

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

PJM Interconnection, L.L.C.

)

Docket No. ER22-702-000

**MOTION FOR LEAVE TO ANSWER AND
LIMITED ANSWER OF PJM INTERCONNECTION, L.L.C.**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ PJM Interconnection, L.L.C. (“PJM”) submits this Motion for Leave to Answer and Limited Answer to the January 11, 2022 protest filed jointly by the Long Island Power Authority (“LIPA”) and Neptune Regional Transmission System, LLC (“Neptune”) (collectively, “Protesters”) in this docket.²

I. MOTION FOR LEAVE TO ANSWER

PJM respectfully requests leave to file this Limited Answer to address narrow arguments raised in the Protest. Although the Commission’s Rules of Practice and Procedure generally do not permit an answer to protests,³ the Commission routinely allows such answers when they provide useful or relevant information that will assist the Commission in its decision-making process, clarify the issues, assure a complete record in the proceeding, provide information helpful to the disposition of an issue, and permit the issues to be narrowed.⁴ This answer satisfies these

¹ 18 C.F.R. §§ 385.212 and 385.213 (2020).

² *PJM Interconnection, L.L.C.*, Motion to Intervene and Protest of the Long Island Power Authority and Neptune Regional Transmission System, LLC, Docket No. ER22-702-000 (Jan. 11, 2022) (“Protest”).

³ 18 C.F.R. § 385.213(a)(2).

⁴ *See, e.g., Pioneer Transmission, LLC v. N. Ind. Pub. Serv. Co. and Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,057, at P 93 (2012); *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,285 (2010); *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252, at P 19 (2010), *reh’g denied*, 137 FERC ¶ 61,075 (2011) (accepting answers that “provided information that assisted us in our decision-making process”); *Duke Energy Ky., Inc.*, 122 FERC ¶ 61,182, at P 25 (2008) (accepting answers in proceeding that “provided information that assisted us in our decision-making process”); *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 26 (2008); *PJM Interconnection, L.L.C.*, 120 FERC ¶ 61,083, at P 23 (2007) (answer to protests permitted when it provides information to assist the Commission in its decision-making process); *Morgan Stanley Capital Grp., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (2000) (accepting an answer that was “helpful in the development of the record...”).

standards. Accordingly, PJM respectfully submits that good cause exists to grant this motion for leave to answer.

II. BACKGROUND

On December 21, 2021,⁵ PJM submitted amendments to Schedule 12-Appendix⁶ and Schedule 12-Appendix A⁷ of the PJM Open Access Transmission Tariff (“Tariff”) to provide updated annual cost allocations for projects included in the PJM RTEP.⁸ Specifically, PJM filed updates to cost responsibility assignments in the revised Tariff sections of Schedule 12-Appendix and Schedule 12-Appendix A for Regional Facilities and Necessary Lower Voltage Facilities based on each zone’s annual peak load from the 12-month period ending October 31, 2021.⁹ PJM updated fifty percent of the cost responsibility for Covered Transmission Enhancements (except Canceled or Abandoned Projects) in Schedule 12-Appendix using the solution-based distribution factor (“DFAX”) methodology.¹⁰ For Schedule 12-Appendix A Regional Facilities and Necessary Lower Voltage Facilities (fifty percent) and Lower Voltage Facilities (one hundred percent), PJM updated the solution-based DFAX cost responsibility assignments for facilities that are either in service or scheduled to enter service in 2022.¹¹

⁵ See *PJM Interconnection, L.L.C.*, Filing Letter, Docket No. ER21-702-000 (Dec. 21, 2021) (“December 21 Filing” or “2022 Annual Cost Allocation Update”).

⁶ The cost responsibility assignments for all projects included in the Regional Transmission Expansion Plan (“RTEP”) prior to February 1, 2013 are located in Schedule 12-Appendix. See Tariff, Schedule 12, section (a)(v).

