

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

Kendall County Solar Project, LLC,)	
Complainant,)	
)	
v.)	Docket No. EL21-95-000
)	
PJM Interconnection, L.L.C.,)	
Respondent.)	

ANSWER OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure¹ and the Commission’s August 12, 2021 Notice of Filing, submits this answer² to the Complaint and Request for Fast Track Processing of Kendall County Solar Project, LLC (“Complaint” and “Kendall County Solar” or “Complainant”) filed on August 9, 2021. The Commission should deny the Complaint as itself seeking unduly discriminatory treatment in the form of favorable treatment for Complainant at the expense of other PJM Interconnection Customers.³

I. EXECUTIVE SUMMARY

Complainant seeks treatment that is unfair and inequitable in the processing of interconnection studies—in particular, System Impact Studies—in PJM’s New Services

¹ 18 C.F.R. § 385.213.

² This answer is supported by the Affidavit of Jason P. Connell on Behalf of PJM Interconnection, L.L.C. (“Connell Aff.”), included as Attachment A hereto. Mr. Connell is PJM’s Director of Infrastructure Planning.

³ Capitalized terms not defined herein have the meaning set forth in the PJM Open Access Transmission Tariff (“Tariff”).

Queue, and therefore the Complaint should be dismissed in its entirety. Kendall County Solar, through its Complaint, requests that the Commission direct PJM to complete the System Impact Study for its Queue No. AE2-341 Interconnection Request by September 23, 2021, 45 days after the Complaint’s filing.

As the party bringing a complaint under section 206 of the Federal Power Act (“FPA”),⁴ Kendall County Solar has the “burden . . . to show that any rate, charge, classification, rule, regulation, practice, or contract” complained about “is unjust, unreasonable, unduly discriminatory, or preferential.”⁵ Once it satisfies this burden, any remedy imposed must be “just and reasonable.”⁶ The Complaint and its proposed remedies fail to meet these standards. While there are delays in PJM’s New Services Queue, including the processing and issuance of System Impact Studies, these delays do not amount to a Tariff violation, or demonstrate that PJM’s procedures are unjust, unreasonable or unduly discriminatory or preferential. Rather, the critical factor that has delayed PJM’s interconnection studies is the more than 2,000 New Service Requests that PJM has received during the past two years—a factor that is indisputably beyond PJM’s control. Moreover, PJM is working with its stakeholders on ways to improve its interconnection process. In contrast, granting Kendall County Solar’s requested relief would provide it with an unduly preferential priority over other pending New Service Requests submitted to PJM.

Kendall County Solar also requests that the Commission grant it waiver of any Tariff provisions now pending in *PJM Interconnection, L.L.C.*, Docket No. ER21-2282-

⁴ 16 U.S.C. § 824e.

⁵ FPA section 206(b), 16 U.S.C. § 824e(b).

⁶ FPA section 206(a), 16 U.S.C. § 824e(a).

000, which would allow Transmission Owners in PJM (“PJM Transmission Owners”) to provide the initial funding for Network Upgrades.⁷ Kendall County Solar’s affiliate Savion LLC (“Savion”) filed a protest in that docket, specifically referencing the Kendall County Solar project, and seeking a Commission determination that Interconnection Customers that are experiencing study delays not be exposed to any costs under the *pro forma* Network Upgrade Funding Agreement (“NUFA”) proposed in that docket. Concerns about implementation of the NUFA and the appropriate transition mechanism from the status quo to the period after the *pro forma* NUFA is accepted are better addressed in that proceeding, or in a specific waiver request submitted after that proceeding is resolved.

II. BACKGROUND

A. The Kendall County Solar Project

The Kendall County Solar project involves an Interconnection Request assigned Queue No. AE2-341 submitted on March 31, 2019, to interconnect a proposed 150 megawatt (“MW”) solar project to be located in Kendall County, Illinois to the Commonwealth Edison Company (“ComEd”) transmission system.⁸ PJM undertook and

⁷ *PPL Elec. Utils. Corp.*, PJM Tariff Revisions to Implement Transmission Owners’ Funding of Network Upgrades, Docket No. ER21-2282-000 (June 30, 2021) (“Docket No. ER21-2282 Filing”). PJM submitted the filing of behalf of the PJM Transmission Owners in its role as Tariff administrator. Docket No. ER21-2282 Filing at 1, n.6. On August 20, 2021, the Commission issued a deficiency letter in Docket No. ER21-2282, requesting additional information and justification from the PJM Transmission Owners, with a response deadline of September 20, 2021. *PPL Utils. Co.*, Letter Order, Docket No. ER21-2282-000 (Aug. 30, 2021).

⁸ Information on the Kendall County Solar Interconnection Request can be found on the PJM website at <https://pjm.com/planning/services-requests/interconnection-queues.aspx> (enter AE2-341 in the box Queue/Oasis ID).

timely completed an Interconnection Feasibility Study for the project,⁹ which identified \$20.5 million in upgrade costs for which Kendall County Solar would be responsible,¹⁰ and another \$80.8 million in costs for which it could be responsible for making a contribution.¹¹ The AE2-341 Feasibility Study Report identified 34 potential violations arising from the Kendall County Solar’s Interconnection Request.¹²

PJM commenced the System Impact Study on November 1, 2019, the date required by its Tariff.¹³ While PJM endeavored to complete the System Impact Study by February 29, 2020, it was unable to do so. On March 3, 2020, PJM notified Kendall County Solar that completion of the study was delayed and additional time was needed to complete the study.¹⁴ Further communications followed, including emails in which PJM informed Kendall County Solar that the delays in issuance of its System Impact Study were due to

⁹ Connell Aff. ¶ 5.

¹⁰ *Generation Interconnection Feasibility Study Report for the Queue Project AE2-341* PJM Interconnection, L.L.C., 7 (July 2019), https://pjm.com/pub/planning/project-queues/feas_docs/ae2341_fea.pdf (“AE2-341 Feasibility Study Report”). This includes Non-Direct Connection Network Upgrades costs of 2.5 million, for which it is the first-to-cause. *Id.*; Connell Aff.¶ 5 n.3.

