

MC Legal Report
Summary of Significant Filings, Legal Activity and
Federal Energy Regulatory Commission (Commission) and Court Orders
(June 11, 2024 – July 10, 2024)

ORDERS

On July 9, 2024, in Docket No. EL24-104-000, the Commission issued an order denying the complaint against PJM by the PJM Load Parties, who include American Municipal Power, Inc., Delaware Division of the Public Advocate, Delaware Energy Users Group, Delaware Municipal Electric Corporation, Delaware Public Service Commission, Maryland Office of People's Counsel, Maryland Public Service Commission, and Old Dominion Electric Cooperative. By issuing its order, the Commission reaffirmed the capacity commitments and prices for the 2024/2025 Delivery Year.

On June 27, 2024, in Docket No. EL23-13-000, the Commission rejected a complaint by Roy J. Shanker alleging that PJM's application of its Effective Load Carrying Capability (ELCC) process violated PJM's governing documents. The Commission found that: (i) PJM did not violate its tariff, RAA, or other governing documents at any time; (ii) PJM's interpretation of the language at issue was "more consistent with the express requirements of the RAA, as well as the administrative record underlying the relevant language;" and (iii) Roy J. Shanker's allegations constituted a collateral attack on prior Commission orders and findings.

On June 27, 2024, in Docket No. ER17-1433-005, the Commission issued an order on remand affirming its prior orders in January 2022 and May 2022 that PJM's current FTR Forfeiture Rule is just and reasonable, even though it does not include the test for leverage proposed by XO Energy, LLC and XO Energy MA, LLC (XO Energy).

On June 27, 2024, in Docket Nos. RD24-5-000 and RD24-1-000, the Commission approved North American Electric Reliability Corporation's ("NERC") proposed Reliability Standard EOP-012-2 related to generation winterization, and directed NERC to within nine months submit modifications to address additional concerns described in the order.

On June 27, 2024, in Docket No. ER23-1067-001, the Commission accepted via delegated letter order PJM's May 8, 2023 compliance filing, made in response to the Commission's April 7, 2023 Order accepting, subject to condition, PJM's February 8, 2023 proposal to establish new rules related to the application of Capacity Interconnection Rights (CIR) to Generation Capacity Resources within the context of PJM's Effective Load Carrying Capability (ELCC) construct.

On June 25, 2024, in Docket No. ER24-1626-000, the Commission issued a letter order accepting the filing by PJM of proposed revisions to PJM Tariff, Schedule 12-Appendix A, to incorporate cost responsibility assignments for baseline upgrades in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on February 28, 2024. PJM's revisions become effective as of June 26, 2024.

On June 21, 2024, in Docket No. ER24-1803-000, the Commission accepted PJM's April 22, 2024 filing proposing to re-date certain eTariff records applicable to the capacity market components of PJM's Order No. 2222 compliance filing in Docket No. ER22-962. The Commission granted PJM's proposal to transfer the current effective dates of July 1, 2023 and July 1, 2024, to a new effective date of July 1, 2025, in light of the fact that major components of PJM's Order No. 2222 DER Aggregator Participation Model are still pending and unsettled at the Commission.

On June 20, 2024, in Docket No. ER24-1988-000, the Commission issued a letter order accepting the filing by PJM of revisions to PJM's Reliability Assurance Agreement regarding the definitions of combined cycle and combustion turbine dual fuel resources used for purposes of capacity accreditation. This proposal seeks to amend these definitions to allow resources that are capable of starting independently using onsite sources to qualify in the

respective dual fuel resource classes for purposes of calculating effective load carrying capability. PJM's revisions become effective as of July 10, 2024.

On June 14, 2024 in Docket No. ER24-1772-000, the Commission issued an order accepting PJM's April 16, 2024 Regulation Market reform proposal. The Commission granted PJM's requested effective dates of June 16, 2024, October 1, 2025, and October 1, 2026.

On June 14, 2024, in Docket No. ER24-1995-000, the Commission accepted revisions to the Tariff, Attachment L. PJM submitted the filing pursuant to Ohio Valley Electric Corporation's (OVEC) request to make a ministerial filing to correct the legal name for OVEC set forth in list of Transmission Owners in Tariff, Attachment L. The revisions are effective July 10, 2024, as requested.

On June 14, 2024 in Docket No. ER24-1772-000, the Commission issued an order accepting PJM's April 16, 2024 Regulation Market reform proposal. The Commission granted PJM's requested effective dates of June 16, 2024, October 1, 2025, and October 1, 2026.

