



MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (Commission) and Court Orders
(June 1, 2020 – July 9, 2020)

ORDERS

On July 1, 2020, in Docket Nos. EL19-58 and ER19-1486, the Commission granted PJM's motion for an extension of time to file the Energy and Ancillary Services Revenue (E&AS) Offset component of its compliance filing in the reserve price formation proceeding to **August 5, 2020**. PJM filed all other aspects of the Reserve Market Order compliance directive unrelated to the E&AS Offset by the original on July 6, 2020.

On June 30, 2020, in Docket No. ER20-939, the Commission accepted, effective April 6, 2020, revisions to PJM Tariff, Part VI, section 202 detailing the amount of time an interconnection customer has to review affected system results included in the interconnection customer's study reports, subject to PJM submitting a compliance filing by August 28, 2020 revising the PJM Tariff to specify the PJM Manual sections in which the modeling details PJM uses when studying a project as Energy Resource Interconnection Service (ERIS) or Network Resource Interconnection Service (NRIS) for interconnection requests on its system.

On June 30, 2020, in Docket Nos. ER20-942 and ER20-944, the Commission issued an order regarding PJM and MISO's joint compliance filing proposing revisions to the PJM-MISO JOA submitted in compliance with the Commission's September 19, 2019 Order (i) detailing how MISO and PJM monitor each other's systems during the course of each of their interconnection studies; (ii) increasing transparency as to how the host Regional Transmission Organization (RTO) will provide results, including system reinforcements, received from the affected system RTO in the host RTO's study report to its interconnection customer; and (iii) describing the modeling standard (i.e., ERIS or NRIS) that Affected System RTO uses to study interconnection customers that request NRIS and/or ERIS in the host RTO. The RTOs were directed to submit further compliance revisions to the PJM-MISO JOA to specify the section(s) in their respective business manuals where interconnection customers can find the modeling details that MISO and PJM use when studying a project as ERIS or NRIS for Affected System studies; and to specify that MISO's and PJM's Affected System studies will: (i) sink the output of interconnection requests in the same area or subregion, if applicable, as the host RTO; and (ii) model interconnection requests using the fuel-based dispatch assumptions of the host RTO. Compliance filings are due 60 days after issuance of the June 30, 2020 order. The Commission also directed MISO and PJM to submit further compliance filings by August 11, 2020 to comply with the Commission's September 19, 2019 order regarding Affected System generator interconnection coordination procedures.

On June 25, 2020, in Docket Nos. ER20-1783 and ER20-1784, the Commission issued a deficiency letter in response to NextEra Energy Transmission MidAtlantic Indiana, Inc.'s (NEET) filing submitted on May 7, 2020 seeking revisions to the PJM Tariff to accommodate NEET's acquisition of transmission facilities from Commonwealth Edison Company of Indiana, Inc. in the PJM Region. The deficiency letter seeks information regarding NEET's facility cost recovery issues, the responses to which are due by July 27, 2020.

On June 19, 2020, in Case No. 20-1483, the U.S. Court of Appeals for the Fourth Circuit granted PJM's motion for an extension of time, **until July 20, 2020**, to file a response brief regarding regarding the Old Dominion Electric Cooperative (ODEC) appeal of a judgment of the U.S. District Court for the Eastern District of Virginia denying ODEC's motion to remand its polar vortex litigation to state court and dismissing ODEC's claims on the merits.

On June 18, 2020, in Docket No. EL19-78, the Commission denied National Railroad Passenger Corporation's ("Amtrak") complaint against PPL Electric Utilities Corporation ("PPL") and PJM in which Amtrak alleged PJM failed to enforce the terms of the PJM Tariff, and claimed PPL, the Transmission Owner for the Zone in which Amtrak's load is located, billed Amtrak for Network Integration Transmission Service (NITS) based on billing determinants that are not in the PJM Tariff. Amtrak had sought refunds in the amount of \$12.5 million plus interest.

On June 18, 2020, in Docket No. EL19-91, the Commission found that the five criteria for the immediate-need reliability exemptions appropriately maintains the balance between reliability and competition and ensures that the exemption is used in limited circumstances, and that PJM has not implemented its exemption consistent with three of the five criteria. The Commission directed PJM to submit a compliance filing no later than August 27, 2020 to fully and more transparently implement all of its criteria, and rejected all other conditions and restrictions regarding the use of the exemption raised in comments and protests or found they were beyond the scope of the proceeding.

