

134 FERC ¶ 61,080
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 2, 2011

In Reply Refer To:
PSEG Energy Resources & Trade LLC
and PSEG Fossil LLC
Docket No. ER05-644-011

PSEG Services Corporation
80 Park Plaza, T5G
Newark, NJ 07102

Attention: Felix M. Khalatnikov, Assistant General Regulatory Counsel
Tamara L. Linde, Vice President, Regulatory

Reference: Informational Filing on Planned Project Investments for CY2011

Dear Mr. Khalatnikov and Ms. Linde:

1. On October 1, 2010, as amended on November 15, 2010, PSEG Energy Resources & Trade LLC (PSEG ER&T) submitted an information filing, which included a list of planned Project Investments and the associated projected costs relating to its reliability-must-run (RMR) rate schedule for PSEG Fossil LLC's (PSEG Fossil)¹ Hudson Unit No. 1 generating unit (Hudson Unit No. 1). In this order, we accept PSEG ER&T's amended planned project investments and projected costs for informational purposes for calendar year 2011, and revisions to its 2010 project investments subject to the submission of additional information within 30 days of the date of this order.

2. On February 24, 2005, the PSEG Companies filed a Cost of Service Recovery Rates Tariff (Tariff) with RMR rate schedules for five of PSEG Fossil's generating units located within the PJM Interconnection, LLC (PJM) control area in New Jersey. At that time, PJM stated that the generating units, one of which is Hudson Unit No. 1, were necessary for grid reliability through September 1, 2008, and could not be retired until specific upgrades to the transmission system were completed to address PJM's reliability

¹ PSEG ER&T and PSEG Fossil are collectively the PSEG Companies.

needs.² On April 25, 2005, the Commission accepted and suspended the filing and established a hearing, which was subsequently held in abeyance to allow the parties to settle the matter.³ The settlement agreement, including the accompanying Tariff, was approved by the Commission on November 28, 2005.

3. Under the terms of the settlement and Tariff, if PJM provides written notice to PSEG ER&T that the units or any particular unit will be needed for reliability purposes for any period beyond September 1, 2008 (or any other date of extension), PSEG ER&T shall, within 60 days of the notice, file an amendment to the Tariff reflecting the modified term.⁴ Since approval of the settlement, PSEG ER&T has sought two separate amendments to the Tariff that extended the RMR term for PSEG Fossil's Hudson Unit No. 1: two additional years from September 1, 2008 to September 1, 2010 and one additional year from September 1, 2010 to September 1, 2011.⁵

4. Finally, the settlement and Tariff⁶ requires PSEG ER&T to file an annual informational filing no later than October 1 of each year that lists its planned project investments and projected costs for the upcoming calendar year with respect to Hudson Unit No. 1 and related support for those projects.⁷ The above section further provides

² In the initial filing, the PSEG Companies stated that PJM had notified the PSEG Companies that its generating units were necessary through at least the summer of 2006. (February 24, 2005 Filing at 2 and Attachment A). Subsequently, in an April 1, 2005 Answer, the PSEG Companies stated that PJM had extended the reliability need for these units until at least through the summer of 2008. (See April 1, 2005 Answer at 12 and Attachment B).

³ *PSEG Energy Resources & Trade, L.L.C., et al.*, 111 FERC ¶ 61,121 (2005) (*PSEG ER&T*); see also *PSEG Energy Resources & Trade LLC, et al.*, 113 FERC ¶ 61,213 (2005) (Settlement Order). Of the original five PSEG Fossil RMR units, only Hudson Unit No. 1 remains in service under an RMR rate schedule.

⁴ PSEG Companies, September 23, 2005 Stipulation and Agreement, Appendix A at Section III.

⁵ *PSEG Energy Resources & Trade L.L.C., et al.*, Docket No. ER07-506-000 (March 12, 2007) (unpublished letter order); see also *PSEG Energy Resources & Trade L.L.C., et al.*, Docket No. ER09-825-000 (May 4, 2009) (unpublished letter order).

