UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.	**)**	**Docket No. ER22-2110-000**

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

PJM Interconnection, L.L.C. ("PJM"), pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission ("Commission") Rules of Practice and Procedure,[1] respectfully submits this Motion for Leave to Answer and Answer to protests[2] and comments[3] filed in response to PJM's June 14, 2022 filing to modify its Open Access

[1] 18 C.F.R. §§ 385.212, 385.213.

[2] *PJM Interconnection, L.L.C.*, Joint Protest of the Affected Interconnection Customers to the PJM Tariff Filing to Revise its Interconnection Process, Docket No. ER22-2110-000 (July 14, 2022) ("AIC Protest"); *PJM Interconnection, L.L.C.*, Limited Protest of the Indicated Renewable Energy Developers, Docket No. ER22-2110-000 (July 14, 2022) ("Renewable Developers Protest"); *PJM Interconnection, L.L.C.*, Motion to Intervene and Protest of Competitive Power Ventures, Inc., Docket No. ER22-2110-000 (July 14, 2022) ("CPV Protest"); *PJM Interconnection, L.L.C.*, Protest and Request for Exemption of SOO Green HVDC Link Project Co, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("SOO Green Protest"); *PJM Interconnection, L.L.C.*, Motion to Intervene and Limited Protest of Tenaska, Inc., Docket No. ER22-2110-000 (July 14, 2022) ("Tenaska Protest"); *PJM Interconnection, L.L.C.*, Protest and Comments of Tri Global Energy, LLC to PJM Queue Reform Proposal, Docket No. ER22-2110-000 (July 14, 2022) ("Tri Global Protest"); *PJM Interconnection, L.L.C.*, Limited Protest of Hollow Road Solar, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("Hollow Road Limited Protest"); *PJM Interconnection, L.L.C.*, Motion to Intervene and Limited Protest of Hecate Energy LLC to PJM Tariff Filing, Docket No. ER22-2110-000 (July 14, 2022) ("Hecate Protest").

[3] *PJM Interconnection, L.L.C.*, Comments of Advanced Energy Economy, Docket No. ER22-2110-000 (July 14, 2022) ("AEE Comments"); *PJM Interconnection, L.L.C.*, Comments in Support of AES Clean Energy Development, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("AES Comments"); *PJM Interconnection, L.L.C.*, Comments of Borrego Solar System, Inc., Docket No. ER22-2110-000 (July 14, 2022) ("Borrego Solar Comments"); *PJM Interconnection, L.L.C.*, Motion to Intervene and Comments of Avangrid Renewables, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("Avangrid Comments"); *PJM Interconnection, L.L.C.*, Comments of Dominion Energy Services, Inc. on Behalf of Virginia Electric and Power Company, Docket No. ER22-2110-000 (July 14, 2022) ("Dominion Comments"); *PJM Interconnection, L.L.C.*, Comments of American Clean Power Association, Docket No. ER22-2110-000 (July 14, 2022) ("ACPA Comments"); *PJM Interconnection, L.L.C.*, Comments of the American Council on Renewable Energy, Docket No. ER22-2110-000 (July 14, 2022) ("ACORE Comments"); *PJM Interconnection, L.L.C.*, Comments in Support of EDF Renewables, Inc. and Invenergy Renewables LLC, Docket No. ER22-2110-000 (July 14, 2022) ("EDF/Invenergy Comments"); *PJM Interconnection, L.L.C.*, Comments of EDP Renewables North America LLC, Docket No. ER22-2110-000 (July 14, 2022) ("EDP Renewables Comments"); *PJM Interconnection, L.L.C.*, Comments of the Indicated PJM Transmission Owners in Support of PJM's Proposal, Docket No. ER22-2110-000 (July 14, 2022) ("TOs Comments"); *PJM Interconnection, L.L.C.*, Comments of J-Power USA Development Co. Ltd., Docket No. ER22-2110-000

Transmission Tariff ("Tariff")[4] to add new Parts VII, VIII, and IX and revise the Table of Contents and Parts II, III, IV, and VI in this proceeding.[5]

I. MOTION FOR LEAVE TO ANSWER

While an answer to a protest is not a matter of right under the Commission's regulations,[6] the Commission routinely permits such answers when the answer provides useful and relevant information that will assist the Commission in its decision-making process,[7] assures a complete record in the proceeding,[8] and provides information helpful

(July 14, 2022) ("J-Power Comments"); *PJM Interconnection, L.L.C.,* Comments of New Jersey Board of Public Utilities, Docket No. ER22-2110-000 (July 14, 2022) ("NJBPU Comments"); *PJM Interconnection, L.L.C.*, Comments of the Organization of PJM States, Inc., Docket No. ER22-2110-000 (July 14, 2022) ("OPSI Comments"); *PJM Interconnection, L.L.C.*, Comments of Orsted Wind Power North America LLC, Docket No. ER22-2110-000 (July 14, 2022) ("Orsted Comments"); *PJM Interconnection, L.L.C.*, Comments in Support of Pine Gate Renewables, LLC and Cypress Creek Renewables, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("Pine Gate Comments"); *PJM Interconnection, L.L.C.*, Comments of the PJM Power Providers Group, Docket No. ER22-2110-000 (July 14, 2022) ("Power Providers Comments"); *PJM Interconnection, L.L.C.*, Comments of Public Interest Organizations, Docket No. ER22-2110-000 (July 14, 2022) ("PIO Comments"); *PJM Interconnection, L.L.C.*, Comments of the Public Utilities Commission of Ohio's Office of Federal Energy Advocate, Docket No. ER22-2110-000 (July 14, 2022) ("Ohio FEA Comments"); *PJM Interconnection, L.L.C.*, Comments of RWE Renewables Americas, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("RWE Comments"); *PJM Interconnection, L.L.C.*, Motion to Intervene and Limited Comments of Rye Development, LLC, Docket No. ER22-2110-000 (July 14, 2022) ("Rye Development Comments"); *PJM Interconnection, L.L.C.*, Comments of the Solar Energy Industries Association, Docket No. ER22-2110-000 (July 14, 2022) ("SEIA Comments"); *PJM Interconnection, L.L.C.*, Comments of Citizens Utility Board, Docket No. ER22-2110-000 (July 28, 2022) ("CUB Comments").

[4] The Tariff is currently located under PJM's "Intra-PJM Tariffs" eTariff title. *See PJM Interconnection, L.L.C. - Intra-PJM Tariffs*, https://etariff.ferc.gov/TariffBrowser.aspx?tid=1731 (last visited Aug. 2, 2022). Terms not otherwise defined herein shall have the same meaning as set forth in the Tariff, and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement").

[5] *PJM Interconnection, L.L.C.*, Tariff Revisions for Interconnection Process Reform, Request for Commission Action by October 3, 2022, and Request for 30-Day Comment Period, Docket No. ER22-2110-000 (June 14, 2022) ("June 14 Filing").

[6] 18 C.F.R. § 385.213(a)(2).

[7] *See, e.g.*, *Pioneer Transmission, LLC v. N. Ind. Pub. Serv. Co.*, 140 FERC ¶ 61,057, at P 94 (2012) (accepting answers that "provided information that assisted us in our decision-making process"); *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 26 (2008) (same); *Midwest Indep. Transmission Sys. Operator, Inc.*, 120 FERC ¶ 61,083, at P 23 (2007) (permitting answer to protests when it provided information that assisted the Commission in its decision-making process).

[8] *See, e.g.*, *Pac. Interstate Transmission Co.*, 85 FERC ¶ 61,378, at 62,443 (1998), *order on reh'g*, 89 FERC ¶ 61,246 (1999); *see also Morgan Stanley Cap. 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").

to the disposition of an issue.[9] This answer satisfies these criteria, and PJM therefore respectfully requests that the Commission accept this pleading.

II. INTRODUCTION AND OVERVIEW

As explained in the June 14 Filing, PJM and a large number of its stakeholders engaged in an extensive process in order to develop a comprehensive overhaul of the entire PJM interconnection process, including New Rules for processing New Service Requests, Transition Period Rules to govern the transition from PJM's existing serial interconnection process to a "first-ready, first-served" Cycle approach, and new or revised forms of interconnection-related agreements to streamline the application, study, and contracting processes for interconnection. The June 14 Filing represents a compromise solution reached after hundreds of hours of engagement and discussion and was approved by the PJM Members Committee by a sector-weighted vote of 4.518 out of a total of 5.00, reflecting an extremely high level of stakeholder support.

Given the overwhelming support for the proposed interconnection process reforms, it is not surprising that the comments on the June 14 Filing are generally positive and in favor of the proposed Tariff revisions and additions. Most, if not all, parties agree that reform is needed, and quickly. There has been little or no discussion of or objection to most of the New Rules, including the fundamental shift from a serial process to a cluster process with three phases, Decision Points, and Readiness Deposits. The proposed new Part IX, with its new and revised forms of interconnection-related agreements, appears to enjoy similar widespread support. Indeed, the majority of commenters, including the Organization of PJM States, Inc. ("OPSI") and the Public Utilities Commission of Ohio's

[9] *See, e.g.*, *CNG Transmission Corp*., 89 FERC ¶ 61,100, at 61,287 n.11 (1999).

Office of the Federal Energy Advocate ("Ohio FEA"), support the June 14 Filing in whole or in part, with OPSI stating, "[i]mmediate implementation of PJM's proposed process reforms is the best option, at this point, for ensuring the constructability of generation resources that provide economic and environmental benefits".[10]

However, there are parties with objections, questions, or concerns about some aspects of the June 14 Filing, particularly the Transition Period Rules (including which queue windows will be included in the Transition Cycles and the threshold amount of Network Upgrade cost responsibility for eligibility to participate in the Expedited Process) and the Site Control requirements. Other comments and protests would impose additional reporting requirements on PJM, oppose PJM's proposal to remove redundant penalty provisions, or seek premature compliance with a Notice of Proposed Rulemaking ("NOPR"). PJM submits this answer in response to these parties' objections and concerns.

III. ANSWER

A. Contrary to Protestors' Claims, the Proposed Transition Period Rules Are Just, Reasonable, and Not Unduly Discriminatory or Preferential.

In the June 14 Filing, PJM included detailed Transition Period Rules that will apply to projects that submitted Interconnection Requests during the PJM queue windows designated as AE1 through AH1. Projects that submitted Interconnection Requests in earlier queue windows (AD2 and before) and projects in queue windows AE1 through AG1 that already received a service agreement for execution as of the Transition Date will

[10] OPSI Comments at 1, 4-5; *see also* Ohio FEA Comments at 3-9 (indicating that it "supports PJM's measures to improve its interconnection process and address the significant queue backlog" and urging the Commission to act quickly to accept the June 14 Filing); *see also* ACPA Comments at 1 (stating the "reforms are thus well-proven, and would substantially improve upon PJM's current GIP"); TOs Comments at 5 (stating the Commission should accept the June 14 Filing "as just, reasonable, and not unduly discriminatory in order to allow PJM to efficiently clear the existing interconnection study backlog and process New Service Requests"); Pine Gate Comments at 1 (stating they support the June 14 Filing and urging the Commission to accept the "comprehensive and necessary reform" set forth therein).

remain subject to PJM's existing serial interconnection process. Projects that submitted Interconnection Requests in later queue windows or cycles (AH2 and beyond) will be subject to the New Rules. Projects in the AE1 through AG1 queue windows that are determined to cause the need for a Network Upgrade with total costs of $5 million or less will be subject to the Transition Period Rules' Expedited Process (this is referred to hereinafter as the "$5 million threshold"), while projects in those queue windows determined to cause the need for a Network Upgrade with total costs in excess of $5 million will be placed in Transition Cycle #1. Projects in the AG2 and AH1 queue windows will comprise Transition Cycle #2. The June 14 Filing demonstrated that, consistent with established Commission precedent, the proposed Transition Period Rules are a just and reasonable way to balance PJM's need to clear its interconnection study backlog as quickly as possible so that it can start the Cycle process as soon as possible, while at the same time allowing mature projects with lower cost impacts to proceed under the Expedited Process. PJM also explained that the Transition Period Rules are a key part of the negotiated stakeholder process and thus should be respected.

