

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Jackson Generation, LLC,)	
)	
Complainant,)	
)	
v.)	Docket No. EL21-____-000
)	
PJM Interconnection, L.L.C.,)	
)	
Respondent.)	

COMPLAINT REQUESTING FAST TRACK PROCESSING

Pursuant to Sections 206 and 306 of the Federal Power Act (the “FPA”)¹ and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission” or “FERC”),² Jackson Generation, LLC (“Jackson”) submits this complaint (this “Complaint”) against PJM Interconnection, L.L.C. (“PJM”) requesting that the Commission find that PJM violated Section 6.2(c) of Attachment DD to the PJM Open Access Transmission Tariff (the “Tariff”)³ by failing to file a report concerning offer floor and other mitigation determinations made in connection with the Base Residual Auction for the 2022/2023 Delivery Year (the “2022/2023 BRA”) within seven days of the deadline for the submission of Sell Offers into that auction. The Commission should order PJM to file such a report without further delay and then allow Jackson and other interested parties to file objections within seven days, as required by Section 6.2(c). Jackson requests fast track processing and the issuance of an order granting this

¹ 16 U.S.C. §§ 824e, 825e (2018).

² 18 C.F.R. § 385.206 (2020).

³ Capitalized terms used and not otherwise defined herein have the same meanings as those set forth in the Tariff.

Complaint as soon as practicable in order to minimize the delay in finalizing the results of the 2022/2023 BRA.

I.

CORRESPONDENCE AND COMMUNICATIONS

Jackson requests that all correspondence and communications regarding this filing be addressed to the following persons, who should be placed on the Commission’s official service list in this proceeding:⁴

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II.

DESCRIPTION OF COMPLAINANTS AND RESPONDENT

A. The Complainant

The complainant, Jackson, is developing an approximately 1,200 MW (nameplate rating), state-of-the-art natural gas fired, combined-cycle generation facility (the “Jackson Facility”) that is anticipated to achieve commercial operations in the second quarter of 2022. The Jackson Facility will incorporate the best available control technology to minimize emissions, and once

⁴ Jackson respectfully requests waiver of Rule 203(b)(3) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3) (2020), to the extent necessary to permit designation of more than two persons for service on their behalf in these proceedings.

operational, is anticipated to be the most-efficient and cleanest fossil fuel-fired generation facility in North America.

B. The Respondent

The respondent, PJM, is the regional transmission organization (“RTO”) for all or part of 13 states and the District of Columbia. PJM operates a competitive wholesale electricity market and manages the high-voltage electricity grid to ensure reliability for more than 65 million people.

III.

BACKGROUND

Under Section 6.2(c) of Attachment DD to the Tariff, PJM is required to file a report on offer floor and other mitigation determinations following each RPM Auction. Specifically, this provision states as follows:

Within seven days after the deadline for submission of Sell Offers in a Base Residual Auction or Incremental Auction, the Office of the Interconnection shall file with FERC a report of any determination made pursuant to Tariff, Attachment DD, section 5.14(h), Tariff, Attachment DD, section 6.5(a)(ii), or Tariff, Attachment DD, section 6.7(c) identified in such sections as subject to the procedures of this section. Such report shall list each such determination, the information considered in making each such determination, and an explanation of each such determination. Any entity that objects to any such determination may file a written objection with FERC no later than seven days after the filing of the report. Any such objection must not merely allege that the determination was in error, and must provide support for the objection, demonstrating that the determination overlooked or failed to consider relevant evidence. In the event that no objection is filed, the determination shall be final. In the event that an objection is filed, FERC shall issue any decision modifying the determination no later than 60 days after the filing of such report; otherwise, the determination shall be final. Final auction results shall reflect any decision made by FERC regarding the report.⁵

⁵ Tariff, Attachment DD, § 6.2(c).