On June 18, 2020, in Docket No. EL20-10, the Commission denied Anbaric Development Partners, L.L.C.'s complaint which asserted the PJM Tariff is unjust and unreasonable and unduly discriminatory and preferential for its failure to allow three proposed offshore transmission projects to receive transmission injection rights.

On June 16, 2020, in Docket No. ER20-1590, the Commission accepted, effective June 17, 2020, PJM's revisions to the PJM Tariff, PJM Operating Agreement, and the RAA to enhance the testing requirements for Demand Resources and Price Responsive Demand to better reflect true load reduction capabilities during actual load management events. The Commission directed PJM to submit a compliance filing by July 31, 2020 to make explicit in the PJM Tariff that load management testing will alternate between a summer test for one Delivery Year and a winter test the next.

On June 15, 2020, in Docket No. ER20-1870, the Commission granted PJM's request for a one-time, prospective waiver of the requirements of PJM Tariff, Attachment DD, section 5.10(e) to allow PJM to post an updated PJM load forecast for the Second Incremental Auction for the 2021/2022 Delivery Year, which reflects a substantial change (as a result of the current pandemic) in the economic forecast used in the load forecast.

On June 12, 2020, in Docket No. ER19-1651-001, the Commission accepted PJM's April 7, 2020 compliance filing appending the April 23, 2019 regulation settlement to the PJM Tariff as Attachment SS, resolving two complaints challenging as unreasonable the changes PJM made effective January 9, 2017 to the methodology for determining the automated frequency regulation signal PJM's regulation market sends to providers of "Regulation D" regulation service and asked that PJM be required to revert to the Regulation D Signal methodology in effect prior to January 9, 2017. The revisions are effective July 1, 2020.

On June 11, 2020, in Docket No. EL20-29, the Commission granted GreenHat Energy, LLC's request to extend the deadline, **to July 14, 2020**, to file comments to the Shell Energy Petition for Declaratory Order regarding the PJM Tariff provisions concerning bilateral transfers of Financial Transmission Rights (FTR), and the ongoing dispute currently pending in Texas state court involving a breach-of-contract claim by GreenHat Energy regarding bilateral contracts to transfer FTRs between GreenHat and Shell Energy.

FILINGS

On July 7, 2020, in consolidated Docket Nos. EL16-49, ER18-1314 and EL18-178, PJM submitted an answer to respond to certain issues raised in comments on PJM's June 1, 2020 compliance filing affirming that its proposed revisions to the Minimum Offer Price Rule (MOPR) in its March 18, 2020 and June 1, 2020 compliance filings are just and reasonable and compliant with the Commission's directives.

On July 6, 2020, in Docket No. EL18-170-000, PJM submitted a fourth reply brief in the DC Energy complaint docket regarding credit reforms for FTR market participation to update the record regarding PJM's recent Commission-accepted credit risk mitigation filing, and plans to address the two remaining issues raised in the complaint that are currently in discussion or soon to be discussed in upcoming stakeholder meetings.

On July 6, 2020, in Docket No. EL19-58-002, pursuant to the Commission's May 21, 2020 order, PJM submitted a compliance filing regarding enhanced price formation in PJM's Reserve Markets, requesting a May 1, 2022 effective date.

On July 6, 2020, in ER20-2326-000, PJM submitted revisions to PJM Tariff, Attachment DD, section 5.5A to modify the Pseudo-Tie provisions in compliance with the Commission's order in EL19-34-000, requesting an effective date of September 8, 2020.

On July 6, 2020, in ER20-2325-000, PJM submitted revisions to PJM Tariff, Attachment DD, section 5.5A to modify the Pseudo-Tie provisions in compliance with the Commission's order in EL19-51-000, requesting an effective date of September 8, 2020.

On July 2, 2020, in Docket No. ER20-2320, PJM submitted revisions to the PJM Tariff to incorporate provisions to allow the use of surety bonds as a form of Collateral for participation in its markets other than the FTR market. PJM requested an effective date of September 1, 2020.