Numerous parties support the filed Transition Period Rules as just, reasonable, and consistent with the negotiated stakeholder process. A few parties object to the $5 million threshold or the delineation of queue windows subject to the Transition Period Rules, or raise other concerns with the particulars of the Transition Period Rules, but no party contests the need for a transition mechanism to get from the existing interconnection process to the proposed new process, or argues that PJM may not propose and implement an appropriately structured transition mechanism. Moreover, the fact that there may be other ways to craft a transition rule does not render the widely-supported PJM proposal

unreasonable under the Commission's traditional Federal Power Act ("FPA") section 205[11] analysis.

1. The $5 million threshold for Expedited Process eligibility is just and reasonable.

Contrary to the claims of the protestors, the $5 million threshold for Expedited Process eligibility is just, reasonable, non-discriminatory and appropriately supported; it is not, as they contend, an arbitrary or unduly discriminatory cut-off amount.[12] The $5 million threshold was a component of the transition solution package on which stakeholders were polled in December 2021, and it was supported in that polling.[13] The dollar amount of the threshold is rooted in PJM's existing Tariff provisions, which establish $5 million as the minimum threshold for Network Upgrade Costs that will be allocated among queue windows (as opposed to allocated only within a queue window). Specifically, PJM's current Tariff, section 219(a) provides that when the Network Upgrades necessitated by Interconnection Requests cost $5 million or less, those costs are allocated only to projects in the queue window of the Interconnection Request that is first to cause the Network Upgrade(s), such that only the first to cause project and other projects

[11] 16 U.S.C. § 824d.

[12] SOO Green requests that if the Commission does not grant the other relief granted in its protest, it should add merchant transmission projects to the Expedited Process, asserting the proposal is unfair and discriminatory against merchant transmission projects. SOO Green Protest at 22-23. As discussed below, SOO Green's protest represents nothing more than another attempt to obtain here the relief it has requested in another proceeding. The Commission should reject SOO Green's protest, and address its issues in Docket No. EL21-85-000. Nevertheless, merchant transmission projects are eligible for the Expedited Process on the same basis as other Interconnection Customers or Project Developers. The fact that SOO Green's project is likely to cause the need for Network Upgrades Costs in excess of $5 million is a result of its business model and decisions. It does not mean PJM's Transition Period Rules are unduly discriminatory. There is no reason for the Commission to allow SOO Green an unfair advantage over other projects with similar costs by giving them an entitlement to the Expedited Process.

[13] *See IPRTF New Interconnection Process Proposals Poll Results*, PJM Interconnection, L.L.C. (Jan. 5, 2022), https://pjm.com/-/media/committees-groups/task-forces/iprtf/2022/20220105/20210105-item-02-transition-proposals-poll-results.ashx; *see also* June 14 Filing, Attachment C Affidavit of Jason P. Connell on Behalf of PJM Interconnection, L.L.C. ¶ 20 ("Connell Aff.").

in the same queue window that also contribute to the need for the Network Upgrade(s) are allocated costs associated with the Network Upgrade(s). Use of this already established threshold will shorten the time needed for retooled analyses of the projects subject to the Transition Period Rules, and thereby shorten the time needed to transition to the New Rules, because PJM can use existing cost estimates from on-going Facilities Studies to determine eligibility for the Expedited Process, rather than having to reassess all the existing projects' individual cost allocations. Moreover, PJM's experience has been that the analysis of projects associated with Network Upgrades at or below the $5 million threshold is fairly straightforward once PJM performs the Facilities Study, but projects associated with Network Upgrades above this threshold generally involve more complex and time consuming studies.[14] Again, PJM crafted this solution with the stakeholders based upon principles in the Tariff and also a need to expedite the transition to clear the backlog and get to the new cycle/phase rules as quickly as possible.

Protestors further claim that the $5 million threshold is arbitrary because projects can end up in wholly different cycles depending on their costs and initial queue date. While true, this unsurprising consequence of a cut-off amount does not make the proposed $5 million threshold arbitrary. Project Developers with numerous interconnection requests across various queue windows will see an advantage to some of their projects and a disadvantage to others. This outcome is inevitable and not unduly discriminatory; any transition mechanism represents a departure from the status quo and necessarily will involve cut off amounts or other means of limiting the number of projects eligible for transition. In short, there is no perfect line drawing. The fact that this proposed transition

[14] June 14 Filing at 41-42.

plan was endorsed by an overwhelming majority of interconnection customers, with projects both large and small, is indicative of it being a reasonable approach to meeting PJM's FPA section 205 burden.

Moreover, the $5 million threshold is not unduly discriminatory, as some parties claim. PJM is an independent entity that it is not affiliated with any Market Participant, and has no incentive or reason to favor one class of stakeholders or Market Participants over another. PJM therefore has worked with its stakeholders to develop a proposal that it and the majority of its stakeholders have determined is a reasonable solution to a difficult problem. The fact that the agreed-upon proposal may result in different treatment for different customers does not mean it is unduly discriminatory. The relevant question under FPA section 205 is whether the differing treatment is unreasonable or causes undue preference or prejudice.[15] In determining whether a tariff provision results in undue discrimination, the FPA requires the Commission to consider whether the two customers that purportedly receive different treatment under the tariff provision are similarly situated. In this case, the $5 million threshold differentiates between Interconnection Requests that require little study and can be completed quickly and Interconnection Requests that require more complex studies and may present more complex cost allocation issues, which inherently require more time to process. PJM also has observed that the majority of projects do not proceed when they are assigned costs associated with Network Upgrades that cost more than $5 million. In fact, less than 10 percent of the Network Upgrades that are caused by generators and actually are constructed and placed in service cost more than

[15] *See Ala. Elec. Coop. Inc. v. FERC*, 684 F.2d 20, 28 (D.C. Cir. 1982) ("Congress, through section 205(b), has not required absolute uniformity. The section proscribes only 'any unreasonable difference in rates' and 'any undue preference or advantage.'").

$5 million. The bulk of the Network Upgrades associated with generation projects over $5 million are needed solely for the generator interconnection and are not identified as reliability criteria violations.

Finally, the Affected Interconnection Customers' ("AIC") assertion that the $5 million threshold will allow improper "queue-jumping" is incorrect. The $5 million threshold represents an objective criterion under which certain projects at or under the threshold can move forward under the Expedited Process while projects above the threshold are placed in Transition Cycle #1. There is nothing improper about use of objective criteria to sort projects into different categories.[16]

2. The Commission should reject proposals to change the Transition Period Rules.

The protests seeking to change the Transition Period Rules represent nothing more than certain developers arguing their own interests and ignoring the broader public interest in a well-functioning interconnection process. The Commission should reject the self-serving arguments of certain developers seeking to advance their projects at the expense of the rest of the interconnection process, and accept the negotiated compromise package approved by the stakeholders and filed by PJM in the June 14 Filing. To do otherwise will

[16] *See Tri-State Generation & Transmission Ass'n.*, 175 FERC ¶ 61,128, at P 14 (2021) ("*Tri-State*") (stating "the fact that a particular project is not ready does not, in and of itself, render Tri-State's new first-ready, first-served approach unjust and unreasonable, nor does it warrant a further extension of the transitional readiness window. . . . As explained in the PacifiCorp queue reform proceeding, while a specific proposed readiness cutoff 'will exclude certain interconnection customers' from participation in the transition cluster, 'any cutoff date will inevitably have that effect'"); *PacifiCorp*, 171 FERC ¶ 61,112, at P 144 (approving use of a transition period cutoff date and finding proposed transition process is "a reasonable means . . . to implement the Queue Reform Proposal and resolve the interconnection queue backlog"), *order on clarification & reh'g*, 173 FERC ¶ 61,016 (2020) (affirming prior findings and also noting that a transition mechanism will invariably affect certain customers, and that delaying the transition mechanism date would exacerbate the problem the queue reform was intended to address); *Midcontinent Indep. Sys. Operator*, 158 FERC ¶ 61,003, at P 59 (2017) (accepting transition dates and transition mechanism subject to minor compliance filing requirement, stating "the proposed plan . . . avoids the creation of an unwieldy study group that may cause further backlog in the queue, and provides more precise information about the projects that will be grouped together for study and explains in more detail the timing of these studies").

open up the Expedited Process to many more projects, turning the "fast lane" to a slow congested lane and delaying the Transition Period.

AIC dedicates much of its protest to advocating for the Commission to modify the Transition Period Rules to allow so-called Ready to Go ("RTG") projects to proceed under the Expedited Process. However, AIC's RTG proposal was raised and vetted in the stakeholder process and was resoundingly rejected by the stakeholders at the February 8, 2022 Planning Committee meeting and the April 27, 2022 Members Committee meeting. The Commission should not allow one party or group of parties to make an end-run around the stakeholder process. This is especially important as other stakeholders agreed to the Transition Period Rules, including the Expedited Process, even though the Expedited Process may cause delays to their projects that other proposed transition mechanisms might not.

Moreover, AIC's proposal for RTG projects may not even be workable. While AIC claims there are only 35 RTG projects, the actual number of these projects is uncertain and it does not appear that AIC made any effort to determine whether projects sponsored by anyone other than its members would qualify.[17] This uncertainty is increased by the fact that granting the relief AIC seeks and loosening the eligibility criteria may open the door to making even more projects eligible for the Expedited Process. As the number of RTG projects increases, the exception may swallow the rule. At the very least, the uncertainty created by the RTG optionality will make it difficult to project the timing of the Transition Period.

[17] *See* AIC Protest, Exhibit A, Affidavit of Franklin Bristol In Support of the Joint Protest of the Affected Interconnection Customers ¶ 12 (showing chart of RTG projects) ("Bristol Aff.").

Competitive Power Ventures, Inc. ("CPV") also proposes to change the Expedited Process to allow projects to only post Readiness Deposit No. 1 rather than posting Readiness Deposit No. 1 and security for their allocation of Network Upgrade Costs and then proceed to Transition Cycle # 1, subject to a later true-up.[18] This change may be preferable to some but it does not conform to the consensus proposal that was adopted by the stakeholders, and which has been demonstrated to be just and reasonable by PJM. Allowing developers to move forward without posting security, as CPV proposes, would allow projects to proceed without the appropriate amount of "skin in the game," thereby reducing certainty for all the projects in the relevant Cycle.