The provisions referenced in the foregoing passage (*i.e.*, Sections 5.14(h), 6.5(a)(ii), and 6.7(c) of Attachment DD to the Tariff) relate to offer floors and offer caps applied to certain Capacity Market Sellers.

PJM proposed Section 6.2(c) of Attachment DD to the Tariff in response to a compliance directive arising out of the Commission's concern that a settlement relating to the Reliability Pricing Model (the "RPM Settlement") gave the Independent Market Monitor for PJM (the "IMM") "excessive discretion."⁶ In light of this concern, the Commission:

require[d] PJM to include a provision in the tariff that will allow rapid review by the Commission of any [IMM] decisions with respect to the matters where the [IMM] has discretion. Specifically, within seven days after the deadline for receiving bids for any auction, PJM is required to file with the Commission a report of any instance wherein the [IMM] exercised its discretion in any of the three areas described above. The report must document the instances where the [IMM] exercised discretion, the [IMM]'s ultimate conclusion in those situations, the information the [IMM] considered in reaching its conclusion and a detailed explanation of how the [IMM] exercised its discretion. Parties objecting to any use of discretion by the [IMM] as documented in the report shall then have seven days from the date PJM files its report to file objections to the results. Parties challenging the determination must do more than merely allege that the market monitor erred in a bid determination; they should provide support for their allegation that the market monitor overlooked or failed to evaluate relevant evidence in determining whether to permit a bid to go forward. The Commission shall issue its decisions regarding the [IMM] decisions promptly, but no later than 60 days after PJM files its report. The final auction results shall reflect any modifications to the [IMM]'s decisions required by the Commission.⁷

In response to this directive, PJM submitted Section 6.2(c) to Attachment DD of the Tariff "to add the procedures specified in the December [2006] Order to address certain discretionary

⁶ *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 at P 115 (2006) (the "December 2006 Order"), *on reh'g*, 119 FERC ¶ 61,318 (the June 2007 Order"), *on reh'g*, 121 FERC ¶ 61,173 (2007).

⁷ *Id.* See also *id.* at P 101 ("[W]e will require the tariff to allow market participants affected by the exercise of that discretion to appeal that action to the Commission.").

determinations, i.e., determining that a Sell Offer for a Planned Generation Resource is higher or lower than would be produced by competitive conditions, or establishing certain price levels for mitigated sell offers”⁸

The deadline for offers into the 2022/2023 BRA was May 25, 2021.⁹ Under Section 6.2(c) to Attachment DD to the Tariff, PJM was, therefore, required to file a report with the Commission on mitigation determinations for that auction by June 1, 2021. To the best of Jackson’s knowledge, PJM did not file any such report in connection with the 2022/2023 BRA. Indeed, as best Jackson can tell, the closest thing to a report on mitigation determinations that PJM has ever filed since Section 6.2(c) went into effect was an informational filing submitted on August 31, 2007, in which PJM stated that, in the two RPM Auctions held up to that date, “the [IMM] has not exercised any discretion to modify or reject any offer” and provided a copy of an IMM posting of default avoidable cost rate values.¹⁰

As the Commission knows, Jackson was previously compelled to file a complaint challenging PJM’s determinations with respect to Jackson’s offer floor for the 2022/2023 BRA, specifically, with respect to their failure to comply with the requirements of the Tariff in determining Jackson’s offer floor.¹¹ The Commission granted the March 30 Complaint, in part,

⁸ Compliance Filing, Transmittal Letter at 3-4, Docket Nos. EL05-148-003, *et al.* (filed Jan. 22, 2007), *accepted*, June 2007 Order, 119 FERC ¶ 61,318 at PP 245-48.

⁹ PJM, *Auction Schedule*, <https://www.pjm.com/-/media/markets-ops/rpm/rpm-auction-info/rpm-auction-schedule.ashx>.