⁶ PSEG ER&T, FERC Electric Tariff, Original Volume No. 2. Cost of Service Recovery Rate Tariff, Article IV, Section 2 (D).

that parties may object to the planned project investments or costs under section 206 of the Federal Power Act (FPA).⁸

5. On October 1, 2010, PSEG ER&T filed its annual information filing listing planned project investments and projected costs for calendar year 2011 for Hudson Unit No. 1 and related support for those projects (October 1 Informational Filing). According to the filing, projected investment costs for 2011 total \$9.95 million, including \$3.4 million transferred from 2010 for work that was not completed in 2010. The October 1 Informational Filing also includes a revised estimate of project investment costs for 2010 that removes the transferred costs.

6. Further, PSEG ER&T also submitted, for the Commission's information, a list of potential planned project investments and potential costs for calendar years 2012-2014 and related support for those projects should the term of the Hudson Unit No. 1 RMR Rate Schedule be extended for additional periods by PJM. In support of the projected costs for 2012-2014, PSEG ER&T states that it believes that it is within the realm of possibility that PJM may request an additional extension for longer than one year. In the event of an extension of the Hudson Unit No. 1 RMR term through 2014, PSEG ER&T submitted an additional budget of \$5.841 million for 2011 as well as investment budgets of \$52.57 million in 2012; \$8.842 million in 2013; and \$2.919 million in 2014 in order to ensure safe and reliable operation of the unit.

7. On November 15, 2010, the PSEG Companies moved to amend a portion of October 1 Informational Filing to withdraw the portion of the filing related to project costs for calendar years 2012-2014 (November 15 Amendment) because of comments, which are discussed below, raised by the New Jersey Division of Rate Counsel (NJ Rate Counsel) and the New Jersey Board of Public Utilities (NJ BPU).

8. Notice of the October 1 Informational Filing and November 15 Amendment were published in the *Federal Register* on November 30, 2010, with comments due by December 10, 2010. On October 22, 2010, timely motions to intervene with comments were filed by the NJ Rate Counsel and NJ BPU. The PSEG Companies filed an answer along with the November 15 Amendment. No comments were filed in response to the PSEG Companies' November 15 Amendment.

⁷ Project Investments and their associated costs refer to costs that are necessary for the units to be operated in a reliable manner and to provide reasonable assurances that the units will be available on an uninterrupted basis to PJM for reliability purposes. (*See* PSEG Companies, October 7, 2005 Filing at 2).

⁸ PSEG ER&T, FERC Electric Tariff, Original Volume No. 2. Cost of Service Recovery Rate Tariff, Article IV, Section 2 (D).

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2010) prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept the PSEG Companies' answer because it has provided information that assisted us in our decision making process.

11. The NJ Rate Counsel and the NJ BPU both question the inclusion of estimated costs for a period outside of the RMR period and state that, if the Commission accepts PSEG ER&T's filing, the costs should be limited to the necessary and proper cost only to operate Hudson Unit No. 1 until the expiration of the RMR period. The NJ BPU also objects to the certain deferred 2010 project investments work that will no longer be performed in 2010 and states that PSEG ER&T's deferral of the approximately \$3.4 million in project investment work to calendar year 2011 lacks justification or support.

12. In the November 15 Amendment, the PSEG Companies withdrew the portions of the October 1 Informational Filing dealing with the list of potential planned project investments and potential costs for calendar years 2012-2014. The PSEG Companies state that the purpose of including the potential project investments for calendar years 2012-2014 was to place affected parties on notice that higher levels of investments would be necessary if the term of operation for Hudson Unit No. 1 was extended.