PJM has shown that the Transition Period Rules and criteria for the Expedited Process set forth in the June 14 Filing are just and reasonable, and appropriately balance the need to clear the PJM interconnection queue as quickly as possible with allowing qualified mature projects to proceed under the existing rules or the appropriate Transition Period Rules. Once an applicant submitting an FPA section 205 filing has demonstrated that its proposal is just and reasonable, the fact that certain parties may prefer an alternative approach is immaterial to the Commission's FPA section 205 analysis.[19]

[18] CPV Protest at 15-16.

[19] *Wis. Pub. Power, Inc. v. FERC*, 493 F. 3d 239, 266 (D.C. Cir. 2007) (stating ("[m]erely because petitioners can conceive of a refund allocation method that they believe would be superior to the one FERC approved does not mean that FERC erred in concluding the latter was just and reasonable"); *Cities of Bethany v. FERC,* 727 F.2d 1131, 1136 (D.C. Cir. 1984) ("FERC has interpreted its authority to review rates under [the FPA] as limited to an inquiry into whether the rates proposed by a utility are reasonable -- and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs."); *OXY USA, Inc. v. FERC,* 64 F.3d 679, 692 (D.C. Cir. 1995) ("[T]he Commission may approve the methodology proposed in the settlement agreement if it is 'just and reasonable'; it need not be the only reasonable methodology, or even the most accurate.").

3. The proposed Transition Period Rules are not inconsistent with Commission precedent.

SOO Green HVDC Link ProjectCo, LLC ("SOO Green") claims that the proposed Transition Period Rules are inconsistent with the Commission's MISO Guidance Order because they will create "a potentially unwieldy study group."[20] However, this assertion is untrue. PJM has determined—and its stakeholders overwhelmingly agree—that the proposed Transition Period Rules best balance the need to clear the existing backlog quickly by allowing qualifying projects to progress under an Expedited Process, which uses the existing Tariff cost allocation, and places other projects into Transition Cycle #1 or Transition Cycle #2. The end result should be more manageable and reasonably sized Cycles, and a more manageable cluster study process.

SOO Green also claims that the fact the Commission has accepted transition mechanisms filed by Midcontinent Independent System Operator, Inc. ("MISO") and Southwest Power Pool, Inc. ("SPP") that "grandfather" projects that have entered the Facilities Study stage means that PJM's proposal is not just and reasonable.[21] As discussed further below, PJM's situation is very different from MISO and SPP or any other regional transmission organization ("RTO"). Unlike MISO and SPP, PJM is reforming its interconnection process and moving from a serial process to a cluster process in a single step, rather than incrementally over several years, and PJM has selected a transition mechanism that is appropriate for its region. PJM currently has 29 gigawatts ("GW") of generation projects with signed interconnection agreements that are waiting to commence construction. If PJM were to "grandfather" all the projects in queue windows AE1 through

[20] SOO Green Protest at 23 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247, at PP 95, 98 (2016) ("MISO Guidance Order")).

[21] SOO Green Protest at 25-28.

AG1 that are in the Facilities Study phase, as SOO Green suggests, it would add an additional 90 GW of projects to be studied under the existing, flawed serial process. It would be wholly unreasonable to keep roughly two-thirds of PJM's peak load in unbuilt generation in the existing serial process; to do so would undercut the June 14 Filing and the months PJM and its stakeholders have invested in reforming the PJM interconnection process.

In addition, one RTO implementing queue reform in a particular way does not mean other RTOs are obliged to follow that RTO's path in lockstep fashion; RTOs are entitled to implement tariff mechanisms that are appropriate for their structure and markets, and the Commission has stated it will respect regional differences.[22] The Commission has also allowed mechanisms that facilitate the "transition from a serial first-come, first-served approach to a clustered first-ready, first-served approach" because they "should allow ready projects to proceed on a more accelerated basis while allowing less-developed projects access to early information."[23] PJM's transition mechanism meets the criteria for

[22] *See Midcontinent Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,278, at P 74, *order denying reh'g by operation of law*, 172 FERC ¶ 61,118, *order addressing arguments raised on reh'g*, 173 FERC ¶ 61035, at P 23 (2020) (finding MISO and PJM are not required to adopt identical provisions regarding Affected System generator interconnection coordination procedures"), *see also Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043, at P 43 (2018) (stating Commission will continue to allow RTOs to rely on regional differences as justification from departing from pro forma provisions), *order on reh'g & clarification*, Order No. 845-A, 166 FERC ¶ 61,137*, order on reh'g & clarification,* Order No. 845-B, 168 FERC ¶ 61,092 (2019); *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, 137 FERC ¶ 61,064, at P 75 (2011) (declining to mandate standardized market rules, instead allowing RTOs "flexibility to design market rules that accommodate their markets"), *order denying reh'g*, Order No. 755-A, 138 FERC ¶ 61,123 (2012).

[23] *See Tri-State*, 174 FERC ¶ 61,021, at PP 33, 60, *order on reh'g*, 175 FERC ¶ 61,128, at P 14 (2021) (stating "the fact that a particular project is not ready does not, in and of itself, render Tri-State's new first-ready, first-served approach unjust and unreasonable, nor does it warrant a further extension of the transitional readiness window. As . . . explained in the PacifiCorp queue reform proceeding, while a specific proposed readiness cutoff 'will exclude certain interconnection customers' from participation in the transition cluster, 'any cutoff date will inevitably have that effect'"); *PacifiCorp*, 171 FERC ¶ 61,112, at P 144, *order on clarification & reh'g*, 173 FERC ¶ 61,016 (2020); *Pub. Serv. Co. of Colo.*, 169 FERC ¶ 61,182, at P 67 (2019); *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,233, at P 106 (2012).

transition to a clustered first-ready, first-served approach like the transition mechanisms the Commission has previously accepted.

4. Other claims concerning the Transition Period Rules are unavailing.

a. The queue windows and types of projects included in Transition Cycles and the Expedited Process represent an appropriate balance among various interests.

Indicated Renewable Energy Developers assert that an earlier version of the proposed Transition Period Rules, which would have allowed only projects in the AE1 through AG1 queue windows to enter the Transition Cycles, was just and reasonable, and therefore objects to the proposal to also include projects in the AG2 and AH1 queue windows in the Transition Cycles.[24] Indicated Renewable Energy Developers claim that adding projects in the AG2 and AH1 queue windows will enable too many early-stage projects to enter the Transition Cycles, thus slowing down the processing of those cycles.[25] However, the earlier proposal to limit the Transition Cycles to projects in the AE1 through AG1 queue windows that Indicated Renewable Energy Developers prefer was rejected during the stakeholder process, as stakeholders determined it would be appropriate to include the AG2 and AH1 queues because those queue windows were completed prior to the time PJM and stakeholders had fully developed the solutions proposal and the final transition mechanism. The filed proposal, including projects in the AG2 through AH1 queue windows, achieves the necessary balance between the need for PJM to clear its queue quickly and allowing qualified mature projects to proceed under the existing rules or the appropriate Transition Period Rules. Thus, under the Commission's FPA section 205

[24] Indicated Renewable Energy Developers Limited Protest at 3-4.

[25] *Id.* at 4-6.

standards, there is no need to consider Indicated Renewable Energy Developers' proposal. The filed proposal also represents the stakeholder consensus. Moreover, the limitation of eligibility for the Expedited Process to only projects in the AE1 through AG1 queue windows provides Indicated Renewable Energy Developers with some of the relief they seek.

Hollow Road Solar, LLC ("Hollow Road") suggests that to alleviate the burden on itself and other Qualifying Facilities ("QFs") with a Legally Enforceable Obligation, PJM should allow these projects to participate in the Expedited Process.[26] PJM does not oppose participation of QFs with a Legally Enforceable Obligation in the Expedited Process, but believes they should be subject to the same criteria as other developers and not be accorded any special treatment.[27] Moreover, as is the case with AIC's RTG proposal, Hollow Road's request for preferential treatment for QFs was discussed and rejected in the stakeholder process.[28]

b. PJM clarifies that a project proceeding via a Wholesale Market Participation Agreement is eligible for acceleration.

EDP Renewables North America LLC ("EDP Renewables") notes the Tariff's proposed acceleration provisions reference "non-jurisdictional projects" and asks PJM to confirm that a project that seeks to participate in PJM's wholesale markets through a Wholesale Market Participation Agreement is eligible for acceleration.[29] PJM confirms

[26] Hollow Road Limited Protest at 7-8.

[27] This is consistent with the Commission's establishing a rebuttable presumption in Order No. 688 that QFs in PJM have non-discriminatory access to wholesale markets and therefore PURPA's mandatory purchase obligation can be eliminated in PJM. *New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, Order No. 688, 117 FERC ¶ 61,078, at PP 116-17 (2006), *order on reh'g*, Order No. 688-A, 119 FERC ¶ 61,305 (2007).

[28] This proposal was raised and rejected at the April 12, 2022 Planning Committee meeting.

[29] EDP Renewables Comments at 4-5.

that such projects are eligible for the accelerated procedures, provided they meet the criteria set forth in the Tariff.

c. The timing of the transition to the New Rules is appropriate.

A number of parties express concern that PJM may not complete the transition to the New Rules within the late 2026 time frame provided in the June 14 Filing. PJM addresses issues related to Reasonable Efforts in Section III.c of this answer, but notes here that it expects to complete Transition Cycle #1 and Transition Cycle #2, including execution of final interconnection-related agreements, by the fourth quarter of 2026, and will use Reasonable Efforts to do so.

B. PJM's Site Control Requirements Are Just and Reasonable and Should Be Accepted without Modification.

As noted by several commenters, PJM's proposed revisions to its Site Control requirements to include specific Decision Points are just and reasonable and will lead to a more efficient interconnection process. The proposed requirements will add another "tool in the toolbox" to reduce the likelihood of speculative or non-ready projects advancing through each Decision Point, which in turn should help reduce the need for restudies.[30] The proposed requirements will also encourage Project Developers to more fully develop their projects before entering the interconnection process.[31] Consistent with prior Commission holdings and PJM's experience, and based upon PJM's review and understanding of other RTO and independent system operator ("ISO") site control experience, the proposed Site Control requirements are a just and reasonable manner to address the inadequacies of the current interconnection process, where speculative or non-

[30] *See* AES Comments at 5-6; ACORE Comments at 6; SEIA Comments at 7-8.

[31] *See* SEIA Comments at 7-8.

ready projects provide evidence of Site Control when submitting applications but may not maintain or acquire the additional needed Site Control through the entire study process.[32] No additions or clarifications are required to ensure that the proposed Site Control requirements in both the Transition and New Rules are applied in a just and reasonable manner to all New Service Requests, and the Commission should accept PJM's Site Control provisions as proposed.

1. The Site Control requirements are just and reasonable as filed.

Several commenters request clarification of the Site Control requirements, arguing that PJM's application of the 100 percent Site Control requirement at Decision Points I and III,[33] particularly the requirement to demonstrate Site Control of 100 percent of the linear distance for the identified required Interconnection Facilities (i.e., generator tie lines) associated with a New Service Request by the close of Decision Point III, must be "reasonable" to ensure that projects facing unique permitting or other delays beyond their control are not unduly penalized.[34] Others request that the Commission require PJM to

[32] June 14 Filing at 21; *see also Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,173, at P 45 (2019).