¹⁰ Informational Filing at 2, Docket Nos. EL05-148-000, *et al.* (filed Aug. 31, 2007) (the “August 2007 Filing”). While the August 2007 Filing is the closest thing to a filing in compliance with Section 6.2(c) of Attachment DD to the Tariff of which Jackson is aware, the August 2007 Filing does not actually mention that provision at all and instead refers only to the requirements of the Commission’s December 2006 Order. *See id.* at 1-2.

¹¹ Complaint, Request for Determination of Minimum Offer Price, Request for Any Necessary Waivers, and Request for Fast Track Processing, including Request for Shortened Comment Period, Docket No. EL21-62-000 (filed Mar. 30, 2021) (the “March 30 Complaint”), *granted in part & denied in part*,

finding that, where provisions of the Tariff requiring that Capacity Market Sellers be allowed to justify an economic life of more than 20 years were concerned, PJM and the IMM had improperly “rel[ied] on a reference to a 20-year asset life in a manual to contradict these Tariff provisions.”¹² Sadly, PJM has not exercised its discretion any more reasonably since the issuance of the May 14 Order, with the result that Jackson was left with no choice but to submit an offer well in excess of the Jackson Facility’s avoidable costs into the 2022/2023 BRA. That offer did not clear, and, if the 2022/2023 BRA results stand, Jackson will forego tens of millions of dollars in capacity revenues for the 2022/2023 Delivery Year.

IV.

COMPLAINT

The PJM market rules set forth in the Tariff, including the requirements of Section 6.2(c) of Attachment DD to the Tariff, represent the filed rate,¹³ and the filed rate doctrine, therefore, mandates “strict adherence” to those rules.¹⁴ The plain language of Section 6.2(c) provides that:

Jackson Generation, LLC v. PJM Interconnection, L.L.C., 175 FERC ¶ 61,116 (2021) (the “May 14 Order”).

¹² May 14 Order, 175 FERC ¶ 61,116 at P 50 (citing *Appalachian Power Co.*, 173 FERC ¶ 61,157 at P 11 (2020)).

¹³ *Black Oak Energy, LLC v. New York Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,261 at P 32 (2008) (stating that independent system operator (“ISO”) “market rules . . . are the filed rate” (citations omitted)); *ALLETE, Inc. (d/b/a Minnesota Power) v. Midwest Indep. Transmission Sys. Operator, Inc.*, 119 FERC ¶ 61,142 at P 36 (2007); *NRG Power Mktg., Inc. v. New York Indep. Sys. Operator, Inc.*, 91 FERC ¶ 61,346 at 62,166 (2000) (same); *ISO New England, Inc.*, 90 FERC ¶ 61,141 at 61,425 (2000) (same). *See also*, e.g., *Keyspan-Ravenswood, LLC v. FERC*, 474 F.3d 804, 806 (D.C. Cir. 2007) (finding that an ISO had “violated the filed rate doctrine” in adopting and applying formulas not in its tariff).

¹⁴ *Maislin Indus., U.S., Inc. v. Primary Steel, Inc.*, 497 U.S. 116, 132 (1990) (“*Maislin*”). *See also*, e.g., *Arkansas La. Gas Co. v. Hall*, 453 U.S. 571, 577 (1981) (explaining that the filed rate doctrine “forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate federal regulatory authority” (citations omitted)); *Montana-Dakota Utils. Co. v. Northwestern Pub. Serv. Co.*, 341 U.S. 246, 251 (1951) (stating that a public utility “can claim no rate as a legal right that is other than the filed rate, whether fixed or merely accepted by the Commission”); *Louisville & Nashville R.R. Co. v. Maxwell*, 237 U.S. 94, 97 (1915) (holding that “the rate of the carrier duly filed is the only lawful charge” and “[d]eviation from it is not permitted upon any pretext”); *Pennsylvania R.R. Co. v. Int’l Coal Mining*