⁷ The cost responsibility assignments for all projects in the RTEP after February 1, 2013 are located in Tariff, Schedule 12-Appendix A. See *id.*

⁸ As PJM explained, the amendments to Schedule 12-Appendix and Schedule 12-Appendix A reflect the updated annual cost responsibility assignments filed in accordance with Tariff, Schedule 12 and do not contain any new upgrades. Rather, PJM merely updated existing cost responsibility assignments. See December 21 Filing at 19.

⁹ Tariff, Schedule 12, section (b)(i)(A)(1). See December 21 Filing at 16.

¹⁰ Tariff, Schedule 12, section (b)(iii)(H)(2). See December 21 Filing at 16–17.

¹¹ Tariff, Schedule 12, section (b)(iii)(H). See December 21 Filing at 17–18.

Protesters filed the only protests or comments in this docket. The arguments in support of the Protest are virtually the exact same arguments these Protesters filed, and the Commission rejected,¹² in response to PJM’s 2021 annual cost allocation update filing in Docket No. ER21-726 (“2021 Annual Cost Allocation Update”).¹³ As discussed below, the Commission found the arguments raised in the Protest were outside the scope of the 2021 Annual Cost Allocation Update docket.¹⁴ Additionally, Protesters acknowledge that the complaint they filed under section 206 of the Federal Power Act (“FPA”) on December 31, 2020¹⁵ challenges the same processes objected to in this Protest.¹⁶ PJM has been an active participant in that Complaint docket, and that proceeding remains pending before the Commission. The issues should not be litigated twice. Nor should this routine PJM filing be suspended while the larger issues are under consideration by the Commission in the Complaint proceeding. Suspending the proposed Tariff revisions in this docket will only add to the uncertainty as to the cost responsibility assignments to be applied commencing January 1, 2022. Accordingly, PJM limits its response to Protesters’ objection to PJM’s annual updated allocation of cost responsibility assignments.

¹² See *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,152 (May 21, 2021) (“May 21 Order”).

¹³ *PJM Interconnection, L.L.C.*, Protest of Long Island Power Authority and Neptune Regional Transmission System, LLC, Docket No. ER21-726-000 (Jan. 13, 2021).

¹⁴ May 21 Order at P 47.

¹⁵ See Protest at 1–2 & 16; *Neptune Regional Transmission Sys., LLC, et al. v. PJM Interconnection, L.L.C.*, Docket No. EL21-39-000 (Dec. 31, 2020) (“Complaint”).

¹⁶ *Id.*

III. ANSWER

A. The Updated Allocations Are Just and Reasonable as Filed and Fully Comply with the Filed Rate Set forth in Tariff, Schedule 12

Protesters again challenge the appropriateness of the methodology (in particular the application of the netting procedure and one percent *de minimis* threshold) set forth in the Tariff for assigning cost responsibility using the solution-based DFAX methodology accepted by the Commission, effective February 1, 2013.¹⁷ This challenge is beyond the scope of this proceeding. The only issue in this docket is whether PJM determined the cost responsibility assignments included in the December 21 Filing consistent with the Commission-accepted methodology set forth in the Tariff, Schedule 12, not whether those methodologies are appropriate. As a result, a protest of the cost allocation method accepted as in compliance with the requirements of Order No. 1000¹⁸ and a request that the Commission reject a routine annual filing implementing the Tariff provisions is simply not the correct procedural vehicle to raise Protestors' issues.¹⁹

Notably, by order dated May 21, 2021, the Commission rejected practically identical challenges by these same Protesters to PJM's 2021 Annual Cost Allocation Update.²⁰ In the May 21 Order, the Commission stated that it had previously found that "review of proposed revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the Tariff to provide updated annual cost responsibility assignments for transmission projects included in the PJM RTEP is limited to

¹⁷ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,074 (Jan. 31, 2013). The Commission accepted the regional cost allocation method as part of PJM's Order No. 1000 compliance filings.

¹⁸ May 21 Order at P 47.

