

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

**PPL Electric Utilities Corp.,** ) **Docket No. ER21-2282-000**  
**PJM Interconnection, L.L.C.** )

**COMMENTS OF PJM INTERCONNECTION, L.L.C.**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedures<sup>1</sup> and the Commission’s Combined Notice of Filings #2 dated June 30, 2021 and July 13, 2021 Notice of Extension of Time,<sup>2</sup> PJM Interconnection, L.L.C. (“PJM”) respectfully submits these comments (“Comments”) in the above-captioned docket. On June 30, 2021,<sup>3</sup> the PJM Transmission Owners (“Transmission Owners”), acting through the PJM Consolidated Transmission Owners Agreement (“CTOA”), submitted proposed revisions to the PJM Open Access Transmission Tariff (“Tariff”),<sup>4</sup> pursuant to section 205 of the Federal Power Act, to add a new Tariff, section 217.8 and new *pro forma* agreement entitled *Network Upgrade Funding Agreement* (“NUFA”).<sup>5</sup>

The Proposal provides a Transmission Owner the option to unilaterally elect to fund the capital cost of any Network Upgrades necessary to accommodate generator interconnections in

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<sup>1</sup> 18 C.F.R. § 385.212 (2020).

<sup>2</sup> *PPL Electric Utilities Corp., et al.*, Notice of Extension of Time, Docket No. ER21-2282-000 (issued July 13, 2021) (granting extension of time to submit comments to July 28, 2021).

<sup>3</sup> *PPL Electric Utilities Corp., et al.*, Proposed Revisions to PJM Tariff, Docket No. ER21-2282-000 (filed June 30, 2021) (“Proposal” or “June 30 Filing Letter”).

<sup>4</sup> Capitalized terms used herein, that are not otherwise defined herein, shall have the meaning provided in the Tariff, Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), and CTOA.

<sup>5</sup> See Tariff, Attachment O-2, Schedule A *proposed*.

order to earn a return of and on such costs.<sup>6</sup> PJM recognizes that the number of Transmission Owner resources dedicated to addressing interconnection requests has grown substantially given the unprecedented increase in the number of new Generation Interconnection Requests over the past four years in PJM's New Services Queue. Given that backdrop, PJM limits these comments to some of the specific issues raised by the Proposal and respectfully requests that the Commission give due consideration to the PJM's concerns detailed below.

## I. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing should be sent to, and the parties request the Secretary to include on the official service list,<sup>7</sup> the following:

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<sup>6</sup> June 30 Filing Letter at 1–2.

<sup>7</sup> PJM respectfully requests waiver of section 203(b)(3) of the Commission's regulations, 18 C.F.R. ¶ 385.203(b)(3), to permit more than two individuals on the service list.

## II. COMMENTS

### ***A. The Transmission Owners Must Ensure That There Is No Potential For Undue Discrimination as a Result of their Unilateral Right to Elect to Fund Select Network Upgrades Under the Proposal***

The Proposal allows the Transmission Owner to *unilaterally* elect to fund select Network Upgrades among the multitude of generator interconnection projects or even a subset of Network Upgrades associated with a single generator interconnection project. As such, the Proposal raises the potential for undue discrimination or preference among Interconnection Customers in the form of disparate treatment for similarly situated resources. And, simply citing to the *Ameren* decision<sup>8</sup> to support the ability to unilaterally elect to fund such Network Upgrades may not be sufficient in this instance.<sup>9</sup>

In addressing the issue of potential discrimination or affiliate abuse, the Transmission Owners state that affiliate abuse concerns do not exist within PJM as “many PJM Transmission Owners have already divested their generation assets.”<sup>10</sup> The Transmission Owners also note that any affiliate concerns will be mitigated by PJM’s “extensive involvement with the interconnection process and proposed role under the *pro forma* NUFA.”<sup>11</sup> Finally, the Transmission Owners point to the Proposal’s transparent process “to govern the option to fund Network Upgrades to further mitigate any affiliate concerns.”<sup>12</sup>

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<sup>8</sup> *Midcontinent Indep. Sys. Operator, Inc. & Otter Tail Power Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 164 FERC ¶ 61,158, at P 32 (2018), *reh’g denied*, 169 FERC ¶ 61,233 (2019).

<sup>9</sup> *See American Electric Power Service Corp. v. PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,121, at P 56 (2019) (finding that the Commission’s holding in the *Ameren* case “pertain[s] solely to the unique features of MISO’s tariff and precedent that applies in MISO.”), *citing* to Order No. 845-A, 166 FERC ¶ 61,137, at P 18 (2019).

<sup>10</sup> June 30 Filing Letter at 29.

<sup>11</sup> *Id.* Noteworthy, there is no provision in the Proposal by which PJM can challenge a Transmission Owner’s selection of Network Upgrades to fund.

<sup>12</sup> June 30 Filing Letter at 29.

