



**MC Legal Report
Summary of Significant Filings, Legal Activity
and
Federal Energy Regulatory Commission (Commission) and Court Orders
(January 7, 2023 – February 9, 2023)**

ORDERS

On February 2, 2023, in Docket No. ER22-2110-003, the Commission issued an order accepting PJM's December 19, 2022 compliance filing. PJM submitted revisions to Tariff, Parts VII and VIII to clarify the acceleration provisions and a revision to Tariff Part VII, to clarify one definition. Consistent with the authorizations granted in the November 29, 2022 order, the Commission accepted PJM's requested effective date of January 3, 2023 for the revisions to Tariff, Part VII and the requested placeholder effective date of December 31, 9998 for the Tariff, Part VIII revisions.

On January 31, 2023, in Docket No. ER23-364-000, the Commission issued an order accepting the filing by PJM of proposed revisions to PJM Tariff, Schedule 12-Appendix A, to incorporate cost responsibility assignments for 16 baseline upgrades in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on October 4, 2022. PJM's revisions become effective as of February 1, 2023.

On January 31, 2023, in Docket No. ER23-563-000, the Commission accepted PJM's proposed revisions to Operating Agreement, Schedule 12 to reflect the permanent termination of Volunteer Energy Service, Inc. as a PJM Member as a result of multiple payment and credit defaults in accordance with Operating Agreement, section 15.1.6 (c) and 4.1 (c). The revisions are effective as of February 4, 2023 as requested.

On January 25, 2023, in Docket No. ER21-253-002, the Commission issued an order accepting the filing by PJM on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, of a Motion to Implement Interim Rates, to revise Attachment H11-A of the PJM OATT to implement a negotiated rate and revenue reduction on an interim basis in the captioned docket. The revisions by Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company become effective as of January 1, 2023.

On January 13, 2023, in Docket No. ER23-470-000, 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 modifications to the PJM Open Access Transmission Tariff (PJM Tariff), Attachment H-22A to reflect ministerial revisions. DEOK's revisions to Attachment H-22A become effective as of May 15, 2022.

On January 12, 2023, in Docket No. ER23-423-000, the Commission issued a deficiency letter to PJM's proposed revisions to Operating Agreement, Schedule 12 to reflect the permanent termination of Hill Energy Resource & Services, LLC as a PJM Member as a result of multiple payment and credit defaults in accordance with Operating Agreement, section 15.1.6 (c) and 4.1 (c). The response to the deficiency letter is due within 30 days.

On January 10, 2023, in Docket No. ER23-557-000, the Commission issued a letter order accepting PJM's revisions to the PJM Tariff and Operating Agreement to add proposed amendments to Start-Up Costs and Emission Adders within the calculation of Cost-based Offers. PJM's revisions become effective as of February 1, 2023 and June 1, 2023.



FILINGS

On February 6, 2023, in Docket No. ER23-1058-000, PJM submitted revisions to the PJM Tariff and Operating Agreement related to PJM's remedies in response to an Event of Default (or potential Event of Default) of a Market Participant. PJM requested that the revisions be effective as of April 8, 2023.

On February 3, 2023, in Docket No. ER23-1045-000, PJM submitted on behalf of Duke Energy Ohio, Inc. (DEO) and Duke Energy Kentucky, Inc. (together, DEOK) revision to the PJM Tariff, Attachment H-22A regarding depreciation rates for DEO for use in DEOK's filed transmission formula rate in Appendix D. DEOK requested the revisions become effective as of January 1, 2023.

On February 2, 2023, in Docket Nos. ER23-729-000 and EL23-19-000 (not consolidated), PJM filed a Motion for Leave to Answer and Answer to respond to various protests and comments submitted on January 20, 2023 regarding PJM's proposed revisions to update the Locational Deliverability Area Reliability Requirement. In this Answer, PJM maintains, among other things, that the proposed revisions are prospective and do not violate the filed rate doctrine.

On February 2, 2023, in Docket No. ER23-1038-000, PJM submitted revisions to the PJM Tariff revising provisions so that (1) for any future Performance Assessment Intervals, if there are fewer than six monthly bills remaining in a Delivery Year for which Non-Performance Charges associated with such Performance Assessment Intervals have not been invoiced, PJM would have the ability to allocate the Non-Performance Charges up to a maximum of nine monthly bills, and (2) for Non-Performance Charges stemming from the recent Performance Assessment Intervals associated with Winter Storm Elliott, PJM Members will be able to elect to have Non-Performance Charges be invoiced and divided in nine monthly bills, subject to interest. PJM requested that the Tariff revisions be effective as of April 4, 2023.

