



**MC Legal Report
Summary of Significant Filings, Legal Activity and
Federal Energy Regulatory Commission (Commission) and Court Orders
(July 16, 2022 – September 2, 2022)**

ORDERS

On September 1, 2022, in Docket No. EL19-58-012, et al., the Commission issued an order accepting PJM's Operating Reserve Demand Curves (ORDC) compliance filing. The compliance filing implements numerous changes to the reserve markets, maintains the existing Reserve Penalty Factors and Operating Reserve Demand Curves, adds a new 30-minute Reserve Requirement and a new Secondary Reserve product, and updates the existing reserve price capping framework to incorporate the new reserve requirement and product while maintaining the overall price caps. The Commission accepted these reserve market enhancements effective October 1, 2022, but directed PJM to submit a clean-up compliance filing by September 26, 2022.

On September 1, 2022, in Docket No. PA19-2-000, the Commission's Office of Enforcement approved a final report in its audit of PJM. The audit evaluated PJM's compliance with: (1) provisions of its Open Access Transmission Tariff, business practices, corporate bylaws, policies, and codes of conduct relating to its market administration obligations; (2) provisions of selected rate schedules and agreements, including PJM's Amended and Restated Operating Agreement; and (3) Order Nos. 825, 831, and other relevant Commission orders. The audit covered the period of January 1, 2016 through May 31, 2021. The audit report contains one finding of noncompliance and three related recommendations. The audit report also contains four "other matters" regarding areas for improvement, with seventeen related recommendations.

On August 31, 2022, in Docket No. ER22-2200-000, the commission issued an order accepting the filing by PJM on behalf of Atlantic City Electric Company of modifications to PJM Tariff, Attachment H-1A to revise its stated depreciation rates. Atlantic City Electric Company's revisions to PJM Tariff Attachment H-1A, Part 24, become effective as of September 1, 2022.

On August 31, 2022, in Docket No. ER22-2201-000, the commission issued an order accepting the filing by PJM on behalf of Delmarva Power and Light Company (Delmarva) of modifications to PJM Tariff, Attachment H-3D to revise its stated depreciation rates. Delmarva's revisions to PJM Tariff Attachment H-3D, Part 24, become effective as of September 1, 2022.

On August 30, 2022, in Docket No. ER20-1829-002, the commission issued a letter order accepting the filing by PJM on behalf of Trans-Allegheny Interstate Line Company of revisions to the PJM Tariff, Attachment H-18A, in accordance with the Commission's March 31, 2022 order on Order No. 864 compliance. Trans-Allegheny Interstate Line Company's revisions to Attachment H-18A become effective as of January 27, 2020.

On August 25, 2022, in Docket No. ER22-1520-001, the commission issued a letter order accepting the filing by PJM on behalf of Commonwealth Edison Co. (ComEd) of a response to the deficiency letter issued on May 26, 2022 regarding ComEd's March 31, 2022 modifications to PJM Tariff, Attachment M-2 (ComEd), as amended on June 24 and supplemented on August 24 in order to make clear how recently enacted Illinois legislation that has an impact on how ComEd determines an individual customers' peak load contribution comports with the PJM Tariff. ComEd's modifications to PJM Tariff Attachment M-2 become effective as of September 1, 2022.

On August 24, 2022, in Docket No. EL22-22-000, the Commission issued an order directing PJM to submit a compliance filing within 30 days to remove tariff language that currently allows Market Sellers to develop an alternative Market Seller Offer Cap (MSOC) with PJM's Independent Market Monitor (IMM) and file such an offer cap



with the Commission for approval. In its place, the Commission directed PJM to add language that would allow the IMM to continue working with the Market Sellers on a unit-specific MSOC after the relevant deadlines, and would allow for the use of such a unit-specific offer cap as long as PJM, the IMM, and the Market Sellers mutually agree to the unit-specific cap.

On August 19, 2022, in Docket No. ER22-2342-000, the Commission issued a letter order accepting the filing by PJM of revisions to the Tariff, Part V Deactivation Process specific to the timeframe to study the impact of a proposed deactivation upon receipt of a notice to deactivate a generating unit. The Tariff revisions become effective as of September 11, 2022.

On August 15, 2022, in Docket Nos. ER22-1200-000 and ER22-1200-001, the Commission issued an order rejecting PJM's proposed revisions to the PJM Tariff and Operating Agreement to effectuate the PJM Intelligent Reserve Deployment (IRD) package which came out of the Synchronous Reserve Deployment Task Force.

