

188 FERC ¶ 61,020
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie and David Rosner.

PJM Load Parties

Docket No. EL24-104-000

v.

PJM Interconnection, L.L.C.

ORDER DENYING COMPLAINT

(Issued July 9, 2024)

1. This proceeding stems from a decision by the United States Court of Appeals for the Third Circuit (Third Circuit), which vacated a portion of Commission orders allowing PJM Interconnection, L.L.C. (PJM) to apply amendments to its Open Access Transmission Tariff (Tariff) affecting the 2024/2025 Base Residual Auction (BRA).¹ In response to the Third Circuit's decision, PJM filed a petition in a separate proceeding requesting confirmation that, as a result of the Third Circuit's decision, the Tariff provisions governing the conduct of the 2024/2025 BRA are those that were in effect prior to the LDA Reliability Requirement Orders.² In addition, PJM sought to rerun the Third Incremental Auction for the 2024/2025 delivery year.

2. On April 22, 2024, in response to PJM's petition, PJM Load Parties³ filed the instant complaint, pursuant to sections 206, 306, and 309 of the Federal Power Act

¹ *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,109 (2023) (Initial Order), *order on reh'g*, 184 FERC ¶ 61,055 (2023) (Rehearing Order) (LDA Reliability Requirement Orders), *vacated in part, PJM Power Providers Grp. v. FERC*, 96 F.4th 390, 395 (3d Cir. 2024) (*PJM Power Providers*). Capitalized terms that are not defined in this order have the meaning specified in the Tariff.

² *PJM Interconnection, L.L.C.*, Petition, Docket No. ER23-729-002 (filed Mar. 29, 2024).

³ For purposes of this filing, PJM Load Parties are: American Municipal Power, Inc., Delaware Division of the Public Advocate, Delaware Energy Users Group, Delaware Municipal Electric Corporation, Inc., Delaware Public Service Commission, Maryland Office of People's Counsel, Maryland Public Service Commission, and Old Dominion Electric Cooperative.

(FPA),⁴ and Rule 206 of the Commission's Rules of Practice and Procedure.⁵ PJM Load Parties argue that, if the Commission grants PJM's petition, it should find that the recalculated auction results are unjust and unreasonable. As discussed below, the Commission previously granted PJM's petition.⁶ Here, we deny the complaint.

I. Background

3. The history of this case is recounted in the Locational Deliverability Area (LDA) Reliability Requirement Orders.⁷ As relevant here, in the LDA Reliability Requirement Orders, the Commission accepted PJM's proposed revisions to the PJM Tariff under FPA section 205⁸ to allow PJM to update a planning parameter for the BRA—the LDA Reliability Requirement—during the auction process, under certain circumstances.⁹ In February 2023, PJM posted BRA results reflecting the updated LDA Reliability Requirement consistent with the Tariff amendments accepted in the LDA Reliability Requirement Orders (February 2023 Auction Results).¹⁰

4. In its March 12, 2024 decision in *PJM Power Providers*, the Third Circuit found that the Tariff amendments accepted in the LDA Reliability Requirement Orders violated the filed rate doctrine as applied to the 2024/2025 BRA; the court found the revisions were impermissibly retroactive because they altered the legal consequence attached to a past action by allowing PJM to use a different LDA Reliability Requirement than the one

⁴ 16 U.S.C. §§ 824e, 825e and 825h.

⁵ 18 C.F.R. § 385.206 (2023).

⁶ *PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,065, at PP 22, 26 (2024) (Petition Order), *order on reh'g, PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,107 (2024) (Petition Rehearing and Stay Order).

⁷ *See* Initial Order, 182 FERC ¶ 61,109 at PP 2-22; Rehearing Order, 184 FERC ¶ 61,055 at PP 4-14.

⁸ 16 U.S.C. § 824d.

⁹ Initial Order, 182 FERC ¶ 61,109 at PP 140-50; Rehearing Order, 184 FERC ¶ 61,055 at PP 2, 106.