On June 13, 2024, in Docket No. EL24-81-000, the Commission issued a show cause order finding that PJM's Tariff appears to be unjust, unreasonable, and unduly discriminatory or preferential because it includes provisions for transmission owners to unilaterally elect transmission owner initial funding for interconnection-related network upgrades. The Commission directed PJM to, within 90 days, explain: (i) why its Tariff remains just and reasonable and not unduly discriminatory or preferential, and provide responses to the questions set forth in Appendix A of the show cause order; or (2) explain what changes to its Tariff it believes would remedy the identified concerns if the Commission were to determine that the OATT has in fact become unjust, unreasonable, and unduly discriminatory or preferential and, therefore, were to proceed to establish a replacement rate, and provide responses to the questions set forth in Appendix A.

On June 12, 2024, in Docket No. ER24-1996-000, the Commission accepted revisions to the CTOA, Attachment A. PJM submitted the filing pursuant to Ohio Valley Electric Corporation's (OVEC) request to make a ministerial filing to correct the legal name for OVEC set forth in list of Transmission Owners in CTOA, Attachment A. The revisions are effective July 10, 2024, as requested.

On June 12, 2024, in Docket No. ER24-1741-000, the Commission issued a letter order accepting the filing PJM submitted on behalf of Virginia Electric and Power Company (VEPCO), doing business as Dominion Energy Virginia, of revisions to Attachment H-16C of the PJM Tariff to update the prior-year actual Other Post-Employment Benefits (OPEB) expense to reflect the 2023 actual OPEB expense under VEPCO's transmission formula rate. VEPCO's revisions to Attachment H-16C will become effective June 14, 2024.

On June 11, 2024, in Docket No. ER22-2200-001, the Commission issued a letter order accepting the filing PJM submitted on behalf of Atlantic City Electric Company (ACE) of an executed, uncontested Settlement Agreement resolving, upon the Commission's approval, all issues in Docket No. ER22-2200 and all sub-dockets thereto. ACE's Settlement Agreement will be effective as of September 1, 2022.

FILINGS

On July 10, 2024, in Docket No. EL24-118-000, PJM submitted an answer to the complaint filed by the Joint Consumer Advocates regarding the use of an addback to the load forecast for Energy Efficiency Resources that clear the capacity auctions. In this answer, PJM explains that the addback is appropriately detailed in the PJM manuals and is just and reasonable.

On July 8, 2024, in Docket No. ER24-2172-000, PJM submitted a Motion for Leave to Answer and Answer (Answer) to American Electric Power Service Corporation and Exelon Corporation's protest of the Third Co-Located Load Susquehanna Interconnection Service Agreement. In this Answer, PJM requested that the Commission accept the Third Co-Located Load Susquehanna ISA as just and reasonable and not make any findings on the policy issues of general applicability, deferring to future regulatory processes.

On July 3, 2024, in Docket No. EL24-125-000, EDP Renewables North America LLC (EDPR) filed a complaint against PJM requesting that the Commission find that PJM's implementation of Surplus Interconnection Service is unjust and unreasonable, resulted in an unlawful denial of EDPR's request for Surplus Interconnection Service, and to direct PJM to provide EDPR with Surplus Interconnection Service. PJM's response to EDPR's complaint is due by July 23, 2024.

On July 5, 2024, in Docket Nos. EL24-116-000 and ER24-2197-000, the Commission issued an order granting Dominion's complaint to allow Dominion to offer its planned generation capacity resources in the 2025/2026 Base Residual Action and dismissed Dominion's request for waiver as moot.

On July 5, 2024, in Case No. 24-1186, PJM filed a motion to intervene at the United States Court of Appeals for the District of Columbia. PJM's motion to intervene is filed in support of Vistra's petition for review of the Commission's order rejecting PJM's proposal to enhance certain elements of the capacity market stemming from the critical issue fast path – resource adequacy stakeholder proceedings.

On July 3, 2024, in Docket No. EL24-124-000, Affirmed Energy LLC filed a complaint against PJM requesting that PJM return collateral being withheld from Affirmed Energy's due to an unreasonable credit risk. PJM's response to this complaint is due by July 23, 2024.

On July 3, 2024, in Docket No. CISA-2022-0010 before the Cybersecurity and Infrastructure Security Agency (CISA) of the Department of Homeland Security, PJM submitted comments on behalf of the ISO/RTO Council on several practical, legal, and policy issues relating to CISA's Notice of Proposed Rulemaking (NPRM) regarding Cyber Incident Reporting for Critical Infrastructure Act (CIRCIA) reporting requirements.

