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FERC rejects PJM request for authority to postpone generator retirements

By Annalee Grant

FERC agreed with criticism of the PJM Interconnection LLC's proposal to procure additional contracted resources through the delay of generator retirements, rejecting the proposed tariff change and calling the request "unreasonably vague and ill-defined."

In a decision released Feb. 20, FERC rejected the change without prejudice, but the commission did accept and approve PJM's companion filing (ER15-738), which asked FERC for a one-time waiver of a tariff provision that would, absent the waiver, require PJM to offer to release roughly 2,000 MW of capacity previously committed for the 2015-2016 delivery year.

PJM had asked for increased authority to compensate retiring generators should they opt to stay online for reliability purposes and for permission to develop a compensation scheme to pay for those postponements, similar to the way it pays for out-of-market or "make whole" payments. But FERC ruled that the RTO did not sufficiently explain the need for such authority, sending the RTO back to the drawing board should it decide to pursue the matter further.

PJM filed for both the tariff waiver and the tariff change on Dec. 24, 2014, to mitigate concerns around the outcome of two pending demand response complaints that the RTO believes could leave the region strapped for capacity if it suddenly loses 11,000 MW of demand resources scheduled for the 2015-2016 delivery year. The filings were proposed as a reaction to the Electric Power Supply Association's challenge to FERC Order 745.

The U.S. Court of Appeals for the D.C. Circuit in May 2014 ruled that FERC overstepped its authority with Order 745, which required RTOs and ISOs to pay demand response providers the market price for generation under certain circumstances. The court held that demand response is solely a retail product that falls exclusively within states' jurisdiction (Electric Power Supply Association v. FERC, 11-1486). The U.S. Solicitor General, acting on FERC's behalf, has sought U.S. Supreme Court review of the decision. Meanwhile, the D.C. Circuit stayed its mandate to vacate Order 745 pending the Supreme Court's final disposition of the case.

PJM spokesman Ray Dotter said Feb. 23 that the RTO is reviewing FERC's rejection of the proposal (ER15-739) and will develop a plan to move forward. Dotter noted that FERC left the door open to resubmitting the request but could not say at this time whether PJM will do so.

PJM failed to make a 'compelling case'

Intervenors said PJM failed to make a "compelling case" to explain why the additional out-of-market generation contracts were needed and also how the generators would be compensated.

PJM's independent market monitor argued that the contracts are unnecessary because PJM already has the authority to determine a maximum payment to be made for reliability must-run contracts. The market monitor also took issue with its own inclusion in the plan, saying PJM's proposal fails to give it a role in the proposed contracting process.

Dominion Resources Inc. subsidiary Dominion Resources Services Inc. and the Retail Energy Supply Association submitted comments that said the uncertainty around the outcome of the EPSA complaint did not provide sufficient justification for the filing.

The subject of the demand response complaint, EPSA, said PJM's request should be granted only after all in-market alternatives had been exhausted. Calpine Corp. and Exelon Corp. said the proposal should be allowed only in emergency situations.

Direct Energy Business, a subsidiary of Centrica Plc, took issue with the lack of clarity in the proposal about how much capacity PJM would like to procure through contracts with retiring generators and added to the chorus of intervenors that said PJM had not proven the additional capacity is needed in the first place.

FERC agreed and said the RTO had not demonstrated that an out-of-market construct was necessary or justifiable. FERC invited PJM to refile the proposal with details on how much capacity it will need and how it will compensate those generators.

In response to the criticism, PJM agreed that out-of-market contracts are not preferable but that the circumstances the RTO presented warranted their use.

In granting the tariff waiver, FERC agreed with PJM that releasing the 2,000 MW of committed capacity could threaten the RTO's ability to serve load, given poor generator performance in the winter of 2014 and the retirement of roughly 8,000 MW of generation within the same delivery year. The commission noted that the loss of that much capacity could put PJM below the required reserve margin.

FERC said that keeping the 2,000 MW could have cost implications for PJM, but should it release the capacity and later be left with a shortfall, the costs would be far greater; thus, allowing PJM to retain the capacity mitigates that risk.

The majority of comments on the tariff waiver were generally supportive of PJM's request for it. PJM's market monitor was supportive and said concerns about whether the RTO can rely on the full amount of resources it had already procured for the 2015-2016 delivery year were justified. The Illinois Commerce Commission, on the other hand, said it believes PJM's request is unsupported.