

MC Legal Report
Summary of Significant Filings, Legal Activity and
Federal Energy Regulatory Commission (Commission) and Court Orders
(November 14, 2023 – December 11, 2023)

ORDERS

On December 11, 2023, in Docket Nos. ER22-2029-001, et al., the Commission accepted PJM's compliance revision to Tariff, Attachment Q to comply with the Commission's directive to implement its historical simulation model at a 99% confidence interval, effective December 12, 2023.

On December 8, 2023, the Commission issued a letter order accepting the filing PJM submitted on behalf of American Electric Power Service Corporation (AEPSC) in Docket No. ER23-1407-002, on behalf of its affiliate Transource Pennsylvania, LLC, a compliance filing to revise Tariff, Attachment H-29B of the PJM Open Access Transmission Tariff Attachment H-29B. Transource's revisions will be effective as of August 12, 2023.

On December 7, 2023, the Commission issued a letter order accepting the filing PJM submitted on behalf of West Penn Power Company (West Penn) in Docket No. ER24-231-001, of an errata to change incorrect metadata within the filing package to its October 27, 2023 filing (the Oct. 27 Filing) which proposes revisions to amend Attachment H-11A to the PJM Tariff setting forth an Other Supporting Facilities Charge related to the use of West Penn's distribution facilities. West Penn's requested amendments to Attachment H-11A, will be effective as of October 30, 2023.

On December 5, 2023, the Commission issued a letter order accepting the filing PJM submitted on behalf of Rockland Electric Company (RECO) in Docket No. ER22-910-003, a compliance filing to revise Rockland Electric Company's annual transmission revenue requirement and associated transmission rates in accordance with a FERC approved settlement agreement. RECO's requested revisions will become effective as of August 30, 2022.

On November 30, 2023, in Docket No. EL21-78-000, the Commission issued an order terminating its section 206 order to show cause regarding PJM's practice of committing lowest priced offers. Additionally, the Commission directed PJM to replace Real Time Values with the ability for Market Sellers to submit temporary exceptions after the close of the Day-ahead Energy Market. The Commission directed PJM to submit a compliance filing by January 2, 2024 to reflect these revisions in the Tariff and Operating Agreement. The order noted that the Tariff and Operating Agreement revisions are effective as of November 30, 2023.

On November 30, 2023, in Docket No. ER21-2020-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Potomac Electric Power Company (PEPCO) and Baltimore Gas and Electric Company (BGE) of an executed Settlement Agreement and related documents that resolve all issues in Docket Nos. ER21-2020-000 and ER21-2023-000. PEPCO and BGE's requested revisions will become effective as of August 1, 2021.

On November 22, 2023, in Docket Nos. ER22-2359-001 and ER22-2359-002, the Commission issued an Order accepting PJM's July 18, 2023, as amended on September 29, 2023, submission for revisions to Definitions, Attachment K-Appendix, and Attachment W of PJM's Open Access Transmission Tariff and Schedule 1 of PJM's Operating Agreement in compliance with the directives in an April 2023 Commission order and the requirements of Order No. 881. The Order also accepted the filing in Docket No. ER23-2964-000, submitted on September 29, 2023 on behalf of the PJM Transmission Owners, pursuant to section 205 of the Federal Power Act, including revisions to the Consolidated Transmission Owners Agreement to establish the methodology for ambient adjusted ratings implementation, delineating the roles and responsibilities of PJM Transmission Owners and PJM. The submittals are effective July 12, 2025 and December 31, 1998, as requested.

On November 22, 2023, the Commission issued an Order accepting July 18, 2023's filing. The effective date is December 31, 9998.

On November 22, 2023 the Commission accepted the filing submitted on September 29, 2023. The effective date is July 12, 2025.

On November 21, 2023, the Commission issued a letter order accepting the filing PJM submitted on behalf of Public Service Electric and Gas Company (PSE&G) in Docket No. ER23-2916-000, of a Section 205 application seeking the Abandoned Plant Incentive PSE&G's State Agreement Approach (SAA). PSE&G request for the Abandoned Plant Incentive for the Project is granted and effective as of November 22, 2023.

On November 17, 2023, in Docket Nos. ER24-98-000 and ER24-99-000, the Commission issued deficiency letters to PJM's proposed enhancements to the capacity market rules stemming from the expedited critical issue fast path stakeholder proceeding. The response to the deficiency letter is due within 30 days.