On July 3, 2024, in Docket No. EL24-113-000, PJM filed comments in response to the complaint of the Market Monitor against Energy Efficiency Providers. In these comments, PJM explains that all post-installation measurement and verifications reports for the 2024/2025 Delivery Year have been conditionally approved subject to the outcome of this proceeding as well as the results of a forthcoming audit of such reports that will be conducted by an independent third party that specializes in Energy Efficiency measurement and verification.

On July 1, 2024, in Docket No. ER24-2447-000, PJM proposed revisions to PJM's Reliability Assurance Agreement to more accurately allocate capacity obligations associated with forecasted Large Load Adjustments between Load Serving Entities that procure capacity through PJM's capacity auctions and those that elect the Fixed Resource Requirement Alternative. PJM requested for these revisions to become effective as of August 31, 2024.

On June 28, 2024, in Docket No. ER24-2398-000, PJM submitted non-substantive, clerical and ministerial revisions originating from the Governing Document Enhancement & Clarification Subcommittee (GDECS Filing) to correct, clarify, and/or make consistent certain Generation Interconnection Process-related provisions of the PJM Tariff, Operating Agreement, and Reliability Assurance Agreement. PJM requested the revisions be effective as of August 28, 2024.

On June 26, 2024, in Docket No. EL24-121-000, Old Dominion Electrical Cooperative (ODEC) filed a Complaint with the Commission against FirstEnergy Service Company and Potomac Edison Company with respect to a billing dispute related to energy, capacity and transmission charges between those parties. Although PJM is also named as a party to the Complaint, the Complaint clarifies that ODEC does not seek recovery from PJM. ODEC seeks a

Commission order directing FirstEnergy to provide ODEC with a refund of the excess charges, plus interest, and directing PJM, to the extent necessary, to facilitate through the PJM billing system the transfer of the amounts at issue from FirstEnergy to ODEC.

On June 26, 2024, in Docket No. ER24-1942-001, PJM submitted an amendment to the ministerial clean-up filing to ensure the Tariff correctly reflects the language in Tariff, Schedule 12-Appendix, Schedule 12-Appendix A and Schedule 12-Appx C that was accepted by FERC as of various effective dates.

On June 24, 2024, in Docket No. EL24-64-000, PJM submitted a compliance filing in response to last month's order rejecting a complaint by Lackawanna Energy Center LLC ("Lackawanna") over PJM's refusal to make lost opportunity cost payments to Lackawanna for a "stability limits" output reduction in the summer of 2023. The Commission directed PJM to, within 30 days, update an eTariff record to reflect language that is accepted and on file, but not currently displaying in the eTariff viewer due to overlapping eTariff records and pending proceedings. In its June 24, 2024 compliance filing, PJM informed the Commission that it had restored the applicable single sentence in the appropriate eTariff record via a larger "clean-up" filing in Docket No. ER24-2354-000.

On June 24, 2024, in Docket No. ER24-1266-000, PJM submitted an informational filing to notify the Commission that Rush Solar Project II, LLC (Rush Solar) has withdrawn its Queue No. AG1-224 Interconnection Request from PJM's interconnection queue. The Commission had recently granted Rush Solar waiver of certain Tariff requirements and PJM had sought rehearing of that order. PJM submitted the informational letter for the Commission's consideration in addressing PJM's rehearing request.

On June 24, 2024, in Docket No. ER24-2354-000, PJM submitted a ministerial clean-up filing to ensure that the eTariff records correctly reflect the language in the PJM Tariff, Attachment K-Appendix, section 3.2 and Operating Agreement, Schedule 1, section 3.2 that was accepted by the Commission in various dockets with various effective dates but displaced as a result of overlapping filings.

On June 21, 2024, in Docket No. ER24-2336-000, PJM submitted on behalf of Duquesne Light Company, the current Chair of the Transmission Owners Agreement - Administrative Committee (TOA-AC), proposed amendments to the Consolidated Transmission Owners Agreement to provide PJM with FPA Section 205 filing rights to propose changes to the Regional Transmission Expansion Planning Protocol as a Schedule to the PJM Tariff and other related changes. The TOA-AC is requesting that the proposed amendments be effective as of September 20, 2024.

