



MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (Commission) Orders
(June 10, 2019 – August 4, 2019)

ORDERS

On June 11, 2019, in Docket No. ER19-745-001, the Commission issued a letter order accepting PJM's filing in compliance with FERC's March 1, 2019 Order to update the annual cost responsibility assignments for baseline upgrades included in PJM Tariff, Schedule 12-Appendix to delete (i) baseline upgrade b0272.2 from the ODEC(6) section and (ii) footnote *** included in both the ODEC (6) and NAEA Rock Springs, LLC (22) sections. The revisions are effective as of January 1, 2019.

On June 11, 2019, in Docket No. ER19-1301-000, the Commission issued an order accepting, subject to refund pending further Commission action on remand, revisions to the PJM Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignments for new baseline upgrades included in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on February 12, 2019. The revisions are effective as of June 12, 2019.

On June 11, 2019, in Docket No. ER19-1694-000, the Commission issued a letter order accepting PJM's proposed revisions to the PJM Tariff and the RAA to consolidate and revise the definition of On-Site Generators. The revisions clarify that generation resources located behind a load meter are not prohibited, in certain circumstances, from qualifying as both Generation Capacity Resources and as On-Site Generators. The revisions are effective July 1, 2019.

On June 18, 2019, in Docket No. ER19-1699-000, the Commission issued a letter order accepting revisions to the PJM Operating Agreement, Schedule 12, and the RAA, Schedule 17, to (i) add the new members, (ii) remove withdrawn members, (iii) reflect the signatories to the RAA, and (iv) reflect members' whose corporate names changed during the first quarter of 2019. The revisions are effective as of March 31, 2019.

On June 20, 2019, in Docket No. ER18-614-004, the Commission issued an order denying rehearing and accepting the PJM Transmission Owners revisions to the PJM Tariff, Schedule 12, section (b)(xvii) in compliance with the Commission's July 2, 2018 order in Docket Nos. ER18-614-000 and EL18-173-000 to clarify the provision relating to Targeted Market Efficiency Projects. The revisions are effective June 20, 2019.

On June 20, 2019, in Docket No. ER18-614-003, the Commission issued an order denying rehearing and accepting PJM's revisions to the PJM Tariff, Schedule 12-Appendix A (NIPSCO) in compliance with the Commission's July 2, 2018 Order to revise the allocation of cost responsibility for four (4) Targeted Market Efficiency

Projects (TMEPs) to include Linden VFT, LLC and Hudson Transmission Partners, LLC. The revisions are effective as of April 5, 2018.

On June 20, 2019, in Docket No. EL08-14-012, the Commission issued an Order on Voluntary Remand and Granting Rehearing directing PJM to: (1) pay refunds, with interest, and collect surcharges necessary to collect funds with which to pay those refunds; and (2) allow financial marketers to retain the calculated amount of refunds that were previously paid to them. This case is before the Commission on voluntary remand from the United States Court of Appeals for the District of Columbia Circuit. At issue on remand was whether the Commission erred in: (1) directing PJM to refund certain line loss over-collection amounts to certain financial marketers; and (2) determining that these financial marketers should repay the refunds that they had previously received from PJM.

On June 21, 2019, in Docket No. ER19-105-000, the Commission issued a letter order accepting PJM's May 9, 2019 compliance filing to correct the metadata effective date for the record submitted in Docket No. ER19-105-002. The eTariff record's metadata was corrected from an effective date of December 12, 2018 to January 17, 2019.

On June 26, 2019, in Docket No. ER19-511-002, the Commission issued a letter order accepting PJM's May 30, 2019 compliance filing incorporating the PJM Manual 19 provisions pertaining to the terms and conditions of Peak Shaving Adjustment into PJM Tariff, Attachment DD-2. The revisions are effective June 26, 2019.

On June 26, 2019, in Docket Nos. ER19-1151-001 and ER19-1152-001, the Commission issued a letter order accepting PJM's supplement to the revisions to the PJM Tariff, Attachment L and the Consolidated Transmission Owners Agreement, Attachment A to update the actual effective date following PJM's notification that the construction and cut-in has been completed as of May 10, 2019. The revisions are effective as of May 10, 2019.