[33] As proposed in the June 14 Filing, the parts of a project covered by the Site Control requirements differ depending on which phase of the process the project is in. *See* June 14 Filing at 45-46, 50, 55-56; *id.*, Attachment D Affidavit of Jason R. Shoemaker on Behalf of PJM Interconnection, L.L.C. ¶¶ 44-47, Figure 4 ("Shoemaker Aff."). At the application stage, the Site Control requirement is for 100 percent of the Generating Facility site (or, for a Merchant Transmission Facility, 100 percent of the site of the high-voltage, direct current converter station(s), phase angle regulator, and/or variable frequency transformer). At Decision Point I, a generator must demonstrate Site Control of 100 percent of the Generating Facility site, 50 percent of the Interconnection Facilities site, and 50 percent of the Interconnection Switchyard site. At Decision Point III, a generator must demonstrate Site Control of 100 percent of the Generating Facility site, 100 percent of the Interconnection Facilities site, and 100 percent of the Interconnection Switchyard site. Thus, when parties in their pleadings reference the "100 percent Site Control requirement," they may be referring only to the Generating Facility site, or only to the Decision Point III Site Control requirements, or they may be using the phrase "100 percent Site Control requirements" as shorthand for the varying amounts of Site Control at different stages. PJM, in this answer, will identify which portions at which stages have a 100 percent Site Control requirement.

[34] AEE Comments at 10; *see also* Orsted Comments at 10-20.

accept exclusive options as evidence of Site Control,[35] and question the requirement for developers wishing to change sites at Decision Point I or Decision Point II to demonstrate Site Control for both the initial site and the adjacent parcels.[36] As demonstrated in the June 14 Filing, however, the proposed Site Control requirements are just and reasonable as filed, and should be accepted without modification.

Contrary to commenters' claims, no clarifications are necessary to ensure that the Site Control requirements will be applied in a just and reasonable manner. The proposed Tariff revisions implementing Site Control are clear, including delineating the documentation PJM will accept to demonstrate Site Control, the elements to be demonstrated in such documentation (term, exclusivity, and conveyance), and the Decision Points at which demonstration of Site Control is required.[37] Further details in the Tariff are unnecessary to demonstrate that the Site Control requirements are just and reasonable. These types of facility-specific implementation details change from time to time and, consistent with Commission precedent, are appropriately addressed in the PJM Manuals.[38] By way of contrast, mandating that these procedures be placed in the Tariff would require

[35] EDF/Invenergy Comments at 8-10.

[36] Tenaska Protest at 3-6.

[37] Proposed Tariff, Part VII, Subpart C, section 306(B)(5) and Part VIII, Subpart B, section 403(B)(5); Shoemaker Aff. ¶ 28. The Site Control requirement in the Application includes an acreage requirement for the Generating Facility, as set forth in the PJM Manuals. The Applicant must also provide a certification executed by an officer or authorized representative of Applicant, verifying that the Site Control requirement is met. Proposed Tariff, Part VII, Subpart C, section 302(A)(9); Proposed Tariff, Part VIII, Subpart B, section 402(A)(9); Shoemaker Aff. ¶ 28.

[38] *See, e.g.*, *ESA v. PJM*, 162 FERC ¶ 61,296, at P 103 (2018) (citing *Cal. Indep. Sys. Operator Corp*., 122 FERC ¶ 61,271, at P 16 (2008)); *see also City of Cleveland, Ohio v. FERC*, 773 F.2d 1368, 1376 (finding that utilities must file "only those practices that affect rates and service significantly, that are realistically susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous"); *see also N.Y. Indep. Sys. Operator, Inc.*, 179 FERC 61,102, at P 106 (2022) (indicating that implementation details are appropriately addressed in the RTO's business practice manuals); *Midcontinent Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,075, at P 38 (2020) (rejecting protests and finding it appropriate to include implementation details in manuals rather than the RTO tariff; also finding that requiring MISO to include this information in the Tariff could curb needed operational flexibility).

PJM to submit an FPA section 205 filing every time the implementation details changed, which would be inefficient and burdensome, and would not benefit stakeholders.

Second, the decision to prohibit exclusive options as evidence of Site Control at Decision Point III, of which some complain,[39] is a continuation of PJM's prior Site Control requirements, which the Commission has determined to be just and reasonable. As PJM explained in the June 14 Filing, "agreements to agree" are insufficient to demonstrate the three components of Site Control.[40]

Finally, PJM's proposal to require developers requesting to change sites to demonstrate Site Control for both the initial site and the adjacent parcels is a just and reasonable means of ensuring that the Project Developer can satisfy the elements of the Site Control demonstration. The requirement ensures that projects have Site Control at the Point of Interconnection at which they have been studied and prevents gaming of the Site Control requirements by Project Developers that enter the interconnection process with Site Control for a Site obtained solely for the purpose of meeting the application requirements (so it often is land miles away from the proposed Point of Interconnection) and later change their Site Control to the Site they actually intend to use, once they have procured the land rights.

2. The 100 percent Site Control requirement[41] is just and reasonable and should not be reduced.

Contrary to protesters' assertions,[42] PJM's proposal to require 100 percent Site Control at Decision Points I (100 percent of the Generating Facility site) and III

[39] EDF/Invenergy Comments at 8-10.

[40] Shoemaker Aff. ¶ 26.

[41] *See supra* note 33.

[42] ACPA Comments at 9-10 (requiring 100 percent site control for gen-tie facilities throughout the interconnection process is too strict); RWE Comments at 3-4 (same); EDP Renewables Comments at 4

(100 percent of the Generating Facility site, 100 percent of the Interconnection Facilities site, and 100 percent of the Interconnection Switchyard site) is just and reasonable. Notably, this is not a novel requirement: the existing PJM Tariff requires 100 percent Site Control of the land required for the Generating Facility at the time the application is submitted.[43] The June 14 Filing merely builds on an approach that the Commission has previously found to be just and reasonable. It also adopts a process that PJM and its stakeholders determined, after vigorous debate, is appropriate for the PJM region because it will facilitate the efficient processing of New Service Requests within that region. Second, a project that has less than 100 percent, or no, Site Control may not be viable, but it can tie up existing headroom on the Transmission System just as viable projects do, and thereby harm other projects that have done their due diligence to procure the necessary land to build their facility by artificially skewing study results. Because the study models must continue to include these speculative or non-viable projects, the models produce inaccurate, non-actionable study results. One hundred percent Site Control at more than one Decision Point (i.e., 100 percent Site Control of the Generating Facility site at Decision Point I, and 100 percent Site Control of the Generating Facility, Interconnection Facilities, and Interconnection Switchyard sites at Decision Point III) is therefore necessary to weed non-viable or non-ready projects out of the interconnection process.[44]

(requiring Project Developers to show 100 percent Site Control for both the Generating Facility and the Interconnection Facilities or Interconnection Switchyard is unreasonable); EDF/Invenergy Comments at 7-8 (requiring 100 percent Site Control at Decision Point III is "impractical and unnecessarily stringent").

[43] *See, e.g.*, Tariff, Part IV, Subpart A, section 36.1.01(1)(b); Tariff, Part IV, Subpart G, sections 110.1(1)(a)(ii), 111.1(a)(ii), and 112.1.1(a)(ii).

[44] Despite this, the Transition Period and New Rules provide that if the Project Developer fails to provide the required Site Control evidence, it can provide evidence acceptable to PJM demonstrating that it is in negotiations with appropriate entities to meet the Site Control requirements, with PJM adding a milestone to the Project Developer's interconnection-related agreement to satisfy the Site Control requirements 180 days after execution of such agreement. Proposed Tariff, Part VII, Subpart D, section 313(A)(1)(c)(iv) and Part

The proposed 100 percent Site Control requirement (100 percent Site Control of the Generating Facility site at Decision Point I, and 100 percent Site Control of the Generating Facility, Interconnection Facilities, and Interconnection Switchyard sites at Decision Point III) is resource-neutral, will be imposed on all types of New Service Requests, and does not unduly discriminate against Project Developers with generation projects that will require locating of generator tie lines and interconnection substations.[45] As explained in the June 14 Filing, PJM aims for a Project Developer to begin construction of its project within six months of the execution of the final interconnection-related service agreement(s). In order for that to occur, the developer should already have Site Control for all aspects of its project.[46] At present, Interconnection Customers potentially can proceed through the process without sufficient Site Control while they seek to sell or finance their projects (which ultimately may be unsuccessful), all while occupying valuable headroom on the Transmission System that potentially could have been used for other, viable projects.[47] Worse, the presence of such non-viable projects in the interconnection process can distort study results as compared to study results after the non-viable projects withdraw from the interconnection process.[48] The proposed 100 percent Site Control requirement (100 percent Site Control of the Generating Facility site at Decision Point I, and 100 percent Site Control of the Generating Facility, Interconnection Facilities, and Interconnection Switchyard sites at Decision Point III) for all aspects of a New Service Request is therefore a just and reasonable means to prevent Project Developers from

VIII, Subpart C, section 410(A)(1)(c)(iv).

[45] ACPA Comments at 5; RWE Comments at 3-4.

[46] June 14 Filing at 47.

[47] *See id.*

[48] *See id.*

exploiting the interconnection process while attempting to finance and/or sell speculative projects.

The fact that other RTOs require less evidence of site control matters little.[49] As demonstrated in the June 14 Filing, PJM has experienced an exponential increase in the number of New Services Requests received in each queue window in the last four calendar years, leading to significant delays that cannot be compared to other RTO/ISO interconnection queues.[50] The Commission has long recognized that ISOs and RTOs are permitted flexibility to account for regional differences in their interconnection processes, and has adopted a "regional differences" standard to provide that flexibility.[51]

Moreover, the Site Control reforms were thoroughly vetted through the stakeholder process. The Commission allows an RTO and its stakeholders flexibility to determine what is a proper solution for its region, and thus PJM and its stakeholders can determine—and in this case have determined—a proper solution for the PJM region. Given the substantial challenges facing the PJM region, ensuring project viability is of the utmost importance to efficient administration of the interconnection process. Application of the regional differences standard to PJM's proposed Site Control requirements is therefore appropriate to account for PJM's particular interconnection concerns and further demonstrates that the

[49] PIO Comments at 7-9 (citing Order Accepting Tariff Revisions Subject to Condition, 158 FERC ¶ 61,003, at PP 90-99 (2017)).

[50] *See* June 14 Filing at 4-5, Figure 1 and Figure 2.

[51] *See, e.g.*, *Small Generator Interconnection Agreements and Procedures*, Order No. 792, 145 FERC ¶ 61,159, at P 27 (2013), *order on reh'g*, Order No. 792-A, 146 FERC ¶ 61, 214 (2014); *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, at P 8, 104 FERC ¶ 61,103 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

proposed Site Control requirements are just and reasonable components of PJM's interconnection process.