¹¹ *Id.*

¹² *Id.*

¹³ Tariff, section 205.3; Connell Aff. ¶ 6.

¹⁴ March 3, 2020 email from B. O’Hara, PJM, to Edrissa Cham, Savion Energy, included as Attachment B hereto. While Kendall County Solar states multiple times that PJM did not notify it until June 1, 2020 that the System Impact Study would be delayed, Complaint at 9, 17, Affidavit of Anthony Doering, Savion (“Doering Aff.”) ¶ 7, this assertion is incorrect. The June 1, 2020, email included as Exhibit 2 to the Complaint provided additional notice that the System Impact Study was delayed but it was not the first notice of the delay that was provided.

the need for re-tools and restudies, and notified Kendall County Solar of additional delays in completion of the study.¹⁵

B. The Docket No. ER21-2282 Proceeding

The proceeding in Docket No. ER21-2282 involves proposed revisions to the Tariff to allow the PJM Transmission Owners to elect to fund the capital costs of Network Upgrades built to accommodate a Generator Interconnection Request and require the Interconnection Customer to pay a charge under the NUFA to provide the PJM Transmission Owners a return of and on the capital costs it has funded.¹⁶ The proposed Tariff revisions include a transition mechanism whereby Interconnection Customers that have executed a Facilities Study Agreement on or before October 1, 2021, are not subject to Transmission Owner election or the NUFA requirement.¹⁷ Savion filed a protest in Docket No. ER21-2282, opposing the proposed Tariff revisions, and raising many of the same concerns about the status of the Queue No. AE2-341 Interconnection Request raised in the Complaint.¹⁸ Savion also requested that, in the event the Commission accepts the proposed revisions to the Tariff, the Commission require the PJM Transmission Owners to adopt a transition mechanism that protects Interconnection Customers that have not executed a Facilities Study Agreement by October 1, 2021, due to PJM or PJM

¹⁵ See Complaint, Exhibits 9 and 10.

¹⁶ Docket No. ER21-2282 Filing at 1-2, 25.

¹⁷ *Id.* at 23, proposed Tariff, section 217.8(f).

¹⁸ Motion to Intervene and Protest of Savion LLC, Docket No. ER21-2282-000, at 3-6, 14-16, Exhibit 1 (July 28, 2021) (“Docket No. ER21-2282 Protest”).

Transmission Owner delays.¹⁹ The proposed Tariff revisions and Savion’s protest remain pending before the Commission in Docket No. ER21-2282-000.

ARGUMENT

III. PJM HAS COMPLIED WITH ITS TARIFF REQUIREMENTS AND THEREFORE THE COMPLAINT SHOULD BE DISMISSED.

A. PJM Commenced the Queue No. AE2-341 System Impact Study on Time and Used Due Diligence to Complete the Study on Time.

In relevant part, Tariff, section 205.3 states:

The following provision shall apply to all New Service Requests submitted on or after April 1, 2017:

The Transmission Provider shall conduct System Impact Studies each year commencing on (i) May 1, for New Service Requests received between April 1 and September 30 of the previous year, (ii) November 1, for New Service Requests received between October 1 of the previous year, and March 31 of the same year. The Transmission Provider shall use due diligence to complete the System Impact Studies within 120 days of the date the study commences. In the event that the Transmission Provider is unable to complete a System Impact Study within the applicable indicated time period, it shall so notify the affected New Service Customers and the affected Transmission Owner(s) and provide an estimated completion date, along with an explanation of the reasons why additional time is needed to complete the study. The Transmission Provider shall use the same due diligence in completing the System Impact Study for a New Service Customer as it uses when completing studies for a Transmission Owner.

Thus, based on the March 31, 2019 queue date of the Queue No. AE2-341 Interconnection Request, PJM was obligated to start the System Impact Study by November 1, 2019. PJM was also obligated to “use due diligence to complete the System Impact Studies within 120 days” of the date the study commences—in this case, to complete the study by February 29, 2020.

¹⁹ *Id.* at 16.

PJM complied with both of these requirements. First, PJM commenced the AE2-341 System Impact Study on November 1, 2019, meeting the express deadline set by Tariff, section 205.3.²⁰

Second, PJM used due diligence to complete the System Impact Study by February 29, 2020, and while Kendall County Solar alleges to the contrary, the fact that PJM was not able to complete the AE2-341 System Impact Study by the projected date is not evidence that PJM failed to use due diligence. As Kendall County Solar admits,²¹ Tariff, section 205.3 does not establish a hard deadline and, in fact, provides PJM with some degree of flexibility in how and when it completes a System Impact Study. The reality is that PJM has an extremely large and backlogged New Services Queue, which unfortunately has delayed the processing of numerous New Service Requests. Kendall County Solar is not the only affected party, and there is nothing unjust, unreasonable, unduly discriminatory or otherwise improper or nefarious about PJM's handling of the Queue No. AE2-341 Interconnection Request.

As Mr. Connell explains, Kendall County Solar's Interconnection Request is one of more than 2,000 New Service Requests that are presently pending in PJM's New Services Queue.²² During the two windows for the period from April 1, 2018, to March 31, 2019 (designated AE1 and AE2), PJM received 601 New Service Requests.²³ During the next two windows (AF1 and AF2), PJM received 786 requests, an increase of 30% over

²⁰ Connell Aff. ¶ 6.

²¹ See Complaint at 16.

²² Connell Aff. ¶ 7.

