

May 19, 2004

Magalie Roman Salas, Secretary
Federal Energy Regulatory
Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: PJM Interconnection, L.L.C.
Docket No. ER04-776-000

Dear Secretary Salas:

Please find for e-filing, the Office of the People's Counsel of the District of Columbia's Motion to Intervene and Comments. Copies of this document have been served upon all parties designated on the Commission's official service list, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Very truly yours,

- Filed electronically -

Lopa B. Parikh
Assistant People's Counsel

Enclosure

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Re: PJM Interconnection, L.L.C. : Docket No. ER04-776-000

OFFICE OF THE PEOPLE'S COUNSEL OF THE DISTRICT OF COLUMBIA'S
MOTION TO INTERVENE AND COMMENTS

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, the District of Columbia Office of People's Counsel ("DC OPC") respectfully requests leave to intervene in, and comment on, PJM Interconnection, L.L.C.'s ("PJM") April 29, 2004 filing in the above-captioned docket. In support of this Motion to Intervene and Comments, the DC OPC submits that:

1. DC OPC is an independent agency of the District of Columbia government and is the statutory representative of District of Columbia consumers in public utility issues in proceedings before the District of Columbia Public Service Commission, federal regulatory agencies and state and federal courts. The name, address, phone number, facsimile number and e-mail address of the D.C. OPC's designated recipient for service are as follows:

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2. On April 29, 2004 PJM filed revisions to its Amended and Restated Operating Agreement ("Operating Agreement") to establish procedures pursuant to which PJM and the PJM Market Monitoring Unit ("MMU") could provide confidential information to state public service commissions.

Intervention

3. PJM is an Independent System Operator ("ISO") operating the electric transmission systems of several electric utilities in the mid-Atlantic region, including the facilities of the Potomac Electric Power Company ("PEPCO") which is an electric utilities providing electric supply, transmission and distribution services to retail electric consumers in the District of Columbia.

4. Since January, 2001, PEPCO's retail consumers have had the opportunity to choose their supplier of electric generation services. Some retail consumers have switched suppliers, while most others have remained customers of PEPCO. Whether these retail consumers have switched or not, they remain dependent on PEPCO for distribution and transmission services. PEPCO either buys or sells energy and capacity into PJM's market.

5. DC OPC represents the interests of retail consumers in the District of Columbia, who receive their energy from load serving entities within PJM. The load serving entities may produce or procure a portion of this energy in PJM's wholesale markets. Thus, PJM's filing may affect the interests of the retail consumers that DC OPC represents.

6. DC OPC represents the interests of these retail consumers. No other party to this proceeding can represent these interests. The electric utility that serves District of Columbia consumers must represent the interests of their shareholders, which sometimes can conflict with the interests of small retail consumers. Additionally, the District of Columbia Public Service

Commission ("DC PSC") represents the public interest in the District, which includes interests broader than those represented by the DC OPC. Consequently, the DC OPC must be allowed to participate in this proceeding in order to ensure that the interests of retail consumers in the District of Columbia are adequately represented.

7. The May 5, 2004 Notice of Filing in this proceeding indicates that all motions to intervene be filed by the comment date of May 20, 2004.

8. This Motion for Intervention and Comments is timely filed.

Comments

9. DC OPC applauds PJM's efforts in submitting revisions to its operating tariff that would allow state public utility commissions to have access to confidential information. However, DC OPC submits that PJM's filing does not go far enough. Access to the information should also be provided to consumer advocates offices that have a statutory market monitoring obligation similar to that of state public utility commissions.

This issue was raised by state public utility commissioners at the August 28, 2004 Federal Energy Regulatory Commission ("FERC") meeting held at PJM. At that time, the state public utility commissions indicated that access to confidential information at PJM was necessary in order for them to fulfill their market monitoring obligations under state law.¹ DC OPC has a statutory market monitoring obligation identical to that of the DC PSC.² State consumer advocate offices with statutory market monitoring responsibilities have the same obligations under state law and the same need for access to confidential information as state

¹ PJM Technical Conference with States and Market Participants, Transcript, Docket No. RM01-12-000 (August 28, 2004) at pp.28-29.

² D.C.Code § 34-1512(a) (2001)

public utility commissions and should be afforded access to confidential information under the same provisions as those granted to state public utility commissions.

There are not sufficient distinctions between state consumer advocate offices and state public utility commissions to preclude state consumer advocate offices from having access to confidential information under the proposed tariff. First, the information provided to state consumer advocate offices would be afforded the same protections under state law, FERC jurisdiction and PJM rules as the information provided to state public utility commissions. For example, in the District of Columbia, market information is exempt from the public records law, which applies to both DC OPC and DC PSC.³ State consumer advocate offices, like state public utility commissions are not market participants, do not have a pecuniary interest in the information and are guided by state law in the use of the information. Thus, the risk in providing access to state consumer advocate offices is not greater than the risk of providing access to state public utility commissions.

Second, the fact that state consumer advocate offices are voting members of PJM also should not affect their ability to have access to confidential information. Although not voting members, state public utility commissions regularly participate in PJM working groups and committees. The proposed tariff revisions only provide access to confidential information on a case by case basis when a specific concern is articulated. Since PJM stakeholders would not be aware when information has been requested, any claim of undue influence on the discussion or voting process caused by one stakeholder having access to information not available to other stakeholders is without merit. The proposed tariff revisions filed by PJM and approved by the Members Committee provide sufficient confidentiality safeguards for anyone who may request

and receive access to confidential information, protects the confidential nature of the information and prevents any perceived impact on the PJM process.

Conclusion

10. Wherefore, DC OPC requests that the Commission grants its Motion to Intervene and order PJM to modify its proposed revisions to the Operating Agreement to allow consumer advocate offices with a statutory market monitoring obligation to also have access to confidential information.

Respectfully Submitted,

Filed electronically

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On behalf of:

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³ D.C. Code § 2-534 (2001).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by U.S. mail postage prepaid.

Dated at Washington D.C. this 19th day of May, 2004.

Filed electronically

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