

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Duquesne Light Company)	Docket No. EL07-98-000
)	
v.)	
)	
PJM Interconnection, L.L.C.)	

**MOTION TO INTERVENE AND COMMENTS
OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or Commission),¹ the Electric Power Supply Association (EPSA) respectfully moves to intervene and file comments² in response to the Complaint filed by the Duquesne Light Company (Duquesne) against the PJM Interconnection, L.L.C. (PJM).

I. Motion to Intervene

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers.

Many of EPSA's members both own generation assets and are authorized to sell energy and ancillary services in PJM. Hence, EPSA has participated in many of the Commission's proceedings relating to PJM's market design and

¹ 18 C.F.R. §§ 385.212, 385.214.

² The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

operation. EPSA also has members who are located within or nearby Duquesne's control area. Similarly, many EPSA members participate in the RTO's capacity market and related auctions and will be negatively impacted by Duquesne's request regardless of location within PJM. EPSA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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II. Proceeding Summary and Comments

On September 13, 2007, Duquesne filed a complaint at the Commission against PJM, requesting an emergency order under a fast track process regarding application of PJM's Reliability Pricing Model (RPM) rules. RPM is the RTO's capacity market mechanism.³ Duquesne requests that the Commission order PJM to cease and desist from including the load in the Duquesne Zone in the Preliminary PJM Region Peak Load Forecast to be used in the PJM Base Residual Auctions (and subsequent true-up auctions) that will establish Daily Unforced Capacity Obligations for future delivery years. The basis for the request is that Duquesne expects to have withdrawn from PJM and to be a member of the Midwest ISO by the Delivery Year. Duquesne requests fast track

³ See PJM Interconnection, L.L.C., 115 FERC ¶ 61,079 (2006); PJM Interconnection, L.L.C., 117 FERC ¶ 61,331 (2006), order on rehearing and clarification, 119 FERC ¶ 61,318 (2007).

processing in order to be relieved of inclusion in the next Base Residual Auction, scheduled for the first week of October to establish obligations for the Delivery Year beginning June 1, 2009.

As support for this request, Duquesne notifies the Commission that it has determined to withdraw from PJM, effective January 1, 2008 subject to all FERC approvals and operational requirements. While neither PJM nor Duquesne has filed with the Commission on this matter, Duquesne sent PJM and all PJM transmission owners notification of its intent to withdraw on September 12, 2005. According to the complaint, Duquesne had discussions with PJM on its intent beginning in late August, and during those discussions was told by PJM that absent a FERC order to the contrary, PJM would continue to include load in the Duquesne Zone in all future Base Residual Auctions, including the October 1, 2007 auction for Delivery Year beginning June 1, 2009. Duquesne states that based on its determination to withdraw from PJM, it is unjust, unreasonable and inequitable for PJM to create additional obligations for the utility that will be deliverable after its intended withdrawal date from the PJM RTO.

Duquesne's request raises numerous grave concerns and unanswered questions among PJM wholesale suppliers. The request, submitted only two weeks before the auction takes place and with notice to stakeholders only one day prior to that submission date, requires serious investigation and careful consideration by PJM market participants, PJM (as the system operator) and the Commission regarding the impact of this disruptive last minute change to the auction, particularly at this relatively early stage of the RPM's implementation.

Certainly, the request for expedited comment and consideration under a fast track process impedes the ability to undertake the necessary investigation and consideration of those impacts.

The narrow issue in this instant proceeding – Duquesne’s removal from the October 1 Base Residual Auction – warrants more extensive consideration than the expedited request allows. For instance:

- 1) In its request, Duquesne notes that it will be subject to all reserve and capacity obligations applicable to load-serving entities in PJM should it, for any reason, still be in PJM at the time of the Delivery Year beginning June 1, 2009.⁴ However, the capacity prices in the Residual Auction will be impacted, perhaps greatly, by Duquesne’s inclusion or exclusion at the time of the auction, not at the time of delivery. Those prices cannot be unwound, rerun or subject to refund for all auction participants; risks associated with the exclusion of Duquesne’s load from the October 2007 auction will be borne by multiple suppliers and load-serving entities in PJM, not only Duquesne.
- 2) What, if any, obligations already incurred by Duquesne are implicated by this request?
- 3) How does this request impact the integrity of the settlement over the Reliability Pricing Model (RPM) capacity market mechanism? Duquesne was a participant in the settlement proceeding, both making and requiring concessions impacting the parameters and requirements of the settlement in order to sign on as a party not opposed to the settlement.
- 4) While Duquesne assumes that its withdrawal from PJM will be completed by its proposed date of January 1, 2008, there are many reasons that the proposed timetable would not be met.⁵ Hence, as a member of PJM, can Duquesne be relieved of the obligations of PJM membership, particularly those that implicate reliability concerns, before any request to withdraw is considered?

⁴ Complaint at pp 7 – 8.

⁵ In order to effectuate Duquesne’s withdrawal, PJM must file with the Commission and Duquesne will submit a Section 205 filing seeking approval to withdraw from PJM – neither of which has occurred to date. While the adjudication of the withdrawal request may be accomplished by January 1, 2008, it is as likely that the proceeding may continue far into 2008 before it is closed, even if Duquesne is allowed to fully withdraw from PJM and become a transacting member of MISO.

- 5) What are the impacts to and resultant obligations of generators within Duquesne's control area but not owned by Duquesne?
- 6) Does the request for expeditious exclusion from the RPM auction at this time unduly lead to a predetermination or prejudgment regarding the utility's expected request to withdraw from PJM?

Hasty action on any major market element, particularly an element that includes obligations for reliability, is likely to damage the market. Even that possibility creates an unacceptable market environment for all other market participants. Further, Duquesne's request at this time is particularly alarming as the October 1, 2007 auction will be the first in PJM to involve a delivery date far enough forward to allow more newly built capacity to participate. Notice of this auction and related Planning Period parameters have been finalized and announced for quite some time and it is possible (if not likely) that multiple market participants have made and executed business decisions based on the upcoming auction and related Planning Period parameters. To delay the auction, or inherently change the parameters and prices of that auction at this late stage, will be harmful to the market and will thwart the beneficial outcomes expected from the capacity market mechanism.

As the Commission stated in its December 2006 order approving RPM, this capacity market mechanism is necessary for reliability in PJM. The Commission found that, based on a substantial record, the existing market rules failed on several fronts to assure necessary quantities of electricity and were deemed unjust and unreasonable.⁶ RPM was approved to bring stability and predictability to PJM to ensure resource adequacy and reliability. Duquesne's

⁶ See PJM Interconnection, L.L.C., 117 FERC ¶ 61,331 (2006).

request – particularly at this early stage of the RPM mechanism – threatens to upend the very stability and predictability that RPM was intended to bring to PJM in order to forestall imminent serious reliability concerns.

The Commission *must* fully investigate and consider the requested auction waiver. Whatever action Duquesne takes, all other PJM members must be kept and made whole based on existing agreements, obligations and reliability concerns. On balance, the harm from granting Duquesne’s late-filed request to modify the tariff rules is far greater than the impact from proceeding with the auction in accordance with existing tariff terms, and dealing with the consequences of Duquesne’s withdrawal in a comprehensive manner when and if the Commission approves such withdrawal.

III. Conclusion

EPSA respectfully requests that the Commission grant its motion to intervene. In response to Duquesne's fast track request and complaint, EPSA urges the Commission to reject that complaint as Duquesne remains a signatory to the Reliability Assurance Agreement, and there is no credible information that the utility will not be in PJM at the time of delivery, or if so, how it will meet its resource adequacy obligations until that time. This proceeding should be consolidated with the expected filings on Duquesne's membership in PJM so that all facets and the full impact of this proposed change can be investigated, assessed by market participants, and considered by the Commission.

Respectfully Submitted,



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September 21, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., September 21, 2007.

A handwritten signature in black ink, appearing to read "N. Bagot", is centered on the page. The signature is written in a cursive style with a horizontal line extending to the right.

Nancy Bagot