



**MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (Commission) and Court Orders
(December 4, 2020 – January 15, 2020)**

ORDERS

On January 6, 2021, the Commission accepted revisions to the PJM Operating Agreement, section 18.17.6 to allow Transmission Owners to have access to real-time operational data, in graphical format through reliability or situational awareness software tools. This additional access will provide the Transmission Owners with geospatial situational awareness to better understand real-time issues, in support of reliability operations. PJM also filed revisions to the PJM Operating Agreement, section 18.17.7 to address three typographical errors to avoid confusion and ambiguity. The revisions are effective as of February 1, 2021. (ER21-428)

On January 4, 2021, the Commission issued a letter order accepting revisions to PJM Tariff, Attachment DD, section 5.14 to update the methodology for modeling energy revenues of nuclear resources. These revisions are effective November 12, 2020. (EL19-58-004)

On December 30, 2020, the Commission issued an order accepting the October 1, 2020 compliance filing pursuant to the Commission's January 16, 2020 order (i) accepting the revisions to the PJM Tariff to reflect Wabash Valley's new status as a PJM transmission owner; and (ii) directing PJM and Wabash Valley to submit a compliance filing to establish an actual effective date within 30 days of the date on which such effective date becomes known. The revisions to reflect Wabash Valley's new status as a PJM transmission owner are effective January 1, 2021. (ER20-254-002)

On December 30, 2020, the Commission issued an order accepting the October 1, 2020 compliance filing pursuant to the Commission's January 16, 2020 order (i) accepting the revisions to the CTOA to reflect Wabash Valley's new status as a PJM transmission owner; and (ii) directing PJM and Wabash Valley to submit a compliance filing to establish an actual effective date within 30 days of the date on which such effective date becomes known. The revisions to reflect Wabash Valley's new status as a PJM transmission owner are effective January 1, 2021. (ER20-256-002)

On December 28, 2020, the Commission issued an order granting Old Dominion Electric Cooperative's (ODEC) limited waiver to allow PJM to omit certain pandemic-related outage data for the period March 22, 2020 through September 30, 2020 when calculating the final EFORd values for the resources identified by ODEC in its waiver filing, in anticipation of the Third Incremental Auction for the 2021/2022 delivery year. (ER21-463)

On December 22, 2020, the Commission issued a deficiency letter regarding PJM's October 30, 2020 filing proposing revisions to its Open Access Transmission Tariff (OATT) and Reliability Assurance Agreement (RAA) to implement an Effective Load Carrying Capability (ELCC) construct for determining the relative amount of capacity that variable, limited duration, and combination resources may offer in PJM's capacity market or provide in a Fixed Resource Requirement (FRR) capacity plan. PJM's response is due on or before **January 21, 2021**. (ER21-278)

On December 18, 2020, the Commission issued an order granting LS Power Development, LLC's (LS Power) limited waiver to allow PJM to omit certain pandemic-related outage data for the period March 22, 2020 through September 30, 2020 when calculating the final EFORd values for the resources identified by LS

Power in its waiver filing, in anticipation of the Third Incremental Auction for the 2021/2022 delivery year. The Commission also grants LS Power's waiver request to allow PJM to finalize the EFORD value relevant to the resources after the November 30, 2020 deadline for PJM to finalize the EFORD values for the Third Incremental Auction for the 2021/2022 delivery year. (ER21-404)

On December 18, 2020, the Commission accepted PJM's revisions to the PJM Tariff, Attachment DD, section 15 and the PJM Operating Agreement, Schedule 6, section 1.5.7. The revisions make it clear that capacity constraints, in addition to energy market constraints, are inputs into PJM's market efficiency analyses. The revisions are effective December 21, 2020. (ER21-162)

On December 17, 2020, the Commission issued an order rejecting proposed tariff revisions to revise Schedule 6 of the Amend and Restated Operating Agreement to provide structure for end-of-life (EOL)-driven transmission projects to be reviewed and developed under PJM's Regional Transmission Expansion Plan (RTEP) (PJM Stakeholder Process). (ER20-2308)

On December 17, 2020, the Commission issued an order on PJM's August 30, 2019 fast-start compliance filing. PJM submitted its August 30, 2019 filing in compliance with an April 18, 2019 Commission order finding that PJM's fast-start pricing practices are unjust and unreasonable because they do not allow prices to reflect the marginal cost of serving load. In the December 17, 2020 order, the Commission: (i) accepted in part and rejected in part PJM's proposed revisions to its Tariff and Operating Agreement; (ii) directed PJM to submit a further compliance filing within 60 days of the date of the order; and (iii) directed PJM to submit a one-time informational report within five months of the date of the order. The Commission directed PJM to include a specific proposed effective date for its fast-start Tariff and Operating Agreement changes in its further compliance filing (due by **February 15, 2021**). (ER19-2722, ER19-2722-001, and ER19-2722-002)