On June 27, 2019, in Docket Nos. ER19-1012-000 and 001, the Commission issued an order rejecting PJM's proposed revisions to the PJM Tariff and RAA submitted on February 7, 2019 to update the rules and requirements for Price Responsive Demand to conform to the rules and requirements for Capacity Performance Resources. The Commission rejected the revisions as unjust and unreasonable because calculating the Nominal PRD Value and the associated PRD Credit based on the lesser of summer and winter load reductions is inconsistent with a Load Serving Entity's capacity obligation, which is based on the LSE's annual coincident peak demand.

On June 28, 2019, in Docket No. ER18-2401-002, the Commission issued an order granting PJM's request to extend the effective dates for revisions to the PJM Operating Agreement that PJM submitted to comply with Order No. 844. Specifically, the Commission granted PJM's request to permit the proposed tariff revisions related to the Zonal Uplift Report and Resource-Specific Uplift Report to become effective July 1, 2019 and the proposed tariff revisions related to the Operator-Initiated Commitment Report to become effective October 1, 2019.

On July 2, 2019, in Docket No. ER19-1905-000, the Commission issued a letter order accepting Duke Energy Progress, LLC (DEP) and PJM's jointly submitted revisions to

the DEP-PJM Joint Operating Agreement to delete Article 14 and calculate PJM-DEP interface prices in accordance with high-low interface pricing methodology provided for under PJM Tariff, Attachment K-Appendix, section 2.6A and the parallel provisions of PJM Operating Agreement, Schedule 1. The revisions are effective July 22, 2019.

On July 25, 2019, in Docket Nos. EL16-49-000 and EL18-178-000, the Commission issued an order on PJM's April 10, 2019 supplemental motion seeking clarification of the Commission's June 29, 2019 order. In its order, the Commission denies PJM's motion and directs PJM not to run the August 2019 BRA.

On July 30, 2019, in Docket No. ER19-2030-000, the Commission issued a letter order accepting PJM's revisions to the PJM Tariff, Part IV to give all Interconnection Customers ten Business Days to resolve PJM-identified deficiencies in otherwise complete and timely Interconnection Requests, regardless of when an Interconnection Request is submitted in an open New Services Queue window. The revisions are effective as of July 31, 2019.

FILINGS

On June 11, 2019, in Docket No. ER19-2107-000, Black Rock Wind Force, LLC submitted to the Commission a Request for Limited Waiver of the PJM Tariff, Section 206.2, to allow it to maintain its assigned AD2-180 PJM queue position.

On June 14, 2019, in Docket No. ER16-372-007, PJM submitted an answer in response in response to the Request for Rehearing filed by the Electric Power Supply Association (EPSA) and the separate Motion for Clarification, or, in the Alternative, Rehearing of Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (Market Monitor). In the answer, PJM explains that the Commission should (1) affirm its finding that Market Sellers that submit non-compliant cost-based offers should be subject to a minimum penalty of one day, (2) decline to require replacement of the referral to the Office of Enforcement language with complaint or other regulatory proceeding language when PJM and the Market Monitor disagree over a cost-based offer, and (3) to the extent the Commission agrees that either PJM or the Market Monitor may provide notification of a non-compliant cost-based offer, it should also clarify that the Market Monitor must inform PJM at the same time a Market Seller is notified of a non-compliant cost-based offer.

On June 14, 2019, in Docket Nos. ER19-210-001 and EL19-8-001, PJM submitted an answer in response to the comments filed by the Independent Market Monitor for PJM dated May 31, 2019. In the answer, PJM sets forth reasons for why the Commission should decline to require PJM to specify the types of Maintenance Adders that are allowed in the three part energy offer.

On June 19, 2019, in Docket No. EL19-27-000, PJM submitted a notice withdrawing its pending motion to adopt the amended protective order filed on January 22, 2019.