On June 5, 2022, in Docket No. ER22-2163-000, the commission issued a letter order accepting the filing by PJM on behalf of East Kentucky Power Cooperative, Inc. (EKPC) of revisions/modifications to the Open Access Transmission Tariff, Attachment H-24, Appendix D to revise the depreciation rates to be used when calculating EKPC's annual transmission revenue requirement. EKPC's revisions to the Open Access Transmission Tariff, Attachment H-24, Appendix D become effective as of June 1, 2022.

On August 4, 2022, in Docket No. ER20-1832-002, the commission issued a letter order accepting the filing by PJM on behalf of Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. (together, DEOK) of a compliance filing pursuant to Ordering Paragraph B of the Commission's January 20, 2022 Order in the above-captioned proceeding making revisions to DEOK's filed transmission formula rate (Formula Rate), Attachment H-22A of PJM's Open Access Transmission Tariff. DEOK's revisions become effective as of January 27, 2020 and May 16, 2021.

On August 3, 2022, in Docket No. ER20-1633-001, the commission issued a letter order accepting the filing by PJM on behalf of Silver Run Electric, LLC of revisions to the PJM Tariff, Attachment H-27A, to modify its Order No. 864 compliance filing. Silver Run Electric, LLC's April 22, 2022 filing is rejected as moot. Silver Run Electric, LLC's revisions to Attachment H-27A become effective as of May 25, 2020.



On July 29, 2022, in Docket No. ER22-2026-000, the Commission accepted the revisions to the PJM Operating Agreement, Schedule 12, and the RAA, Schedule 17, to (i) add the new members, (ii) remove withdrawn members, (iii) reflect the signatories to the RAA, and (iv) reflect members' whose corporate names changed during the 1st quarter of 2022. The revisions are effective March 31, 2022, as requested.

On July 28, 2022, in Docket Nos. EL19-58-007 and ER19-1486-004, the Commission issued an Order Addressing Arguments Raised on Rehearing and Dismissing the Request for Clarification (Rehearing Order) filed in response to the Commission's December 22 2021 Order on Voluntary Remand that addressed PJM's reserve price formation proceeding. The Rehearing Order modifies the discussion in the Order on Voluntary Remand, but does not change the result.

FILINGS

On September 2, 2022, in AD21-15-000, PJM submitted comments pursuant the notice issued on August 3, 2022 inviting comments on issues raised at the July 20, 2022 fourth public meeting of the Joint Federal-State Task Force on Electric Transmission.

On September 1, 2022, in Docket No. ER22-2764-000, PJM submitted proposed ministerial revisions to the Tariff, Attachment X, Schedule of Parties Adopting Local Transmission Loading Relief Procedures. PJM requested the revisions be effective as of November 1, 2022.

On August 30, 2022, PJM filed comments on the Commission's Notice of Proposed Rulemaking (NOPR) issued in Docket Nos. RM22-16-000 and AD21-13-000 on June 16, 2022, as amended by an Errata Notice issued on July 2, 2022. In this NOPR, the Commission proposes to require "transmission providers" to file one-time informational reports designed to obtain information on current or planned policies and processes for conducting extreme weather vulnerability assessments.

On August 29, 2022, in Docket No. EL22-80-000, PJM submitted an answer to the Section 206 Complaint filed against PJM by Complainants (American Municipal Power, Inc., Office of the People's Counsel for the District of Columbia, and the PJM Industrial Customer Coalition). The Complainants argued that PJM has not abided by the PJM's Operating Agreement, Schedule 6, which they claim requires PJM to execute a Designated Entity Agreement with each designated entity to construct all regionally planned projects, including Immediate-need Reliability Projects and those resulting from needs that are not posted in a competitive window.

On August 26, 2022, in Docket No. RM22-10-000, PJM filed comments in response to the Commission's June 16, 2022 Notice of Proposed Rulemaking regarding Transmission System Planning Performance Requirements for Extreme Weather.

On August 26, 2022, in Docket No. EL22-85-000, PJM submitted to the Federal Energy Regulatory Commission a filing pursuant to Federal Power Act sections 206, 306 and 309 asserting that the imprecise and overly broad usage of the term "Designated Entity" in the Operating Agreement definition and Schedule 6, sections 1.5.8(g), (h), (i), (l) and (m)(1) has created ambiguity, resulting in conflicting interpretations and disagreements as to the application of the Designated Entity Agreement. PJM includes a proposed replacement rate for Commission consideration and adoption. PJM requests that the Commission set a refund effective date of August 26, 2022.