To that end, the Proposal’s transparent process requires that PJM will maintain on its website an Interconnected Transmission Owner’s “general non-binding indication” as to whether each Transmission Owner intends to elect to fund Network Upgrades on its system.<sup>13</sup> The Proposal also requires PJM to maintain on its website a list of projects for which an Interconnected Transmission Owner has elected to fund the Network Upgrades.<sup>14</sup> Any election to fund a Network Upgrade will be included in the Interconnection Customer’s Facilities Study Report. According to the Transmission Owners, “[t]his [notice requirement] will provide Interconnection Customers with transparency and an advanced indication of each individual Interconnected Transmission Owner’s intent in order to facilitate informed decision-making.”<sup>15</sup>

While not stated in the Proposal, it is unclear whether the Transmission Owners will include a list of criteria to be used in determining how a Transmission Owner will elect to self-fund a Network Upgrade together with an explanation as to how the Transmission Owner proposes to evaluate the criteria. PJM observes that the Proposal’s notice requirement would provide greater transparency for the benefit of the Interconnection Customer as to how a Transmission Owner will implement its election to fund the capital cost of Network Upgrades if a list of criteria were included with each Transmission Owner’s notice. For example, posting criteria may assist an Interconnection Customer in understanding which Network Upgrades a Transmission Owner may elect to fund at a time when the customer is making its initial siting choices. Finally, such detail

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<sup>13</sup> See Tariff, section 217.8(c) *proposed*.

<sup>14</sup> See *id.*

<sup>15</sup> June 30 Filing Letter at 22.

would add another level of transparency to address any potential concerns of discrimination or affiliate abuse that the Transmission Owners sought to alleviate in their June 30 Proposal.<sup>16</sup>

Thus, the Transmission Owners' notice commitment related to their election to fund Network Upgrades may not adequately address PJM's concern for potential discrimination and transparency without the publication of the actual criteria (to the extent the Transmissions Owners do not make a commitment to fund all Network Upgrades). The Commission should seek additional clarity with respect to any circumstances under which the Transmission Owners would elect or decline to fund Network Upgrades before accepting the Proposal.

***B. The Proposal Deviates from the MISO Model and its Administrative Responsibilities Impose Additional Burdens and Costs on PJM and its Members***

The Transmission Owners state that the Proposal is largely based on the process and *pro forma* agreement approved by the Commission for the MISO Transmission Owners<sup>17</sup> *with certain deviations*. Those deviations require PJM to be responsible for administering the *pro forma* NUFA, billing and collecting payments, and holding the security required under the NUFA<sup>18</sup> for a period of twenty years.<sup>19</sup> However, the Proposal contains no metric for the Transmission Owners to compensate PJM for increased burdens or costs, thereby effectively causing other PJM Members

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<sup>16</sup> *Id.* at 22, 26, 29 and 30.

<sup>17</sup> *Id.* at 3–4, 20–21, and 22–30 (citing *Midcontinent Indep. Sys. Operator, Inc. & Otter Tail Power Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 164 FERC ¶ 61,158, at P 32 (2018), *reh'g denied*, 169 FERC ¶ 61,233 (2019)).

<sup>18</sup> In response to PJM's initial concerns regarding the requirement that PJM administer security collected under the proposed *pro forma* NUFA for a period of twenty years (reduced each year), the Transmission Owners revised section 4 of the proposed *pro forma* NUFA to give the Interconnection Customer the option to select either PJM or the Interconnected Transmission Owner to hold security for the Network Upgrades. This revision fell short of addressing PJM's request, *i.e.*, that, like the MISO model, the Transmission Owners collect and administer the security under the *pro forma* NUFA.

<sup>19</sup> June 30 Filing Letter at 24.

to bear the costs associated with PJM’s increased responsibilities in support of their initiative to earn a return or profit on Network Upgrades.

The Transmission Owners’ rationale for the deviations is that such responsibilities are “similar to PJM’s current role and responsibilities under the *pro forma* [Interconnection Service Agreement] and [Interconnection Construction Service Agreement].”<sup>20</sup> In support, the Transmission Owners cite to section 6.3.6 of the CTOA, which “broadly states that among PJM’s responsibilities under the CTOA is that PJM shall ‘[c]ollect and pay to each Party all amounts due to such Party as a Transmission Owner under the PJM Tariff and to distribute such amounts in accordance with the PJM Tariff and this Agreement.’”<sup>21</sup> But, as discussed further below, PJM is not simply acting as the billing agent (which it is willing to do) when it is being asked to collect and administer dedicated credit for the sole benefit of the Transmission Owners under the NUFA. In addition, section 3.1 of the NUFA requires PJM to be responsible for administering the NUFA.

Today, PJM administers the security required under the *pro forma* Interconnection Service Agreement for the benefit of the Transmission Owners; however, PJM only does so during the limited period of construction. PJM returns the security upon the Interconnection Customer providing the as-built drawings and the settlement of the final invoice.<sup>22</sup> Conversely, under the proposed NUFA, in those instances where the Interconnection Customer selects PJM to administer the security, PJM would be required to maintain security, including adjustments annually, for twenty years.<sup>23</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at n.108.

<sup>22</sup> *See* Tariff, Part VI, section 212.4(b)(3).

<sup>23</sup> *See* Tariff, Attachment O-2, section 4 *proposed*.

