

Companies File Rehearing Requests on PJM Western Hub IBT Issue

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As previously noted in an [Energy Legal Blog post on March 19](#), in an order resolving a complaint filed by DC Energy, LLC and DC Energy Mid-Atlantic, LLC against PJM Interconnection LLC (PJM), the Federal Energy Regulatory Commission (FERC) has ruled that in order for an Internal Bilateral Transaction (IBT) to be "reported to" PJM, it must meet a newly clarified physicality test set forth in Section 1.7.10 of the PJM Tariff (March 9th Order) . Our [previous blog post](#) on this subject pointed out that the application of the March 9th Order may have a significant impact on forward transactions in PJM, particularly those with a PJM Western Hub delivery point. Trading hubs, such as the PJM Western Hub, were created to provide a vehicle for market participants to engage in forward trades of a regional product. The language of the March 9th Order raised significant questions as to whether such transactions are compliant with the PJM Tariff as interpreted by FERC. On April 9, DC Energy and Scylla Energy filed for rehearing of the March 9th Order. In their rehearing requests they contended, *inter alia*, that

1. PJM Western Hub IBTs are "fundamentally identical" to the IBTs found non-compliant by the Commission;
2. Their IBTs satisfied the FERC "physicality" test in the same manner as Western Hub IBTs;
3. FERC EQR data shows that 54 Twh of transactions among 92 parties of apparently nonconforming hub based IBTs occurred in the second quarter of 2011 alone;
4. IBTs can be sourced in the PJM interchange market;
5. IBTs do not require point-to-point transmission, generation, or load ; and
6. The eScheduling of IBTs does not require the real-time physical delivery of power.

Notwithstanding the rehearing requests, the FERC March 9th Order remains in effect. While PJM has stated it is aware of the issues raised by the March 9th Order and has committed to "provide guidance" regarding the criteria for a compliant IBT, it has not done so as of this time. It has, however, continued to accept Western Hub IBTs.