On August 25, 2022, in Docket No. ER22-2719-000, PJM on behalf of PPL Electric Utilities Corporation (PPL Electric) submitted limited revisions to its formula rate template and implementation protocols contained in Attachment H-8 of PJM's Open Access Transmission Tariff (Tariff) to transition to a calendar year rate year (January 1 to December 31) from a mid-year rate year (June 1 to May 31). As described in more detail in the filing, as part of



the settlement of Docket No. EL20-48-000, PPL Electric committed to file revisions to its formula rate template to reflect a projected rate year based on a calendar year rate year of January 1 to December 31. PPL Electric requested that the revisions to the Tariff become effective as of October 25, 2022.

On August 24, 2022, in Docket No. ER22-1520-001, PJM submitted on behalf of Commonwealth Edison Co. (ComEd) a supplement to its June 24, 2022 response to the deficiency letter issued on May 26, 2022 regarding ComEd's March 31, 2022 modifications to PJM Tariff, Attachment M-2 (ComEd). ComEd requests the Commission to close, as moot, Docket No. ER22-1520-000 containing the March 31, 2022 tariff records with a requested effective date of May 31, 2022, and instead accept the tariff records filed on June 24, 2022 in Docket No. ER22-1520-001 with an effective date of September 1, 2022.

On August 19, 2022, in Docket No. ER22-2690-000, PJM submitted on behalf of the PJM Transmission Owners a proposed new Schedule 12 - Appendix C to assign cost responsibility for certain public policy projects selected pursuant to the State Agreement Approach for inclusion in the PJM Regional Transmission Expansion Plan and to include the first cost assignment responsibility for projects contemplated by Rate Schedule FERC No. 49. The PJM Transmission Owners are requesting that the proposed Schedule 12 - Appendix C be effective as of October 19, 2022.

On August 17, 2022, in Docket No. RM21-17-000, the ISO/RTO Council submitted Initial Comments to the Commission's April 21, 2022 Notice of Proposed Rulemaking (NOPR) considering the potential need for reforms or revisions to existing regulations to improve the electric regional transmission planning and cost allocation and generator interconnection processes and inviting comments on potential reforms and responses to the specific questions posed in the NOPR.

On August 17, 2022, in Docket No. RM21-17-000 (Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection), PJM submitted Initial Comments in response to the Commission's April 21, 2022 Notice of Proposed Rulemaking (NOPR). PJM generally supports the fundamental premises underlying the NOPR and agrees that a longer-term, forward-looking approach to transmission planning can help address the nation's changing resource mix and demand. PJM offers information for FERC's consideration as it drafts a Final Rule, and identifies areas where it supports, proposes modifications or disagrees with FERC's proposals set forth in the NOPR.

On August 17, 2022, in Docket No. EL19-58-015, PJM submitted reinstated eTariff metadata for May 1, 2022 effective sections of the Tariff and Operating Agreement originally filed on February 22, 2022 in the reserve market compliance filing. PJM made no changes to the records in the February 22, 2022 filing.

On August 16, 2022, in Docket Nos. ER22-957-000 and EL22-26-000 (not consolidated), PJM submitted an informational update to provide the Commission with the most updated congestion pattern information on the Northern Neck Peninsula and to provide an update on the ongoing work with stakeholders that may potentially further reform the existing application of the Transmission Constraint Penalty Factor.

On August 16, 2022, in Docket No. EL19-58-014, PJM submitted a motion for timely action on the February 22, 2022 compliance filing to implement effective October 1, 2022, the reserve market enhancements the Commission initially accepted in May 2020 and affirmed in the Commission's December 2021 order in this proceeding. The motion also sets the effective date of the revisions in the February 22, 2022 compliance filing to October 1, 2022. PJM also requested a 5-day answer period.

On August 15, 2022, in Docket No. ER19-1958-003, PJM filed an informational report to inform the Commission of PJM's interconnection study performance pursuant to the Commission's Order No. 845, Order No. 845-A, and Order No. 845-B and PJM Tariff, Part IV, section 41.6. PJM is submitting this informational report to inform the Commission



of PJM's interconnection study performance, and to describe the reasons for exceeding study deadlines and steps PJM is taking to prevent such delays in the future.

On August 12, 2022, in U.S. Court of Appeals for the Third Circuit Case Nos. 21-3068, 21-3205 and 21-3243, PJM and supporting stakeholders filed their brief in support of the Focused MOPR. PJM and supporting stakeholders ask that the petitions for review be denied.

On August 12, 2022, in Docket No. ER22-2653-000, PJM submitted proposed revisions to PJM Tariff, Schedule 12-Appendix A to incorporate cost responsibility assignments for 23 baseline upgrades included in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on July 13, 2022. PJM requested an effective date of November 10, 2022, which is 90 days after the date of this filing, to allow a 30 day comment period.