¹⁰ *See* PJM Interconnection, L.L.C., PJM Capacity Auction Procures Adequate Resources, <https://www.pjm.com/-/media/about-pjm/newsroom/2023-releases/20230227-pjm-capacity-auction-procures-adequate-resources.ashx> (Feb. 27, 2023).

it had calculated and posted prior to the 2024/2025 BRA.¹¹ The court found that, because the Tariff amendments “nullified a legal consequence attached to a past action,” the Commission violated the filed rate doctrine by approving them.¹² The court further “emphasize[d] that the equities play no role in our application of the filed rate doctrine” even if “this bright-line rule could potentially produce a harsh result in this case.”¹³ The court vacated only the portion of the Commission’s orders that allow PJM to apply the Tariff amendments to the 2024/2025 BRA.¹⁴

5. In its March 29, 2024 petition, PJM requested confirmation that, as a result of the Third Circuit’s decision in *PJM Power Providers*, the Tariff provisions governing the conduct of the BRA for the 2024/2025 delivery year are those that were in effect prior to the LDA Reliability Requirement Orders, and that the capacity commitments that would result from applying those Tariff provisions are binding and effective for the 2024/2025 delivery year.¹⁵ PJM also asked the Commission to authorize PJM to rerun the Third Incremental Auction for the 2024/2025 delivery year.

6. The Commission granted PJM’s petition and directed PJM to recalculate the 2024/2025 BRA results under the *status quo ante* auction rules and parameters, rerun the Third Incremental Auction for the 2024/2025 delivery year, and submit a compliance filing removing the Tariff amendments accepted in the LDA Reliability Requirement Orders for the 2024-25 BRA.¹⁶ PJM finalized and posted the recalculated 2024/2025

¹¹ *PJM Power Providers*, 96 F.4th at 399; *id.* at 400 (explaining that “[u]nder the Tariff, PJM calculated and posted the LDA Reliability Requirement (past action), and it was required to use it in the Auction (legal consequence),” but the Tariff amendments “permitted PJM to use a different LDA Reliability Requirement to reflect certain resources’ lack of participation”).

¹² *Id.* at 401.

¹³ *Id.* at 401-402.

¹⁴ *Id.* at 402 (citing *Bd. of Cnty. Comm’rs of Weld Cnty. v. U.S. EPA*, 72 F.4th 284, 296 (D.C. Cir. 2023) (“[J]udicial remedies should be ‘no more burdensome to the defendant than necessary to provide complete relief’ to the plaintiffs or petitioners.” (quoting *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979)))).

¹⁵ *PJM Interconnection, L.L.C.*, Petition, Docket No. ER23-729-002, at 1 (filed Mar. 29, 2024). The 2024/2025 delivery year begins on June 1, 2024 and ends on May 31, 2025.

¹⁶ Petition Order, 187 FERC ¶ 61,065 at PP 22, 26.

BRA results on May 9, 2024 and posted the Third Incremental Auction results on May 23, 2024 (May 2024 Auction Results).¹⁷

II. Complaint

7. PJM Load Parties request that, if the Commission grants PJM’s petition to recalculate the 2024/2025 BRA and rerun the Third Incremental Auction, the Commission should nonetheless find that the May 2024 Auction Results are unjust and unreasonable and should be replaced with the prices and commitments set forth in the February 2023 Auction Results.¹⁸ PJM Load Parties state that, while the February 2023 Auction Results were based on an LDA Reliability Requirement that accurately reflected the Delmarva Power & Light Co. (DPL) zone’s reliability needs, the May 2024 Auction Results would create an artificial shortage that would require customers to pay inflated prices with no reliability justification or basis in market fundamentals.¹⁹ PJM Load Parties state that this “massive” cost increase of nearly \$178 million, without any commensurate consumer benefit, is unjust and unreasonable.²⁰

8. PJM Load Parties state that the Commission is obligated to remedy unjust and unreasonable rates.²¹ PJM Load Parties state that this obligation is ongoing and applies when a rate is filed initially and persists as long as the rate is in effect. PJM Load Parties state that the Commission has “paramount authority” to modify prices and other terms governing future performance under any Commission-jurisdictional rate, including auction prices for capacity yet to be delivered.²² Moreover, PJM Load Parties argue that

¹⁷ PJM Interconnection, L.L.C., 2024/2025 BRA Results, <https://www.pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-base-residual-auction-results.ashx> (May 9, 2024); PJM Interconnection, L.L.C., 2024/2025 RPM Third Incremental Auction Results, <https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-3ia-report.ashx> (May 23, 2024).

