

**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY**

**International Transmission Company  
d/b/a ITC*Transmission***

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**Docket No. PP-230-4**

**RESPONSE OF PJM INTERCONNECTION, L.L.C. TO ANSWER OF  
INTERNATIONAL TRANSMISSION COMPANY d/b/a ITC*Transmission*  
AND SUPPLEMENTAL COMMENTS ON BEHALF OF THE MIDWEST  
INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.**

On April 14, 2011, International Transmission Company, d/b/a ITC*Transmission* (“ITC” or “Applicant”) filed an answer<sup>1</sup> to the motion and comments submitted on behalf of PJM Interconnection, L.L.C. (“PJM”)<sup>2</sup> in the captioned docket. In its Answer, ITC asserts, among other things, that PJM’s request for late intervention should be denied. Additionally, the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) filed Supplemental Comments echoing ITC’s arguments.<sup>3</sup>

**I. PJM Response**

ITC and the Midwest ISO’s attempts to stifle the Department of Energy (“Department”) from even considering issues being raised by PJM and numerous other petitioners should be rejected. ITC and Midwest ISO go on to argue the merits of operational protocols which have yet to be submitted to the public in this docket. In so doing, they ignore the fact that PJM has merely proposed at this point that Department *put such submittals out for notice and comment once they are filed* because they “may harm grid operations within the 13-state PJM Region and

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<sup>1</sup> See Answer of International Transmission Company d/b/a ITC*Transmission* to Late Motion to Intervene and Comments of PJM Interconnection, L.L.C. *International Transmission Company d/b/a ITCTransmission*, Docket No. PP-230-4 (Apr. 14, 2011) (“ITC Answer”).

<sup>2</sup> Motion to Intervene and Comments of PJM Interconnection, L.L.C., *International Transmission Company d/b/a ITC Transmission*, Docket PP-230-4 (March 25, 2011) (“PJM Comments”).

<sup>3</sup> See Supplemental Comments of the Midwest Independent Transmission System Operator, Inc. on International Transmission Company d/b/a ITC*Transmission*’s Request to Amend Presidential Permit, *International Transmission Company d/b/a ITCTransmission*, Docket No. PP-230-4 (Apr. 28, 2011) (“Midwest ISO Supplemental Comments”).

may be inconsistent with the public interest.<sup>4</sup> Rather than commenting on yet unsubmitted and unfinalized documents, PJM reiterates its request that the Department appropriately sequence this matter by not ruling on the merits of unsubmitted documents but instead adopt an orderly process that will allow for notice and comment on the supplemental submittal promised by ITC and the Midwest ISO. Rather than answering the substantive issues in the abstract, PJM reserves its right to file comments on the merits of the supplemental submittal once it is formally filed and thus before the Department. Such a procedure will establish a far more orderly process that will allow the submittal of informed comments filed in response to finalized submittals rather than forcing the Department to rule in the abstract on the merits of protocols it has not yet seen. This more orderly sequencing is the only way to ensure that due process protections for all interested persons and the public at large are ensured.<sup>5</sup>

The Applicant's claim that the Department is somehow collaterally estopped from considering PJM's issues is wide of the mark. In its application to amend its Presidential Permit No. PP-230-3, ITC is seeking permission to replace a failed 675 MVA PAR facility with two 700 MVA PAR facilities. Based on the difference in the configuration of the PAR facilities and the necessity to implement new protocols concerning their operation, ITC seeks to amend its original application. Such amendment requires the Department to review the new amended application based on the changes that precipitated the application, as well as all other factors, including whether such operating plan continues to be appropriate as applied to the current integrated transmission systems. Thus, such docket should afford all entities with a direct and substantial interest in the outcome of this proceeding the opportunity to participate in this docket and provide valuable input into the decision to either grant or deny such new application. This is

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<sup>4</sup> See PJM Comments at 1.

particularly true in light of the fact that ten years have elapsed since the initial permit was issued. If these issues had already been decided in the prior case, there would be no reason for ITC to file to supplement its permit. A fresh “public interest” determination *based on this record*, once complete, is required as part of the Department’s review and approval of this application (and the yet unfiled operating plan which forms a part of the application). All entities with a direct and substantial interest in the outcome of this proceeding should have the opportunity to review and comment on the new operating plan in the context of this docket as it will impact the current integrated transmission systems.

The Department has held this docket open pending receipt of a final plan agreed to by ITC and Ontario Hydro. During the intervening two years this docket has remained open, no such plan has been submitted on behalf of ITC and Ontario Hydro to the Department. Nor has the plan been available for public review in this docket. Allowing PJM to intervene in this docket would not prejudice any other party or delay this proceeding, as this docket has been held open pending submittal of the plan. Contrary to ITC’s assertions, PJM cannot resurrect an issue that has not yet been presented to the Department in this docket.<sup>6</sup>

PJM disagrees with Midwest ISO’s characterization of PJM’s intervention. PJM is not seeking “leverage” in related FERC proceedings. PJM has filed this intervention to protect the electric consumers in the PJM region from any adverse impacts of the planned PAR facilities operating protocols. As these operating protocols are being submitted to the Department, not FERC, there is no basis to claim that PJM’s participation before the Department is improper.<sup>7</sup>

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<sup>5</sup> It is rather disingenuous for the Applicant to seek to cut off parties’ rights to file comments on a claim that they are untimely when the Applicants have not even submitted such protocols for consideration. Neither ITC nor the Midwest ISO explains how PJM can be held to being required to file comments on protocols that have not, to date, been submitted in this docket.

<sup>6</sup> See ITC Answer at 7.

<sup>7</sup> See *Id.* at 8.

Finally, PJM takes issue with the Midwest ISO's contention that the Department lacks jurisdiction to accept PJM's late-filed intervention because PJM seeks review of the operational plan because of concerns over the economic congestion, rather than reliability, that will occur on the PJM system if ITC's plan is adopted without modification.<sup>8</sup> The Department reviews Presidential Permits subject to a "public interest" standard, not a more narrow "impact on reliability" standard. Although PJM believes that consistent with past precedent the Department should refer this matter to FERC and be informed by FERC's expertise in this area, it cannot be denied that the Department has jurisdiction under the broad "public interest" standard to review the operating plan regardless of whether an intervenor is concerned about economic or reliability impacts to its respective transmission system.

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<sup>8</sup> See Midwest ISO Supplemental Comments at 3.

## II. Conclusion

Based on the foregoing, PJM requests that the Department grant PJM's request to intervene in this docket and urges the Department to put the operating plan and related submittals out for comment once they are submitted by the Applicant in this proceeding. The Department's consideration should be deferred until those comments are received.

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Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 26<sup>th</sup> day of May, 2011, the foregoing document was served, by electronic mail or first class postage prepaid mail, upon all parties.



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