changed significantly due to the economic impacts of COVID-19. PJM notes that forecasts inherently change over time, and market participants should have ample advance notice of key auction parameters—as section 5.10(e) establishes—to plan their

¹³ *Id.* at 9 n.20.

¹⁴ *Id.* at 2-3. As an example of how the revised updated PJM Region Peak Load Forecast could affect market decisions, PJM asserts that the revised forecast “will greatly affect the quantity of previously committed capacity PJM must offer to release under Tariff, Attachment DD, section 5.4(c)(3). As that release offer significantly affects the supply/demand balance in the action, knowing that release quantity in advance could significantly affect the offers and bids of auction participants.” *Id.* at 2.

¹⁵ *Id.* at 5-6.

¹⁶ *Id.* at 6-7.

¹⁷ *Id.* at 7.

auction participation strategies and objectives. However, PJM contends that waiver is warranted in this unique case to address sudden and unprecedented changes resulting from the severe adverse impacts of the COVID-19 pandemic that were unforeseeable at the time the original forecast was prepared.¹⁸

11. Fourth, PJM contends that granting the waiver request will not have undesirable consequences, such as harm to third parties.¹⁹ PJM asserts that the change to the updated PJM Region Peak Load Forecast will only update the forecast to better align it with expected conditions. PJM states that the only consequence for market participants is that the load forecast will be more accurate, which is not undesirable, and the same updated load forecast will be used for all market participants. PJM contends that the possibility that any particular market participant could have a more favorable auction result from using the outdated forecasts is not an undesirable consequence that requires denial of the requested waiver. PJM states that although reduced notice of the load forecast can be an issue for prospective auction participants, PJM has been transparent with stakeholders as expected conditions have changed rapidly.²⁰

III. Notice and Responsive Pleadings

12. Notice of PJM's filing was published in the *Federal Register*, 85 Fed. Reg. 32,033 (May 28, 2020), with interventions and protests due on or before June 1, 2020. Timely motions to intervene were filed by American Municipal Power, Inc., Calpine Corporation, NRG Power Marketing LLC, and PJM Industrial Customer Coalition. On June 2, 2020, Dominion Energy Services, Inc., filed a motion to intervene out of time. On June 11, 2020, Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC (collectively, PSEG Companies) submitted a motion to intervene out of time. No protests were filed.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant Dominion Energy Service, Inc.'s and the PSEG Companies' late-filed motions to

¹⁸ *Id.* at 7-8.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 8-9.

intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

14. We grant PJM's request for waiver of the requirements of Tariff, Attachment DD, section 5.10(e), to allow PJM to use a revised updated PJM Region Peak Load Forecast for the Second Incremental Auction for the 2021/2022 delivery year.

15. As a preliminary matter, we find that PJM's waiver request is prospective. PJM is seeking a waiver of its future obligation to clear the Second Incremental Auction using the updated PJM Region Peak Load Forecast it posted before February 1, 2020. Instead, PJM seeks to clear the auction in July 2020 using an updated forecast that reflects the significant economic impact of COVID-19.

16. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.²¹ We find that the requested waiver satisfies these criteria.

17. First, we find PJM acted in good faith. PJM complied with the requirements of Tariff, Attachment DD, section 5.10(e), and established an updated forecast before February 1, 2020. At the time the original forecast was prepared, COVID-19 and the rapid reduction in forecasted 2021 economic activity it would cause were unforeseeable. PJM's requested waiver will allow PJM to revise its updated PJM Region Peak Load Forecast for the Second Incremental Auction for the 2021/2022 delivery year to reflect unanticipated and significant changes to the forecast caused by the COVID-19 pandemic.

18. Second, we find that the requested one-time waiver is limited in scope. It is a one-time revision to update the 2021 summer peak load forecast for use in one auction, the Second Incremental Auction for the 2021/2022 delivery year. Further, as PJM explains, capacity commitment levels, clearing prices, and zonal capacity prices are already largely set for the 2021/2022 delivery year, so the updated forecast primarily will affect only those parties newly releasing or taking on capacity commitments in the Second Incremental Auction.

19. Third, we find that granting the requested waiver addresses a concrete problem. Absent the waiver, PJM will conduct the Second Incremental Auction using an outdated parameter that does not reflect the economic downturn resulting from the COVID-19

²¹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

pandemic. According to PJM's current estimates, use of the more accurate economic forecast could result in a load reduction of more than one percent.

20. Finally, we find that, based on the record here, granting the waiver will not have undesirable consequences, such as harming third parties. All auction participants will be subject to the same revised parameters for clearing the auction and have the same information prior to the offer window. As PJM acknowledges, there is some potential for the unsettling of market participants' expectations; however, no party has presented record evidence of potential harm resulting from unsettled expectations or of other potential harms that could result from granting the requested waiver. While the lack of record evidence is not dispositive, under the circumstances presented here, we find that any potential harm to prices in the Second Incremental Auction for the 2021/2022 delivery year is outweighed by using auction parameters that reflect the significant economic forecast change and associated decrease in the forecast summer peak resulting from the economic consequences of the COVID-19 pandemic.²²

The Commission orders:

PJM's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²² Our determinations herein are confined to the specific facts of the instant waiver request. The record in a future, similar case may demonstrate undesirable consequences.