²³ *Id.* ¶ 8 Table 1.

the number of requests received during the preceding twelve months.²⁴ During the most recently completed two queue windows (AG1 and AG2), the number of new requests swelled to 1,254, a nearly 60% increase over the preceding year’s AF1 and AF2 total number of requests.²⁵ There are a number of reasons for the exponentially increasing number of interconnection requests, including the growth in renewable generating facilities, which is likely tied to the extension of tax credits for renewable resource development and to federal and state clean energy initiatives.²⁶ The Commission recognized these factors in its recent Docket No. RM21-17-000 Advance Notice of Proposed Rulemaking,²⁷ and Kendall County Solar pointed to growth in renewables in its Docket No. ER21-2282 Protest.²⁸ Another reason for the large number of requests is that

²⁴ *Id.*

²⁵ *Id.*

²⁶ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020) (enacting the Taxpayer Certainty and Disaster Tax Relief Act of 2020 as Division EE, which amended Sections 45 and 38 of the Internal Revenue Code with regard to the production tax credit and investment tax credit). *See Deloitte, 2021 Renewable Energy Industry Outlook*, 2-3, (2020) <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/energy-resources/us-eri-renewable-energy-outlook-2021.pdf>.

²⁷ *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, at P 100 (2021) (“Transmission ANOPR”) (noting that the generation fleet now includes a large number of smaller renewable generators located some distance from load centers), *id.*, concurring op. (Chairman Glick, Commissioner Clements) at P 1 (stating that due to factors including utility clean energy commitments and federal and state public policy initiatives, “renewable resources in particular are coming online at an unprecedented rate”).

²⁸ Docket No. ER21-2282 Protest at 11 (stating “[i]t is clear that PJM has seen a dramatic increase in the number of new generator interconnection requests in the last several years, particularly in the form of renewable energy resources.”).

generators often submit multiple requests in order to identify the lowest cost point of interconnection and then withdraw the higher cost projects from the queue, causing the need for restudies and the reallocation of costs, while at the same time tying up PJM resources that could be working on other studies. The Commission recognized this in the Transmission ANOPR as well, stating:

We understand that a contributing factor to the interconnection queue backlog is a tendency by interconnection customers to submit multiple interconnection requests at different points of interconnection, with the intention of discovering the lowest cost site for a project (from an interconnection perspective), and then withdrawing higher-cost projects from the queue later in the process. This tendency can require numerous restudies and reallocation of interconnection-related network upgrade costs, compounding the uncertainty surrounding the amount of interconnection-related network upgrade costs that will be attributable to viable projects as the queue progresses.²⁹

In its most recent Informational Report on Interconnection Study Performance Metrics filed on August 16, 2021, PJM noted that approximately 20% of System Impact Studies due during the six-month reporting period ending June 30, 2021, were not completed within the timelines set forth in Tariff, section 205.3.³⁰ While PJM understands Kendall County Solar's frustration with the delays in completion of its System Impact Study, the sheer number of pending Interconnection Requests at various stages of the study process, along with the complexity of analyzing the large number of violations identified

²⁹ Transmission ANOPR at P 118.

³⁰ *PJM Interconnection, L.L.C.*, Informational Report on Interconnection Study Performance Metrics of PJM Interconnection, L.L.C., Docket No. ER19-1958-003, at Table 4 (Aug. 16, 2021). The report also shows that 24.6% and 19.9% of System Impact Studies were not completed on time during the periods January through June 2020, and July through December 2020, respectively.

in the Queue No. AE2-341 Feasibility Study and the need for additional re-tools and restudies, have made completion of Kendall County Solar’s System Impact Study difficult.

As detailed in the Connell Affidavit, PJM is taking deliberate steps to improve the functioning of its interconnection process with a set of reforms under active consideration by stakeholders and an intent by PJM to make a filing with the Commission to effectuate reforms by the first quarter of 2022.³¹ This includes forming a task force to consider comprehensive reforms to the PJM interconnection procedures and hiring additional engineers and contractors to perform various interconnection studies analyses.³²

Finally, while PJM understands the concerns Kendall County Solar and other Interconnection Customers have about delays in the interconnection queue and interconnection study process, it is important to note the Commission previously has declined to grant complaints which argued that delays in a Regional Transmission Organization’s (“RTO”) interconnection study process made its tariff unjust and unreasonable.³³ For example, a wind generator contested the Midcontinent Independent System Operator, Inc. (“MISO”) tariff on the ground that it had become unlawful “because MISO is not meeting the prescribed deadlines in its tariff,” and alleged that those delays threatened to prevent interconnection customers from completing their projects in time to take advantage of production tax credits.³⁴ The Commission denied the complaint, holding

³¹ Connell Aff. ¶ 14.

³² *Id.*

³³ *See, e.g., EDF Renewable Energy, Inc. v. Midcontinent Indep. Sys. Operator Inc.*, 163 FERC ¶ 61,003 (2018).

³⁴ *Id.* at P 6.

that delays experienced by interconnection customers did not make the queue process unjust and unreasonable.³⁵ The Commission explained that the RTO’s obligation is to make reasonable efforts to meet the prescribed deadlines for interconnection studies, and nothing in an RTO’s tariff guarantees interconnection customers that the RTO will meet its projected deadlines.³⁶ Perhaps most instructive for this case, the Commission agreed with MISO that neither the FPA nor Commission policy “requires MISO to create carve-outs from its generally applicable interconnection procedures in order to ensure that EDF or other wind generators obtain the maximum value of an expiring tax break.”³⁷ The Commission reached similar conclusions in other contexts as well.³⁸ Indeed, even though it prescribed metrics for interconnection studies in Order No. 845, the Commission specifically declined to impose deadlines for such analyses.³⁹ Instead, the Commission ruled that “the reasonable efforts standard continues to be the appropriate approach to interconnection study processing.”⁴⁰ PJM has met this standard.

³⁵ *Id.* at P 47.

³⁶ *Id.*

³⁷ *Id.* at P 48 (internal quotations and footnote omitted).

³⁸ *See Midcontinent Indep. System Operator, Inc.*, 161 FERC ¶ 61,137, at PP 52, 54 (2017).

³⁹ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043, at PP 322-23 (2018), *order on reh’g & clarification*, Order No. 845-A, 166 FERC ¶ 61,137 (2019).

⁴⁰ *Id.* at P 323.

