

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

Public Service Commission of)	
West Virginia)	
Complainant,)	
)	Docket No. EL23-45-000
v.)	
)	
PJM Interconnection, L.L.C.)	
Respondent.)	

ANSWER OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rule 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ submits this Answer to the Complaint filed by the Public Service Commission of West Virginia (“WV PSC”) on March 8, 2023.²

PJM’s commitment to transparency and open deliberation are of utmost importance. PJM hosts more than 400 stakeholder meetings on an annual basis, including its most senior committees, that are open to all interested parties. It is important to note that this inclusiveness is not limited only to individuals who are Member³ company representatives. Any interested consumer, customer, interested public interest group, governmental official, or potential new entrant can both listen-in *and*

¹ 18 C.F.R. § 385.213.

² *Pub. Serv. Comm’n of W.V. v. PJM Interconnection, L.L.C.*, Complaint of the Public Service Commission of West Virginia Regarding PJM Interconnection, L.L.C.’s Refusal to allow an *Ex Officio* State Commission Member to Observe and/or Attend PJM Liaison Committee Meetings, Docket No. EL23-45-000 (Mar. 8, 2023) (“Complaint”).

³ Capitalized terms not otherwise defined herein shall have the meanings given to them in the PJM Open Access Transmission Tariff (“Tariff”), the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”), or the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (“RAA”) (collectively, the “Governing Documents”).

participate in stakeholder meetings where critical topics such as resource adequacy, transmission interconnection and clean resource procurement mechanisms are being discussed.

Similarly, PJM's relationship with its states is of the utmost importance. PJM has a business unit specifically devoted to assisting states in the advancement of its policy initiatives. It has an entire apparatus, the sole purpose of which is to liaise with all levels of state government in the PJM footprint. PJM meets regularly with staff and Commissioners of the Organization of PJM States, Inc. ("OPSI") on matters of substantive import and liaises almost daily with OPSI's staff. Further, the PJM Board of Managers ("PJM Board") meets with OPSI in closed-door meetings discussing many topics that are both important to states and relevant to the PJM footprint and end use consumers and market participants in PJM.

While PJM understands the overall concerns espoused by the WV PSC, in this particular circumstance and with this particular committee, the WV PSC has failed to carry its burden. PJM has a governance structure, and the Liaison Committee has been established by the PJM Members within that governance structure as a forum to provide feedback and views to the PJM Board that they elect. All five Sectors participate in the selection of topics and then have the ability to present their view and hear the views of the other sectors.

The WV PSC is correct in that it has obtained status that would allow for it "to serve as an ex officio non-voting member on each of the Standing Committees."⁴ However the Liaison Committee, as duly authorized by the PJM Members, is not a

⁴ Complaint at 3.

designated Standing Committee. Only a few PJM stakeholder committees are designated officially as Standing Committees, whether in PJM’s Governing Documents or in a committee charter.⁵ However, there is not a single reference in any PJM document anywhere indicating that the Liaison Committee is a Standing Committee. And unlike Standing Committees, no voting or rule development takes place at the Liaison Committee.⁶ No arguments supporting the theory that the Liaison Committee is a Standing Committee, no matter how well crafted, can account for the fact that the Liaison Committee was never actually designated by the Members in the Operating Agreement as a Standing Committee, while other PJM committees are expressly referenced as Standing Committees in PJM’s Governing Documents.

In short, the PJM Members created the Liaison Committee outside of the Standing Committees as a means to have direct communication with the PJM Board. It is similar to a long-standing Memorandum of Understanding with OPSI members that allows for direct communication from OPSI Board members to the PJM Board without the presence of other stakeholders through regularly scheduled OPSI/PJM Board to Board meetings.⁷ So long as there are direct and reasonable means of communication with the PJM Board (be it through the Liaison Committee for PJM members or the OPSI/PJM Board to Board

⁵ See Operating Agreement, section 8.1 (listing the Markets Implementation Committee, Planning Committee, and Operating Committee as Standing Committees).

⁶ Notably, at the direction of the Liaison Committee, PJM management and employees are also excluded from these meetings between the PJM Board and the PJM Members (with the limited exception of the CEO/President who is on the PJM Board, Secretary, and limited support staff for the meeting).