¹⁸ Complaint at 3.

¹⁹ *Id.* at 13.

²⁰ *Id.* at 16 (citing *PJM Interconnection, LLC*, 178 FERC ¶ 61,104, at P 60 (2022), *reh’g denied*, 179 FERC ¶ 61,161 (2022), *aff’d sub nom. Citadel FNGE Ltd. v. FERC*, 77 F.4th 842, 857 (D.C. Cir 2023) (*Citadel*)).

²¹ *Id.* at 11 (citing 16 U.S.C. § 824e(a); *N.Y. v. FERC*, 535 U.S. 1, 27 (2002) (Where FERC finds undue discrimination, section 206 “would require FERC to provide a remedy”)).

²² *Id.*

the Commission has previously entertained requests to modify forward capacity auction prices before performance has begun.²³

9. PJM Load Parties contend that the Third Circuit's decision in *PJM Power Providers* does not preclude its requested relief. They assert that the Third Circuit did not address the justness and reasonableness of the PJM Tariff revisions accepted in the LDA Reliability Requirement Orders or the resulting capacity auction prices. They further argue that the Third Circuit did not require the Commission to replace the February 2023 Auction Results.²⁴ PJM Load Parties argue that its requested relief would not run afoul of the retroactivity concerns that animated the Third Circuit decision because the relief sought in its complaint would not change PJM's Tariff or auction procedures retroactively; rather, PJM Load Parties contend that its requested relief would modify prospectively the prices and obligations to provide capacity during the upcoming 2024/2025 delivery year.

10. PJM Load Parties analogize this case to *Citadel*.²⁵ PJM Load Parties contend that, just as in *Citadel*, where the Commission found that a penalty factor was unjust and unreasonable because it would result in higher costs to ratepayers without a commensurate benefit,²⁶ the May 2024 Auction Results represent an artificially inflated capacity price that "serves no good purpose" and is likewise unjust and unreasonable.²⁷

11. Moreover, PJM Load Parties contend that, because the Commission in the LDA Reliability Requirement Orders recognized the flaw in PJM's Tariff and fixed it prospectively, the Commission is obligated to consider whether an auction that uses flawed rules would yield unjust and unreasonable prices.²⁸ PJM Load Parties state that

²³ *Id.* (citing *Pub. Citizen Inc. v. FERC*, 839 F.3d 1165, 1168 (D.C. Cir. 2016); *ISO New England, Inc.*, 151 FERC ¶ 61,226 (2015); *ISO New England, Inc.*, 155 FERC ¶ 61,273, *reh'g denied*, 157 FERC ¶ 61,060 (2016), *pet. for review dismissed sub nom. Util. Workers Union of Am. Local 464 v. FERC*, 896 F.3d 573 (D.C. Cir. 2018); *ISO New England, Inc.*, 161 FERC ¶ 61,061, P 17 (2017)).

²⁴ *Id.* at 15-16.

²⁵ *Id.* at 16-18 (citing *PJM Interconnection, LLC*, 178 FERC ¶ 61,104, *reh'g denied*, 179 FERC ¶ 61,161 (2022), *aff'd sub nom. Citadel*, 77 F.4th 842).

²⁶ *Id.* at 17 (citing *PJM Interconnection, LLC*, 178 FERC ¶ 61,104 at PP 60-62).

²⁷ *Id.* at 16-18.