On November 17, 2023, in Docket Nos. ER24-98-000 and ER24-99-000, the Commission issued deficiency letters to PJM's proposed enhancements to the capacity market rules stemming from the expedited critical issue fast path stakeholder proceeding. The response to the deficiency letter is due within 30 days.

FILINGS

On December 4, 2023, in Docket No. ER24-462-000, PJM submitted an Answer to the Motion of the Illinois Commerce Commission (ICC) for Extension of Time and Request for Expedited Ruling (Motion) filed on December 1, 2023. In the answer, PJM opposes a 30 day extension of time, but supports an extension of the existing December 12, 2023 comment deadline by one week until December 19, 2023.

On December 1, 2023, in Docket Nos. ER19-2105-000 and ER19-2105-001, PJM submitted, consistent with PJM Open Access Transmission Tariff, Schedule 7, section 11(E), its 2024 Informational Filing together with the 2024 Border Yearly Charge (BYC) Workbook as part of the annual updating process for the BYC.

On December 1, 2023, in Docket No. ER22-910-004, PJM submitted on behalf of Rockland Electric Company (RECO) revisions to PJM Tariff Attachment H-12, Schedule 7, and Schedule 8 to implement its revised Eastern Division Transmission Rates under PJM's electronic IntraPJM Tariff. RECO is requesting that the revisions be effective as of January 1, 2024.

On December 1, 2023, in Docket No. ER24-99-001, PJM submitted answers to the deficiency letter issued on November 17, 2023 in response to PJM's section 205 filing designed to enhance PJM's resource adequacy risk modeling, capacity accreditation processes, and testing requirements of capacity resources.

On November 30, 2023, in Docket No. EL24-8-000, PJM Interconnection, L.L.C. electronically submitted to FERC an answer to the complaint filed by Elevate Renewables F7, LLC and Parkway Generation Operating LLC on October 31, 2023.

On November 27, 2023, the ISO-RTO Council along with PJM filed a joint motion for a 60-day Extension of Time to Submit Comments in the Electric Quarterly Reports ("EQR") NOPR, filed in Docket No. RM23-9-000.

On November 22, 2023, in Docket No. ER24-472-000, PJM submitted on behalf of NextEra Energy Transmission MidAtlantic Indiana, Inc. (NEET) revisions to Attachment H-33B of the PJM Open Access Transmission Tariff to implement its request for certain limited incentive rate treatments. NEET's requesting that the revisions to Attachment H-33B be effective as of January 22, 2024.

On November 21, 2023, in Docket No. ER24-477-000, PJM submitted a Request for Waiver of Operating Agreement, Schedule 6, Section 1.5.7(f), which requires PJM to review, on an annual basis, the of costs and benefits of constructing economic projects included in the RTEP. The filing requests that the Commission shorten the comment deadline to December 1, 2023 and issue an order granting the request by no later than December 21, 2023.

On November 21, 2023, in Docket No. ER24-461-000, PJM submitted its Enhancements to Peak Market Activity Credit Requirement proposal. The proposed Tariff enhancements will better protect market participants, particularly during times of stress, through effective collateralization. PJM requested that the Tariff revisions become effective as of January 22, 2024.

On November 21, 2023, in Docket No. ER24-462-000, PJM submitted its proposal for Tariff revisions to establish a new Cost of New Entry (CONE) Area for ComEd to address the impacts of Illinois' Climate and Equitable Jobs Act on the expected economic life of the Reference Resource in the ComEd Zone. PJM requested that the Tariff revisions become effective as of January 22, 2024.

On November 20, 2023, in Docket No. ER23-2663-001, PJM filed a response to the Commission's October 20, 2023 Deficiency Notice. The deficiency response provided additional information and justification for the nonconforming Affected System provisions contained in the Interconnection Service Agreement among PJM, Virginia Electric and Power Company, Appalachian Power Company, previously filed with the Commission on August 21, 2023. PJM requested a placeholder effective date of December 31, 9998 in order to allow for additional changes to the ISA.

On November 20, 2023, in Docket No. ER24-450-000, 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 third quarter of 2023. PJM requested the revisions be effective as of September 30, 2023.