On June 21, 2019, in Docket No. EL19-70-000, PJM submitted an answer in response to the comments of the Independent Market Monitor regarding cost-of-service ratemaking issues relevant to the Federal Power Act, section 205 filings of individual public utilities to establish stated revenue requirements for Reactive Supply and Voltage Control from Generation or Other Sources Service pursuant to Schedule 2 of the PJM Tariff.

On June 21, 2019, in Docket Nos. EL19-58-000 and ER19-1486-000, PJM submitted an answer in response to certain protests and comments to PJM's March 29, 2019 filing regarding enhanced price formation in PJM's Reserve Markets.

On June 24, 2019, in Docket No. ER19-2240-000, PJM submitted proposed revisions to PJM Tariff, Attachment K-Appendix, section 5.2.1, and to the identical corresponding provisions in PJM Operating Agreement, Schedule 1, section 5.2.1 to incorporate a minor, one-word revision clarifying a component calculation used in the application of the "FTR forfeiture rule." Specifically, the proposed revisions would automatically account for the number of applicable hours related to the specific FTR product at issue during application of the FTR forfeiture rule. PJM also proposed non-substantive clerical

revisions to fix a formatting error in the aforementioned tariff records. PJM requested an effective date of September 1, 2019.

On June 24, 2019, in Docket No. RM18-20-000, the ISO/RTO Council (IRC) submitted comments in response to the Commission's Notice of Proposed Rulemaking which proposes to approve Critical Infrastructure Protection Reliability Standard CIP-012-1 (Cyber Security – Communications between Control Centers) and to direct that NERC develop certain modifications to Reliability Standard CIP-012-1. The IRC generally supports the Commission's proposed approval of Reliability Standard CIP-012-1 and provides comments in order to request that the Commission reconsider, and in the alternative clarify, its proposed directives that NERC further modify the CIP Reliability Standards in order to: (1) require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers; and (2) more clearly identify the types of data that must be protected.

On June 26, 2019, in Docket Nos. EL19-18-000, ER19-1922-000, ER19-1958-000, and ER19-603-002, PJM submitted to the Commission a Motion for Leave to Answer and Answer in response to Requests for Clarification, Motions to Intervene, Comments, and Protest of American Electric Power Service Corporation ("AEPSC") filed on June 11, 2019. In the Answer, PJM (1) addresses the effective date of PJM's revisions to the PJM Tariff, Attachment O as directed by the Commission in Docket No. EL19-18-000; (2) explains minor clarifying revisions that PJM included in response to the Commission's order in Docket No. EL19-18-000 ("Complaint Order"), but did not include in the revised Guernsey Power Station, LLC ICSA directed by the Commission in Docket No. ER19-603-001 ("Guernsey Order"); (3) explains how PJM's revised PJM Tariff, Attachment O, Appendix 2, section 3.2.3.8 ("Section 3.2.3.8") fully complies with the Commission's directives in the Complaint Order and Guernsey Order; (4) explains how PJM's revised Section 3.2.3.8 does not conflict with, and is fully consistent with, PJM Tariff, Attachment O, Appendix 2, section 3.2.3.9; and (5) explains that PJM will address AEPSC's comments regarding PJM's Order No. 845 compliance filing in a future filing that comprehensively addresses various comments received in Docket No. ER19-1958-000. PJM requested that the Commission grant the Motion for Leave to Answer and accept the Answer.

On June 26, 2019, in Docket No. PL19-3-000, PJM filed comments to a portion of the Commission's Notice of Inquiry Regarding the Commission's Electric Transmission Incentives Policy. Specifically, PJM comments affirm the importance of the Commission's continued application of the Congressionally-mandated incentive for joining a Transmission Organization.

On June 28, 2019, in Docket No. EL19-78-000, PJM submitted its answer to the complaint filed by National Railroad Passenger Corporation (Amtrak) on May 30, 2019, against PJM and PPL Electric Utilities Corporation (PPL). The complaint alleges that PJM failed to "enforce the terms" of the PJM Tariff, claiming that PPL, the Transmission Owner for the Zone in which Amtrak's load is located, has been billing Amtrak (through its electric generation supplier Constellation New Energy, Inc.) based on billing determinants that are not in the PJM Tariff. PJM's answer states that the Commission

should dismiss or deny the Complaint, as Amtrak has failed to state any claim with respect to PJM, much less a claim for which relief can be granted.