B. PJM Provided Information as Directed by the Tariff.

Despite Kendall County Solar’s allegations, PJM provided Kendall County Solar with the notifications and explanations required by Tariff, section 205.3. First, contrary to Kendall County Solar’s claims, PJM notified Kendall County Solar on March 3, 2020, that the System Impact Study originally expected to be completed by February 29, 2020, would not be completed on time.⁴¹ That email explained that the study was delayed because PJM needed additional time to complete the required analyses, and informed Kendall County Solar that PJM anticipated completing this work on or before May 31, 2020. While Kendall County Solar may have preferred a more detailed explanation, nothing in the Tariff dictates the level of information that must be provided, and it is clear PJM satisfied the obligation under Tariff, section 205.3 to “provide an estimated completion date, along with an explanation of the reasons why additional time is needed to complete the study.” However, PJM did not just provide the abbreviated information required under the Tariff. PJM also provided Kendall County Solar with notification on June 17, 2021, that the revised June 30, 2021 projected completion date would not be met because the study analysis was still in progress, and that PJM anticipated completing and issuing the study by November 30, 2021.⁴² In addition to these emails, PJM provided additional information to Kendall County Solar on October 5, 2020 (responding to an email from Mr. Doering, and explaining the delays in completion of the Kendall County Solar System Impact Study were due to re-

⁴¹ See Attachment B hereto (March 3, 2020 email). Thus, Kendall County Solar was informed that the study would be delayed well before the June 1, 2020 date referenced in the Complaint. See Complaint at 9, 17, Doering Aff. ¶ 7.

⁴² See Complaint, Exhibit 11.

tools and restudies), February 26, 2021 (notifying Kendall County Solar of PJM staff changes and informing it that a new project manager was being assigned), and March 11, 2021 (email from Mr. Jason Shoemaker, PJM, informing Kendall County Solar of the reasons for the delays, including the fact that the Kendall County Solar project is one of approximately 30 projects in ComEd that have been delayed, and the difficulty in resolving cost allocation issues due to the number of violations associated with the project).⁴³

C. PJM Has Implemented Its System Impact Study Procedures on a Non-Discriminatory Basis.

Kendall County Solar points to the fact that PJM has completed System Impact Studies for certain lower queued projects, and questions whether PJM’s practices are unduly discriminatory or inconsistent with Tariff, section 203.5’s requirement that it “use the same due diligence in completing the System Impact Study for a New Service Customer as it uses when completing studies for a Transmission Owner.”⁴⁴

⁴³ See Complaint, Exhibits 5, 7, and 8. PJM acknowledges that it did not provide Kendall County Solar notice that the August 31, 2020 deadline would not be met until October 5, 2020. While this is regrettable, PJM provided on a timely basis the initial notification that System Impact Study for Kendall County Solar would not be completed as of the anticipated date. Moreover, the lack of one notification should not be viewed as a “fatal flaw” that merits granting the Complaint, as such notification would not have resulted in the System Impact Study being completed any faster, and since Kendall County Solar has chosen to remain in the queue, *see* Complaint at 8, it is doubtful whether this notification would have caused it to withdraw its project or affected its decision making. Additionally, granting Kendall County Solar the requested relief of an order requiring completion of the System Impact Study by September 23, 2021 would be unduly discriminatory and unfair to other Interconnection Customers, as PJM explains below.

⁴⁴ *Id.* at 14, 18-19, 21. Kendall County Solar points in particular to Savion’s Queue No. AF1-030 and Queue No. AF2-329 Interconnection Requests. *Id.* at 10, Doering Aff. ¶ 7, and Exhibits 7 and 8.

Any implication or charge that PJM has conducted its interconnection study process in an unduly discriminatory manner is simply false. As an initial matter, Kendall County Solar presents no evidence that PJM has failed “to use the same due diligence in completing the System Impact Study for a New Service Customer as it uses when completing studies for a Transmission Owner” as required by Tariff, section 205.3, or has somehow discriminated in favor of any Transmission Owner. To the extent PJM has issued System Impact Studies for lower-queued projects, it is because those projects have few violations and overloads shown in their Feasibility Studies, or do not require re-tools or restudies.⁴⁵ In addition, certain of these projects, such as the Queue No. AF1-030 and Queue No. AF2-329 Interconnection Requests, are also contingent on other projects being built that address violations that would otherwise be associated with their projects.⁴⁶ By way of contrast, there have been numerous violations and overloads identified for the Kendall County Solar project, and Kendall County Solar’s cost allocation is dependent on numerous other

⁴⁵ Connell Aff. ¶ 15.

⁴⁶ *Id.* The Queue No. AF1-030 and Queue No. AF2-329 Interconnection Requests both require few upgrades and are contingent upon the Queue No. AE2-341 substation being built (the Queue No. AF2-329 Interconnection Request is for a 52.2 MW uprate to the Queue No. AF1-030 Interconnection Request). *See Generation Interconnection System Impact Study Report for Queue Project AF1-030*, PJM Interconnection, L.L.C., 2-3 (August 2020), https://pjm.com/pub/planning/project-queues/impact_studies/af1030_imp.pdf *Generation Interconnection System Impact Study Report for Queue Project for Queue Project AF2-329*, PJM Interconnection, L.L.C., 5-6, 11 (Feb. 2021), https://pjm.com/pub/planning/project-queues/impact_studies/af2329_imp.pdf.

projects.⁴⁷ Also, significant re-tools of studies for projects in the AE2 queue have been required, which has delayed completion of the System Impact Studies for those projects.⁴⁸

D. Kendall County Solar’s Proposed Remedies Are Not Just and Reasonable, but Instead Are Unsupported and Unduly Discriminatory and Preferential.

For the reasons explained above, Kendall County Solar has failed to show that PJM’s treatment of the AE2-341 System Impact Study, or any aspect of PJM’s interconnection process, is unjust and unreasonable or unduly discriminatory or preferential. Therefore, the Commission should reject the Complaint in its entirety and need not and should not even consider Kendall County Solar’s proposed remedies.⁴⁹ However, assuming for the sake of argument that the Commission would reach the question of whether to grant any relief, it should find that neither of Kendall County Solar’s proposed remedies is just and reasonable and not unduly preferential or discriminatory.

