

151 FERC ¶ 61,174
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Exelon Generation Company, LLC

Docket No. ER15-1611-000

ORDER GRANTING TARIFF WAIVER REQUEST

(Issued May 22, 2015)

1. On April 29, 2015, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ Exelon Generation Company, LLC (Exelon) filed a request for limited waiver of the deadline to submit data and documentation establishing the level of its Market Seller Offer Cap,² and the corresponding deadlines for review by the Independent Market Monitor and PJM Interconnection, L.L.C. (PJM), set forth in section 6.4(b) of Attachment DD of PJM's Open Access Transmission Tariff (Tariff)³ for the upcoming Base Residual Auction for the 2018/2019 Delivery Year.⁴ For the good cause shown, the Commission grants Exelon's requested waiver.

¹ 18 C.F.R. § 385.207(a)(5) (2014).

² According to PJM's Tariff, section 2.41C of Attachment DD, the Market Seller Offer Cap is the maximum price Exelon may bid into the auction. Section 6.4(a) of Attachment DD provides that the Market Seller Offer Cap is the Avoidable Cost Rate for the resource, less the Projected PJM Market Revenues for the resource.

³ Capitalized terms used but not defined herein are intended to have the meaning given to such terms in the PJM Tariff.

⁴ A delivery year is a twelve-month period beginning on June 1 and ending on May 31.

I. Background

2. PJM secures capacity commitments under the Reliability Pricing Model⁵ through a Base Residual Auction held three years before the Delivery Year and three subsequent Incremental Auctions leading up to the start of the Delivery Year to allow for adjustments.⁶ Attachment DD of the PJM Tariff sets forth the terms and conditions governing the Reliability Pricing Model. Pursuant to section 6.4(b) of Attachment DD of the PJM Tariff, existing generation capacity resources must provide data and documentation establishing the level of a resource's Market Seller Offer Cap no later than one hundred twenty (120) days prior to the commencement of the offer period for the applicable auction.

3. Exelon states that it owns and operates the Perryman Generating Station (Perryman), which consists of four oil-fired combustion turbines and one fueled by natural gas or oil. According to Exelon, the Perryman units are collectively capable of generating 353 MW. Exelon states that its Perryman unit 2 experienced severe mechanical failure on February 21, 2015.⁷ Exelon further states that it will take approximately nine months to make the extensive and costly repairs required to bring the unit back to operating status. Exelon states that, in addition to issues with the compressor, electrical testing revealed the generator field and stator windings of Perryman unit 2 are in degraded condition. Therefore, Exelon explains that the Perryman unit 2 will be inoperable until the repairs are made. Exelon further states that, following the failure of Perryman unit 2, it identified the potential for the same problems to occur in Perryman units 1 and 4, thus necessitating preventive maintenance that will take approximately twenty days to complete.⁸

4. Exelon explains that the deadline to submit the data required to substantiate Exelon's Market Seller Offer Cap was January 11, 2015, as the original date for the 2015 Base Residual Auction was May 11, 2015.⁹ Exelon states that the cost information it

⁵ The Reliability Pricing Model is a method of ensuring, through competitive capacity auctions, future availability of generating capacity and other resources needed to maintain system reliability.

⁶ See PJM, Intra-PJM Tariffs, OATT, Attachment DD, § 5.4 (3.0.0) (Reliability Pricing Model Auctions).

⁷ Exelon Transmittal Letter at 2.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

provided ahead of the January 11, 2015 deadline was accurate at the time.¹⁰ However, given the failure of Perryman unit 2 on February 21, 2015, and the subsequent determination that Perryman units 1 and 4 require preventive maintenance, Exelon requests a waiver of the 120 day deadline and associated deadlines for review in order to update its data prior to the auction to reflect the increased costs required to repair the units and ensure adequate function during Delivery Year 2018/2019.¹¹ Exelon adds that the auction has been delayed due to pending Commission action which could impact the date of the auction.¹²

II. Waiver Request

5. Exelon requests a waiver of the deadlines in Section 6.4(b) of Attachment DD of the Tariff, as well as the corresponding deadlines for review, so that it may submit new data to support a revised Market Seller Offer Cap for Perryman units 1, 2, and 4 in the upcoming Base Residual Auction for the 2018/2019 Delivery Year.¹³ Exelon states its waiver request meets the factors under which the Commission has previously granted waiver requests.¹⁴ In addition, Exelon states the Commission has previously granted, for good cause shown, waivers of the 120-day deadline in Attachment DD of the PJM Tariff for submitting Market Seller Offer Cap data and documentation.¹⁵

6. Exelon notes that it submitted in good faith all the data regarding Perryman unit 2 it had available to it by the January 11, 2015 deadline. Exelon also argues that the waiver would be limited in scope, as it pertains only to the deadlines for submission and review of data and documentation related to cost information to support the Market Seller Offer

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² *See PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,067 (2015).

