



**MC Legal Report  
Summary of Significant Filings, Legal Activity  
and  
Federal Energy Regulatory Commission (Commission) and Court Orders  
(June 8, 2021 – July 9, 2021)**

**ORDERS**

**On July 9, 2021**, the DC Circuit Court of Appeals issued a decision on the Commission's **quadrennial review order**. In the decision, the court upheld the selection of a combustion turbine as the reference resource, but remanded (*without vacating the FERC order*), the inclusion of the 10% adder. (Docket No. 20-1212)

**On July 8, 2021**, the Commission accepted PJM's proposed revisions to Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignments for 66 baseline upgrades included in the recent update to the **Regional Transmission Expansion Plan** approved by the PJM Board of Managers on April 22, 2021. The Tariff revisions are effective as of August 22, 2021. (ER21-1987)

**On July 8, 2021**, the Commission issued a letter order accepting the compliance filing revising the PJM Tariff and PJM OA pertaining to **Station Power** service, to remove a provision related to self-supply between commonly owned generators. The revisions are effective as of September 23, 2020. (ER21-460-001)

**On July 7, 2021**, the Commission issued a letter order accepting PJM's revisions to the PJM Tariff in compliance with the April 28, 2021 order, to incorporate additional details regarding the required provisions of an acceptable **surety bond**. The revisions are effective as of May 1, 2021. (ER21-1211-001)

**On July 6, 2021**, the Commission granted an extension of time to answer the Complaint filed on June 23, 2021 by SOO Green HVDC Link ProjectCo, LLC. The answer is now due July 27, 2021. (EL21-85)

**On July 2, 2021**, the Commission accepted, subject to condition, PJM's proposed revisions to PJM Tariff, Attachment DD, to update the Capital Recovery Factor (**CRF**) component of the Avoidable Project Investment Recovery Rate. The proposed revisions become effective as of July 2, 2021, and the Commission directed PJM to submit a compliance filing within 30 days of the date of the order, **August 2, 2021**, to include the formula used to calculate the CRF values in the Tariff. (ER21-1844)

**On July 2, 2021**, the Commission granted SunEnergy's request for a waiver of the deadline contained in PJM Tariff, section 204.3 and reinstated the following SunEnergy projects: (AG1-075), (AG1-008) and (AG1-106). (ER21-1832)



**On June 30, 2021**, the Commission denied K&C Cleantech’s (AF2-248) request for a limited waiver of, or, in the alternative, remedial relief from a procedural deadline to retain its queue position in PJM Tariff, section 206.2. (ER21-1787)

**On June 25, 2021**, the Commission issued an Order on Complaint establishing paper hearing to develop a further record in the **Neptune Complaint** docket to determine the 1% de minimis threshold and netting provisions of PJM’s solution-based **DFAX** methodology result in rates that have become unjust and unreasonable. The refund effective date remains as December 31, 2020, which is the filing date of the Complaint. PJM and the PJM TOs were directed to submit answers to the questions listed in Appendix A of the Order by **August 24, 2021**. Other parties were also invited to answer the questions within that same time period. Reply comments are due on **September 23, 2021**. (EL21-39)

**On June 22, 2021**, the Commission granted PJM’s June 7, 2021 motion to extend the effective date for implementation of the **fast-start pricing** revisions to the PJM Tariff and OA from July 1, 2021 to **September 1, 2021**. The Commission directed PJM to submit a compliance filing within 30 days, **July 22, 2021**, to reset the effective date of the relevant eTariff records to September 1, 2021. (ER19-2722-004)

**On June 17, 2021**, the Commission issued an Order to Show Cause finding that the Tariff and Operating Agreement appear to be unjust and unreasonable based on the ability of Market Sellers to avoid being subject to parameter-limited offers when it is appropriate for those sellers to be subject to mitigation. As a result, the Commission is directing PJM within 90 days, to (1) show cause as to why its Tariff remains just and reasonable; or (2) explain what changes to its Tariff it believes would remedy the identified concerns. PJM’s response is due **September 15, 2021**. (EL21-78)

**On June 17, 2021**, the Commission issued **Order No. 2222-B**, which reinstated the Commission’s prior decision in Order No. 2222 to allow states to “opt-out” demand response resources from participation in DER aggregations, and provided additional clarification regarding the participation of behind-the-meter resources in DER aggregations. (RM18-9)