On February 1, 2023, in Docket No. TSA-2022-0001, PJM submitted comments on the critical efforts by the Transportation Security Administration to consider implementing a comprehensive and forward-looking approach to cybersecurity requirements for interstate pipelines and rail, which are critical means for fuel delivery and the transport of other key materials needed in the electricity industry.

On February 1, 2023, in Docket No. ER22-1165-002, PJM amended an earlier filing submitting modifications to the PJM Tariff to incorporate by reference certain North American Energy Standards Board Wholesale Electric Quadrant business practice standards revisions that Order No. 676-J directed public utilities to adopt. As amended, PJM is revising its tariff to incorporate the PFV Standards and Cybersecurity Standards. PJM assigned the Tariff changes an indeterminate effective date, but requested that FERC, in its acceptance order, establish an effective date of June 2, 2022 for the PFV Standards and Cybersecurity Standards (excluding the Cryptographic Security Modules component of the Cybersecurity Standards). PJM also requested a shortened, 14-day, comment period on the filing.

On January 31, 2023, in Docket No. ER13-198-000, PJM submitted for filing consistent with the PJM Operating Agreement, Schedule 6, section 1.5.8(m)(1), the 2023 informational report that includes: (i) Appendix A - a list of Immediate-need Reliability Projects approved by the PJM Board of Managers in 2022 for which an existing incumbent transmission owner was selected as the designated entity; and (ii) Appendix B - a status update listing the Immediate-need Reliability Projects included in the 2022 informational report filed in this docket.

On January 31, 2023, in Docket No. ER23-985-000, PJM submitted on behalf of Commonwealth Edison Co. revisions/modifications to PJM Tariff, Attachment H-13 to terminate the Wholesale Distribution Charge for battery storage operator Sun-Mountain Hilltop LLC. Commonwealth Edison Co. is requesting that the revisions to PJM Tariff Attachment H-13 be effective as of December 20, 2022.



On January 30, 2023, in Docket No. EL23-20-000, PJM filed an unopposed motion to suspend the periods for answers to, interventions in, comments on, and protests of the December 30, 2022 Complaint Requesting Shortened Comment Period and Fast Track Processing of Leeward Renewable Energy Development, LLC, and for other related relief. PJM also requested expedited treatment of the motion.

On January 27, 2023, in Docket No. ER23-712-000, PJM filed a Motion for Leave to Answer and Limited Answer to the January 12, 2023 protest filed jointly by Long Island Power Authority (LIPA) and Neptune Regional Transmission System, LLC (Neptune) (Protest). LIPA and Neptune filed the Protest in response to PJM's December 22, 2022 filing proposing revisions to Tariff, Schedule 12-Appendix and Tariff, Schedule 12-Appendix A to update annual cost responsibility assignments consistent with PJM Tariff, Schedule 12.

On January 27, 2023, in Docket No. ER23-954-000, PJM submitted on behalf of Commonwealth Edison Company (ComEd) modifications to PJM Tariff, Attachment H-13A to revise its stated depreciation rates. ComEd is requesting that the depreciation rates set forth in proposed PJM Tariff, Attachment H-13A, be effective as of March 31, 2023.

On January 26, 2023, pursuant to Department of Energy (DOE) Order No. 202-22-4 issued on December 24, 2022 (the Order), paragraphs E and F, PJM Interconnection, L.L.C. (PJM) submits a report on (i) all dates between December 24, 2022, and December 26, 2022, inclusive, on which the Specified Resources were operated, the hours of operation, and exceedance of permitting limits, including sulfur dioxide, nitrogen oxide, mercury, carbon monoxide, and other air pollutants, as well as exceedances of wastewater release limits; (ii) PJM's actions taken to comply with the requirements that PJM take reasonable measures to inform affected communities where all Specified Resources operate that PJM has been issued the Order; and (iii) updates to information previously reported by PJM under the Order, and responses to questions from DOE staff.

On January 26, 2023, in Docket No. ER23-939-000, PJM submitted on behalf of West Penn Power Company (WP) a Borderline Service Agreement, designated as Service Agreement No. 6623 with Pennsylvania Power Company (Pennsylvania Power). WP submitted the Borderline Service Agreement to set forth the terms by which they will provide borderline service to Pennsylvania Power at the Sienna Village Borderline Interconnection Point. WP is requesting that the Borderline Service Agreement be effective March 29, 2023.

On January 24, 2023, in DC Circuit Court of Appeals Case No. 22-1090, PJM Interconnection, L.L.C. submitted a Joint PJM/Market Monitor Intervenor Brief in support of FERC regarding the Transmission Constraint Penalty Factor in the Northern Neck.