On June 28, 2019, in Docket No. ER19-2301-000, PJM filed proposed revisions to the Operating Agreement, Schedule 6, section 1.5.7(f) to add needed clarity by specifying a time after which PJM is no longer required to conduct an annual re-evaluation of market efficiency projects that have been approved by the PJM Board of Managers. PJM requested that the proposed revisions become effective on August 28, 2019.

On June 28, 2019, in Docket No. ER19-2282-000, NYISO and PJM submitted revisions to the NYISO-PJM Joint Operating Agreement (JOA) to implement a long-term solution to address concerns identified by the RTOs in their joint request for limited waiver of the JOA to authorize redispatch of generation in PJM to mitigate post-contingency overloads of transmission equipment on the New York side of the East Towanda-Hillside 230 kV transmission line . The JOA revisions include the addition of a new type of coordinated Flowgate along with rules addressing implementation of the new Flowgate and changes to the criteria that determine when the RTOs can initiate, and keep active, redispatch coordination. The RTOs requested an effective date of September 16, 2019.

On July 2, 2019, in Docket Nos. EL16-108-001, et al., PJM submitted an answer to the Illinois Municipal Electric Agency's (IMEA) request for clarification or rehearing of the Commission's May 16 Orders on Complaints regarding congestion charges in PJM and MISO and the potential for duplicative charges. PJM's answer demonstrates that there is no basis for the Commission to grant the relief that IMEA seeks regarding refunds.

On July 2, 2019, in Docket Nos. ER19-1486-000 and EL19-58-000, PJM submitted a supplement to the June 21, 2019 Answer to certain comments and protests to include a verification for the Reply Affidavit of Christopher Pulong.

On July 5, 2019, in Docket No. EL18-34-000, PJM submitted a motion for extension of time requesting an extension of time for PJM to submit its compliance filing to August 30, 2019 and informational report to September 27, 2019 in compliance with the Commission's April 18, 2019 Order on Paper Hearing. PJM seeks an order on the motion by July 19, 2019 and, to support such request, asks for a shortened answer period to July 15, 2019.

On July 8, 2019, in Docket No. EL19-34-000, PJM submitted a limited answer to the June 28, 2019 Motion for Prompt Commission Action, filed by complainant Brookfield Energy Marketing LP ("Brookfield"). PJM (1) supports prompt Commission action on Brookfield's complaint; but (ii) opposes Brookfield's alternative request for interim relief for an order "extend[ing] by one year the current 5-year transition period for external resources with existing pseudo-ties that wish to remain pseudo-tied" because that requires a Tariff change which would require action under Section 206 of the Federal Power Act, section 205.

On July 11, 2019, in Docket No. ER19-1958-000, PJM submitted a motion for leave to answer and answer to comments and protests submitted in response to PJM's May 22, 2019 Order No. 845 Compliance Filing proposing revisions to PJM's generator interconnection process.

On July 12, 2019, in Docket No. ER19-562-000, PJM submitted its first of three annual informational reports with respect to revisions to the Operating Agreement, Schedule 6, section 1.5.7 accepted by the Commission by order issued on March 12, 2019 in this docket. Specifically, the informational report provides updates to the information provided in PJM's December 14, 2018 filing, such as (i) updates to the data presented in Tables 1 and 2 included in the December 14 Filing Letter, (ii) the number of generators with only an executed Facilities Study Agreement or Interconnection Service Agreement under suspension that were included in the assumptions to the most recent market analysis, and (iii) information relative to whether PJM has completed a sensitivity analysis of its modeling of expected congestion (and provided the results of that sensitivity analysis to stakeholders) as compared to what PJM would have done prior to the revisions.