**On June 10, 2021**, the Commission granted an extension to file answers, interventions, and comments to the complaint filed by Illinois Municipal Electric Agency (**IMEA**) on May 28, 2021. The complaint alleges that PJM’s reduction of Incremental Capacity Transfer Rights (**ICTR**) allocated to IMEA for the 2021/2022 Delivery Year and future Delivery Years violates the Tariff and IMEA’s Upgrade Construction Service Agreement IMEA. The due date to file in **June 28, 2021**. (EL21-79)



## FILINGS

**On July 9, 2021**, PJM submitted a motion for leave to answer and answer to protests and comments regarding PJM's proposed Effective Load Carrying Capability (**ELCC**) construct for measuring the reliability benefits of resources classified as (1) Variable Resources (e.g., wind and solar power); (2) Limited Duration Resources (e.g., battery storage resources); and (3) Combination Resources (e.g., resources with a wind or solar component and a storage component). (ER21-2043)

**On July 6, 2021**, PJM submitted its fifth informational filing in compliance with the Commission's February 5, 2021 order regarding **Panda Stonewall LLC's** satisfaction of PJM's January 21, 2021 Collateral Call. The Commission has not ruled on Panda's proposed repayment plan that is now arguably moot as Ares was working to satisfy its coverage ratio at the end of Q2. Ares Capital has not filed a 203 application for its acquisition of Stonewall. (ER21-972)

**On June 30, 2021**, the PJM Transmission Owners (TOs) filed proposed revisions to the Tariff consisting of a new section 217.8 and a new *pro forma* Network Upgrade Funding Agreement (**NUFA**), to provide the TOs with the option to elect to fund the capital cost of Network Upgrades required to accommodate generator interconnections in order to earn a return of and on the costs of such Network Upgrades. The TOs requested that the proposed Tariff revisions be effective as of August 30, 2021. Should PJM wish to file comments, they are due by **July 21, 2021** (an extension request had been filed). (ER21-2282)

**On June 29, 2021**, PJM submitted its third and final required informational filing with respect to revisions to the OA, Schedule 6, accepted by the Commission by order issued on March 12, 2019 regarding PJM's interconnection process. Specifically, the informational report provides updates to the information provided in PJM's December 14, 2018 filing, including (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 PJM's completion of a sensitivity analysis of its modeling of expected congestion. (ER19-562)

**On June 29, 2021**, PJM filed a corrected version of its answer originally filed on June 28, 2021 to the complaint filed by Illinois Municipal Electric Agency (**IMEA**). The complaint alleges that PJM's proration of Incremental Capacity Transfer Rights (**ICTR**) allocated to IMEA for the 2021/2022 Delivery Year and future Delivery Years violates the PJM Tariff and IMEA's Upgrade Construction Service Agreement IMEA. The answer argues that the complaint has no merit and should be denied. (EL21-79)

**On June 29, 2021**, PJM submitted revisions to PJM OA, Schedule 12 to reflect the permanent termination of **JPTC, LLC (JPTC)** as a PJM Member in accordance with the PJM OA, as a result of being declared in credit default 3 times within a 12 month period. PJM requests that the Commission issue its order accepting the proposed revisions by no later than August 30, 2021, which is at least 60 days from the date of filing, with an effective date of August 30, 2021. (ER21-2239)



**On June 25, 2021**, PJM filed comments in response to the Commission's Supplemental Notice of Proposed Rulemaking (**Supplemental NOPR**) regarding electric transmission incentives policy under section 219 of the Federal Power Act. PJM's comments affirm the importance of the Commission's longstanding application of the Congressionally-mandated incentive for joining and participating in a regional transmission organization. As such, PJM's comments encourage the Commission to reconsider the Supplemental NOPR's restrictive approach to this incentive. Reply comments are due **July 26, 2021**. (RM20-10)

**On June 24, 2021**, PJM submitted revisions to the PJM Tariff, Part IV, Subpart A interconnection deficiency review deadline requirements to, among other things, allow PJM additional time to meet these deadlines. This additional time is needed in light of the extremely large number of **New Service Requests** PJM has received in recent queue windows and expects to continue to receive. The proposed Tariff changes were subject to, and endorsed during, the PJM stakeholder process, and PJM has requested that the Tariff changes be effective August 23, 2021. (ER21-2203)

