

142 FERC ¶ 61,026
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 14, 2013

In Reply Refer To:
PJM Interconnection, L.L.C. and New York
Independent System Operator
Docket No. ER12-718-003

Mr. James M. Burlew
PJM Interconnection, L.L.C.
955 Jefferson Avenue
Norristown, PA 19403

Mr. Alex M. Schnell
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Dear Messrs. Burlew and Schnell:

1. In a joint petition submitted December 24, 2012, PJM Interconnection, L.L.C. (PJM) and the New York Independent System Operator, Inc. (NYISO) request a temporary, limited waiver of sections 7 and 10 of Schedule D to the Joint Operating Agreement (JOA) among and between NYISO and PJM (JOA), and of any other provisions of the JOA, as may be necessary to permit NYISO and PJM (RTOs) to temporarily suspend Market-to-Market Coordination in the event of a failure of: (i) the data link between PJM and NYISO, (ii) an energy management system (EMS), or (iii) real-time security constrained economic dispatch (RTD). You request that this limited waiver be effective January 15, 2013, through June 30, 2013. As discussed below, we grant the requested waiver.

2. You state that Market-to-Market coordination is a process to address certain inter-regional transactions in, and around, the Lake Erie region.¹ You further state that, under sections 7 and 10 of Schedule D of the JOA, PJM and NYISO are required

¹ See *New York Independent System Operator, Inc.*, 138 FERC ¶ 61,192 (2012) (accepting, subject to conditions, PJM and NYISO joint market-to-market coordination process proposal); *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,205 (2012).

to initiate Market-to-Market coordination in certain scenarios unless a qualifying exception in section 10 applies. You state that a procedure is necessary to suspend Market-to-Market coordination in the event of data system failures. You assert, however, that the existing provisions of Schedule D may not provide this necessary authorization. You note that section 10.1.5 allows the RTOs to delay or suspend the Market-to-Market coordination when either RTO is “experiencing system conditions that require the system operator’s immediate attention.” You assert that this provision clearly applies to bulk-electric system conditions (e.g., generation outages, transmission outages, excessive loadings, etc.), but arguably may not apply to outages of data “systems” like the data link between PJM and NYISO, or the RTOs’ EMS or RTD systems. You state that while clarifying tariff revisions are currently being prepared and will be filed with the Commission by June 30, 2013, out of an abundance of caution PJM and NYISO seek the requested waiver of section 7 and 10 and any other provisions of the JOA as may be necessary for an interim period, i.e., from January 15, 2013, the date on which the requirement to conduct Market-to-Market coordination becomes effective, through June 30, 2013.

3. Notice of your request was issued by the Commission with protests and interventions due on or before January 4, 2013. The New York Transmission Owners filed comments in support of PJM’s and NYISO’s limited waiver request. The New York Transmission Owners request that the Commission grant the waiver for the period requested to allow each RTO to obtain stakeholder approval for the needed tariff changes.

4. Although not the only basis for a grant of waivers, the Commission has previously granted one-time waivers of tariffs when: (i) an underlying error has been made in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem needs to be remedied; and (iv) the waiver will not have undesirable consequences, such as harming third parties.²

5. NYISO and PJM seek the limited, temporary waiver requested here to provide clarity in scenarios arguably not covered by an ambiguous provision in the JOA until that ambiguity is addressed in proposed tariff revisions, i.e., the asserted failure of Schedule D to provide express authorization to temporarily suspend Market-to-Market coordination in the event of data, EMS, and RTD system failures. For the

² See, e.g., *Air Energy TCI, Inc.*, 142 FERC ¶ 61,005 (2012); *PJM Interconnection, LLC*, 137 FERC ¶ 61,184 (2011); *ISO New England, Inc.*, 134 FERC ¶ 61,182 (2011); *Hudson Transmission Partners*, 131 FERC ¶ 61,157 (2010); *Stony Creek Energy LLC*, 131 FERC ¶ 61,059 (2010); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007).

reasons discussed below, we find that your request satisfies the aforementioned factors and that good cause therefore exists to grant the limited waiver, as requested.

6. First, we find that NYISO and PJM have acted in good faith in developing and implementing Market-to-Market coordination; it was not until operational details were addressed that it became apparent that the tariff is ambiguous, and so the underlying failure to provide clear authority in the tariff to suspend Market-to-Market coordination in the above-stated scenarios was made in good faith. We also find that the requested waiver is of limited scope and duration as it will apply only during the above-identified system failure conditions that occur during a limited, finite period, i.e., from January 15, 2013, until June 30, 2013. In addition, we find that the waiver is required to remedy a concrete problem, i.e., the need for clear authority to suspend Market-to-Market coordination under the circumstances of the above-described data system failures. Finally, we find that granting the waiver will have no undesirable consequences, and will not harm third parties, given that the waivers to permit suspension of Market-to-Market coordination will only apply when PJM and NYISO are physically incapable of performing Market-to-Market coordination.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.