On July 2, 2020, in Docket No. ER20-2308, PJM submitted comments to the Federal Power Act, section 205 filing developed by the Joint Stakeholders in the context of the Markets & Reliability Committee Special Session, and approved by the Members Committee, related to transparency and end of life planning.

On July 2, 2020, in Docket No. ER20-2308, PJM filed, on behalf of the Members Committee, the Joint Stakeholder revisions to the PJM Operating Agreement to move the planning of Transmission Facilities determined as at the end of their life, currently planned as either Supplemental Projects or FERC Form No. 715 projects, to a new category of "EOL Projects" under PJM's regional transmission planning process. PJM proposed an effective date of January 1, 2021, and requested that the Commission act on the filing by September 1, 2020.

On July 1, 2020, in Docket No. RM20-10, PJM filed comments in response to the Commission's Notice of Proposed Rulemaking (NOPR) regarding electric transmission incentives policy under Federal Power Act, section 219. PJM's comments affirm the NOPR's findings related to the Commission's proposal to continue to grant the Congressionally-mandated incentive for joining anRTO, identify potential implementation challenges with certain aspects of the NOPR's Return on Equity (ROE) incentives, including potential consequences of importing aspects of the RTO planning process into the Commission's ratemaking process, and describe information it can provide to the Commission to assist the Commission in implementing the NOPR's ROE incentives.

On June 29, 2020, in Case Nos. 20-1645, et al., PJM filed a notice with the United States Court of Appeals for the Seventh Circuit advising that PJM may participate in support of petitioners and respondent in court proceedings concerning the Illinois Commerce Commission, et al.'s petition for review of the Commission's

orders issued in FERC Docket Nos. EL16-49, ER18-1314, and EL18-178 regarding the rules for clearing PJM's Reliability Pricing Model (RPM) capacity market auctions, particularly the MOPR.

On June 26, 2020, in Case No. 20-1212, PJM submitted a motion for leave to intervene in the United States Court of Appeals for the District of Columbia Circuit proceedings concerning the petition for review filed by the Delaware Division of the Public Advocate, Maryland Office of People's Counsel, Office of the People's Counsel for the District of Columbia, and Sierra Club against the Commission regarding its order issued in FERC Docket No. ER19-105 addressing PJM's quadrennial revision of its Variable Resource Requirement Curve used in RPM.

On June 25, 2020, in Case No. 20-2016, PJM submitted a motion for leave to intervene in the United States Court of Appeals for the Seventh Circuit proceedings concerning the petition for review filed by PSEG Power LLC, PSEG Energy Resources & Trade LLC and Public Service Electric and Gas Company against the Commission regarding its order issued in FERC Docket Nos. EL16-49, ER18-1314, and EL18-178 addressing the rules for clearing PJM's RPM auctions, particularly the MOPR.

On June 25, 2020, in Case No. 20-2010, PJM submitted a motion for leave to intervene in the United States Court of Appeals for the Seventh Circuit proceedings concerning the petition for review filed by People of the State of Illinois against the Commission regarding its order issued in FERC Docket Nos. EL16-49, ER18-1314, and EL18-178 addressing the rules for clearing PJM's RPM auctions, particularly the MOPR.

On June 25, 2020, in Docket Nos. ER19-1486 and EL19-58, PJM filed a motion for a 30-day extension of time and request for shortened answer period to submit the forward-looking E&AS Offset component of the compliance filing directed by the Commission's May 21, 2020 order on PJM's Reserve Market Proposal.

On June 22, 2020, in Case No. 20-1162, PJM submitted a motion for leave to intervene in the United States Court of Appeals for the District of Columbia Circuit petition for review proceedings filed by Consolidated Edison Company of New York, Inc. and Linden VFT, LLC against the Commission concerning its order issued in FERC Docket Nos. ER15-1387 and ER15-1344 stemming from an August 30, 2019 Order on Remand directing PJM to remove the Transmission Owners' Form No. 715 cost allocation methodology from Tariff, Schedule 12, revise Tariff, Schedule 12-Appendix A to reallocate cost responsibility for RTEP projects allocated using the Form No. 715 cost allocation methodology between May 25, 2015 to August 30, 2019 and remove the Form No. 715 window exemption from Operating Agreement, Schedule 6; and August 30, 2019 order denying rehearing and granting clarification directing PJM to rebill parties dating back to May 25, 2015 with interest.