On January 23, 2023, in Docket No. ER22-2719-002, PJM on behalf of PPL Electric Utilities Corporation (PPL Electric) submitted responses to the December 22, 2022 Request for Information and an amended version of PJM Tariff, Attachment H-8H to address questions raised by Commission Staff and to incorporate changes included in the original filing. PPL Electric requested that the revisions become effective as of January 31, 2023.

On January 20, 2023, in Docket No. ER23-918-000, PJM submitted revisions to allow for a reduction in the Transmission Constraint Penalty Factor when congestion is caused by a transmission line upgrade associated with an interconnection request or a Regional Transmission Expansion Plan. As part of this filing, PJM also proposes to remove the existing Transmission Constraint Penalty Factor provision for the Northern Neck Peninsula. PJM requested that the proposed revisions become effective as of March 22, 2023.

On January 19, 2023, in Docket No. ER23-892-000, PJM submitted enhancements to credit provisions in Tariff, Attachment Q including enhanced cash deposit security interest language, "first day" motion requirement to clarify PJM's rights promptly upon bankruptcy filing, and confirmation of FTR agreements as bankruptcy "safe harbor" contracts. PJM is requesting that the revisions be effective as of March 21, 2023.



On January 18, 2023, in Docket No. ER21-265-002, PJM submitted on behalf of Keystone Appalachian Transmission Company, revisions/modifications to the PJM Open Access Transmission Tariff, at Attachments H-34A and H-34B, to implement a settlement agreement in the captioned docket. Keystone Appalachian Transmission Company is requesting that the revisions to its formula rate and protocols be effective as of January 1, 2021.

On January 18, 2023, in Docket No. ER21-253-002, PJM submitted on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, a Motion to Implement Interim Rates, to revise Attachment H11-A of the PJM OATT to implement a negotiated rate and revenue reduction on an interim basis in the captioned docket. Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company are requesting that the revisions be effective as of January 1, 2023.

On January 18, 2023, in Docket No. ER21-253-003, PJM submitted on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, revisions/modifications to the PJM Open Access Transmission Tariff, at Attachments H-11A and H-11B, to implement a settlement agreement in the captioned docket. Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company are requesting that the revisions to their formula rate and protocols be effective as of January 1, 2021.

On January 17, 2023, in Docket No. EL23-13-000, PJM Interconnection, L.L.C. filed with FERC an answer to the complaint filed by Roy J. Shanker on November 30, 2022, as supplemented on December 30, 2022, which alleges PJM's non-compliance with its governing documents and service agreements in connection with Capacity Interconnection Rights and PJM's Effective Load Carrying Capability methodology. PJM disagrees with the allegations of non-compliance and requests that the Commission deny the Complaint.

On January 17, 2023, in Docket No. ER23-852-000, PJM submitted on behalf of American Electric Power Service Corp. (AEPSC) revisions/modifications to PJM's Tariff, Attachments H-14B Part II and H-20B Part II to update the depreciation rate information in the existing formula rate to reflect recent state-approved depreciation rates by the Indiana Utility Regulatory Commission and the Tennessee Public Utility Commission. AEPSC is requesting that the revisions become effective as of March 20, 2023.

On January 17, 2023, in Docket No. ER23-855-000, in compliance with the Commission's December 15, 2022 Order on Complaint in EL22-34-000, PJM on behalf of American Electric Power Service Corp. (AEPSC), on behalf of Ohio Power Company and AEP Ohio Transmission Company, Inc., submitted revisions to PJM Tariff, Attachment H-14B and Attachment H-20B. Consistent with the Order on Complaint, AEPSC requested for the revisions to become effective as of February 24, 2022.

On January 12, 2022, in Docket No. ER23-286-000, PJM on behalf of AMP Transmission, LLC (AMPT) submitted an informational filing pursuant to the December 30, 2022 Order directing AMPT to file an informational filing within 15 days of the transaction to confirm the effective date. AMPT's informational filing informs the Commission that AMPT's transaction closed and the proposed revisions to Attachment H-32 become effective as of January 3, 2023.

On January 9, 2023, in Docket No. ER20-1085-004, PJM on behalf of Virginia Electric and Power Company d/b/a Dominion Energy Virginia (Dominion) submitted a filing in compliance with FERC's April 27, 2022 Order and Order No. 864 related to excess and deficient accumulated deferred income taxes, which contains two sets of tariff records (ADIT Tariff Record and Second Tariff Record). Dominion requested the ADIT Tariff Record to be effective as of January 27, 2020. Dominion requested the Second Tariff Record to be effective as of January 1, 2021.