Kendall County Solar’s primary remedy—requiring PJM to complete the System Impact Study by September 23, 2021—is manifestly unjust, unreasonable, and unduly discriminatory and preferential, and would provide Kendall County Solar with an unfair advantage over similarly situated and higher-queued Interconnection Customers in the New Services Queue. Delays in completion of System Impact and other studies is an issue faced by numerous other Interconnection Customers, and Complainant’s proposed remedy

⁴⁷ Connell Aff. ¶ 15; *see also* Complaint, Exhibit 8 (March 11, 2021 email from PJM explaining reasons for delays in study processing).

⁴⁸ Connell Aff. ¶ 15.

⁴⁹ *See Anbaric Development Partners, L.L.C. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,241, at P 86 (2020) (stating that “[a]s Anbaric has failed to demonstrate that PJM’s existing Tariff is unjust and unreasonable, we need not address Anbaric’s proposed replacement rate”).

would require PJM to complete the AE2-341 System Impact Study (and then presumably allow Kendall County Solar to execute a Facilities Study Agreement), in effect allowing Kendall County Solar to leapfrog over and ahead of other Interconnection Customers.⁵⁰ Moreover, requiring PJM to complete the Kendall County Solar System Impact Study on an accelerated basis would prevent PJM from completing the necessary re-tools and restudies and taking into account the full impact of higher queued projects. A further re-tool likely would be required once projects ahead of Kendall County Solar in the queue make a decision about whether to move forward with their projects that could also affect cost allocation. Kendall County Solar fails to show that providing it with preferential treatment is just and reasonable, as required by FPA section 206(a).⁵¹ Further, the Commission has repelled efforts by both developers and utilities to change projects' queue positions unilaterally.⁵²

⁵⁰ There are currently 20 projects in ComEd that represent 4218.9 MW of capability that have higher queue positions than Kendall County Solar and are waiting for their System Impact Studies to be issued (and then presumably to enter into Facilities Study Agreements or obtain Interconnection Service Agreements). Connell Aff. ¶ 16.

⁵¹ FPA section 206(a) requires that if the Commission finds any existing rate, charge or classification to be unjust, unreasonable, unduly discriminatory or preferential, the replacement rate, charge or classification must be just and reasonable. FPA section 206(a), 16 U.S.C. § 824e(a); *see also Atlantic City Electric Co. v. FERC*, 295 F.3d 1, 10 (D.C. Cir 2002) (“In order to make any change in an existing rate or practice, FERC must first prove that the existing rates or practices are ‘unjust, unreasonable, unduly discriminatory or preferential.’ Then FERC must show that its proposed changes are just and reasonable.”).

⁵² *See Invenergy Solar Dev. N. Am. LLC v. Tri-State Generation & Transmission Ass’n Inc.*, 174 FERC ¶ 61,184, at PP 56-57 (2021) (striking down an attempt by a non-RTO transmission provider to allow a later queued project to alter the interconnection cost responsibility of an earlier queued project).

Complainant’s alternative request for relief – a waiver of any Tariff provisions now pending in Docket No. ER21-2282 that would allow Transmission Owner funding of Network Upgrades⁵³–is not appropriately addressed in this docket. Complainant’s affiliate Savion raised these concerns in its Docket No. ER21-2282 Protest.⁵⁴ Such concerns are better addressed in that proceeding, where the Commission can decide the appropriate applicability, scope and timing of the Docket No. ER21-2282 transition mechanism. Alternatively, Kendall County Solar can file for a waiver of whatever Tariff revisions are approved in Docket No. ER21-2282 after the Commission acts on the Tariff revisions filed in that proceeding.

E. Changes to PJM’s Interconnection Process Should Be Made Through PJM’s Stakeholder Process or a Commission Rulemaking, Not In Response to Case-Specific Complaints.

To the extent that Kendall County Solar or any other party seeks changes to PJM interconnection procedures,⁵⁵ those changes should be made through PJM’s stakeholder process or in response to a final rule promulgated in connection with the Commission’s Transmission ANOPR, rather than in response to a case-specific Complaint. The Commission on several occasions has denied complaints involving similar issues regarding

⁵³ Complaint at 20, 24.

⁵⁴ *See supra* notes 18-19.

⁵⁵ PJM notes that in *SOO Green HVDC Link ProjectCo, LLC v. PJM Interconnection, L.L.C.*, Complaint and Request for Relief of SOO Green HVDC Link ProjectCo, LLC, Docket No. EL21-85-000, (June 21, 2021), a merchant transmission developer seeks a ruling that its merchant transmission project should be removed from PJM’s New Services Queue, which the Tariff provides as the process for evaluation of merchant transmission projects along with generator interconnection requests. The merchant transmission developer also claims harm due to delays in the PJM interconnection process.

organized wholesale markets, while either deferring to an ongoing stakeholder processes or directing the commencement of such a process to evaluate potential revisions to market rules.⁵⁶

While none of the relief requested in the Complaint is justified, even if the Commission were to find that claims raised by Complainant deserve further consideration, there are existing processes already underway both at PJM and at the Commission to address such issues. Through the Interconnection Process Reform Task Force (“IPRTF”), PJM and its stakeholders are moving forward expeditiously with reforms to improve the New Services Queue process and anticipate filing Tariff revisions once the IPRTF concludes. At the same time, the Commission has initiated a wide-ranging review of its interconnection and regional transmission planning policies and rules in the Transmission ANOPR, which offers another comprehensive forum for considering the potential ramifications of the Complaint.