Within seven days after the deadline for submission of Sell Offers in a Base Residual Auction or Incremental Auction, the Office of the Interconnection shall file with FERC a report of any determination made pursuant to Tariff, Attachment DD, section 5.14(h), Tariff, Attachment DD, section 6.5(a)(ii), or Tariff, Attachment DD, section 6.7(c) identified in such sections as subject to the procedures of this section.¹⁵

At a minimum, a determination was made pursuant to Section 5.14(h) of Attachment DD to the Tariff with respect to Jackson’s offer into the 2022/2023 BRA, and that determination, as well as any others pursuant to the enumerated tariff provisions, should have been the subject of a report filed by PJM with the Commission by June 1, 2021. PJM does not appear to have filed any such report. Had PJM filed such a report, Jackson would have filed a timely objection, and Jackson was – and remains – fully prepared to “provide support for [its] objection, demonstrating that the determination overlooked or failed to consider relevant evidence.”¹⁶

In the August 2008 Filing, PJM implied that the reporting requirement set forth in Section 6.2(c) of Attachment DD to the Tariff was just an “interim” measure in force only while the IMM possessed unilateral discretion with respect to certain mitigation determinations, as contemplated by the RPM Settlement.¹⁷ With the Commission having accepted tariff revisions that “eliminate[d] the inappropriate discretion granted to the [IMM] in the [RPM S]ettlement,”¹⁸ Jackson can only surmise that PJM now views Section 6.2(c) as a dead letter. Such a view finds

Co., 230 U.S. 184, 197 (1913) (stating that a “tariff, so long as it was of force, was, in this respect, to be treated as though it had been a statute, binding as such upon Railroad and shipper alike”).

¹⁵ Tariff, Attachment DD, § 6.2(c).

¹⁶ *Id.*

¹⁷ August 2007 Filing at 1. *See also id.* at 2 (“PJM has conducted the first two RPM auctions, and the market monitor has not exercised any discretion to modify or reject any offer submitted in either auction. Therefore, no PJM filing is required regarding the first two areas in which the MMU can exercise discretion.” (footnote omitted)).

¹⁸ *PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,264 at P 26 (2008).

no support, however, in the Tariff itself, as Section 6.2(c) clearly states that PJM “shall” file a report on “any determination” under the enumerated tariff provisions and does not limit the universe of reportable determinations to those involving unilateral exercises of discretion by the IMM.¹⁹ Nor is there anything in Section 6.2(c) that suggests that the filing of these reports is optional. To the contrary, the Tariff’s use of the word “shall” should leave no room for doubt that PJM was required to file such a report, because, as Justice Cardozo observed long ago, “shall” is “the language of command.”²⁰

To be sure, when the Commission directed PJM to add this reporting requirement, it was concerned that the RPM Settlement gave the IMM “excessive discretion” with respect to certain mitigation determinations.²¹ Even assuming *arguendo* that the underlying intent of the compliance directive was to provide for Commission oversight only in “instances where the [IMM] exercised discretion,”²² the tariff language, which PJM drafted and filed and which the Commission approved, reflects no such limitation. Rather, the tariff language unambiguously requires the filing of a “report of *any determination* made pursuant to” any of the enumerated tariff provisions.²³ Indeed, Section 6.2(c) of Attachment DD to the Tariff does not even mention the IMM and the tariff sections referred to therein govern determinations made by PJM, in consultation with the

¹⁹ Tariff, Attachment DD, § 6.2(c).

²⁰ *Escoe v. Zerbst*, 295 U.S. 490, 493 (1935). See also, e.g., *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998) (stating that “the mandatory ‘shall’ . . . normally creates an obligation impervious to judicial discretion” (internal citation omitted)); *U.S. v. Ins. Co. of North America*, 83 F.3d 1507, 1510 n.5 (D.C. Cir. 1996) (noting that “[c]ases are legion affirming the mandatory character of ‘shall’”); *Conoco, Inc. v. Norwest Bank Mason City, N.A.*, 767 F.2d 470, 471 (8th Cir. 1985) (explaining that “[s]hall” is a term of legal significance, in that it is mandatory or imperative, not merely precatory”); *Stanfield v. Swenson*, 381 F.2d 755, 757 (8th Cir. 1967) (explaining that “the word ‘shall’ is generally regarded as an imperative or mandatory and therefore one which must be given a compulsory meaning”).