3. PJM's Site Control Requirements Do Not Arbitrarily Penalize Offshore Wind or Other New Generation Technologies.

Protests asserting that the Site Control requirements are unjust and unreasonable as to treatment of offshore wind or other "new generation" technologies should be summarily rejected. As advocated by Orsted Wind Power North America LLC ("Orsted"), Dominion Energy Services, Inc. ("Dominion"), and Public Service Electric and Gas Company ("PSEG") in the stakeholder process and endorsed as an amendment to the approved package at the May 17, 2022 Members Committee meeting, the June 14 Filing includes proposed Tariff revisions *specifically* addressing Site Control requirements for "non-standard" sites, such as bodies of water and submerged land, and their unique permitting challenges.[52] These requirements include that, for Decision Point I and Decision Point III, Project Developers using Sites controlled by a state or federal entity:

> shall provide evidence that the Project Developer is taking *identifiable steps acceptable to the Transmission Provider* in furtherance of the issuance of such authorization by the state and/or federal governmental entity, including documentation sufficiently describing and explaining the source of and effects of such regulatory requirements, including a description of any conditions that must be met in order to satisfy the regulatory requirements and the anticipated time by which the Project Developer expects to satisfy the regulatory requirements.[53]

[52] What is more, Orsted was one of the leading proponents during the stakeholder process of the Tariff language specifically addressing Site Control requirements for offshore wind and other projects using federal or state land, and its concerns were considered and addressed during the stakeholder process. *See* June 14 Filing at 26-27; Connell Aff. ¶ 24; *see also* Dominion, PSEG, Orsted Proposed Revisions to PJM Interconnection Process Reform Proposed Tariff Language for Vote at May 17, 2022 MC Meeting, posted at https://pjm.com/-/media/committees-groups/committees/mc/2022/20220517-annual/item-08c---2-dominion-pseg-orsted-proposed-clarification-revisions-to-site-control-tariff-language---redline.ashx. PJM adopted the Site Control advocated by Orsted, Dominion, and PSEG almost verbatim in the filed Tariff provisions.

[53] Proposed Tariff, Part VII, Subpart A, section 302(A)(2)(d).

Nothing in this requirement imposes undue obligations on offshore wind Project Developers; in fact, it provides the very flexibility requested by commenters.[54] No additional clarification in the Tariff is required to demonstrate that PJM's Site Control requirements provide accommodations necessary for offshore wind and other "new generation technologies" to successfully navigate the interconnection process. Should some special situation arise, it can be addressed by the Commission on a case-specific basis with other parties having the right to contest or comment on any specific request for special treatment.

Orsted's arguments that the Site Control requirements do not accommodate offshore wind development absent clarification should similarly be rejected.[55] As an initial matter, Orsted was a sponsor of an amendment making revisions to PJM's Site Control requirements, which was approved late in the stakeholder process and adopted.[56]

More importantly, the proposed Site Control Requirements are clear and broad-based with respect to offshore wind development. Orsted asserts that changes on the project's side of the point of interconnection made in response to the Bureau of Ocean Energy Management ("BOEM") environmental review should not be considered Material Modifications, but offshore wind projects will be subject to the same Material Modification and change criteria governing other projects.[57] This is consistent with what PJM does today, and these provisions are necessary to protect the reliability of the system, to ensure

[54] *See* NJBPU Comments at 8-9.

[55] Orsted Comments at 10-20.

[56] *See supra* note 52.

[57] *See* Proposed Tariff, Part VII, Subpart D, section 309(B), 311(B)(4) and 313(C) and Part VIII, Subpart C, sections 406(B), 408(B)(4) and 410(C).

that other projects in the study process are not harmed, and ensure only ready projects enter and remain in a Cycle.

While Orsted requests clarification of certain aspects of the Site Control rules, these rules were developed in consultation with the stakeholders, specifically including Orsted. These provisions are sufficiently clear, with additional detail to be provided in the PJM Manuals, consistent with Commission precedent. Orsted's Site Control showings will be evaluated when presented, and Orsted will have both the opportunity and obligation to provide an officer's certificate to demonstrate compliance.[58]

C. PJM's Proposed New Rules Appropriately Are Based on Currently Applicable Standards for Interconnection Processes and Need Not Be Measured Against the Interconnection NOPR.

Some commenters protest the fact that the June 14 Filing proposes to use "Reasonable Efforts" and "Good Utility Practice" standards for certain interconnection process timelines rather than a hard deadline.[59] However, these standards are appropriate and reflect the currently applicable standard under the Commission *pro forma* Large Generator Interconnection Procedures ("LGIP") and Large Generator Interconnection Agreement ("LGIA").[60] As of today, the Commission's *pro forma* interconnection agreements, and PJM's *pro forma* interconnection agreements, rely on both "Reasonable Efforts" and "Good Utility Practice" standards to hold Transmission Providers and Transmission Owners to certain obligations inherent in interconnection processing,

[58] Proposed Tariff, Part VII, Subpart A, section 302(A)(9) and Part VIII, Subpart A, section 402(A)(9).

[59] AEE Comments at 11-12; Borrego Solar Comments at 6-7; CPV Protest at 17-18; PIO Comments at 5-6.

[60] The Commission's pro forma LGIP and LGIA are posted on the Commission website at https://www.ferc.gov/sites/default/files/2020-04/LGIP-procedures_0.pdf and https://www.ferc.gov/sites/default/files/2020-04/LGIA-agreement.pdf, respectively.

including study timelines and reviews.[61] The Commission in Order No. 845 specifically declined to order the elimination of the Reasonable Efforts standards, and that is the current law today.[62] The Commission repeatedly found the terms "Reasonable Efforts" and "Good Utility Practices" with similar definitions as appropriate standards for accountability during interconnection processing.[63] The Commission should find that the proposals in the June 14 Filing appropriately apply those standards to aspects of the reformed interconnection process.[64] In addition, and as further explained below, the fact the Commission is addressing this issue in the Interconnection NOPR[65] is not controlling here,[66] particularly as the Commission made it clear that nothing in the Interconnection NOPR is intended to inhibit or deter ongoing queue reform efforts.[67] Should the

[61] *Pro forma* LGIP section 1; Order No. 2003 at P 67.

[62] Order No. 845 at P 323.

[63] *See, e.g.*, Order No. 2003 at P 400 (finding that for the requirement of Transmission Providers to accommodate the Interconnection Customer's requested In-Service Date "the term 'Reasonable Efforts' is appropriate"); Order No. 845 at P 322 ("[T]his Final Rule does not eliminate, the reasonable efforts standard or reduce transmission provider flexibility . . ."); *id.* at P 323 ("At this time, we believe the reasonable efforts standard continues to be the appropriate approach to interconnection study processing.").

[64] *See* June 14 Filing at Appendix 1 (defining Reasonable Efforts as "with respect to any action required to be made, attempted, or taken by an Interconnection Party under the Tariff, Part VII, a Generation Interconnection Agreement, or a Construction Service Agreement, such efforts as are timely and consistent with Good Utility Practice and with efforts that such party would undertake for the protection of its own interests."); Proposed Tariff, Part VIII, Subpart A, section 400, Definitions R (same); Proposed Tariff, Part VII, Subpart A, section 300, Definitions G (defining Good Utility Practice as "any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the region; including those practices required by Federal Power Act, section 215(a)(4).").

[65] *Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 (2022) ("Interconnection NOPR").

[66] A NOPR by definition does not constitute final policy. *See Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations*, Order No. 790, 145 FERC ¶ 61,154, at P 9 n.19 (2013) ("Because the NOPR does not constitute an instant Final Rule, we find no cause to consider requests for rehearing of the NOPR."), Order No. 790-A, 149 FERC ¶ 61,144, at P 42 (2014) (describing the NOPR as providing a "notice and comment forum").

[67] *See* Interconnection NOPR at P 6 (recognizing that transmission providers are engaged in queue reform

Commission order changes in its Final Rule, PJM would address those issues on compliance. However, the existence of a NOPR should not be used to drive a decision in this case. Rather, the appropriate question is whether the proposal is just and reasonable when compared to the status quo per the Commission's section 205 standard of review.

AIC and SOO Green both oppose PJM's proposal to eliminate the penalty provisions in Tariff, sections 19.8 and 32.5.[68] In the June 14 Filing, PJM explained that removal of these provisions is appropriate because the reporting provisions of Tariff, sections 19.8 and 32.5 have been triggered less than a handful of times, and the penalty provisions of Tariff, sections 19.8 and 32.5 have not been triggered even once since they were added to the Tariff.[69] Further, because studies of long-term firm transmission service requests are subject to Order No. 845 metrics and reporting requirements that the Interconnection Projects and Interconnection Analysis departments must follow, any future failure to meet the long-term firm transmission service study deadlines would result in a report to the Commission that would be publicly available.[70] PJM further explained that the provisions are no longer needed and are potentially inconsistent with other Tariff requirements, and therefore requested their removal consistent with independent entity variant.[71]

efforts, and stating that nothing is intended to deter those efforts. The Commission also stated it "will review any filings that result from those efforts based on the record before us in those proceedings and not based on whether they comply with the proposed reforms in this NOPR.").

[68] AIC Protest at 9 n.20, 39; SOO Green Protest at 31-32.

[69] June 14 Filing at 73; Connell Aff. ¶ 34.

[70] June 14 Filing at 73; Connell Aff. ¶ 35. PJM also stated the Commission or an interested party could initiate a proceeding under FPA section 206, 18 U.S.C. § 824e, if it believes PJM is not exercising due diligence in performing these studies, based on Order No. 845 reports. June 14 Filing at 73-74.

[71] June 14 Filing at 74.

AIC provides no good reason for rejecting PJM's proposal, but simply states in one brief sentence that the Commission should not adopt the proposal because of ongoing delays in the PJM study process. However, this is inadequate to support AIC's claims and does nothing show that PJM's proposal is not just and reasonable. Accordingly, AIC's protest should be disregarded.

SOO Green claims that the penalty provisions are not completely obviated by the Order No. 845 reporting requirements, and the current backlog justifies retaining these provisions. However, SOO Green ignores the fact that the Commission or an interested party can initiate a proceeding under FPA section 206 if it believes PJM is not exercising due diligence in performing these studies. Also, the fact the penalty provisions of Tariff, sections 19.8 and 32.5 have not been triggered even once since they were added to the Tariff belies any claim that they are necessary. SOO Green also argues that PJM's proposal to remove the penalty provisions is inconsistent with the Interconnection NOPR. However, the NOPR was issued after the June 14 Filing, is still pending before the Commission, and provides no basis for rejecting of any elements of the June 14 Filing. Consistent with the Commission's indication that this filing would be judged based on its own record and not the NOPR's proposals, the Commission should not impose, or require PJM to retain, the present Tariff's ineffectual penalty regime, through this FPA section 205 filing. In addition, penalty provisions and elimination of the Reasonable Efforts standard are likely to be some of the more contentious issues in Docket No. RM22-14-000, and it is impossible to predict what requirements the Final Rule will impose. Moreover, PJM presumably will be subject to compliance filings as a result of any Commission direction coming out of the Interconnection NOPR on this point which is the appropriate forum for making any tariff

modifications to address the Commission's directives coming out of any Final Rule on the subject of penalties.