¹⁹ See, e.g., *Southwest Power Pool, Inc.*, 161 FERC ¶ 61,261, at P 47 (2017) (stating that to the extent the party was concerned about a specific element of the tariff outside of the RTO's proposed revisions, the party may file a complaint under FPA section 206); *PJM Interconnection, L.L.C.*, 145 FERC ¶ 61,035, at P 35 and n.19 (2013) ("Intervenor-proposed changes to PJM's existing tariff must be made through a complaint under section 206 of the FPA and not through protests to a section 205 filing") citing *Otter Tail Power Co.*, 137 FERC ¶ 61,255, at P 23 (2011) ("The Commission discourages the combination of complaints with other types of filings, including protests.").

²⁰ See May 21 Order at PP 44 and 47; see also *PJM Interconnection, L.L.C.*, 176 FERC ¶ 62,045 (July 22, 2021) (Notice of Denial of Rehearing by Operation of Law).

whether PJM has correctly applied Schedule 12 of the PJM Tariff.”²¹ Accordingly, the Commission found that PJM’s filing correctly applied the PJM Tariff.²² The Commission further found that while the Protesters may challenge the appropriateness of the cost responsibility assignment methodology in their Complaint docket,²³ the Protesters may not challenge it in this proceeding. Therefore, the Commission should reject the Protesters’ challenge to PJM’s annual updated cost assignments as proposed in the December 21 Filing.

B. PJM Implemented its Cost Allocation Methodology Consistent with Tariff, Schedule 12

Protesters do not challenge PJM’s implementation of the Commission-accepted cost allocation methodology. In fact, Protesters have failed to show that PJM incorrectly calculated the solution-based DFAX methodology. Rather, Protesters’ argument seems to be that even though PJM accurately calculated the DFAX and correctly applied the netting procedure and the one percent *de minimis* threshold to the results of the solution-based DFAX analysis, they disagree with the results and demand the Commission undertake an independent and studied evaluation of the 2022 cost allocation assignments to determine whether the results are just and reasonable. As stated above, Protestors incorrectly raise this challenge to the cost allocation methodology in this proceeding because this Protest is simply, as the Commission has found, a challenge to the “justness and reasonableness” of the solution-based DFAX methodology and PJM’s application

²¹ May 21 Order at P 42. *See also PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,078, at PP 22 and 24 (2018).

²² May 21 Order at P 42.

²³ The Complaint proceeding is currently pending before the Commission under paper hearing procedures.

of the netting procedure and one percent *de minimis* threshold. Thus, the Commission should, as it did Docket No. ER21-726, reject the Protestors' challenge.²⁴

C. The PJM Transmission Owners have exclusive and unilateral rights regarding Tariff, Schedule 12's cost allocation provisions

Protestors allege that PJM's approach to this routine filing "inappropriately avoids addressing and correcting demonstrated problems with the cost allocation methodology and the cost allocation results and does not constitute the filing of a just and reasonable rate under FPA, Section 205."²⁵ Protestors also ask the Commission to "not allow PJM to continue to sidestep the problems with PJM's anomalous and unjust and unreasonable RTEP cost allocations."²⁶ Protestors' argument, however, is misplaced. As the Commission has noted, the PJM Transmission Owners, not PJM, have exclusive and unilateral rights regarding the cost allocation provisions of Schedule 12 of the Tariff.²⁷ Until such time that the Commission makes effective revisions to the Tariff's cost allocation methodologies, PJM's obligation is to apply the currently effective Commission-accepted methodologies set forth in Tariff, Schedule 12, which PJM has done in this instance.

D. Changes to cost assignments are expected due to year-to-year modifications to the PJM transmission system

PJM reiterates, as it did in the 2021 Annual Cost Allocation Update docket, that changes to cost assignments calculated pursuant to the solution-based DFAX methodology "are an

²⁴ See *supra* at n.20.

²⁵ Protest at 17.