On December 17, 2020, the Commission issued a procedural (non-substantive) order denying several requests for rehearing relating to its October 15 MOPR Order. (EL16-49-006, EL18-178-006, and ER18-1314-010) (Consolidated)

On December 16, 2020, the Commission accepted revisions to the PJM Tariff, Schedule 9 to modify how PJM allocates, among PJM administrative service categories, the amount in PJM's regulatory liability account at the end of a calendar quarter that exceeds 6 percent of PJM's administrative service projected revenues for the calendar year with an effective date of November 1, 2020. (ER21-274)

On December 9, 2020, the Commission accepted PJM's October 15, 2020 filing to incorporate revisions to PJM Tariff, section 36.1 previously accepted by the Commission on July 30, 2019 in Docket No. ER19-2030 that were overwritten due to overlapping filings in this Tariff section. The revisions are effective as of April 1, 2020. (ER21-118)

On December 8, 2020, PJM's October 13, 2020 compliance filing in the Order No. 841 compliance proceeding was accepted via delegated letter order. In its October 13, 2020 compliance filing, PJM proposed revisions to its Open Access Transmission Tariff (OATT) and the Amended and Restated Operating Agreement of PJM (OA) to clarify that if the distribution utility is unwilling or unable to net out from the host customer's retail bill Direct Charging Energy associated with an Energy Storage Resource that is distribution-connected or co-located with end-use load that is not Station Power, PJM shall not bill the Energy Storage Resource for any Direct Charging Energy. PJM's October 13, 2020 compliance filing was accepted for filing, effective December 3, 2019. (ER19-469-004)

On December 7, 2020, the Commission issued an order addressing arguments raised on rehearing requested by XO Energy MA, LP (XO Energy) of the Commission's July 16, 2020 Order. In the July 16, 2020 Order, the Commission: (i) found that PJM's uplift allocation rules were unjust, unreasonable, and unduly

preferential because they did not allocate uplift to Up-to-Congestion Transactions (UTCs); and (ii) directed PJM to amend its current uplift allocation rules to allocate uplift to UTCs in a manner that treats a UTC, for uplift allocation purposes, as if the UTC were equivalent to a Decrement Bid (DEC) at the sink point of the UTC. While XO Energy had appealed the July 16, 2020 Order to the D.C. Circuit, it voluntarily dismissed its appeal on December 21, 2020. (EL14-37-002)

FILINGS

On January 12, 2021, PJM submitted an Unopposed Motion for Extension of Time, Shortened Answer Period and Request for Expedited Action by the Commission in the captioned docket. Because the motion is unopposed and given the January 20 answer date, PJM requested that the Commission shorten the time for responses to the motion to one day in order to issue an order on the motion on or before January 14, 2021. (EL21-39)

On January 12, 2021, PJM filed a Motion to Intervene and Answer to the Expedited Petition for Declaratory Order filed by Hollow Road Solar, LLC. In this Answer, PJM provides its rationale for why the Virginia Pollution Control Statue, as applied to stand-alone solar facilities, appears to be a State Subsidy in accordance with the Commission accepted Tariff definition and the Commission's prior orders. The executive sponsor is Stu Bresler. (EL21-35)

On January 12, 2021, PJM submitted a motion of extension time of until March 1, 2021, to respond to the deficiency letter issued on December 22, 2020 for PJM's October 30, 2020 filing to create and implement an Effective Load Carrying Capability ("ELCC") construct for determining the relative amount of capacity that variable, limited duration, and combination resources may offer in PJM's capacity market or provide in a Fixed Resource Requirement (FRR) capacity plan. (ER21-278)

On January 11, 2021, PJM filed comments to PJM Open Access Transmission Tariff (Tariff), Attachment Q; Tariff, Attachment K-Appendix, section 7.3, and the identical provisions of Amended and Restated Operating Agreement of PJM (Operating Agreement), Schedule 1, section 7.3; and Operating Agreement, section 15.1 to modify PJM's process for addressing the Financial Transmission Rights positions of a PJM Member that defaults on its payment obligations in the PJM Markets. PJM asks the Federal Energy Regulatory Commission to issue an order accepting its proposal by no later than January 29, 2021, with an effective date of February 1, 2021. The executive sponsor is Nigeria Bloczynski. (ER21-520)