On June 19, 2020, in Case No. 20-1849, PJM filed a Motion to Intervene in the United States Court of Appeals for the Seventh Circuit proceeding concerning the petition for review filed by the Public Utility Commission of Ohio pertaining to the Commission's April 16, 2020 MOPR order in Docket Nos. EL16-49, ER18-1314, and EL18-178. .

On June 18, 2020, in Docket No. PL20-7, the ISO-RTO Council (IRC) filed comments in response to the Commission's Proposed Policy Statement on Waiver of Tariff Requirements issued on May 21, 2020. The IRC comments sought clarification regarding the applicability of certain aspects of the proposed waiver policy to ISOs and RTOs.

On June 15, 2020, in Docket No. EL18-183-001, PJM submitted a compliance filing, consistent with the Commission's April 16, 2020 order, to (1) specify the determination and recalculation of Incremental Capacity Transfer Rights (ICTRs) awarded to Radford's Run (Radford); (2) confirm that PJM has recalculated and reposted the ICTRs and affected Capacity Transfer Rights for the 2020/2021 and 2021/2022 Delivery Years to reflect the ICTRs awarded to Radford; and (3) report on the payment issued to Radford for the awarded ICTRs for the 2019/2020 Delivery Year and the offsetting charges assessed to Load Serving Entities in the Commonwealth Edison Company Locational Deliverability Area.

On June 15, 2020, in Case No. 20-1819, PJM filed a Motion to Intervene in the United States Court of Appeals for the Seventh Circuit proceeding concerning the petition for review filed by Exelon Corporation of the Commission's December 19, 2019 and April 16, 2020 MOPR orders.

On July 13, 2020, in Docket No. ER20-1590-001, PJM submitted a compliance filing to make explicit in the PJM Tariff and RAA that load management testing will alternate between a summer test for one Delivery Year and a winter test the next. PJM requested an effective date of June 17, 2020.

On June 12, 2020, in Docket No. ER20-2046, PJM submitted on behalf of the PJM Transmission Owners, proposed revisions to PJM Tariff, Attachment M-3 to expand the scope of the Attachment M-3 process to (i) encompass certain transmission owner asset management activities and projects and (ii) improve coordination between transmission owners' planning of certain asset management projects to replace transmission facilities nearing their end of useful lives with PJM's development of the regional transmission expansion plan. The requested effective date is sixty days from the date of the filing.

On June 3, 2020, in consolidated Docket Nos. EL16-49, EL18-1314, 001 and EL18-178, PJM submitted a Motion for Leave to Answer and Answer in response to issues raised in comments and protests submitted in response to PJM's March 18, 2020 compliance filing related to the MOPR.

On June 2, 2020, in Docket No. ER15-1387-008, PJM submitted, on behalf of the PJM Transmission Owners, a filing in compliance with the Commission's April 3, 2020 order to revise the PJM Tariff, Schedule 12, section (b)(x)(v) as of May 25, 2015 to remove the cost allocation methodology for projects included in the PJM Regional Transmission Expansion Plan solely to address individual transmission owner Form No. 715 local planning criteria.

On June 1, 2020, in Docket No. EL20-41, PJM submitted an answer to a complaint filed by XO Energy, LLC, XO Energy MA, LP, and XO Energy MA2, LP addressing complainants allegations that PJM's FTR forfeiture rule is not just and reasonable and should be revised, indicating the FTR forfeiture rule reflects and fully implements compliance directives previously issued by the Commission in Docket No. EL14-37-000.

On June 1, 2020, in Docket Nos. ER18-1314-003, EL16-49, and EL18-178, PJM submitted, in accordance with the Commission's April 16, 2020 Order on Rehearing and Clarification, a second compliance filing concerning the MOPR as it will be applied to Capacity Resources with State Subsidies.

On June 1, 2020, in Docket No. ER18-680-003, PJM submitted a compliance filing consistent with the Commission's March 31, 2020 order to reflect the rejection of proposed revisions to the PJM Tariff, Schedule 12-Appendix and Schedule 12-Appendix A (Schedule 12-Appendices) concerning the removal of cost responsibility allocations from Linden / HTP included in PJM's January 19, 2018 filing. PJM requested the revisions to the Schedule 12-Appendices be made effective January 1, 2018.