On July 15, 2019, in Docket Nos. EL16-108-001, et al., PJM submitted an answer to Tilton Energy, LLC, Dynegy Marketing and Trade, LLC and Illinois Power Marketing Company, American Municipal Power, Inc., and Northern Illinois Municipal Power Agency's (collectively, Complainants) Joint Request for Rehearing and Clarification of the Commission's May 16 Orders on Complaints regarding overlapping congestion charges in PJM and MISO. PJM's answer demonstrates that there is no basis to support Complainants' claim of "dilatatory behavior" and no PJM tariff provision to allow for an extended refund period.

On July 15, 2019, in Civil No. 1:17-CV-01574-RCL, PJM filed a motion with United States District Court for the District of Columbia (the Court) in National Parks Conservation Association v. Semonite et al. requesting leave to file a brief as amicus curiae in support of Virginia Electric & Power Company (Dominion). This case before the Court involves challenges to the decision of the U.S. Army Corps of Engineers, Norfolk District (the Corps), to issue to Dominion a permit to construct and operate in and over the James River Dominion's Surry-Skiffes Creek-Wheaton 500/230 kV electric transmission project (Skiffes Creek project). PJM's brief will assist the Court in understanding the foundation for, and the veracity of, PJM's analyses of the Dominion transmission system, the Skiffes Creek project, and the potential consequences of vacating the Corps' permit for the project pending completion the Corps' completion of an Environmental Impact Statement or EIS.

On July 18, 2019, in Docket No. ER19-2417-000, PJM submitted proposed revisions to the PJM Tariff to: (1) enable Capacity Market Sellers to request removal of the Capacity Resource status from an Existing Generation Capacity Resource and (2) require Capacity Market Sellers seeking an exception to the Reliability Pricing Model (RPM) must offer requirement on the basis that an Existing Generation Capacity Resource is physically unable to satisfy the requirements of Capacity Performance to include a

documented plan to become capable of participating in RPM, along with possible removal of such resource's Capacity Resource status if the Capacity Market Seller does not adhere to such plan. PJM is requesting an effective date of September 23, 2019 for the associated PJM Tariff revisions.

On July 23, 2019, in Docket No. RM05-5-027, PJM submitted comments in response to the Commission's May 16, 2019 Notice of Proposed Rulemaking to amend its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (i.e., Version 003.2) of certain Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board. In its comments, PJM supports the Commission's proposal to amend its regulations to incorporate WEQ Version 003.2 Standards and requests that the Commission clarify in the final rule that each public utility may seek as part of its compliance filing: (1) waiver of new or revised standards in the WEQ Version 003.2 Standards; and (2) renewal of existing waivers previously granted by the Commission.

On July 25, 2019, in Docket Nos. ER18-2068-000 and 001, PJM submitted a motion for adoption of protective order and request for expedited action and waiver of answers. In its motion, PJM moves for the adoption of its proposed protective order to govern the production of confidential and proprietary information and to provide additional protection for documents marked as Critical Energy Infrastructure Information and as Highly Sensitive Protected Materials.

On July 29, 2019, in Docket No. BOEM-2018-0067-0001, PJM submitted for filing comments in response to the Bureau of Ocean Energy Management (BOEM) announcement of a Request for Competitive Interest for the development of a New York and New Jersey energy transmission line and potential grant of an outer continental shelf right of way to Anbaric Development Partners, LLC to allow Anbaric to deliver offshore wind energy to the onshore electric grid. In response to BOEM's Notice, PJM offered background information to inform BOEM about PJM's regional transmission expansion planning and interconnection processes that will have to be considered as part of any offshore wind development interconnecting to the PJM transmission system.

On July 31, 2019, in Docket No. ER19-2514-000, PJM submitted for filing proposed revisions to the PJM Operating Agreement, Schedule 12, and the RAA, Schedule 17, to (i) add the new members, (ii) remove withdrawn members, (iii) reflect the signatories to the RAA, and (iv) reflect members' whose corporate names changed during the second quarter of 2019. PJM requested the revisions be effective as of June 30, 2019.