¹³ Exelon Transmittal Letter at 5.

¹⁴ Exelon Transmittal Letter at 5 (citing *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,067 at P 25; *Illinois Municipal Electric Agency*, 151 FERC ¶ 61,019, at P 21 (2015); *PJM Interconnection L.L.C.*, 146 FERC ¶ 61,078, at P 38 (2014); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,004 at P 10 (2010); *ISO New England Inc.*, 142 FERC ¶ 61,051, at P 20 (2013)).

¹⁵ Exelon Transmittal Letter at 5 (citing *Appalachian Power Company, et al.*, 143 FERC ¶ 61,015, at P 9 (2013); *PPL EnergyPlus, LLC*, 142 FERC ¶ 61,177, at P 8 (2013)).

Cap for the upcoming Base Residual Auction for the 2018/2019 Delivery Year. Exelon states the revised offer caps would not impact any other aspect of the Reliability Pricing Model auction process because that process has not yet commenced. In addition, Exelon states the waiver would remedy a concrete problem, namely that Perryman unit 2 will be inoperable without extensive capital investment, and investment is likewise needed to ensure that Perryman units 1 and 4 remain operational.¹⁶

7. Finally, Exelon states that there will be no adverse consequences from granting the waiver, as the auction has not commenced and Exelon is prepared to submit the revised data immediately to prevent delay in the auction schedule. Exelon explains that, because the auction has not commenced, granting the waiver will not prejudice any other auction participant or stakeholder, and will not cause any competitive harm.¹⁷

III. Notice of Filing and Responsive Pleadings

8. Notice of Exelon's filing was published in the *Federal Register*, 80 Fed. Reg. 26,028 (2015), with protests and interventions due on or before May 11, 2015. PJM filed a timely motion to intervene and comments in support of the waiver request. No protests were filed.

9. PJM states it supports Exelon's request for waiver due to the unique factual situation presented.¹⁸

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motion to intervene serves to make PJM a party to this proceeding.

B. Substantive Matters

11. The Commission has previously granted waivers of tariff provisions in situations where: (1) the applicant is unable to comply with the tariff provision at issue in good

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 6.

¹⁸ PJM Comments at 2.

faith; (2) the waiver is of limited scope; (3) granting the waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.¹⁹

12. We find that good cause exists to grant Exelon's unopposed request for waiver. First, we find that Exelon acted in good faith. It submitted the required documentation in a timely manner; the waiver would allow Exelon to submit updated information due to events at Perryman units 1, 2, and 4. Second, we find that Exelon's requested waiver is limited in scope. It involves only three units, Perryman units 1, 2, and 4, and impacts only the deadlines associated with submitting and review of data and documentation for the Market Seller Offer Cap for the Base Residual Auction for the 2018/2019 Delivery Year. Third, we find that the waiver will remedy a concrete problem. Absent a waiver, Exelon's capacity will go forward in the auction based on inaccurate data, i.e., a Market Seller Offer Cap that is lower than what is required to complete the repairs and ensure the capacity is available in Delivery Year 2018/2019. Finally, we find that granting Exelon's request for waiver will not have any undesirable consequences or harm any third parties, as the auction has not yet begun and no prejudice or competitive harm will occur.

13. Accordingly, based on the record before us and for good cause shown, we grant Exelon's request for waiver of the deadline to submit data and documentation establishing the level of its Market Seller Offer Cap and the corresponding deadlines for review by the Independent Market Monitor and PJM set forth in section 6.4(b) of Attachment DD of PJM's Tariff. We note, however, the importance of maintaining adequate time for PJM and the Independent Market Monitor to review the new submission in advance of the auction, and we accept Exelon's commitment to submit the supporting data and documentation immediately.²⁰

¹⁹ See *Appalachian Power Company, et al.*, 143 FERC ¶ 61,015; *PPL EnergyPlus, LLC*, 142 FERC ¶ 61,177.

²⁰ Exelon Transmittal Letter at 6 ("Exelon is prepared to immediately provide the [Independent Market Monitor] and PJM with any necessary additional information such that granting the waiver would not cause any delay in the auction schedule.").

The Commission orders:

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