²⁸ *Id.* at 18-20 (citing *Pub. Citizen, Inc. v. FERC*, 7 F.4th 1177, 1196 (D.C. Cir. 2021) (*Public Citizen*)).

this case is similar to *Public Citizen*, where the D.C. Circuit found that the Commission “failed to reconcile its prospective holding” that MISO’s capacity auction Tariff rules were unjust and unreasonable for miscalculating capacity requirements “with its conclusion that the conspicuously uneven 2015 [auction] results—obtained under the same flawed tariff terms—were not similarly infected.”²⁹ PJM Load Parties contend that the Commission’s findings in the LDA Reliability Requirement Orders that the Tariff flaw would cause customers to be charged an “exorbitant price increase” with “no economic or reliability justification” compel the Commission to consider whether an auction using those admittedly flawed rules produces prices that are just and reasonable and to modify them accordingly.³⁰

12. PJM Load Parties also state that, while some parties may oppose its complaint by claiming that the May 2024 Auction Results are protected by a *Mobile-Sierra*-like presumption of justness and reasonableness, PJM Load Parties contend that capacity auction prices are not freely negotiated contract rates to which the *Mobile-Sierra* presumption³¹ applies by default, and the recalculated auction prices here lack the indicia of consistency with market fundamentals and competitive outcomes on which the Commission has relied in other cases to apply *Mobile-Sierra* as a matter of discretion.³²

III. Notice of Filing and Responsive Pleadings

13. Notice of the complaint was published in the *Federal Register*, 89 Fed. Reg. 24,231 (Apr. 30, 2024), with interventions and protests due on or before May 1, 2024. Timely motions to intervene were filed by Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM; American Electric Power Service Corporation;³³ PJM Power Providers Group (P3); Constellation Energy Generation, LLC (Constellation); LS Power Development, LLC; Buckeye Power, Inc.; Public Citizen, Inc.

²⁹ *Id.* at 19 (citing *Public Citizen*, 7 F.4th at 1196).

³⁰ *Id.* at 19-20 (citing Initial Order, 182 FERC ¶ 61,109 at P 178)

³¹ *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956).

³² Complaint at 20.

³³ AEPSC filed on behalf its affiliates Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., and AEP West Virginia Transmission Company, Inc., and AEP Energy Partners, Inc.

(Public Citizen); Dominion Energy Services, Inc.; Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC; Calpine Corporation; Electric Power Supply Association (EPSA); Vistra Corp. (Vistra); Southern Maryland Electric Cooperative, Inc.; NRG Business Marketing LLC and Midwest Generation, LLC (NRG); North Carolina Electric Membership Corporation; and Easton Utilities Commission. Timely protests were filed by PJM, Constellation, NRG, Vistra, and P3/EPSA. Out-of-time comments were filed by Public Citizen.

A. Protests

14. Protesters argue that the Third Circuit’s decision in *PJM Power Providers* precludes the Commission from granting the complaint. PJM states that, while it acknowledges the equities and understands the concerns raised by the PJM Load Parties, the Third Circuit found that PJM’s proposal to modify the LDA Reliability Requirement is prohibited by the filed rate doctrine.³⁴ P3 and EPSA contend that the PJM Load Parties essentially ask the Commission to ignore the Third Circuit decision.³⁵ Vistra similarly states that the complaint seeks an order from the Commission directing PJM to take the very action that the *PJM Power Providers* decision barred on the grounds that it was impermissibly retroactive.³⁶ NRG states that granting the complaint would send a troubling message about the Commission’s willingness to comply with judicial directives and would necessitate more litigation to confirm the Third Circuit’s ruling.³⁷

15. Protesters also raise concerns with PJM Load Parties’ request that the Commission find the auction prices unjust and unreasonable. PJM contends that it would be arbitrary and capricious for the Commission, after having accepted PJM’s petition, to simply turn around and declare the outcome of granting that petition to be unjust and unreasonable—particularly when there is no claim or evidence of market manipulation or that PJM erred in recalculating the auction results.³⁸ Vistra similarly states that the justness and reasonableness of auction prices resulting from application of the filed rate doctrine cannot be evaluated as though it were separate from the filed rate; rather, Vistra asserts that the “filed rate *becomes* the filed rate because the Commission has found it to be just

³⁴ PJM Protest at 2.