**On June 22, 2021**, PJM submitted an answer in response to **Jackson Generations L.L.C's** June 9, 2021 complaint regarding the alleged requirement to file mitigated offers with the Commission. In its answer, PJM explained that the complaint should be denied on the ground that the Tariff no longer requires the filing of mitigated offers with the Commission. (EL21-82)

**On June 22, 2021**, PJM submitted an answer to indicate that the default **Market Seller Offer Cap** proposed in the Joint Consumer Advocates' reply brief represents a viable alternative option for the Commission's consideration in the event the Commission declines to adopt PJM's proposed default Market Seller Offer Cap. (EL19-47 and EL19-63) (Not consolidated).

**On June 22, 2021**, PJM submitted a request for a prospective one-time waiver of PJM OA, section 7.1, to allow PJM to postpone, by up to one month, the Members Committee's consideration of a nomination for a vacancy on the **PJM Board of Managers**. PJM stated that the waiver is necessary to ensure sufficient time for the completion of due diligence, including a background check, prior to announcing the proposed nominee to be considered and voted on by the Members Committee. (ER21-2184)

**On June 21, 2021**, PJM submitted a request for clarification, or in the alternative, rehearing, of the Commission's May 20, 2021 order rejecting PJM's April 18, 2017 compliance filing proposing PJM Tariff and OA revisions to implement modifications to the **Financial Transmission Rights (FTR) forfeiture rule**. (ER17-1433-002)

**On June 21, 2021**, PJM submitted an informational notice informing the Commission, PJM market participants, and PJM stakeholders of PJM's intent regarding near-term implementation of the **Financial Transmission Rights (FTR) forfeiture rule**, in the wake of the Commission's May 20, 2021 order rejecting PJM's April 18, 2017 compliance filing proposing Tariff and OA revisions to implement modifications to the FTR forfeiture rule. (ER17-1433)



**On June 11, 2021**, PJM filed responses to the Commission's letter dated May 21, 2021, requesting additional information on PJM's Black Start reform filing submitted on April 7, 2021. In the April 7, 2021 filing, PJM submitted revisions to the PJM Tariff, Schedule 6A that are intended to clarify the requirements for Black Start Units, and provide for transparency and annual updates to the Capital Recovery Factor **(CRF) component of Black Start** payments for units that require new or additional capital investment. (ER21-1635-001)

**On June 10, 2021**, PJM filed a motion for leave to answer and answer to the protest of the PJM Power Providers (P3) regarding PJM's market rule Tariff and OA revisions specifying that generators are ineligible for lost opportunity cost when backed down for **generation stability limits**. (ER21-1802)

**On June 10, 2021**, PJM submitted an FPA section 206 filing requesting that the Commission find that the current settlement formula in the Tariff and OA for calculating the **Mileage Ratio** in the regulation market is unjust and unreasonable, because it can produce an "undefined" number in certain circumstances. This filing will establish the date of the filing as the "refund effective date" and thereby provide an avenue through which the Commission can apply the eventually-accepted new replacement rate to any instances after the refund effective date in which the formula produced an "undefined" number. (EL21-83)

**On June 9, 2021**, PJM filed a Reply Brief in the Market Seller Offer Cap **(MSOC)** proceeding to state that the Commission should (1) ensure that the upcoming BRA associated with the 2023/2024 Delivery Year will not be further delayed; (2) acknowledge that the alternative MSOC will likely be a temporary solution given PJM and its stakeholders' forthcoming review of the capacity market; (3) adopt a default MSOC that does not result in over-mitigation; and (4) allow for the inclusion of all appropriate risk associated with obtaining a capacity commitment in a unit-specific MSOC determination. (EL19-47 and EL19-63)

**On June 8, 2021**, PJM filed a motion for leave to answer and answer in response to the Comments of the Market Monitor in which PJM agreed to include the Capital Recovery Factors **(CRF)** formula in the Tariff, but maintained that the proposed revisions to the CRF used in the context of the Reliability Pricing Model are just and reasonable. (ER21-1844)