On November 17, 2023, in Docket No. EL23-57, Lee County Generating Station, LLC (Lee County) and PJM jointly filed a request for waiver in order to defer Lee County's obligation to pay PJM's June, July, and August 2023 invoices until the earlier of the effective date of the settlement pending in Docket Nos. EL23-53-000, et al., or May 31, 2024. The filing requests that the Commission act on the request by no later than December 29, 2023.

On November 17, 2023, in Docket No. EL23-105-000, PJM submitted an answer to the Complaint filed by the Office of the Ohio Consumers' Counsel (OCC) against PJM and transmission owners in Ohio (AEP Ohio, AES Ohio, Duke Energy Ohio and American Transmission Systems, Inc.). The Complaint raises several arguments regarding FERC, PJM and state oversight over local transmission projects in the state of Ohio. In its answer, PJM requests that FERC deny the Complaint.

On November 17, 2023, in Docket No. ER12-2708-010, PJM submitted an Offer of Settlement on behalf of Potomac-Appalachian Transmission Highline, LLC, its operating companies PATH Allegheny Transmission Company, LLC and PATH West Virginia Transmission Company, LLC (collectively, the PATH Companies), and the other Settling Parties specified in the Offer of Settlement. The Offer of Settlement includes a Settlement Agreement that resolves all issues in the above-referenced dockets, including all related sub-dockets thereof. The Settlement Agreement provides a process for the cancellation of the PATH Companies' formula transmission rate and will facilitate the final wind-down and termination of the PATH Companies. The Path Companies requested that the Tariff revisions become effective upon the Commission's approval of the Settlement Agreement.

On November 16, 2023, in Docket Nos. EL23-53-000, et al., PJM submitted a motion to answer and answer to a November 13, 2023 submission relating to the September 29, 2023 Offer of Settlement filed in the Winter Storm

Elliott complaint dockets (the Settlement). The answer addresses why, as a matter of law and fact, the Commission should reject one party's request to be severed from the Settlement.

On November 16, 2023, in Docket No. EL24-18-000, Urban Grid Solar Projects, LLC ("Urban Grid"), a subsidiary of Brookfield Renewable Partners, L.P. et al., filed a section 206 complaint against PJM Interconnection, L.L.C. ("PJM"). In this complaint, Urban Grid alleges that PJM illegally terminated and withdrew its projects from the queue and challenges PJM's determination that Urban Grid's posting of security was not timely. PJM's response to this complaint is due by December 6, 2023.

On November 15, 2023, in Docket No. EL24-12-000, PJM submitted its answer to the Section 206 Complaint of Independent Market Monitor (the "Market Monitor"), which alleged that the existing Non-Performance Charge and associated stop-loss are unjust and unreasonable. In its answer, PJM asked the Commission to deny the Market Monitor's complaint because the complaint fails to meet its burden of demonstrating that the PJM Tariff is unjust and unreasonable.

On November 15, 2023, in Docket Nos. ER24-402-000 and -001, as amended, PJM submitted proposed changes to the Tariff to clarify the two types of Network Integration Transmission Service (NITS) currently available to Network Customers: Regional NITS, which is entirely internal to the PJM Region; and Cross-Border NITS, which has a component outside the PJM Region. PJM requested an effective date of January 15, 2024, for the proposed revisions.

On November 15, 2023, in Docket Nos. ER24-402-000 and -001, as amended, PJM submitted proposed changes to the Tariff to clarify the two types of Network Integration Transmission Service (NITS) currently available to Network Customers: Regional NITS, which is entirely internal to the PJM Region; and Cross-Border NITS, which has a component outside the PJM Region. PJM requested an effective date of January 15, 2024, for the proposed revisions.

On November 14, 2023, in Docket Nos. EL23-53-000, et al., PJM submitted a joint motion with CPV Maryland, LLC, CPV Holdings, LP, Parkway Generation Operating LLC, and Parkway Generation Sewaren Urban Renewal Entity LLC asking the Commission to continue to hold the proceedings in Docket Nos. EL23-75-000 and EL23-77-000 in abeyance until the Commission issues an order accepting the offer of settlement filed by PJM in Docket Nos. EL23-53-000, et al. (Settlement), or until 20 days after the Commission issues an order rejecting the Settlement.