On June 21, 2024, in Docket No. EL24-119-000, pursuant to section 206 of the Federal Power Act, PJM submitted revisions to the PJM Operating Agreement to effectuate PJM's ability to make independent proposals to the Commission under FPA section 205 regarding transmission planning in the PJM Region. PJM requested that the Commission accept the proposed Operating Agreement revisions effective as of September 20, 2024.

On June 21, 2024, in Docket No. ER24-2338-000, pursuant to section 205 of the Federal Power Act, PJM submitted revisions to the PJM Open Access Transmission Tariff ("Tariff") to effectuate PJM's ability to make independent proposals to the Commission under FPA section 205 regarding transmission planning in the PJM Region. PJM requested that the Commission accept the proposed Tariff revisions effective as of September 20, 2024.

On June 20, 2024, in Docket No. EL24-118-000, the Consumer Advocates from Illinois, Maryland and New Jersey filed a complaint against PJM alleging that PJM's use of an addback for Energy Efficiency violates the Federal Power Act because (1) the rules related to the Energy Efficiency addback are not filed with FERC and are only documented in the PJM manuals and (2) the addback is unjust and unreasonable because PJM has not justified the use of the addback and unduly discriminates against Energy Efficiency Resources by treating them differently from all other Capacity Resources.

On June 17, 2024, in Docket Nos. EL24-116-000 and ER24-2197-000, PJM submitted an answer to the Request for Limited Waiver or, In the Alternative, Complaint of Virginia Electric Power Company (Dominion). In this answer, PJM supports Dominion's complaint and waiver request.

On June 14, 2024, in Docket No. ER24-2176-000, PJM submitted a motion to intervene and comments to the Request for Limited Waiver and Expedited Consideration of Elwood Energy LLC ("Elwood"). While PJM takes no position on the requested waiver, PJM explains in the comments that the underlying reason for the must-offer exception deadlines is to allow for the orderly administration of the RPM Auctions.

On June 14, 2024, in Docket No. ER24-2173-000, PJM submitted a motion to intervene and comments to the Request for Limited Waiver and Expedited Consideration of MRP Elgin, LLC ("Elgin"). While PJM takes no position on the requested waiver, PJM explains in the comments that the underlying reason for the must-offer exception deadlines is to allow for the orderly administration of the RPM Auctions.

On June 12, 2024, in Docket No. RM21-17-000, PJM filed a request for rehearing and clarification in Docket No. RM21-17-001, regarding Order No. 1920 (the Long-Term Regional Transmission Planning NOPR).

On June 12, 2024, in Case No. 24-1164, PJM filed a Motion for Leave to Intervene in the IMM's appeal to the DC Circuit Court of Appeal. In this is an appeal of the Commission's orders denying complaint and denying rehearing in the IMM's Liaison Committee meeting attendance complaint proceeding, FERC's Docket No. EL23-50-000.

On June 12, 2024, in Docket No. ER24-2255-000, PJM submitted on behalf of NextEra Energy Transmission MidAtlantic, Inc. (NEET MidAtlantic) revisions to Attachment H-33B of the PJM Open Access Transmission Tariff to increase the base return on equity that is stated in NEET MidAtlantic's Formula Rate. NEET MidAtlantic is requesting that the revisions be effective as of August 12, 2024.

The Electric Reliability Council of Texas (ERCOT), Midcontinent Independent System Operator (MISO), PJM Interconnection (PJM), and Southwest Power Pool (SPP), collectively the Joint ISOs/RTOs, provided comments to the United States Environmental Protection Agency's Framing Questions regarding its development of a rule to regulate greenhouse gas (GHG) emissions from existing natural gas-fired combustion turbines. The Joint ISOs/RTOs propose a variety of approaches to mitigate potential impacts a GHG rule for existing gas resources could have on electric system reliability.

On June 10 2024, in Docket No. ER24-1743-001, PJM submitted an amendment filing to the April 12, 2024 ministerial clean-up filing submitted in this docket that amends and corrects the attachments to reflect all Commission-accepted revisions on a historical and going-forward basis. PJM's revisions become effective as of January 15, 2024, and March 31, 2024, respectively.

On June 10, 2024, in Docket No. ER21-1635-008, PJM submitted a revision to the clean-up filing for PJM Tariff Schedule 6A to reflect the currently applicable Capital Recovery Factor rate for Black Start Units selected prior to June 6, 2021 in accordance with the Chief Administrative Law Judge's order authorizing interim settlement rates during the pendency of the proposed settlement in Docket No. EL21-91-003.