Both the Commission’s initiative and the PJM IPRTF efforts are substantial undertakings that involve balancing many competing interests. That diversity of interests and the high stakes involved make the issues to be addressed particularly ill-suited to resolution through “one-off” litigation such as the Complaint, and also will result in a more fair and equitable outcome that does not benefit only one discrete party. The Commission

⁵⁶ See, e.g., *Indep. Power Producers of N.Y., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,214, at P 71 (2015) (denying complaint and ordering the New York Independent System Operator to institute a stakeholder process to address certain market rules and to report on same), *order on reh’g & clarification*, 170 FERC ¶ 61,118 (2020); *Coal. of Midwest Power Producers, Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, 166 FERC ¶ 61,159, at P 46 (2019) (denying complaint and “encourag[ing] MISO to continue working through its stakeholder process on these issues”).

therefore should reject the Complaint, deferring instead to the more complete and balanced outcomes that can be expected from the IPRTF process or the Transmission ANOPR proceedings.

IV. ADMISSIONS AND DENIALS PURSUANT TO 18 C.F.R. § 385.213(c)(2)(i)

Pursuant to Rule 213(c)(2)(i) of the Commission's Rules of Practice and Procedure,⁵⁷ PJM admits or denies the alleged material facts stated in the Complaint as follows: to the extent that any allegation set forth in the Complaint is not specifically admitted in this answer, it is denied.

V. AFFIRMATIVE DEFENSES PURSUANT TO 18 C.F.R. § 385.213(c)(2)(ii)

PJM's affirmative defenses are set forth above in this answer, and include the following, subject to amendment and supplementation.

1. Complainant has failed to satisfy its burden of proof under section 206 of the FPA, 16 U.S.C. § 824e, and has not demonstrated that PJM violated any Commission order, Tariff, or any other Commission-jurisdictional governing document or that PJM administered its Tariff in an unjust, unreasonable, or unduly discriminatory manner in its undertaking of the Kendall County Solar System Impact Study.
2. Even if the Commission reaches the question of remedies in this proceeding, it cannot grant Complainant's requested relief. Complainant's requested remedy of requiring PJM to complete the AE2-341 System Impact Study by September 23, 2021, is not just and reasonable, and is in fact, unjust,

⁵⁷ 18 C.F.R. § 385.213(c)(2)(i).

unreasonable, unduly discriminatory and preferential. Complainant's fallback remedy—waiver of the Docket No. ER21-2282 Tariff revisions that may require Complainant to enter into a NUFA—is better addressed in other proceedings.

3. Even if the Complaint is construed to present a valid policy issue, the Commission should deny any relief in this proceeding and, instead, should either permit PJM's ongoing stakeholder process to consider the matter, or should await the outcome of the rulemaking proceeding on similar issues that the Commission has initiated in Docket No. RM21-17-000.

VI. CONCLUSION

For the reasons set forth in this answer, the Commission should deny the Complaint.

Respectfully submitted,

/s/ David S. Berman

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August 30, 2021

Attachment A

Affidavit of Jason P. Connell on Behalf of PJM Interconnection, L.L.C.

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

Kendall County Solar Project, LLC,)	
Complainant,)	
)	
v.)	Docket No. EL21-95-000
)	
PJM Interconnection, L.L.C.,)	
Respondent.)	

**AFFIDAVIT OF JASON P. CONNELL
ON BEHALF OF PJM INTERCONNECTION, L.L.C.**

1. My name is Jason P. Connell. I am the Director of Infrastructure Planning at PJM Interconnection, L.L.C. (“PJM”) and have been in that position since January 2021. My duties and responsibilities include oversight of the Interconnection Projects and Interconnection Analysis departments. Collectively, the departments oversee the project management and the engineering studies associated with all New Service Requests. The purpose of my affidavit is to describe the current state of PJM’s interconnection process and the ongoing reforms to modify that process. This affidavit responds to certain issues raised in the Docket No. EL21-95 Complaint filed by Kendall County Solar Project, LLC (“Kendall County Solar”) against PJM.

2. Prior to becoming the Director of Infrastructure Planning, I was the Manager of Interconnection Projects at PJM from December 2018 to January 2021. I was also the Manager, System Planning Modeling & Support at PJM from June 2016 to December 2018 and a Senior Engineer at PJM from April 2012 to June 2016. Prior to that time, I held engineering and supervisory positions at PECO Energy and Unisys Corporation. I received a Bachelor of Science in Electrical Engineering

from Drexel University in 2001 and a Master of Business Administration from Villanova University in 2015.

3. PJM, as a Regional Transmission Organization (“RTO”), ensures the reliability of the high-voltage electric power system serving 65 million people in all or parts of 13 states and the District of Columbia. PJM coordinates and directs the operation of the region’s transmission grid, which includes over 85,103 miles of transmission lines, administers a competitive wholesale electricity market, and plans regional transmission expansion improvements to maintain grid reliability and relieve congestion.
4. PJM, under the terms of its Open Access Transmission Tariff (“Tariff”), has the responsibility for planning the expansion and enhancement of the PJM Transmission System on a regional basis.¹ This includes administering the connection of generators, interconnection of Merchant Facilities, requests for Transmission Service, and upgrades to existing Transmission Owner facilities in the PJM Transmission System through the New Service Requests process. PJM coordinates the planning process, performs reliability studies, and oversees the construction of the required Interconnection Facilities, Merchant Transmission facilities, and any associated Network Upgrades. Generation Interconnection Requests and Transmission Interconnection Requests from merchant transmission developers are subject to same basic set of interconnection procedures. PJM runs two New Services Queue windows each year, one starting April 1 of each year and ending September 30 of each year, and the second starting October 1 of each year

¹ Terms not defined herein have the meaning set forth in the Tariff.

and ending March 31 of the next year.²

5. The Kendall County Solar project involves an Interconnection Request assigned Queue No. AE2-341 submitted on March 31, 2019 to interconnect a proposed 150 megawatt (“MW”) solar project to be located in Kendall County, Illinois, to the Commonwealth Edison Company (“ComEd”) transmission system. PJM undertook and timely completed an Interconnection Feasibility Study for Kendall County Solar, which identified \$20.5 million in upgrade costs for which Kendall County Solar would be responsible, and another \$80.8 million in costs for which it could be responsible for making a contribution.³ The AE2-341 Feasibility Study Report identified 34 potential violations arising from Kendall County Solar’s Interconnection Request.
6. PJM commenced the Queue No. AE2-341 System Impact Study on November 1, 2019, as required by section 205.3 of its Tariff, and under the Tariff, was obliged to use due diligence to complete the System Impact Study within 120 days – by February 29, 2020. While PJM did use due diligence to complete the study within

² Under Tariff revisions recently accepted by the Federal Energy Regulatory Commission, an Interconnection Customer must submit a complete and fully executed Generation Interconnection Feasibility Study Agreement by March 10 of each year for the New Services Queue ending March 31 of that year, and by September 10 of each year for the New Services Queue ending September 30 of that year. *See PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,117 (2021).