²¹ See December 2006 Order, 117 FERC ¶ 61,331 at P 115.

²² *Id.*

²³ Tariff, Attachment DD, § 6.2(c) (emphasis added).

IMM. It is black-letter law that, “[w]hen the language of a tariff is unambiguous, the ‘plain language of the tariff controls.’”²⁴ In this instance, the plain language of the Tariff required PJM to file a report on any and all mitigation determinations made under the enumerated Tariff provisions in connection with the 2022/2023 BRA by June 1, 2021, and PJM has failed to do so.

Even when considered in light of the underlying intent, the fact is that between them, PJM and the IMM exercise a tremendous amount of discretion in making mitigation determinations, and, under the Tariff as currently in effect, Jackson and other parties impacted by those exercises of discretion are entitled to an opportunity to object. If PJM believes that Section 6.2(c) of Attachment DD to the Tariff has outlived its usefulness, PJM has the right, as a public utility, to make a filing under Section 205 of the FPA²⁵ to remove this provision from the Tariff. Until PJM makes such a filing and that filing is allowed to take effect, however, PJM must comply with Section 6.2(c), because, like any other RTO or independent system operator (“ISO”), it “does not have the discretion to step outside the provisions of its [t]ariff.”²⁶ As in past cases where ISOs and

²⁴ *ISO New England Inc.*, 172 FERC ¶ 61,251 at P 26 (2020) (quoting *California Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168 at P 7 (2012)). See also, e.g., *MMC Energy, Inc. v. California Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,251 at P 80 (2008) (“When presented with a dispute concerning the interpretation of a tariff, the Commission looks first to the tariff itself and, only if it cannot discern the meaning of the tariff from its language, will the Commission look to extrinsic evidence. . . .”); *Re Columbia Gas Transmission Corp.*, Opinion No. 202-A, 27 FERC ¶ 61,089, 1984 WL 981078 at *3 (describing “certain general principles” applicable to tariff interpretation, including the principle that “[w]here the language used is clear and unambiguous, its interpretation needs no extrinsic evidence as to intent, previous interpretation or history” (citing *Bull S.S. Lines v. Thompson*, 123 F.2d, 943, 944 (5th Cir. 1941), *on reh’g*, Opinion No. 202-B, 28 FERC ¶ 61,053 (1984), *aff’d sub nom. Consol. Gas Transmission Corp. v. FERC*, 771 F.2d 1536 (D.C. Cir. 1985). Cf. also *Public Serv. Elec. & Gas Co. v. FERC*, 485 F.3d 1165, 1168 (D.C. Cir. 2007) (“If the tariff language is unambiguous, we (unsurprisingly) follow it; if not, we defer to reasonable interpretations by the Commission.” (internal footnote omitted)); *Idaho Power Co. v. FERC*, 312 F.3d 454, 461 (D.C. Cir. 2002) (“If the tariff’s language is unambiguous, this court need not defer to FERC’s interpretation.”); *St. Paul Park Ref. Co. LLC v. Enbridge Pipelines (North Dakota) LLC*, 145 FERC ¶ 61,050 at P 31 (2013) (“There is no reason to determine the intent of the settlement when the plain language is clear.”).

²⁵ 16 U.S.C. § 824d (2018).

²⁶ *Astoria Generating Co., L.P. v. New York Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,044 at P 57, *on reh’g*, 153 FERC ¶ 61,274 (2015).