⁷ See *Memorandum of Understanding Between PJM Interconnection, L.L.C. and the Organization of PJM States, Inc.*, Organization of PJM States, Inc. (June 1, 2005), https://opsi.us/wp-content/uploads/2020/02/OPSI_PJM_MOU_executed_June_8_2005-1-1.pdf (“OPSI MOU”).

meetings for the PJM states), the Commission should be reluctant to step in and micro-manage how these committees operate.⁸

Regardless of PJM’s understanding of the WV PSC’s concerns, as shown herein, PJM has acted in accordance with the Federal Power Act (“FPA”), the Commission’s regulations and orders, the Operating Agreement, and all other PJM Governing Documents in implementing the rules adopted by the PJM Members for attendance at PJM’s Liaison Committee meetings. Therefore, the Complaint should be denied.

I. BACKGROUND

On March 8, 2023, WV PSC filed the Complaint under FPA section 206,⁹ asking the Commission to direct PJM to allow all PJM state commissions, including WV PSC as an *ex officio*, non-voting member of PJM,¹⁰ to observe and attend meetings between the PJM Liaison Committee and the PJM Board.¹¹ WV PSC further requests that the Commission find that excluding WV PSC from Liaison Committee meetings is inconsistent with the open access transparency requirements of Order Nos. 2000 and 719.¹²

⁸ This does not mean that PJM should ignore efforts to improve communications. In fact, PJM has a monthly Stakeholder Process Forum that meets nine to ten months of the year in which any stakeholder may raise any issue regarding the rules or practices of the stakeholder process.

⁹ 16 U.S.C. § 824e.

¹⁰ See Operating Agreement, section 8.2.2.

¹¹ Complaint at 2-3.

¹² *Id.* at 32; *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285, 1996–2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,089 (1999), *order on reh’g*, Order No. 2000-A, 90 FERC ¶ 61,201, 1996–2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,092 (2000), *petitions for review dismissed sub nom. Pub. Util. Dist. No. 1 v. FERC*, 272 F.3d 607 (D.C. Cir. 2001); *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071 (2008), *as amended*, 126 FERC ¶ 61,261, *order on reh’g*, Order No. 719-A, 128 FERC ¶ 61,059, *reh’g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009)..

The Liaison Committee was established by the Members Committee and agreed to by the PJM Board in 2007 to provide an avenue of communication between the Members and the PJM Board. With respect to Liaison Committee participation, Manual 34, section 15.2.1, provides that the Liaison Committee Charter includes the process for determining Liaison Committee membership.¹³

The Liaison Committee Charter defines the Liaison Committee members and responsibilities, and provides that Liaison Committee membership “will consist of up to 3 sector representatives from each sector, plus the current Members Committee Chair and Vice-Chair.”¹⁴ Therefore, it is the PJM Members, not PJM, who determine who may attend Liaison Committee meetings.¹⁵

Importantly, the Liaison Committee is not the only committee that meets with the PJM Board. As members of OPSI, state electric regulatory commissions within the PJM footprint (including WV PSC) meet with the PJM Board on at least an annual basis. Pursuant to the OPSI MOU, the purpose of these meetings is to “facilitate communication and, when appropriate, cooperative action among [PJM and OPSI] on matters as to which each has substantial responsibilities so as to promote and protect the public interest in the provision of reliable and reasonably priced electric service within the PJM Control

¹³ See *PJM Manual 34: PJM Stakeholder Process (Rev. 17)*, PJM Interconnection, L.L.C., section 15.2.1 (July 27, 2022), <https://www.pjm.com/-/media/documents/manuals/m34.ashx> (“Manual 34”).

¹⁴ See *Liaison Committee Charter*, PJM Interconnection, L.L.C., 2 (Feb. 21, 2019), <https://www.pjm.com/-/media/committees-groups/committees/lc/postings/charter.ashx> (“Liaison Committee Charter”).

¹⁵ As further discussed below, the Complaint mischaracterizes PJM’s role and function when stating that PJM refuses to allow or has denied the WV PSC the right to observe and attend the PJM Liaison Committee meeting, or in the past allowed such attendance. See Complaint at 2-5.

Area.”¹⁶ The goals of such meetings are to increase communications on relevant topics of interest and to facilitate a working relationship between PJM and OPSI.¹⁷

II. ANSWER TO COMPLAINT

A. The Liaison Committee Is Not a Standing Committee Under the Operating Agreement.

WV PSC insists that because it is an *ex officio* non-voting member of PJM, it is entitled to observe Liaison Committee meetings because the Liaison Committee is a Standing Committee under the Operating Agreement.¹⁸ This assertion is incorrect. The Liaison Committee has never been a Standing Committee under the Operating Agreement and the Complaint fails to provide any evidence to demonstrate otherwise.