On August 11, 2022, in Case No. 21-1368, PJM filed its brief in opposition to Old Dominion Electric Cooperative's (ODEC) petition to the Supreme Court of the United States filed on April 19, 2022. ODEC filed its petition for writ of certiorari to appeal the January 19, 2022 opinion by the United States Court of Appeals for the Fourth Circuit (the Fourth Circuit), which affirmed on appeal the judgment of the United States District Court for the Eastern District of Virginia (the District Court) granting PJM's motion to dismiss ODEC's claims for almost \$15 million in damages with prejudice allegedly incurred during the January 2014 Polar Vortex. The Fourth Circuit agreed with the District Court that ODEC's claims for compensation fall entirely within the PJM Tariff and therefore are exclusively governed by federal law and barred by the filed-rate doctrine. The judgment of the District Court denying remand and dismissing Old Dominion's claims with prejudice was affirmed.

On August 11, 2022, in Docket No. ER22-2635-000, PJM submitted on behalf of Virginia Electric and Power Company, doing business as Dominion Energy Virginia (Dominion), revisions to Attachment H-16C of the PJM Tariff to update the prior-year actual Other Post-Employment Benefits (OPEB) expense to reflect the 2021 actual OPEB expense under Dominion's transmission formula rate. Dominion requests that the revisions to Attachment H-16C become effective October 11, 2022.

On August 2, 2022, in Docket No. ER22-2110-000, PJM filed an answer to the comments and protests in response to PJM's June 14, 2022 filing. The June 14, 2022 filing involved revisions to the PJM Tariff to comprehensively reform the PJM interconnection process to more efficiently and timely process New Service Requests and transition from a serial "first-come, first-served" queue approach to a "first-ready, first-served" Cycle approach.

On August 2, 2022, in Docket No. EL22-80-000, PJM Interconnection, L.L.C. electronically submitted to FERC a request for a two-week extension of time to answer the complaint filed by American Municipal Power, Inc., Office of the People's Council for the District of Columbia, and the PJM Industrial Customer Coalition against PJM.

On August 1, 2022, in Docket No. EL22-32-000, PJM filed an informational report regarding the status of PJM's engagement with stakeholders to assess residual risks stemming from the riskiest Financial Transmission Right (FTR) Market Participants, and to develop mitigations to protect the integrity of the FTR Market.

On July 29, 2022, in Docket No. ER22-2538-000, PJM submitted on behalf of Metropolitan Edison Company (Met-Ed) revisions to the PJM Interconnection, L.L.C., Open Access Transmission Tariff (PJM Tariff), Attachment H-5A to set forth an Other Supporting Facilities Charge (OSFC) related to the use of its distribution facilities at voltages below 69 kV to provide transmission service to Allegheny Electric Cooperative, Inc., at certain designated delivery points. Met-Ed is requesting that the revisions to PJM Tariff, Attachment H-5A become effective as of October 1, 2022.

On July 29, 2022, in Docket No. ER22-2542-000, PJM submitted on behalf of Pennsylvania Electric Company (Penelec) revisions to the PJM Interconnection, L.L.C., Open Access Transmission Tariff (PJM Tariff), Attachment H-6A to set forth an Other Supporting Facilities Charge (OSFC) related to the use of its distribution facilities at voltages below 46 kV to provide transmission service to Allegheny Electric Cooperative, Inc., at certain designated delivery



points. Penelec is requesting that the revisions to PJM Tariff, Attachment H-6A become effective as of October 1, 2022.

On July 26, 2022, a Section 206 Complaint was filed against PJM in Docket No. EL22-80-000. Complainants (including American Municipal Power, Inc., Office of the People's Counsel for the District of Columbia, and the PJM Industrial Customer Coalition) argue that PJM has not abided by the PJM's Operating Agreement, Schedule 6, which they claim requires requiring PJM to execute a Designated Entity Agreement (DEA) with each designated entity to construct all regionally planned projects, including Immediate-need Reliability Projects and those resulting from needs that are not posted in a competitive window.

On July 20, 2022, in Docket No. ER22-1200-001, PJM submitted a motion for leave to answer and answer to the comments and protest filed in response to PJM's June 13, 2022 Response to the Commission Staff's May 13, 2022 Deficiency Notice regarding PJM's March 4, 2022 filing to implement the Intelligent Reserve Deployment model.

On July 18, 2022, in Docket No. EL22-72-000, PJM filed an answer to Mercer County Solar Project, LLC's June 28, 2022 complaint regarding project suspension. PJM asks the Commission to deny the complaint, because PJM correctly limited the project's suspension to one year.