On January 8, 2021, PJM submitted proposed revisions to PJM Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignments for 14 baseline upgrades included in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on December 9, 2020. PJM requested an effective date of April 8, 2021, which is 90 days after the date of this filing to allow a 30 day comment period. The executive sponsor is Steve Herling. (ER21-841)

On January 4, 2021, PJM submitted a compliance filing pursuant to the Commission's December 2, 2020 order. The filing responds to the Commission's questions in the December 2, 2020 order concerning Incremental Capacity Transfer Rights. (EL18-183-002)

On December 29, 2020, PJM filed an answer to protests and comments on PJM's November 23, 2020 filing in compliance with the Commission's September 17, 2020 order concerning the rules for Station Power in the PJM Region. PJM showed in its answer that its compliance filing complied with the Commission's September 17 order, that there is no basis to reject the filing, and that further implementing details are best addressed in the PJM stakeholder process. (ER21-460 and EL20-56)

On December 23, 2020, PJM submitted for filing revisions to the PJM Tariff, Schedule 12 – Appendix and Schedule 12 – Appendix A to update annual cost responsibility assignments for Regional Facilities, Necessary Lower Voltage Facilities and Lower Voltage Facilities consistent with PJM Tariff, Schedule 12. PJM requested the revisions be effective as of January 1, 2021. (ER21-726)

On December 18, 2020, PJM submitted an executed State Agreement Approach Study Agreement, (Agreement) between PJM and the New Jersey Board of Public Utilities, designated as Service Agreement No. 5890, to implement the State Agreement Approach process in Operating Agreement, Schedule 6, section 1.5.9. PJM requests a November 18, 2020 effective date for the Agreement, or if that date is not granted, PJM alternatively requests an effective date one day after December 18, 2020. (ER21-689)

On December 17, 2020, PJM submitted its second of three annual informational reports with respect to revisions to the Operating Agreement, Schedule 6, section 1.5.7 accepted by the Commission by order issued on March 12, 2019 in this docket. Specifically, the informational report provides updates to the information provided in PJM's December 14, 2018 filing, such as (i) updates to the data presented in Tables 1 and 2 included in the December 14 Filing Letter, (ii) the number of generators with only an executed Facilities Study Agreement or Interconnection Service Agreement under suspension that were included in the assumptions to the most recent market analysis, and (iii) information relative to whether PJM has completed a sensitivity analysis of its modeling of expected congestion (and provided the results of that sensitivity analysis to stakeholders) as compared to what PJM would have done prior to the revisions. (ER19-562)

On December 11, 2020, PJM filed a brief in the United States Court of Appeals for the District of Columbia in an appeal that challenges the Commission's order accepting PJM's last quadrennial review filing. In the brief, PJM filed in support of the underlying Commission order and explained that the order was appropriately supported by the record (Case No. 20-1212, Delaware Division of the Public Advocate, et al. v. FERC). (ER19-105)

On December 11, 2020, PJM filed a Motion for Leave to Answer and Answer to respond to the protest of the Organization of PJM States, Inc. ("OPSI") dated December 4, 2020. In this Answer, PJM maintains that all of the proposed amendments in the November 13, 2020 compliance filing, including the proposed approach for requiring a Sell Offer price set to a resource-specific MOPR Floor Offer Price rather than the applicable Market Seller Offer Cap in limited circumstances, is consistent with the Commission's October 15 Order. (EL16-49, ER18-1314, and EL18-178) (Consolidated)

On December 10, 2020, The Dayton Power and Light Company ("DP&L") submitted an Offer of Settlement and revised PJM Tariff, Attachment H-15A and Attachment 15B to establish a transmission formula rate. DP&L requested Commission approval of the Settlement and revised tariff sheets as expeditiously as possible. (ER20-1150-001)

On December 4, 2020, PJM filed a Motion for Leave to Answer and Answer to several comments and protests filed in response to PJM's October 30, 2020 filing to revise the Reliability Assurance Agreement Among Load-Serving Entities in the PJM Region (RAA) and PJM's Open Access Transmission Tariff (OATT) to create and implement an Effective Load Carrying Capability (ELCC) construct for determining the relative amount of capacity that variable, limited duration, and combination resources may offer in PJM's capacity market (known as the Reliability Pricing Model) or provide in a Fixed Resource Requirement capacity plan. (ER21-278)