²⁶ *Id.*

²⁷ See *Neptune Regional Transmission System, LLC and Long Island Power Authority v. PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,247, at P 47 (2021). See also, *PPL Electric Utilities Corp., et al.*, 177 FERC ¶ 61,123, at PP 34 & 36 (2021).

expected outcome of planning model changes.”²⁸ In its March 22 Response, PJM identified two primary categories of drivers for changes to cost responsibility assignments using solution-based DFAX, *i.e.*, changes to the PJM transmission system and regulatory changes. While regulatory changes were relevant to the 2021 Annual Cost Allocation Update filing, the primary reason for changes under the 2022 Annual Cost Allocation Update are the year-to-year modifications to the PJM transmission system that affect flows on the PJM network. As expected, such system modifications have an impact on cost allocations derived pursuant to the solution-based DFAX methodology. For example, over time, transmission enhancement or expansion additions, as well as numerous other changes to the system, such as generation additions, generation retirements, changes in loads both in PJM and in neighboring systems, and other transmission additions and modifications to the configuration of existing transmission facilities or even the new facility itself affect the flows on the PJM transmission system. PJM reflects the majority of such system modifications in the annual RTEP starting base case for the upcoming RTEP year and adds new PJM Board of Managers-approved transmission enhancements and expansions to the model during the course of the RTEP year. The collective impact of these model updates results in cost allocation changes over time, which is precisely the intent of the solution-based DFAX methodology.²⁹ The longer the time lapse between the initial cost allocation and the update

²⁸ See *PJM Interconnection, L.L.C.*, Response to February 18, 2021 Deficiency Letter, Docket No. ER21-726-001, at 13–16 (Mar. 22, 2021) (“March 22 Response”).

²⁹ See, *e.g.*, *PJM Transmission Owners*, PJM Open Access Transmission Tariff Revisions to Modify Cost Allocation for PJM Required Transmission Enhancements, Exhibit No. PTO-1, Testimony of Steven R. Herling, Docket No. ER13-90-000, at 12:6-13 (Oct. 11, 2012) (explaining that the solution-based DFAX methodology “can be repeated periodically to reflect changes in the relative degree to which the facility is used by transmission zone loads and merchant transmission facilities” and that it “can be employed to capture changes in the distribution of benefits of the new transmission facility”); *PJM Interconnection, L.L.C.*, Order No. 1000 Compliance Filing, Docket No. ER13-198-000, at 80 (Oct. 25, 2012) (explaining that a benefit of the solution-based DFAX methodology is that it can be updated annually to “capture changes in flows in a way which is administratively feasible to implement.”); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 427 (2013) (accepting the proposal to base cost allocation on the solution-based DFAX methodology and recognizing that “it may be conducted iteratively to account for changes in system topology.”).

filing,³⁰ the more variation there may be to the initial allocation, which could lead to larger cost allocation deviations.

The fact is that cost allocations change. It is an intended feature of the solution-based DFAX methodology to ensure that the cost allocation tracks the actual beneficiaries throughout the lifetime of the assets as the system evolves over time. The Protest is a challenge to such methodology, which, again, is inappropriate in this proceeding and more appropriately addressed in Protesters' Complaint docket.

Given that these issues are beyond the scope of this proceeding and given the pendency of the Complaint proceeding, PJM respectfully requests that the Commission reject the Protest and accept the December 21 Filing, effective as requested.

³⁰ See Tariff, Schedule 12 section (b)(H)(2) (while existing facilities are updated annually under solution-based DFAX, new transmission facilities are not updated until "the calendar in which a Required Transmission Enhancement is scheduled to enter service.").

IV. CONCLUSION

For the reasons set forth above, PJM respectfully requests that the Commission grant this motion for leave to answer, reject the Protest, and accept the revised tariff sheets submitted in the December 21 Filing, effective January 1, 2022.

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Dated: January 26, 2022

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 26th day of January, 2022.

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