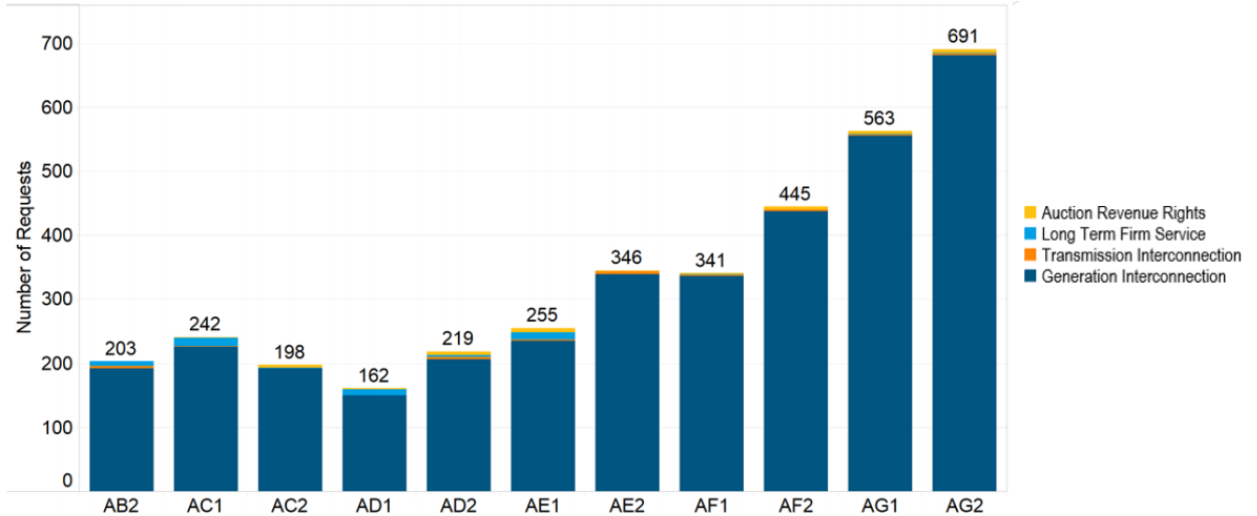
³ *See Generation Interconnection Feasibility Study Report for the Queue Project AE2-341*, PJM Interconnection, L.L.C., 7 (July 2019), https://pjm.com/pub/planning/project-queues/feas_docs/ae2341_fea.pdf (“AE2-341 Feasibility Study Report”). The \$20.5 million of costs for which Kendall County Solar is responsible includes estimated Attachment Facilities costs of \$1 million, Direct Connection Network Upgrade Costs of \$17 million, and Non-Direct Connection Network Upgrades of 2.5 million, for which it is the first-to-cause. *Id.*

this timeframe, it was unable to do complete the study within this 120-day period, and on March 2, 2020, notified Kendall County Solar of this fact. The System Impact Study is still pending.

7. The reason that the Kendall County Solar System Impact Study (along with studies of numerous other Interconnection Customers) is still pending is because PJM has an extremely active New Services Queue, with a total of over 2,000 New Service Requests presently pending at various stages of the study process. This is a large increase from the 695 projects that were in the New Services Queue as of January 2019, and makes it difficult for PJM to complete interconnection studies within the Tariff timelines. PJM has been experiencing an increase in the number of New Service Requests received each year, leading to a record-high volume of projects under study, which directly affects study process and timing. There were 1,660 New Service Requests submitted from January 1, 2020 through March 31, 2021 alone.
8. The Tariff requires PJM to use due diligence to complete interconnection studies within time frames set forth in the Tariff, and PJM and its engineering staff work diligently to meet those deadlines, but the Tariff does not establish fixed deadlines for completion of studies. However, PJM's study process and timing are directly impacted by the extremely high volume of New Service Requests that PJM has received in each queue window in recent years. The currently open New Services Queue, AH1, opened on April 1, 2021, and Interconnection Customers must submit their New Service Requests by September 10, 2021. Table 1 below illustrates the increasing total number of New Service Requests submitted in each queue window

in recent years.

TABLE 1: TOTAL NEW SERVICE REQUESTS BY APPLICATION TYPE



9. The most recently completed New Services Queue, AG2, which closed on March 31, 2021, contained significantly more New Service Requests than prior queues had contained. Indeed, the AG2 New Services Queue represented an approximately 23% increase in the total number of New Service Requests over the AG1 New Services Queue, and an approximately 55% increase over the AF2 New Services Queue.⁴
10. Notwithstanding this ever-increasing volume of New Service Request submissions, PJM has been able to remain within the allowable performance metric parameters set forth in Section 41.6 of the Tariff for its Feasibility Studies and System Impact Studies in both 2020 six-month reporting periods, and in the first 2021 six-month reporting period.⁵ However, the escalating number of New Service Requests from

⁴ There are a number of reasons for this record increase in New Service Requests. One such factor is Congress' recent re-extension of the production tax credit and investment tax credit for renewable energy resources.

⁵ See *PJM Interconnection, L.L.C., Informational Report on Interconnection Study*

the past, when coupled with the ever-increasing number received from January 1, 2020, to March 31, 2021, is having an increased ripple effect on older projects that had been progressing through the queue. Thus, PJM exceeded the performance metrics (that is, failed to complete the studies within the due diligence timelines) for more than 25% for the Facilities Studies during the first and second consecutive six-month reporting periods of 2020, as well as the first six-month reporting period of 2021—only issuing 1% of Facilities Studies on time.