RTOs have violated their filed rate schedules and tariffs, the Commission must act to enforce the plain language of PJM’s Tariff.²⁷ Indeed, under the filed rate doctrine, the Commission has “an independent regulatory duty to remedy a utility’s violation of its filed rate schedule.”²⁸ The Commission should, therefore, order PJM to file a report promptly on mitigation determinations made in connection with the 2022/2023 BRA.

In its order on this Complaint, the Commission should make clear that the mitigation determinations and, indeed, the results of the 2022/2023 BRA are not final yet, and that the mitigation determinations will only become final when the steps set forth in Section 6.2(c) of Attachment DD to the Tariff are completed. Under Section 6.2(c), interested parties are entitled to a period of seven days from the filing of the report in which to file objections.²⁹ If no objection is filed within seven days, the mitigation determinations become final.³⁰ If any objections are

²⁷ See, e.g., *Radford’s Run Wind Farm, LLC v. PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,121 at P 23 (2018) (granting complaint where “PJM did not comply with its Tariff”); *Caithness Long Island II, LLC v. New York Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,246 at P 54 (2015) (granting complaint against RTO/ISO for actions that “violate[d] [applicable] Tariff provisions”), *on reh’g*, 154 FERC ¶ 61,218 (2016); *Southwest Power Pool, Inc.*, 150 FERC ¶ 61,005 at n.36 (2015) (reminding an ISO “that it must adhere to the terms and conditions of its Tariff or face possible sanctions by the Commission”); *BJ Energy LLC*, 127 FERC ¶ 61,006 at P 22 (granting complaint alleging that PJM violated the Tariff and the PJM Operating Agreement by refusing to return excess collateral and rejecting argument that “ignore[d] the express language of the [T]ariff and Operating Agreement”), *on reh’g*, 129 FERC ¶ 61,010, *on reh’g*, 129 FERC ¶ 61,265 (2009); *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,212 at P 90 (2007) (stating the Commission’s expectation that an “ISO [will] rely on the filed rate” and its further expectation that “transmission providers and market participants know what is in a tariff and to follow its rates, terms and conditions”); *Wisconsin Elec. Power Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,005 at P 24 (2006) (granting complaint where an RTO/ISO “violated its filed rate”); *Williams Power Co., Inc. v. California Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,231 at P 18 (2005) (stating that an RTO/ISO “must operate in conformance with its approved tariff” and if it “believes that additional tariff provisions are necessary . . . , it must request prior Commission authorization of the proposed tariff changes”).

²⁸ *Duke Power Co. v. FERC*, 864 F.2d 823, 829 (D.C. Cir. 1989). See also *A/S Ivarans Rederi v. U.S.*, 895 F.2d 1441, 1446 (D.C. Cir. 1990) (discussing a regulatory agency’s “right and obligation to prevent modifications contrary to approved or filed terms”).

²⁹ See Tariff, Attachment DD, § 6.2(c).

³⁰ See *id.*

filed, the Commission has 60 days in which to act, and, if it does not act, the determinations become final by operation of law.³¹ Critically, if it does act, the “[f]inal auction results shall reflect any decision made by FERC regarding the report.”³²

V.

REQUEST FOR FAST TRACK PROCESSING

Jackson respectfully requests fast track processing and the issuance of an order granting this Complaint as soon as possible. Expeditious action on this Complaint will provide needed certainty by allowing the results of the 2022/2023 BRA to become final sooner rather than later. As discussed above, those results will not become final until the report is filed and the other steps contemplated by Section 6.2(c) of Attachment DD to the Tariff are completed.

VI.

OTHER MATTERS

A. Other Proceedings

Pursuant to Rule 206(b)(6) of the Commission’s Rules of Practice and Procedure,³³ Jackson states that the issues presented in this Complaint are not pending before the Commission in any other proceeding.

B. Negotiations among the Parties

Jackson has not discussed the issues raised in this Complaint with PJM. PJM obviously interprets its tariff obligations differently than Jackson does, and there is no reason to believe that

³¹ *See id.*

³² *Id.*

³³ 18 C.F.R. § 385.206(b)(6) (2020).

informal discussions will resolve their disagreement as to PJM's obligations under Section 6.2(c) of Attachment DD to the Tariff.