Standing Committees under the Operating Agreement are limited to “the Members Committee, the committees established and maintained under Operating Agreement, section 8.6, and such other committees as the Members Committee may establish from time to time.”¹⁹ The Standing Committees listed in Operating Agreement, section 8.6, are the Market Implementation Committee, the Planning Committee, and the Operating Committee.²⁰ While the Members Committee has established other Standing Committees not listed in Operating Agreement, section 8.6, the charters for such

¹⁶ OPSI MOU at 1.

¹⁷ *Id.* at 3.

¹⁸ Complaint at 13.

¹⁹ Operating Agreement, Definitions S – T.

²⁰ *Id.*, section 8.6. These Standing Committees are established under the umbrella of the Markets and Reliability Committee, the sole Senior Standing Committee established by the Operating Agreement. *See id.* Not only is the Liaison Committee not listed in section 8.6., it is not referenced anywhere in the Operating Agreement.

committees have expressly stated that they are Standing Committees.²¹

The Liaison Committee Charter does not state that it is a Standing Committee or make any reference to a Standing Committee. To the contrary, the Liaison Committee Charter provides that its mission is “[t]o foster better communications **between the PJM Board of Managers (‘Board Members’) and the PJM Members.**”²² The stated goals of the Liaison Committee are to:

(i) **ensure open exchanges and information sharing on topics of relevance to the Members and the Board of Managers** to promote timely and adequate communications and informed decisions by the Board of Managers, and (ii) allow **Members to understand:** (a) how the PJM Board of Managers generally considers matters that come before it as a matter of process and (b) the factors that produce its decisions, without requiring disclosure of actual discussions at PJM Board meetings, and in no way attempting to compromise the Board’s independence or its exercise of its business judgment.²³

Accordingly, the Liaison Committee is a joint effort *outside of the Standing Committees* whose purpose is to facilitate information sharing between *Members* and the Board of Managers. The Liaison Committee is not the Members Committee. It is neither a Standing Committee authorized under Operating Agreement, section 8.6, nor is it designated as a Standing Committee in the Liaison Committee Charter. Because the Liaison Committee is not a Standing Committee, as an *ex officio* non-voting member, WV PSC has no status in or access to that committee.

²¹ Most recently the Risk Management Committee was established as a Standing Committee by vote of the Members Committee on December 17, 2020. The Charter for the Risk Management Charter explicitly states it is a Standing Committee. Risk Management Committee, *Charter*, PJM Interconnection, L.L.C. (Dec. 17, 2020), <https://www.pjm.com/-/media/committees-groups/committees/rmc/postings/rmc-charter.ashx>.

²² See Liaison Committee Charter at 1 (emphasis added).

²³ *Id.* at 1.

WV PSC argues that PJM has treated the Liaison Committee as a Standing Committee because it has never been reauthorized by a Standing Committee.²⁴ But this argument ignores that the Liaison Committee is not governed solely by the Members—it is a committee jointly subject to oversight by the Members Committee and the PJM Board. As such, the fact that the Liaison Committee has never been “reauthorized” under the Operating Agreement is a red herring. The Liaison Committee Charter provides that after one year following its implementation, the Members Committee and PJM Board “shall assess the efficacy of the Liaison Committee process in meeting its mission and shall take appropriate action.”²⁵ That action has been to continue the Liaison Committee in accordance with its mission. WV PSC’s argument that the Liaison Committee is a *de facto* Standing Committee in which it has participation rights is unsupported by the PJM governance structure and offers no basis for a finding that PJM violated its Operating Agreement. The Operating Agreement is clear that there are only three ways that a committee can be a Standing Committee²⁶ and the Liaison Committee does not fall under any of those avenues.

B. The Commission Has Upheld PJM’s Rules Regarding State Commission Participation in Liaison Committee Meetings.

Relying on dicta in a prior Commission order and certain statements of PJM personnel in that proceeding, WV PSC argues that the Commission has recognized the

²⁴ See Complaint at 15.

²⁵ See Liaison Committee Charter at 3.

²⁶ Operating Agreement, section 8.6.

Liaison Committee as a Standing Committee.²⁷ However, these statements have been taken out of context and need to be considered in light of the Commission's recognition of PJM's rules regarding stakeholder participation in Liaison Committee meetings.