Like SOO Green, when arguing against the use of the "Reasonable Efforts" and "Good Utility Practice" standards, many commenters attempt to commence litigating PJM compliance with the Commission's Interconnection NOPR.[72] These arguments are misplaced, premature, and inapplicable.[73] Commenters apparently would like the Commission's Interconnection NOPR already to be an applicable Final Rule, however, it is not, and it holds no bearing on the outcome of this proceeding. The Commission stated as much in the Interconnection NOPR:

> We recognize that transmission providers have undertaken efforts to address interconnection queue management issues. This NOPR is not intended to divert or slow the potential progress represented by those efforts. We will review any filings that result from those efforts based on the record before us in those proceedings and *not based on whether they comply with the proposed reforms in this NOPR*.[74]

Moreover, prior to implementing any final rule on the Interconnection NOPR, the Commission must receive and consider feedback from the public and may revise aspects of the Interconnection NOPR before it is implemented as a final rule.[75] The Commission should not incorporate aspects of the Interconnection NOPR into this proceeding or view

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[72] PIO Comment at 5-6; CPV Protest at 17; Tri-Global Comments at 13-14; AEE Comments at 12; SOO Green Protest at 31 ("[E]limination of these protections contradicts aspects of the Commission's Interconnection NOPR.").

[73] Multiple commenters highlighted how the June 14 Filing matches the intent and many of the proposals within the Interconnection NOPR. *See* ACPA Comments at 5 (noting that readiness deposits are consistent with the Interconnection NOPR); AES Comments at 7-8 (noting that the June 14 Filing incorporates many of the NOPR reforms); Avangrid Comments at 5-6.

[74] Interconnection NOPR at P 6 (emphasis added).

[75] *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41, 97 (D.C. Cir. 2014) (describing how, when reviewing responses to a NOPR, the Commission "must consider and explain its rejection of 'reasonably obvious alternative[s],'" and must consider "'significant and viable' and 'obvious' alternatives" proposed) (citing *Nat'l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 215 (D.C. Cir. 2013)).

the June 14 Filing in comparison to the Interconnection NOPR, but rather take the filing on its face and in light of the record developed in the extensive and robust PJM stakeholder process, subject to a compliance filing upon the Commission's issuance of a final order in the Interconnection NOPR proceeding.

D. Other Modifications Urged by Commenters and Protestors Are Counter-Productive Or Are Beyond the Scope of This Filing.

1. The additional reporting requirements some commenters call for are unnecessary and would simply reduce efficient processing of interconnection requests.

Some commenters urge the Commission to impose on PJM additional reporting requirements,[76] which would be unnecessary and burdensome at a time when resources are better directed toward implementing the new process as quickly as possible once approved. PJM already provides reports on its interconnection study performance every six months, pursuant to Order No. 845 requirements.[77] These reports detail "(A) PJM's interconnection study performance; (B) Facilities Study delays . . . (C) steps taken and proposed solutions regarding Facilities Studies delays; and (D) personnel hours expended towards interconnection studies."[78] Moreover, in the June 14 Filing PJM committed to publishing the interconnection schedule as well as reasons for any delays to that schedule.[79] To require

[76] Borrego Solar Comments at 8-9; AEE Comments at 10-14; ACPA Comments at 12-14.

[77] Order No. 845 at PP 305-11. *See PJM Interconnection, L.L.C.*, Informational Report on Interconnection Study Performance Metrics, Docket No. ER19-1958-003, at 4 (Feb. 14, 2022) ("February 2022 Informational Report") ("Pursuant to PJM's new Tariff, Part IV, Subpart A, section 41, Interconnection Study Statistics, as of January 2020, PJM began tracking on six-month reporting period cycles the statistics related to Feasibility Studies, System Impact Studies, Facilities Studies and queue withdrawals."); *PJM Interconnection, L.L.C.*, Informational Report on Interconnection Study Performance Metrics, Docket No. ER19-1958-003 (Aug. 16, 2021) ("August 2021 Informational Report").

[78] February 2022 Informational Report at 7.

[79] June 14 Filing at 59 ("The results of the Phase I System Impact Study will be provided electronically to Project Developers in a single aggregate report for the entire Cycle, such as a spreadsheet, as well as posted on the PJM website."); Proposed Tariff, Part VII, Subpart E, section 334 (Transmission Provider Website Postings); *see e.g.*, Proposed Tariff, Part VIII, Subpart C, section 407(A)(1)(e)(ii) ("If the Transmission Provider is unable to complete Phase II within 180 days, the Transmission Provider shall notify all impacted

PJM to provide further reports on its interconnection reform progress would be unnecessary and inefficient as any time spent on additional reporting obligations subtracts from the time available to study and process interconnection requests.

2. SOO Green's attempt to import issues from another proceeding should be rejected.

The Commission should dismiss the protests raised by SOO Green as irrelevant. Throughout their limited protest, SOO Green seeks to incorporate into this proceeding litigation currently occurring in a separate proceeding.[80] Part of the issue in that proceeding, which SOO Green would like to involve here, is whether Merchant Transmission Facilities should be part of the interconnection process.[81] The question before the Commission in this FPA section 205 proceeding is whether PJM has shown that the interconnection reforms proposed in the June 14 Filing are just and reasonable,[82] which it has. Litigating SOO Green's FPA section 206 complaint here is beyond the scope and

Project Developers simultaneously by posting on Transmission Provider's website a revised estimated completion date along with an explanation of the reasons why additional time is required to complete Phase II.").

[80] SOO Green Protest at 3, 6, 10-12, 16-17, 20-21 (alleging that it "demonstrated" its argument in the complaint proceeding under Docket No. EL21-85-000). The Illinois Citizens Utility Board ("CUB") filed late comments supporting the SOO Green Protest, invoking the separate proceeding in Docket No. EL21-85-000, and urging the Commission to either exempt SOO Green from the interconnection process or allow SOO Green's project to proceed through the Transition Period Rules' Expedited Process. CUB Comments at 1. The CUB's arguments for special treatment for the SOO Green project could be made for virtually any generator in the interconnection process and provide no basis for awarding SOO Green special treatment.

[81] SOO Green Protest at 3 ("SOO Green thoroughly demonstrated the similarities and PJM's disparate treatment between merchant transmission and cost-allocated transmission in the Interconnection Complaint. SOO Green therefore protests the PJM Queue Reform Proposal and respectfully requests that the Commission exempt merchant transmission facilities from PJM's Queue Reform Proposal and the interconnection queue, permitting them to access the RTEP process as requested in SOO Green's Interconnection Complaint and restated herein."). However, the validity of SOO Green's demonstration is arguable. *See* Answer of PJM Interconnection, L.L.C., Docket No. EL21-85-000, at 2 (July 27, 2021) ("Contrary to SOO Green's contention, the Tariff is not a barrier to the entry of new merchant transmission in the PJM region. In fact, the Tariff has facilitated the development of several merchant transmission facilities that interconnect PJM with neighboring regions."). SOO Green also seeks exemption for merchant transmission facilities from the interconnection process. SOO Green Protest at 2-3, 9-10.

[82] *See FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 348 (D.C. Cir. 2014) ("Section 205 confers upon FERC the duty to ensure that wholesale energy rates and services are just and reasonable.").

legal limits of this FPA section 205 proceeding.[83] The Commission regularly rejects protests that seek further Tariff changes beyond those proposed, as beyond the scope of the proceeding, and should do so here.[84]

3. Arguments concerning existing Capacity Interconnection Rights are outside the scope of this proceeding.

Also beyond the scope of this proceeding is the PJM Power Providers Group's ("Power Providers") attempt to conflate and re-litigate the issues of Capacity Interconnection Rights ("CIRs") for intermittent resources.[85] The Power Providers initially acknowledge that the issue is beyond the scope of this proceeding, stating that it is "admittedly the subject of other tariff provisions[,]"[86] and yet continue to argue that the Commission should nevertheless rule on it here. The June 14 Filing does not affect the CIRs for any resource type. Moreover, PJM continues to work through these issues in another, separate process. PJM and its stakeholders already vigorously debated and came to an agreed-upon capacity valuation methodology (i.e., the Effective Load Carrying Capability ("ELCC") construct),[87] PJM proposed such a methodology for adoption in a public proceeding before the Commission, and the Commission ultimately reviewed the

[83] *See Advanced Energy Mgmt. All. v. FERC*, 860 F.3d 656, 662 (D.C. Cir. 2017) (citing *City of Winnfield v. FERC*, 744 F.2d 871, 875-76 (D.C. Cir. 1984) ("When acting on a public utility's rate filing under section 205, the Commission undertakes 'an essentially passive and reactive role' and restricts itself to evaluating the confined proposal.")).

[84] *See PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,263, at P 17 (2006) (rejecting requested Tariff changes that extended beyond the scope of PJM's FPA section 205 filing and "amount[ed] to requests that the Commission take action under section 206 to revise PJM's current Tariff"); *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,157, at P 195 (2016) (declining to address proposal for alternative Tariff changes as beyond the scope of FPA section 205 proceeding); *see also PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at PP 104, 260 (2015) (rejecting arguments for alternative Tariff changes).

[85] Power Providers Comments at 6.

[86] Power Providers Comments at 6.

[87] Initially, the Commission established a paper hearing about this issue on April 10, 2020, after which PJM submitted its initial attempt to implement such a mechanism on October 30, 2020, which the Commission rejected on April 30, 2020. *PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,056, at PP 1-3 (2021). Ultimately, PJM submitted its accepted version of the ELCC proposal on Jun 1, 2021, for Commission review. *Id*.

proposal and its feedback, and accepted it.[88] The remaining issues are being resolved in an ongoing stakeholder special session before PJM's Planning Committee.[89] Because the issue is outside the issues in this proceeding, the Commission should deny the Power Providers' request.

In addition, J-Power USA Development Co. Ltd. ("J-Power") incorrectly argues that the June 14 Filing did not give proper consideration to the treatment of replacement resources using existing CIRs and failed to consider how it will treat replacement resources using existing Capacity Interconnection Rights under its new procedures.[90] While PJM changed the deadline by which an Applicant must submit a claim for Capacity Interconnection Rights from execution of the System Impact Study Agreement to submission of the initial Application,[91] it did not substantively revise the rules for replacement resources using existing CIRs, nor did it propose to expedite those resources. Contrary to J-Power's argument, PJM declining to favor replacement resources does not delay the processing of these resources; rather, they will continue to be governed by the same rules governing them prior to the June 14 Filing.[92]

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[88] *Id.* ("We find that PJM's ELCC methodology is a just and reasonable approach to determining the capacity value of Variable Resources, Limited Duration Resources, and Combination Resources. We continue to find that PJM's proposed ELCC construct allocates capacity values to resources using a logical, transparent, and methodical process that reasonably estimates each resource type's reliability contribution based on the alignment of each resource's expected output profile with PJM's expected load profile.").

[89] *See Planning Committee Agenda*, PJM Interconnection, L.L.C., item 6, (July 12, 2022), https://www.pjm.com/-/media/committees-groups/committees/pc/2022/20220712/agenda.ashx.

[90] J-Power Comments at 2-5.

[91] *See* Tariff, Part VI, Subpart C, section 230.3.3 and Proposed Tariff, Part VII, Subpart C, section 306(D)(1) and Subpart E, section 328(C)(3) and Part VIII, Subpart B, section(D)(1) and Subpart E, section 426(C)(3).