In accordance with Rule 206(b)(9) of the Commission's Rules of Practice and Procedure,³⁴ Jackson states that it has not discussed the subject matter of this Complaint with the Commission's Office of Enforcement. This Complaint implicates issues regarding PJM's obligations under the Tariff that do not, in Jackson's view, lend themselves to resolution by the Office of Enforcement.

C. Financial Impact

PJM's failure to comply with the requirements of Section 6.2(c) of Attachment DD to the Tariff has, to date, deprived Jackson of the opportunity to file an objection to mitigation determinations that prevented its offer from clearing in the 2022/2023 BRA and to have that objection considered by the Commission. If the results of the 2022/2023 BRA stand, Jackson will forego tens of millions of dollars in capacity revenues for the 2022/2023 Delivery Year. Jackson resides within the COMED Locational Deliverability Area, in which the announced clearing price was \$68.96/MW-day.³⁵ Applied to the 1,115.9 MW of capacity the Jackson Facility offered into the 2022/2023 BRA, such revenues would total something on the order of \$28 million, depending on Jackson's mitigated offer price and its impact on the clearing price. Such revenues are particularly critical for a new merchant generation facility like the Jackson Facility.

D. Service and Form of Notice

In accordance with Rule 206(c) of the Commission's Rules of Practice and Procedure,³⁶ Jackson is serving a copy of this Complaint on the respondent, PJM and on the IMM.

³⁴ 18 C.F.R. § 385.206(b)(9) (2020).

³⁵ See PJM, *2022/2023 RPM Base Residual Auction Results* at 1 (June 2, 2021), <https://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2022-2023/2022-2023-base-residual-auction-report.ashx>.

³⁶ 18 C.F.R. § 385.206(c) (2020).

In accordance with Rule 206(b)(10) of the Commission's Rules of Practice and Procedure,³⁷ a form of notice suitable for publication in the *Federal Register* is provided in Attachment A.

VII.

CONCLUSION

WHEREFORE, for the foregoing reasons, Jackson respectfully requests that the Commission issue an order granting this Complaint and requiring PJM to file a report on mitigation determinations made in connection with the 2022/2023 BRA.

Respectfully submitted,

JACKSON GENERATION, LLC

By: /s/ Neil L. Levy
Neil L. Levy
David G. Tewksbury
McDERMOTT WILL & EMERY LLP
The McDermott Building
500 North Capitol Street, NW
Washington, DC 20001

Counsel for **Jackson Generation, LLC**

Dated: June 9, 2021

³⁷ 18 C.F.R. § 385.206(b)(10) (2020).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on the respondent, PJM Interconnection, L.L.C., and on the Independent Market Monitor for PJM.

Dated at Washington, D.C., this 9th day of June, 2021.

/s/ Neil L. Levy
Neil L. Levy

Attachment A

Form of Notice

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Jackson Generation, LLC,)	
)	
Complainant,)	
)	
v.)	Docket No. EL21-____-000
)	
PJM Interconnection, L.L.C.,)	
)	
Respondent.)	

NOTICE OF COMPLAINT

(June __, 2021)

Take notice that on June 9, 2021, Jackson Generation, LLC (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (PJM) asking that the Commission find that PJM violated Section 6.2(c) of Attachment DD to the PJM Open Access Transmission Tariff by failing to file a report on mitigation determinations within seven days of the deadline for submitting offers into the Base Residual Auction for the 2022/2023 delivery year.

Complainant certifies that copies of the complaint were served on the contacts for PJM, as listed on the Commission’s list of Corporate Officials, and on the Independent Market Monitor for PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. PJM’s answer and all interventions, or protests must be filed on or before the comment date. PJM’s answer, motion to intervene, and protest must be served on Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online

service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose
Secretary