As an initial matter, the Commission's characterization of the Liaison Committee as a "standing stakeholder advisory committee" in the context of the 2010 Order provides no support for WV PSC's arguments.²⁸ The 2010 Order accepted PJM's compliance filing to address the market reform requirement of Order No. 719 that regional transmission organizations ("RTOs") ensure that their boards of directors are responsive to the needs of customers and stakeholders.²⁹ PJM did not characterize the Liaison Committee as a Standing Committee under the Operating Agreement in its compliance filing, nor did the Commission make any findings as to the Liaison Committee's status as a Standing Committee under the Operating Agreement. Instead, the Commission referenced the Liaison Committee as one of several "existing governance procedures and stakeholder processes" sufficient to ensure that the needs of customers and stakeholders are communicated to the PJM Board.³⁰ In this context, the word "standing" refers to the evergreen nature of the Liaison Committee rather than to the specific requirements for Standing Committee participation articulated in Operating Agreement, section 8.2.

²⁷ See Complaint at 14 (citing *PJM Interconnection, L.L.C.*, 133 FERC ¶ 61,071, at P 57 (2010) ("2010 Order")); *PJM Interconnection, L.L.C.*, Comments of PJM Interconnection, L.L.C. to Support the Participation of Andrew L. Ott and Vincent P. Duane in the Panel Discussion at the February 4, 2010 Technical Conference on RTO/ISO Responsiveness, Docket Nos. ER09-1048-000; ER09-1049-000; ER09-1050-000; ER09-1192-000; ER09-1051-000; ER09-1063-000; ER09-1142-000, at 12, (Feb. 12, 2010)).

²⁸ Complaint at 14.

²⁹ 2010 Order at P 1 (citing Order No. 719).

³⁰ *Id.* at P 41. In fact, the 2010 Order concluded that representation on the Liaison Committee includes all five voting sectors of the Members Committee, which "ensures that both majority and minority viewpoints will be taken into account by the Board." *Id.* at P 50.

The 2010 Order serves as precedent upholding PJM's Operating Agreement and Manual rules that limit state commissions' participation in the PJM stakeholder process to attendance at Standing Committee meetings and Board access at the general sessions. In response to a recommendation from the Illinois Commerce Commission to place a state commission representative on the Liaison Committee,³¹ the Commission found that:

PJM's procedures allow stakeholders access to Board members at the general session meetings. PJM holds such meeting semi-annually. The general sessions are a forum in which the stakeholders and the Board participate in panel discussions on topics jointly developed by the Board and the Liaison Committee. Both the Liaison Committee and the general session meetings ensure that the minority views of customers and stakeholders are forwarded, at the same time as the majority views, to the Board during the deliberation process.³²

The Commission also responded to the argument that PJM's business practices and procedures fail to provide entities that are not PJM Members (namely, state commissions) with meaningful participation and representation.³³ The Commission held that it is sufficient that the state commissions are permitted to nominate one representative to serve as *ex officio* non-voting members on each of the Standing Committees.³⁴ The Commission also noted that OPSI, whose members include state regulatory commissions, has representatives attending PJM stakeholder meetings, including the Members Committee, Planning Committee, and Transmission Expansion Advisory Committee.³⁵

Taken as a whole, the 2010 Order bolsters PJM's position that state regulatory

³¹ *See id.* at 21.

³² *Id.* at P 51.

³³ *Id.* at PP 52-53.

³⁴ *Id.* at P 55.

³⁵ *Id.* The Liaison Committee was notably absent from this list.

commissions are not required to be included as participants in the Liaison Committee. The Commission therefore should disregard WV PSC's assertions to the contrary.

C. The Distinction Between State Commission and State Consumer Advocate *Ex Officio* Participation Is Proper.

The Complaint argues that PJM has violated sections 205³⁶ and 206 of the FPA by denying WV PSC permission to attend Liaison Committee Meetings while allowing State Consumer Advocate³⁷ *ex officio* members to participate.³⁸ This argument ignores the distinct rights and obligations of State Consumer Advocates under the Operating Agreement and PJM Members' exclusive rights with respect to Liaison Committee participation.

The State Consumer Advocates' *ex officio* status is governed by Operating Agreement, section 8.2.3, which gives to the State Consumer Advocates unique voting rights in the End-Use Sector not granted to the regulatory authorities (including the WV PSC) under Operating Agreement, section 8.2.2.³⁹ When PJM proposed to add section 8.2.3(a) and (b) to the Operating Agreement, it provided, among other things, that each State Consumer Advocate that chooses to participate as a voting member of the PJM Members Committee may cast one vote in the End-Use Sector but does not have the right

³⁶ 16 U.S.C. § 824d.