PJM's concerns regarding administering the NUFA process, specifically security, are threefold:

1. If PJM is required to administer the NUFA, including security, then there is a need for clarity that PJM is simply doing so as the administrative agent of the Transmission Owners without any cost responsibility for any default, security shortfall, or risk to PJM, and its Members;<sup>24</sup>
2. The increased burden on PJM related to administering a new process related to and maintaining security under the NUFA and the lack of a cost-recovery mechanism associated with that burden to insulate other PJM Members; and
3. The requirement for dollar-for-dollar security post-construction that could increase the cost of such Network Upgrades in a manner that would adversely impact the creation and operation of a robust, competitive and non-discriminatory electric power market.

Each of these concerns are addressed further below.

First, if PJM is required to administer the NUFA, including security, the Proposal should be clear that, consistent with the terms of the Operating Agreement, PJM is simply doing so as the administrative agent of the Transmission Owners without any liability or cost responsibility for any default, security shortfall, or risk to PJM, and its Members. Absent any findings of gross negligence, the Proposal should be read that any liability or cost responsibility associated with security required under the NUFA should be borne by the individual Transmission Owner.

Second, unlike the MISO model, the NUFA, section 4, provides that if the Interconnection Customer elects PJM, PJM must maintain security under the NUFA. This responsibility includes determining acceptability and collecting, holding, drawing upon, adjusting annually and replacing security for the benefit of the Transmission Owners based upon the estimated, actual and adjusted cost of applicable Network Upgrades during the entirety of the NUFA's term of twenty years.<sup>25</sup>

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<sup>24</sup> Tariff, Attachment O-2, section 4.1 *proposed*.

<sup>25</sup> See Tariff, Attachment O-2, section 4 *proposed*.

In addition, section 3.1 of the NUFA requires PJM to administer the NUFA process. Such process will include, among other things, drafting, circulating and filing the NUFA.<sup>26</sup> Together, these additional responsibilities will require a significant amount of time to administer. Given the total number of employee hours and third party consultant hours required to be expended today towards the current interconnection studies and agreements, adding this new process will undoubtedly have an impact on already strained resources.<sup>27</sup> Putting such implementation concerns aside, there should be a billing mechanism, like there is for Interconnection Customers, by which PJM can directly assign costs associated with processing and filing NUFAs for the benefit of the Transmission Owners. The Proposal should provide PJM the ability to bill and recover all costs associated with administering and processing NUFAs.

Third, PJM recognizes that a Transmission Owner's funding of an Interconnection Customer's Network Upgrades could provide a benefit to an Interconnection Customer in those instances where the Transmission Owner's cost of capital is less than what is otherwise available to the Interconnection Customer. However, any advantages associated with the lower cost of

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<sup>26</sup> June 30 Filing Letter at 24.

<sup>27</sup> See, e.g., *PJM Interconnection L.L.C.*, Informational Report on Interconnection Study Performance Metrics, Docket No. ER19-1958-003 (filed Feb. 16, 2021). PJM, through its Planning Committee, is currently undertaking multiple efforts focused on the interconnection process. First, following a series of workshops with stakeholders in late 2020 and early 2021, PJM's Interconnection Process Reform Task Force is seeking to address challenges related to the interconnection process and looking for opportunities to improve the process via the Consensus Based Issue Resolution process. See PJM, Interconnection Process Reform Task Force, PJM.com, <https://www.pjm.com/committees-and-groups/task-forces/iprtf>. Second, in May 2021, PJM kicked off the Interconnection Policy Workshop, which is a stakeholder meeting series aimed at national policy issues that affect how PJM administers its queue today and how it might administer the queue and the Regional Transmission Expansion Plan process in the future. See Jason McGovern, *FERC Chair Glick to Speak as PJM Launches Interconnection Policy Workshop Series*, InsideLines.PJM.com, <https://insidelines.pjm.com/pjm-launches-interconnection-policy-workshop-series/> (May 13, 2021). PJM notes that on July 15, 2021, the Commission issued an Advanced Notice of Proposed Rulemaking (ANOPR) that, in part, seeks to address the current funding paradigm as it relates to interconnection-related network upgrades. See *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (2021), published at 86 Fed. Reg. 40266 (issued July 27, 2021). The Commission should reserve the right to revisit the Proposal based on the Final Rule resulting from the ANOPR.



capital may be lost if the Interconnection Customer is required to maintain a letter of credit for the full cost of the project post construction. Certainly, dollar-for-dollar security is appropriate during the construction phase of an interconnection project in order to ensure cost recovery. But it is not clear that an Interconnection Customer is receiving any benefits related to the cost of capital if it is required to post security on dollar-for-dollar basis for twenty years once a generator interconnection project is constructed, operational and receiving net positive revenues. Thus, if the Proposal imposes greater costs on the Interconnection Customer as a result of the level and duration security must be maintained, PJM observes that the Proposal may adversely impact the continued development of the competitive market in the PJM Region.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, PJM respectfully requests that the Commission consider these comments in evaluating the Proposal submitted by the Transmission Owners in this docket.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document on those parties on the official Service List compiled by the Secretary in these proceedings.

Dated at Audubon, Pennsylvania this 28<sup>th</sup> day of July, 2021.

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