³⁵ P3 and EPSA Protest at 3.

³⁶ Vistra Protest at 2.

³⁷ NRG Protest at 17.

³⁸ *Id.* at 5.

and reasonable.”³⁹ P3 and EPSA state that Congress has not provided the Commission with the role of reviewing tariff-produced rates when a party finds those rates offensive.⁴⁰

16. Constellation and NRG further argue that the Commission has no more authority to disregard an auction clearing price than it did to change the methodology for calculating the auction’s parameters.⁴¹ Constellation contends that PJM’s Tariff prescribes an integrated process that runs from the posting of planning parameters to cleared capacity resources receiving payments at the auction clearing price.⁴² In accordance with those Tariff rules, Constellation argues that, once PJM posts planning parameters, it has no choice but to use them in the auction, pay cleared capacity resources the clearing price during the delivery year, and charge load accordingly.⁴³ NRG states that the calculated clearing prices and commitments—and the associated obligation to pay suppliers based on those clearing prices and commitments—are legal consequences of past actions, and thus, the PJM Load Parties’ requested relief would violate the filed rate doctrine.⁴⁴ NRG further contends that, even if the complaint is not barred by the filed rate doctrine, the relief requested is barred by the *Mobile-Sierra* doctrine because when PJM clears the 2024/2025 BRA it will be accepting suppliers’ offers and thereby creating fixed-rate contracts.⁴⁵

17. Vistra, Constellation, and NRG contend that the PJM Load Parties’ comparisons to *Public Citizen* are misplaced because the filed rate doctrine was not before the court in

³⁹ Vistra Protest at 6-7 (emphasis in original).

⁴⁰ P3 and EPSA Protest at 4.

⁴¹ Constellation Protest at 2 (citing *PJM Power Providers*, 96 F.4th at 399 (“The Tariff Amendment is retroactive because it altered the legal consequence attached to a past action when it allowed PJM to use a different LDA Reliability Requirement than the one it had calculated and posted.”)); NRG Protest at 5-6.

⁴² *Id.* at 2-3 (citing PJM, Intra-PJM Tariffs, attach. DD §§ 5.10 (Auction Clearing Requirements) (33.0.0) (a)(vi)(A); *id.* 5.12 (Conduct of RPM Auctions) (25.0.0); *id.* 5.14 (Clearing Prices & Charges) (41.0.0) (a); *id.* 5.4 (Reliability Pricing Model Auctions) (9.0.0) (a); PJM, Intra-PJM Tariffs, RAA, Art. 7.2).

⁴³ *Id.* at 4.

⁴⁴ NRG Protest at 5-6.

⁴⁵ *Id.* at 8-9.

that case.⁴⁶ NRG states that, even assuming *Public Citizen* could somehow be read to create some previously unannounced exception to the filed rate doctrine, it would be an exception of no relevance here because the issue in *Public Citizen* related to alleged anticompetitive behavior in the auction.⁴⁷ NRG and Constellation state that, in contrast to *Public Citizen*, no parties here have alleged anticompetitive behavior in the 2024/2025 BRA; rather PJM Load Parties object to the prices that result from application of the auction rules.⁴⁸ Constellation also states that PJM Load Parties' reliance on *Citadel* is misplaced because that case involved prospective relief, did not involve auctions, and neither the court nor the Commission considered the filed rate doctrine.⁴⁹

18. Protesters also argue that granting the complaint would create uncertainty for market participants. PJM states that granting the complaint would have adverse consequences beyond these proceedings because, notwithstanding the legalities, allowing challenges to posted and final clearing prices right before the start of the delivery year would undermine the certainty of prices sent to investors.⁵⁰ PJM also states that without finality or certainty in capacity market clearing prices before June 1, 2024, there may be significant uncertainty as to each resource's maximum exposure to Non-Performance Charges given that the recently amended stop-loss for Non-Performance Charges is now based on the BRA clearing price, which could influence resource performance during capacity emergencies.⁵¹ P3 and EPSA state that starting the delivery year with legally suspect capacity prices and obligations is a "recipe for chaos" that the Commission must avoid.⁵² NRG states that granting the complaint would be "catastrophically bad public

⁴⁶ *Id.* at 9-10; Constellation Protest at 7.