³⁷ The Operating Agreement defines "State Consumer Advocate" as "a legislatively created office from any State, all or any part of the territory of which is within the PJM Region, and the District of Columbia established, inter alia, for the purpose of representing the interests of energy consumers before the utility regulatory commissions of such states and the District of Columbia and the FERC." Operating Agreement, Definitions S – T.

³⁸ See Complaint at 29.

³⁹ Compare Operating Agreement, section 8.2.2 (state electric regulatory authorities), with Operating Agreement, section 8.2.3 (State Consumer Advocates).

to participate in the PJM markets.⁴⁰ That proposal also removed references to the State Consumer Advocates in Operating Agreement, section 8.2.2, leaving that section to apply to regulators, including the Commission and state electric utility regulatory commissions. In response to concerns expressed by State Consumer Advocates that various state laws and regulations prevented them from formally joining PJM and becoming PJM Members, PJM subsequently amended Operating Agreement, section 8.2.3(a) to permit the State Consumer Advocates to vote in the Members Committee without becoming full PJM Members, giving them special status.⁴¹ The state regulatory commissions did not seek special *ex officio* status with voting rights at that time, presumably because the legal limitation on becoming full PJM Members applicable to the State Consumer Advocates does not apply to the state regulatory commissions.

These amendments to the Operating Agreement make clear that while both State Consumer Advocates and state commissions are *ex officio* members of the Standing Committees, PJM's Members created specific voting rights in the End-User Customer Sector that only apply to the State Consumer Advocates. As *ex officio* members of the Standing Committees, neither the state commissions nor the State Consumer Advocates are PJM Members under the Operating Agreement.⁴² While Manual 34, section 4.4 provides that state commissions may elect to become Members as provided for under the Operating Agreement,⁴³ Manual 34 makes clear that “commissioners and staff of [state

⁴⁰ See *PJM Interconnection, L.L.C.*, Submission of PJM Interconnection, Inc., Docket No. ER01-1372 (Mar. 2, 2002).

⁴¹ See *PJM Interconnection, L.L.C.*, Submission of PJM Interconnection, Inc., Docket No. ER02-101 (Oct. 15, 2001).

⁴² See Manual 34, section 4.4 (explicitly providing that state commissions “are not Members of PJM”).

⁴³ *Id.*

regulatory commissions] participate, deliberate, give input, and engage at all levels of PJM Stakeholder Groups but do not vote on any issue.”⁴⁴ This participation is distinct from the *ex officio* voting rights afforded to State Consumer Advocates, discussed above.

With respect to Liaison Committee participation specifically, Manual 34, section 15.2.1, provides that the Liaison Committee Charter includes the process for determining Liaison Committee membership.⁴⁵ The Liaison Committee Charter defines the Liaison Committee members and responsibilities, and provides that Liaison Committee membership “will consist of up to 3 sector representatives from each sector, plus the current Members Committee Chair and Vice-Chair.”⁴⁶ As such, State Consumer Advocates are permitted to attend Liaison Committee meetings because they have voting rights in the End-User Customer Sector. Regulatory authorities have no such sector voting rights or status. Absent amendment of the Liaison Committee Charter by the PJM Members (and corresponding revisions to PJM Manual 34), there is no reasonable basis to allow *ex officio* non-voting Standing Committee members to attend the Liaison Committee meetings. The discretion to make the required modifications to the Liaison Committee Charter rests with the PJM Members Committee and the PJM Board of Managers.⁴⁷ Most recently, when presented with the question of whether to grant a limited exception to permit the state commissions, PJM management and staff, and the

⁴⁴ *Id.* (explicitly providing that state commissions “are not Members of PJM”).

⁴⁵ *Id.* at section 15.2.1.

⁴⁶ Liaison Committee Charter at 2.

⁴⁷ *Id.*

Independent Market Monitor (“IMM”) to attend Liaison Committee meetings, PJM Members voted against such an exception.⁴⁸

Ex officio status in PJM is not one-size-fits-all. Because the rights of state regulatory commissions are distinct from those of State Consumer Advocates as detailed in Operating Agreement sections 8.2.2 and 8.2.3 respectively, and that distinction is relevant to participation in the Liaison Committee, the Complaint fails to demonstrate any violation of FPA sections 205 or 206 and should be dismissed.