[92] Also contrary to J-Power's contentions, New Service Requests for replacement resources using existing Capacity Interconnection Rights must be studied on the same basis as other New Service Requests within a Cycle (or an existing queue window); they require more than "minimal" study. *See* J-Power Comments at 1. The need for the same type and scope of studies as any other New Service Request applies particularly because replacement resources often seek to use a different fuel source than the resources they are replacing.

4. The Affected Systems coordination provisions in the June 14 Filing do not require revision or elaboration.

PJM's proposed provisions concerning Affected Systems analyses and coordination do not warrant revisions or further clarification. PJM's commitment to further coordinating Affected Systems analyses is not vague, as RWE Renewables Americas, LLC argues,[93] nor is this the proper proceeding for significant revisions to PJM's Affected System analysis methodology, as EDF Renewables, Inc. ("EDF") argues.[94] As the June 14 Filing stated, the Affected System analyses will be conducted in *essentially the same sequence* as they are conducted under the current interconnection process, and PJM will continue to work with neighboring systems to improve Affected Systems coordination.[95] As Mr. Sims noted in his affidavit, the Affected Systems analyses proposed in the June 14 Filing occurs at "essentially the same point in the process as the Affected Systems analysis performed during the current interconnection process. If a New Service Request implicates an Affected System, PJM will notify the Project Developer of its obligation to enter into an Affected System Agreement."[96] Significant revisions to the Affected System analyses and coordination process are beyond the scope of this proceeding, and the Commission should dismiss as unwarranted requests for any further revisions.[97]

[93] RWE Comments at 3.

[94] EDF/Invenergy Comments at 15.

[95] June 14 Filing at 59 n.194.

[96] June 14 Filing Attachment E, Affidavit of Mark Sims on Behalf of PJM Interconnection, L.L.C. ¶ 10.

[97] In addition, PJM is, of course, subject to the Interconnection NOPR and would be required to submit a compliance filing concerning Affected Systems coordination in accordance with a Final Rule in Docket No. RM22-14-000 if the Final Rule makes changes to the Affected Systems coordination requirements.

5. The acceleration provisions in the June 14 Filing do not require revision or elaboration.

In contrast to certain comments, the acceleration provisions included as part of the June 14 Filing are clear,[98] are not onerous,[99] and should not be rejected or revised. As described in the June 14 Filing, these accelerated procedures allow a project that, as determined by the results of the Phase I or Phase II System Impact Study, does not need to go through the full process in order to complete the study process and enter into its final interconnected-related agreement(s).[100] The requirements for the Transmission Provider to determine if a project qualifies for the accelerated procedures are included in the proposed revisions and described throughout the June 14 Filing.[101] Additional information will be provided in PJM Business Practice Manuals, an approach the Commission has found to be acceptable.[102]

[98] Rye Development Comments at 4; EDP Renewables Comments at 6.

[99] AIC Protest at 33.

[100] June 14 Filing at 28.

[101] June 14 Filing at 28; *id.* at 34 n.102 ("Based on the results of the Phase I or Phase II System Impact Study, PJM may be able to accelerate the treatment of a New Service Request such that the Project Developer or Eligible Customer can enter into a final GIA or other agreement under Tariff, Part IX, without undergoing further studies."); *id*. at Attachment D Shoemaker Aff. ¶ 18 n.40 ("The New Service Request may accelerate to a final interconnection-related service agreement if no additional studies are required."); Proposed Tariff, Part VIII, Subpart C, section 408 (A)(1) ("[I]f Transmission Provider determines a New Service Request qualifies to accelerate to a final interconnection related agreement (from Tariff, Part IX), such new Service Request must meet the requirements set forth below in Tariff, Part VIII, Subpart C, section 408(A)(2)(d).").

[102] *See N.Y. Indep. Sys. Operator, Inc.*, 179 FERC 61,102, at P 106 (2022) (indicating that implementation details are appropriately addressed in the RTO's business practice manuals); *Midcontinent Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,075, at P 38 (2020) (rejecting protests and finding it appropriate to include implementation details in manuals rather than the RTO tariff; also finding that requiring MISO to include this information in the Tariff could curb needed operational flexibility). In this case, it is appropriate to include the requirements for determining whether a project qualifies for the accelerated procedures in PJM manuals rather than the Tariff because the underlying analytical study requirements are contained in these manuals. If the accelerated procedures are set forth in its Tariff, PJM might be required to submit an FPA section 205 filing each time changes were made to the study requirements.

E. The Commission Should Reject Protestors' Other Complaints.

1. The stakeholder process was conducted fairly; the Commission should reject claims that the process was flawed.

PJM demonstrated in the June 14 Filing that the IPRTF reform package is the result of an open and extended stakeholder process in which all interested parties had the opportunity to participate.[103] There was widespread compromise among the stakeholders and PJM, and the proposed Tariff revisions were endorsed on April 27, 2022, by a sector weighted vote of 4.368 out of a total of 5.00 by PJM's Markets and Reliability Committee and a sector weighted vote of 4.518 out of a total of 5.00 by PJM's Members Committee.[104] Numerous commenters agree that the process was fair and open.[105]

AIC and Tri Global Energy, LLC ("Tri Global") nevertheless claim the stakeholder process was flawed. These assertions are without merit and should be rejected. As PJM demonstrated and many commenters point out, the stakeholder process spanned multiple meetings open to interested parties, with widespread participation and compromise, and opportunities for all parties to present their positions. The level of stakeholder engagement in the IPRTF process is evidenced by the number of PJM Member Companies—290—and total companies—545—that participated in the December 2021 polling alone.[106] The IPRTF meetings included presentations by other parties, and documents showing polling results and summarizing the comments filed by the parties in response to the various

[103] June 14 at 13, 25-28, Connell Aff. ¶¶ 17-24.

[104] June 14 at 26, Connell Aff. ¶ 23.

[105] ACPA Comments at 6-7; EDF/Invenergy Comments at 1; TOs Comments at 4; Ohio FEA Comments at 3; Pine Gate Comments at 5-7; SEIA Comments at 11-12.

[106] Connell Aff. ¶ 20.

proposals were posted on the PJM website.[107] The parties also had the opportunity to present proposals at the February 8, 2022 and April 12, 2022 meetings of the Planning Committee, the March 23, 2022 and April 27, 2022 meetings of the Markets and Reliability Committee, and the April 27, 2022 and May 17, 2022 meetings of the Members Committee.[108] The participants in the stakeholder process are sophisticated entities that are fully capable of advocating their positions, and any claim that PJM somehow controlled the process or coerced them into agreeing to the filed proposal is false.

2. Hecate's claims concerning its proposal that was rejected in the stakeholder process are false.

Hecate Energy LLC ("Hecate") acknowledges that the $5 million threshold for Expedited Process eligibility was vetted and approved by the stakeholders, and its counter-proposal was rejected, but argues that the PJM Board of Directors has an independent duty to decide whether the Hecate proposal is necessary to establish "competitive and non-discriminatory" Tariff provisions.[109] However, the adopted proposal is non-discriminatory and, consistent with the Operating Agreement, will help facilitate the development of "a robust, competitive and non-discriminatory electric power in the PJM Region,"[110] which is consistent with the Board's duties as described in the section of the Operating Agreement referenced by Hecate. Moreover, there is no evidence that "a Member or group of

[107] For example, please see the posting material for December 7, 2021, November 30, 2021, and November 23, 2021. Meeting materials and other information for the IPRTF are posted on the PJM website at https://pjm.com/committees-and-groups/task-forces/iprtf.

[108] *See* June 14 Filing at 26-27, Connell Aff. ¶ 24. Meeting materials and other information for Planning Committee, Markets and Reliability Committee and Member Committee are posted on the PJM website at https://pjm.com/committees-and-groups/committees.

[109] Hecate Protest at 14. In support of its claims, Hecate cites to section 7.7(i) of the Operating Agreement.

[110] *See* Operating Agreement section 7.7(a).

Members . , . [had an] undue influence over the operation of the PJM Region,"[111] and Hecate does not even attempt to make a showing that there was. In short, Hecate's claims are incorrect and unsupported, and there is no evidence the Board failed in any way to meet its duties or obligation.

3. PJM has justified the proposed elimination of suspension.

PJM proposed in the June 14 Filing to eliminate the ability for Project Developers to suspend performance under the Generator Interconnection Agreement ("GIA"), and to instead afford Project Developers a one-time option to extend their milestones (other than any milestone related to Site Control) for a total period of one year regardless of cause.[112] PJM explained that Interconnection Customers have been able to use the current suspension provisions to enter the interconnection process with non-ready projects, and then enter suspension while they attempt to arrange financing or otherwise determine whether and how to move forward with their projects.[113] PJM also stated that the existing suspension provisions have been difficult to administer and the bulk of projects that enter into suspension immediately after signing an Interconnection Service Agreement ("ISA") ultimately withdraw from the queue, with recent data showing that 52 percent of projects that suspended ultimately withdrew.[114] PJM also explained that eliminating suspension is consistent with Commission orders allow RTOs to change their suspension provisions.[115]

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[111] Hecate Protest at 13 (citing Operating Agreement, section 7.7(i)).

[112] June 14 Filing at 64; *see also* Proposed Tariff, Part IX, Subpart B (Form of GIA), section 6.4. This one-time extension is also referred to as the one-time free-pass.

[113] June 14 Filing at 64; Shoemaker Aff. ¶ 53.

[114] June 14 Filing at 64.

[115] June 14 Filing at 65, citing *Sw. Power Pool, Inc.*, 128 FERC ¶ 61,114, at PP 80-81 (2009) (accepting proposal to reduce suspension, and stating "the number of pending interconnection requests in the queue is at an all-time high, . . . [making] it impossible for SPP effectively to manage the queue and efficiently study the requests.").

AIC states the Commission should reject the proposal as "premature," stating the Commission should see how PJM's reforms work out before accepting this proposal.[116] However, the existing suspension provisions and the late-stage withdrawals that occur as a consequence have contributed significantly to the present backlog in the interconnection queue; making elimination of the suspension provisions now a critical step toward reducing the backlog.[117] AIC also claims that "PJM's past and present failure to meet its study deadlines, often caus[e] projects to miss project Milestones."[118] This claim makes little sense, as the milestones contained in the GIA only apply after the studies are completed and the GIA has been executed (or filed on an unexecuted basis).

EDF also asserts suspension provisions should be retained for Force Majeure events, and that the one-year free pass might not give adequate time.[119] However, Appendix 2, section 9.1 of the proposed pro forma GIA allows an Interconnection Party to invoke Force Majeure if it "is unable to carry out an obligation imposed on it by this Appendix 2." In addition, GIA, section 6.4 (the milestone extension provision) states "Transmission Provider may reasonably extend any such milestone dates, in the event of delays that Project Developer (i) did not cause and (ii) could not have remedied through the exercise of due diligence." This provision also serves to protect Project Developers and to justify milestone extensions if a legitimate Force Majeure event occurs.

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[116] AIC Protest at 12, 46-48.

[117] AIC also says that PJM should use measures, such as Readiness Deposits, to cull out non-ready projects. AIC Protest at 47. PJM intends to do just that but the elimination of the suspension option still will be needed to protect the queue from late-stage withdrawals.

[118] AIC Protest at 47.