⁴⁷ NRG Protest at 7.

⁴⁸ *Id.* at 7; Constellation Protest at 7.

⁴⁹ Constellation Protest at 7 (citing *Citadel*, 77 F.4th 842 ; *PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,104)).

⁵⁰ PJM Protest at 6.

⁵¹ *Id.* (citing PJM, Intra-PJM Tariffs, Tariff, attach. DD, § 10A (Changes for Non-Performance & Credits for Performance (14.0.0) (f-1); *PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,080, at P 234 (2024)).

⁵² P3 and EPSA Protest at 3.

policy” that sends a troubling message to market participants that they cannot rely on the rules set forth in the Tariff.⁵³

B. Comments

19. Public Citizen supports PJM Load Parties’ complaint. Public Citizen reiterates its comments filed on January 19, 2023, where it stated that the outcome of the capacity auction is unjust and unreasonable and the result of market manipulation in the form of intentional capacity withholding.⁵⁴ Public Citizen requests that the Commission find the auction results to be unjust and unreasonable, set the matter for hearing to determine whether there was intentional capacity withholding, and require future capacity auction results to be filed as stand-alone section 205 rate filings subject to public notice, inspection, and protest.⁵⁵

IV. Discussion

A. Procedural Matters

20. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

21. We deny the complaint. The Third Circuit held that PJM’s Tariff is unambiguous and the Court vacated the portions of the Commission’s orders allowing the Tariff amendments to be applied to the 2024/2025 BRA.⁵⁶ In addition, the Court held that PJM was required to use the initial “calculated and posted LDA Reliability Requirement” in the 2024/2025 BRA.⁵⁷ Although we acknowledge the PJM Load Parties’ concerns regarding the equities implicated by this result, the Third Circuit found that “the equities

⁵³ NRG Protest at 16-17.

⁵⁴ Public Citizen Comments at 1 (citing Public Citizen, Comments, Docket Nos. EL23-19 and ER23-729 (Jan. 19, 2023)).

⁵⁵ *Id.* at 2.

⁵⁶ *See* Petition Order, 187 FERC ¶ 61,065 at P 22 (citing *PJM Power Providers*, 96 F.4th at 400); Petition Rehearing and Stay Order, 187 FERC ¶ 61,107 at 14.

⁵⁷ *PJM Power Providers*, 96 F.4th at 400.

play no role in [its] application of the filed rate doctrine.”⁵⁸ To that end, we find here as we found in the Petition Order, that, notwithstanding PJM Load Parties’ equities concerns, we cannot reach a different outcome. Granting this complaint would effectuate the same result that PJM Load Parties requested in their pleadings in response to PJM’s initial filing in the LDA Reliability Requirement Orders and in response to PJM’s petition—an outcome that would be inconsistent with the Third Circuit’s ruling.

22. PJM Load Parties’ analogies to *Citadel* and *Public Citizen* also do not permit a different result. Here, the court vacated a Commission order for a specific violation of the filed rate doctrine—notwithstanding the Commission’s findings regarding rate impacts that PJM Load Parties cite in support of their complaint—and found that PJM was “required to use” the posted LDA Reliability Requirement as a legal consequence of posting that auction parameter in accordance with the Tariff. In contrast, the court in *Citadel* affirmed the Commission’s prospective changes at issue in that proceeding, and the court in *Public Citizen* remanded the relevant orders for further explanation. Neither opinion considered the filed rate doctrine’s application to the facts at issue in those cases.

The Commission orders:

PJM Load Parties’ complaint is denied, as discussed in the body of this order.

By the Commission. Commissioner See is not participating.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.

⁵⁸ *Id.* at 401; *see* Petition Order, 187 FERC ¶ 61,065 at P 25; Petition Rehearing and Stay Order, 187 FERC ¶ 61,107 at 15.