D. Participation in the Liaison Committee Is Consistent with Open Access and Transparency

WV PSC’s final claim is that its exclusion from Liaison Committee meetings violates the open access and transparency requirements of Order Nos. 2000 and 719.⁴⁹ PJM does not agree. First, as discussed above, the Commission specifically found no need to compel state regulatory commission participation in the Liaison Committee when it accepted PJM’s Order No. 719 compliance filing.⁵⁰ Second, neither Order No. 2000 nor Order No. 719 stand for the proposition offered in the Complaint—namely, that observing Liaison Committee meetings is the only manner in which WV PSC can “understand[] ‘the considerations and constraints that were weighed by [PJM] in making its decisions.’”⁵¹

⁴⁸ Members Committee, *Minutes*, PJM Interconnection, L.L.C., 2 (Sept. 27, 2018), <https://www.pjm.com/-/media/committees-groups/committees/mc/20181025/20181025-consent-agenda-item-a-draft-20180927-mc-meeting-minutes.ashx>.

⁴⁹ Complaint at 32.

⁵⁰ See 2010 Order at P 51.

⁵¹ Complaint at 35 (quoting Order No. 2000 at 31,074-75).

Order No. 2000 established an ongoing obligation for RTOs to operate independent of any market participant or class of market participants.⁵² Order No. 719 built on this obligation by requiring RTOs to ensure their boards of directors are responsive to the needs of customers and stakeholders.⁵³ Taken together, these orders require RTOs to ensure that stakeholders have the tools to convey and receive information relevant to their concerns. Moreover, as discussed below, the PJM Board has private meetings with the state commissions that are not open to the Members.

In PJM, the vehicle for *ex officio*, non-voting state regulatory commissions to convey and receive information is participation in OPSI. As discussed above, OPSI meets with the PJM Board on a minimum annual basis to “promote and protect the public interest in the provision of reliable and reasonably priced electric service within the PJM Control Area.”⁵⁴ These Board to Board meetings are intentionally not open to all PJM stakeholders or the IMM; rather, they provide a means for direct communication between the PJM Board and state commissions in the PJM footprint. As the Commission found in the 2010 Order, OPSI participation “allows PJM to more effectively and efficiently coordinate with the regulatory commissions within the PJM footprint by providing a conduit for information between the states and the RTO.”⁵⁵

Taken to its logical extreme, WV PSC would require that all avenues of communication with the PJM Board be identical. But this is not consistent with how the states themselves (including West Virginia) have chosen to communicate to the PJM

⁵² Order No. 2000 at 31,063.

⁵³ Order No. 719 at P 506.

⁵⁴ OPSI MOU at 1.

⁵⁵ 2010 Order at P 55.

Board, i.e., through direct OPSI to PJM “Board to Board” meetings that are not open to the general body of stakeholders. A holding by the Commission that meetings of the Liaison Committee must, as a matter of law, be open to the states would then lead stakeholders to similarly demand that meetings between the PJM Board and state commissions must equally be open to stakeholders.

RTO Boards across the country have meetings with state commissions within their footprint that are not necessarily open to everyone, whether due to the sensitive nature of the topics being discussed or to allow for direct communication between the parties. The Commission should be reluctant to put itself in the middle of managing each of these various communication vehicles. Rather, the Commission should limit its initial review of such proposals to determining whether the tariff provisions and operating practices of the RTO that govern such communications are reasonable, as it did when the Liaison Committee amendments were presented to the Commission. Thereafter, the Commission’s inquiry when their implementation is challenged (as in this case) should be limited to whether the RTO has followed its tariff.

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

Pursuant to Rule 213(c)(2)(i) of the Commission’s rules of Practice and Procedure,⁵⁶ PJM affirms that any allegation in the Complaint that is not specifically and expressly admitted above is denied.

⁵⁶ 18 C.F.R. § 385.213(c)(2)(i).

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

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

1. WV PSC, as the Complainant, has failed to satisfy its burden of proof under FPA section 206 (16 U.S.C. § 824e), and has not demonstrated that PJM violated any Commission order, the Tariff, the Operating Agreement, RAA, or any other Commission-jurisdictional governing document.

V. COMMUNICATIONS AND SERVICE

PJM requests that the Commission place the following individuals on the official service list for this proceeding:⁵⁷

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⁵⁷ To the extent necessary, PJM requests a waiver of Commission Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3), to permit more than two persons to be listed on the official service list for this proceeding.

VI. CONCLUSION

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

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March 28, 2023

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 28th day of March 2023.

/s/ Elizabeth P. Trinkle _____

***Attorney for PJM Interconnection,
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