[119] EDF/Invenergy Comments at 12.

Finally, the Ohio FEA states it supports the one-year free pass and elimination of suspension, although it states the procedures whereby PJM can reasonable extend milestones for good cause shown should be spelled out in the Tariff.[120] With due respect to the Ohio FEA's position, the types of situations for which extension can be granted tend to be fact-specific and are hard to predict at this point, so it is not practical to spell out all of the circumstances in which an extension might be granted.

4. PJM is working diligently to increase its staffing. The proposal for Project Developers to use their own outside contractors raises issues far beyond the scope of this proceeding and does not form a basis for rejecting PJM's 205 filing.

PJM explained in the June 14 Filing that it has been adding and training new employees and outside consultants to address the backlog in the interconnection queue.[121] Since January 1, 2021, PJM has augmented its interconnection staff at PJM by approximately 50 percent and still has openings currently posted on pjm.com to fill. PJM has also increased its outside contractor staff by 25 percent since January 1, 2021. AIC and Tri Global advocate that if PJM is unable to meet a study deadline, the Project Developer would have the unilateral right, but not the obligation, to hire at their own expense outside consultants from an approved list maintained by PJM.[122]

PJM is currently engaged in a pilot program to enable Project Developers to expedite the model development process for inverter based resources. This process was made available to Leeward Renewable Energy Development, LLC, one of AIC's members, to evaluate this type of arrangement on a limited basis. PJM is currently looking for

[120] Ohio FEA Comments at 7-8.

[121] June 14 Filing at 22.

[122] AIC Protest at 36-37, 40, 44, Bristol Affidavit ¶ 4(b), 18; Tri Global Protest at 14-15.

additional opportunities for Project Developers to participate in the Pilot Program. While allowing Project Developers more flexibility to use outside consultants that they select and pay for may be feasible at some point, this option presents a number of concerns that need to be addressed. For example, there is potential for conflicts of interest and the improper disclosure of confidential information if an outside consulting firms works for multiple developers, as well as the potential for transmission information to be provided to Project Developers and generators in violation of the Commission's Standards of Conduct, and issues of whether PJM or the Project Developer is liable if the outside consultant makes an error in its studies or report or releases confidential or system critical information. In addition, this process may not save any time if the outside consultants require training to undertake the necessary studies, or if PJM, for the safety and reliability of the Transmission System, needs to verify their results.

The concept of using additional outside consultants to improve efficiency depends on the expectation that additional resources will result in a corresponding improvement in process throughput. PJM notes that as the number of external consultants increases, the amount of PJM overhead to coordinate and manage the additional external staff increases dramatically even in an ideal situation. Further, the pool of engineers and consultants qualified to perform these studies is limited,[123] and Project Developers face the same resource issues PJM faces. PJM can amend its Tariff or Business Practice Manuals as needed, if and when it is determined that such use of outside consultants is feasible, but such use does not make sense at present time.

[123] June 14 Filing at 22 n.68.

Finally, EDF states there are numerous engineering firms that PJM can hire to serve as outside consultants to timely process studies for PJM, and that PJM should not limit its ability to timely perform based on whether it can hire appropriate employees.[124] However, as explained in the June 14 Filing, PJM already extensively uses outside consultants as well as its own staff to perform interconnection studies.[125] Thus, it is already doing what EDF recommends.

5. PJM has not proposed to change its use of participant funding, making that issue beyond the scope of the June 14 Filing.

Solar Energy Industries Association ("SEIA") asserts that the use of participant funding is one of the reasons for the existing backlog in the interconnection queue and claims that under the current serial process, costs get shifted from one customer to another once an Interconnection Customer withdraws.[126] SEIA acknowledges that the June 14 Filing will go a long way towards rectifying this process. SEIA does not seem to object to allocating costs on a cluster/Cycle basis rather than a first-to-cause basis, and the Commission has found this to be just and reasonable in other instances.[127] To the extent SEIA is expressing concerns about the use of participant funding, PJM does not propose to change its use of participant funding in the June 14 Filing. PJM also intends to continue

[124] EDF/Invenergy Comments at 2.

[125] June 14 Filing at 22.

[126] SEIA Comments at 3-4.

[127] *See Avista Corp.*, 179 FERC ¶ 61,183, at PP 4, 63 (2022) (finding proposed use cluster study approach that will allocate network upgrade costs across multiple projects to be "consistent with or superior to the pro forma LGIP because … it strikes a reasonable balance for sharing costs"); *Duke Energy Carolinas, LLC*, 176 FERC ¶ 61,075, at PP 11, 17-18, 51 (2021) (accepting queue reform proposal that includes a cluster cost allocation approach that provides for sharing of network upgrade cost responsibility within the cluster).

its practice of allocating costs on a DFAX and MW contribution basis, so these issues are not before the Commission here.[128]

6. The Commission should accept the proposed E&P Agreement as filed, and should reject AIC's proposed modifications to the Limited Operation and Provisional Interconnection Service provisions of the pro forma GIA and AIC's suggested bifurcation of interconnection-related agreements into energy and capacity agreements.

PJM proposed in the June 14 Filing to rename its existing Interim Interconnection Service Agreement ("Interim ISA") as the Engineering and Procurement Agreement ("E&P Agreement"), which better reflects its scope and purpose, which is to allow engineering and procurement of long lead-time items necessary for the establishment of an interconnection to commence as early as possible.[129] The existing Interim ISA was not intended to be used for construction and lacks the commercial and liability protections provided in construction agreements, but has often been mistaken for a construction agreement. Therefore, the new E&P Agreement makes clear that it "is not intended to be used for the actual construction of any Interconnection Facilities or Transmission Upgrades."[130] AIC objects to the proposal, asserting that the Commission should reject PJM's proposal to preclude construction activities under E&P Agreements.[131] AIC and Tri Global also seek to require PJM to revise its provisions for Limited Operations and Provisional Interconnection Service to allow Project Developers take advantage of these

[128] *See supra* notes 83, 84 (indicating the Commission does not need to consider issues that are beyond the filing's scope).

[129] June 14 Filing at 68-69; Shoemaker Aff. ¶ 59. The form of E&P Agreement is set forth in Proposed Tariff, Part IX, Subpart D.

[130] June 14 Filing at 69; Proposed Tariff, Part IX, Subpart D, section 3.0; *see also* Proposed Tariff, Part VIII, Subpart A, section 400 (definition of E&P Agreement) and Subpart A, section 401(G)(3)(b).

[131] AIC Protest at 45-46.

provisions prior to the time it executes a GIA.[132] In contrast, Ohio FEA supports PJM's proposal, stating that applicants before the Ohio Power Siting Board have used the interim path to start construction activities.[133]

Notwithstanding AIC's objections, it is clear that the proposed change to the Interim ISA is consistent with Commission policy. In Order No. 2003, the Commission indicated that E&P Agreements are intended to allow an "Interconnection Customer [to] ask that the Transmission Provider begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection."[134] The Commission's pro forma LGIP's definition of E&P Agreement has similar provisions. In opposition to PJM's change, AIC asserts that Tariff, section 211, seems to allow Interim ISAs to be used for construction activities.[135] However, this claim does nothing to prove that limiting the scope of the E&P Agreement to pre-construction activities is improper because Tariff, section 212 will not apply to the new E&P Agreement or any agreement entered into pursuant to Tariff, Parts VII, VIII, or IX.

AIC also claims PJM should be required to explain why, in AIC's words, PJM is blocking Project Developers from being able to construct interconnection facilities and Network Upgrades and achieve Limited Operations and Provisional Interconnection Service, prior to receiving a Phase III System Impact Study.[136] AIC and Tri Global further claim that PJM should allow Project Developers to avail themselves of the GIA's Limited

[132] AIC Protest at 41-43; Tri Global Protest at 14-15. The relevant sections of the GIA are Appendix 2, section 1.4A.1 and 1.4A.2.

[133] Ohio FEA Comments at 6.

[134] Order No. 2003 at P 226.

[135] AIC Protest at 45.

[136] AIC Protest at 45-46.

Operation and Provisional Interconnection Service Provisions prior to execution of the GIA. Each of these arguments falls short. PJM updated the terminology in Appendix 2, sections 1.4A.1 and 1.4A.2, but did not substantively change the scope of these provisions or when these provisions can be exercised. Accordingly, such issues are not before the Commission here. In addition, the concern with providing Provisional Service prior to the study process being complete is that it would be unclear how PJM can ensure that the system will remain reliable and what obligations it would need to place on a Project Developer when the relevant studies are not complete.[137]

Finally, AIC states PJM should bifurcate its ISAs and Interconnection Construction Service Agreements to independently address energy upgrades and capacity upgrades, indicating that PJM should prioritize energy related upgrades so that projects' full energy output can be achieved, while capacity injections can start when capacity upgrades are constructed.[138] This proposal likewise should be rejected. Separating upgrades required for energy injections from upgrades required for capacity interconnection is not practical. PJM performs single (N-1) contingency studies on the capacity value of projects and multiple contingency (bus faults/stuck breaker/double circuit) studies on the energy value of projects. There are times where the same facility shows up as overloaded for both types of studies. In that situation, PJM could not distinguish which upgrades would be for energy versus capacity.

[137] The acceleration provisions in the Tariff (Proposed Tariff, Part VII, Subpart D, sections 309(A)(2) and 311(A)(2)(d) and Part VIII, sections 406(A)(1) and 408(A)(1)) actually provide a superior form of relief to Project Developers: if the project is sited in such a way that further studies are not necessary, it will not need a "provisional" agreement and can go right to a final GIA.

[138] AIC Protest at 44-46.

7. The June 14 Filing addresses how security posted on GIA execution will be handled if a Project Developer terminates the GIA.

EDF states PJM needs to address how security that a Project Developer provides once a GIA is executed will be applied if the Project Developer subsequently terminates the GIA.[139] The security will be applied to ensure that the Transmission Owner is paid for the work it has performed and the costs it has incurred.[140] It also is intended to cover any unpaid Cancellation Costs and for completion of some or all of the required Transmission Owner Interconnection Facilities and/or Customer-Funded Upgrades.[141] The costs to be covered by posted security also include the costs of Common Use Upgrades in the event one or more of the Project Developers responsible for a Common Use Upgrade withdraws prior to completion of that upgrade.[142]

[139] EDF/Invenergy Comments at 12.

[140] *See* June 14 Filing at 56; Proposed Tariff, Part VII, Subpart A, section 300, Definitions S and Part VIII, Subpart A, section 400, Definitions S (definition of security); Proposed Tariff, Part IX, Subpart B (Form of GIA), section 5.0.

[141] *See* June 14 Filing at 56; Proposed Tariff, Part IX, Subpart B (Form of GIA), section 5.0.

[142] *See* June 14 Filing at 56-57; Proposed Tariff, Part IX, Subpart B (Form of GIA), section 5.0.

IV. CONCLUSION

For the reasons set forth above, the Commission should issue an order by October 3, 2022, as requested in the June 14 Filing, accepting the June 14 Filing to be effective as of the dates requested, without modification or condition.

Respectfully submitted,

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August 2, 2022

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 2nd day of August 2022.

/s/ Abraham F. Johns III
Abraham F. Johns III

Attorney for
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