13. The PSEG Companies request that the Commission dispose of the NJ BPU and Rate Counsel protests, as they relate to the list of potential planned project investments and potential costs for calendar years 2012-2014 that have been withdrawn and therefore, not under consideration in this docket. The PSEG Companies also request expedited consideration of the amended filings and the comments raised by the NJ BPU and NJ Rate Counsel so that the PSEG Companies have the ability to complete certain portions of the recommended project investments prior to summer 2011. The PSEG Companies state they need the Commission's approval because, under the Tariff, the PSEG Companies are not obligated to undertake proposed project investments that have been objected to until such time as the Commission completes its deliberations and authorizes the work to be undertaken.

14. Finally, the PSEG Companies states that by letter dated November 11, 2010, PJM requested to extend the RMR arrangement to an additional year resulting in a new termination date of September 1, 2012. The PSEG Companies state that PJM is still studying planning years 2013 and 2014. In these circumstances, the PSEG Companies intend to wait until PJM completes these additional studies before making an informational filing concerning operations beyond September 1, 2011.

15. The Commission accepts the revised calendar year 2010 project investments and the project investments and costs for calendar year 2011 for informational purposes subject to clarification and further compliance as discussed below.⁹

16. PSEG ER&T provides an explanation that projected project investment costs of \$9.95 million for calendar year 2011 are necessary to maintain reliability of Hudson Unit No. 1 through September 1, 2011, as documented in the filings in this docket. PSEG ER&T also reports in the October 1 Informational Filing that the calendar year 2011 projected project investments budget includes a carry over of \$3.4 million from work previously submitted as budgeted for calendar year 2010,¹⁰ that is forecasted to be completed in 2011 because of the unavailability of needed internal resources to plan and implement the project work.¹¹ We find that PSEG ER&T's instant filing on the revised 2010 project investments is unclear on what work is being carried over from calendar year 2010 and specifically, to what the \$3.4 million PSEG ER&T proposes to transfer from 2010 is being allocated in 2011. Accordingly, to ensure that PSEG ER&T complies with the requirement of Article IV, Section 2 (D) of the Tariff, the Commission will require PSEG ER&T to file, within 30 days of the date of issuance of this order, an itemized budget list detailing the work that is being carried over from 2010, and the corresponding line items where the costs appear in the 2011 budget.¹² The Commission will also require PSEG ER&T to file a detailed list to account for actual project investments and costs for actual project investment undertaken in calendar year 2010 and in calendar year 2011.¹³

⁹ Although we do not typically notice or issue orders on informational filings, the PSEG Companies state that, due to the objections raised by the parties, construction could not commence absent the Commission's authorization. Our acceptance of this informational filing permits PSEG to begin construction.

¹⁰ See PSEG ER&T's October 1, 2009 Informational Filing which contained the "Original Hudson 1 Project Investments and Costs 2010."

¹¹ PSEG ER&T October 1 Informational Filing, Affidavit of Kenneth J. Daledda on Behalf of PSEG Energy Resources & Trade LLC and PSEG Fossil LLC at 4.

¹² While the Commission will not dictate the appearance and format of PSEG ER&T's itemized list to be submitted on compliance, the Commission notes that the matrix provided by the consultant as Attachment B to the October 1 Informational Filing presents a detailed itemized list of suggested projects with associated costs.

¹³ The Commission notes that this requirement is in addition to any refund report submitted by PSEG ER&T, to the extent necessary, pursuant to the requirements of settlement agreement as approved by the Commission in the Settlement Order.

17. Because the PSEG Companies have withdrawn the portions of the October 1 Informational Filing related to calendar years 2012-2014 that the NJ Rate Counsel and NJ BPU were concerned about, we find there is no need to further address those comments.¹⁴

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹⁴ On January 14, 2011, in Docket No. ER11-2688-000, PSEG ER&T filed, for Commission approval, a revision to its RMR tariff to extend the term of the RMR Rate Schedule for Hudson Unit No. 1 to meet reliability requirements for an additional year from September 1, 2011 to September 1, 2012.