11. Reasons for the delays in the interconnection study process include, but are not limited to, the large number of New Service Requests that are withdrawn or modify their projects during various stages of the interconnection process and PJM's existing queue processing method. Also, the study timelines in the Tariff effectively compel PJM to prioritize the review and scoping of New Services Requests as they enter the queue over existing projects in the queue. The combination of these two factors causes the need for restudies, which can have a cascading effect on other studies in the queue.
12. PJM acknowledges that there are delays in its New Services Queue and is dedicated to taking action to address this. It is for this reason that PJM launched, in October 2020, a comprehensive set of workshops to explore and collaborate with developers, transmission owners, and other stakeholders to improve the interconnection process in step with PJM's rapidly growing New Services Queues and the evolving grid. These workshops concluded on March 5, 2021, with an issue

Performance Metrics of PJM Interconnection, L.L.C, Docket No. ER19-1958-003 (Aug. 16, 2021).

charge and problem statement for the creation of an Interconnection Process Reform Task Force (“IPRTF”) comprised of PJM stakeholder representatives. The IPRTF has met four times since March 5, 2021, with the most recent meeting held August 23, 2021.

13. The IPRTF provides an opportunity for stakeholders to present proposed solutions. PJM developed a proposed solution that borrows from interconnection processes in other RTOs, including the Midcontinent Independent System Operator, Inc. PJM’s proposed solution moves PJM from a first-come, first-served process to a first-ready, first-served process. PJM’s proposed process also includes off-ramps at various decision points for generators throughout the process, and provides customers with more actionable information earlier in the process. These proposed reforms will allow projects that are ready to move forward to do so while at the same time providing incentives for more speculative projects to exit the queue. While the proposed reforms are still subject to review through the IPRTF process, PJM expects that this process will result in a proposed reform package to be filed with the Federal Energy Regulatory Commission by the first quarter of 2022 once the IPRTF process concludes.
14. PJM has taken other measures to improve the functioning of its New Services Queue regardless of its methodology. PJM engaged 13 contractors to help perform load flow and short circuit analyses and to perform other functions and studies, commencing in 2020 and continuing through today. PJM also expanded its network of contractors to include an additional firm to handle the increasing volume of

stability studies.⁶ Additionally, to address the cascading impact of past delays on PJM's Facilities Study process and timing, PJM has delayed the Feasibility Study Reports for the most recent AG2 Queue so that PJM can dedicate its resources to addressing the Facilities Study backlog.

15. I also understand that Kendall County Solar has raised a number of concerns about the fact that a number of projects with lower queue positions—that is, requests that entered the New Services Queue after Kendall County Solar submitted its Interconnection Request—have been issued System Impact Studies. However, the System Impact Studies that have been issued are for projects for which studies have revealed few violations and overloads, or which do not require re-tools or restudies. Some of these projects are also contingent on other projects being built that address violations that would otherwise be associated with their projects. In contrast, there have been many violations identified for the Kendall County Solar project, and its cost allocation is dependent on numerous other projects. The studies in the AE2 queue have also required significant re-tools, which has delayed completion of the System Impact Studies.
16. Kendall County Solar also seeks as a form of relief an order directing PJM to complete its System Impact Study by September 23, 2021. This would be unfair to other New Service Customer who are awaiting the results of their System Impact

⁶ PJM has hired new full-time employees and increased the use of contractors not only to address the growing number of New Service Requests but also because it has lost experienced staff due to retirements and turnover. This includes the loss of roughly 80 years of experience from PJM's Interconnection Analysis group in the past two years, and an additional loss of 115 years of experience from the Interconnection Projects group during this period.

Studies. There are currently 20 projects in the ComEd zone that represent 4218.9 MW of capability, and which have higher queue positions than Kendall County Solar that are waiting for their System Impact Studies to be issued (and then presumably to enter into Facilities Study Agreements or obtain Interconnection Service Agreements). Moreover, requiring PJM to complete the Kendall County Solar System Impact Study on an accelerated basis would prevent PJM from completing the necessary re-tools and restudies and taking into account the full impact of higher queued projects. A further re-tool likely would be required once projects ahead of Kendall County Solar in the queue make a decision about whether to move forward with their projects. Granting Kendall County Solar its requested relief would provide it with preferential treatment over these other Interconnection Customers.

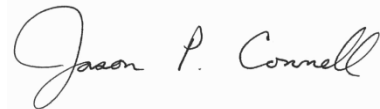
17. This concludes my affidavit.

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

Kendall County Solar Project, LLC,)	
Complainant,)	
)	
v.)	Docket No. EL21-95-000
)	
PJM Interconnection, L.L.C.,)	
Respondent.)	

VERIFICATION

Jason P. Connell deposes and states that he is the Jason P. Connell referred to in the foregoing “Affidavit of Jason P. Connell on Behalf of PJM Interconnection, L.L.C.,” that he has read the same and is familiar with the contents thereof, and that the facts set forth therein are true and correct to the best of his knowledge, information, and belief.



Jason P. Connell

Attachment B

March 3, 2020 email from B. O'Hara, PJM, to Edrissa Cham, Savion Energy

From: Bernard.OHara@pjm.com
To: echam@savionenergy.com
Cc: [System Planning Admin](#); [O'Hara, Bernard F.](#); [Graff, Kenneth](#)
Subject: AE2-341 System Impact Study Delay Notification
Date: Tuesday, March 03, 2020 7:29:15 AM

SYSTEM IMPACT STUDY DELAY NOTIFICATION:

This email serves notice, as required by the *PJM OAT Tariff §205.3*, that the above Impact Study is delayed due to additional time needed by PJM to complete the analysis.

PJM anticipates completing this work and issuing the Impact Study Report on or before May 31, 2020.

If there are any questions concerning this notification please call the PJM Project Manager for this project, Ken Graff.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 30th day of August 2021.

/s/ David S. Berman

David S. Berman