

**MC Legal Report**  
**Summary of Significant Filings, Legal Activity and**  
**Federal Energy Regulatory Commission (Commission) and Court Orders**  
**(May 6, 2023 – June 10, 2023)**

**ORDERS**

**On June 5, 2023**, in Docket No. EL23-53-000 et al., the Commission issued an order granting a motion filed by PJM on April 14, 2023 requesting establishment of global settlement judge procedures encompassing all Winter Storm Elliott complaint proceedings filed between March 31, 2023 and May 31, 2023.

**On June 5, 2023**, in Docket No. ER23-1700-000, the Commission issued a letter order accepting PJM's revisions to update Default Gross Cost of New Entry and Avoidable Cost Rate values, which are used for purposes of the Minimum Offer Price Rule and Minimum Seller Offer Cap in PJM's Capacity Market. PJM's revisions become effective as of June 23, 2023.

**On May 30, 2023**, in Docket No. ER22-962-002, the Commission issued an order on PJM's March 31, 2023 30-day Order No. 2222 compliance filing, relating to the participation of distributed energy resource (DER) aggregators in PJM's energy, capacity, and ancillary services markets. In the May 30, 2023 order, the Commission found that PJM's March 31, 2023 compliance filing, related to capacity market mitigation for DER Capacity Aggregation Resources, partially complied with the Commission's directives, and directed PJM to submit an additional compliance filing within 15 days.

**On May 26, 2023**, in Docket No. ER23-1529-000, the Commission issued a letter order accepting PJM's revisions to Tariff, Section 31.7 to improve the determination of Day-ahead Zonal Load Factors used in the Day-ahead Energy Market to better represent actual Real-time operations. PJM proposed to implement the proposed Tariff reforms during the third quarter of 2023, and the Commission directed PJM to submit a compliance filing to establish the actual effective date within 30 days of implementation.

**On May 25, 2023**, in Docket No. ER21-201-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Atlantic City Electric Co. (ACE) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. ACE's response shall be effective as of January 27, 2020.

**On May 25, 2023**, in Docket No. ER21-203-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Baltimore Gas and Electric Co. (BGE) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. BGE's response shall be effective as of January 27, 2023.

**On May 25, 2023**, in Docket No. ER21-203-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Baltimore Gas and Electric Co.(BGE) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. BGE's response shall be effective as of January 27, 2020.

**On May 25, 2023**, in Docket No. ER21-204-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Commonwealth Edison Co. (ComEd.) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. ComEd's response shall be effective as of January 27, 2020.

**On May 25, 2023**, in Docket No. ER21-205-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Delmarva Power & Light Co. (DPL) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. DPL's response shall be effective as of January 27, 2023.

**On May 25, 2023**, in Docket No. ER21-206-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of Potomac Electric Power Co. (PEPCO) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. PEPCO 's response shall be effective as of January 27, 2023.

**On May 25, 2023**, in Docket No. ER21-209-002, the Commission issued a letter order accepting the filing PJM submitted on behalf of PECO Electric Co. (PECO) a compliance filing in response to the November 2, 2022 Order and the requirements of Order No. 864. PECO's response shall be effective as of January 27, 2020.

**On May 24, 2023**, in Docket No. ER23-1038-001, the Commission issued a letter order accepting the compliance filing by PJM pursuant to the Commission's April 3, 2023 Order to specify that in the event PJM determines that an extension of any future Non-Performance Charges is merited, the extension would apply to all resources that are subject to Non-Performance Charges rather than extended on a unit-by-unit basis. PJM's compliance filing is effective as of April 4, 2023.

**On May 22, 2023**, in Docket No. ER23-1514, the Commission issued a letter order accepting the filing by PJM on behalf of PECO Energy Company (PECO) of the annual filing required by PECO's formula rate implementation protocols revising the depreciation and amortization rates set forth in PECO's transmission formula rate template set forth in PJM Tariff, Attachment H-7A. PECO's annual filing is effective date as of May 30, 2023.

**On May 18, 2023**, in Docket No. ER22-2359-000, the Commission issued an Order on Compliance Filing accepting in part PJM's July 12, 2022 Order No. 881 Compliance Filing proposing to add a new Attachment W to its Tariff, to be effective July 12, 2025, subject to two additional compliance filings. Order No. 881 revises both the pro forma Tariff and the Commission's regulations to improve the accuracy and transparency of electric transmission line ratings. PJM's first additional compliance filing is due on July 17, 2023, and the second additional compliance filing is due November 12, 2024.

**On May 16, 2023**, in Docket No. ER23-1571-000, the Commission issued a letter order accepting the filing by PJM on behalf of Duquesne Light Company (Duquesne) of revisions to Attachment H-17 of the PJM Tariff. Duquesne's revisions become effective as of June 5, 2023.

**On May 15, 2023**, in Docket No. ER23-1399-000, the Commission issued a letter order accepting the filing PJM submitted of revisions to the power flow model used to calculate RTEP cost allocation assignments in the 2022 annual Regional Transmission Expansion Plan (RTEP) update filing. PJM's revisions are effective as of January 1, 2022.

## **FILINGS**

**On June 8, 2023**, in Docket No. EL23-74-000, PJM Interconnection, L.L.C. electronically submitted to FERC a request for a two-week extension of time to answer the complaint filed by East Kentucky Power Cooperative, Inc. Complainant does not oppose the requested extension.

**On June 8, 2023**, the ISO/RTO Council ("IRC") submitted a request for a 60-day extension to the comment period in response to the EPA's proposed rule in Docket No. EPA-HQ-OAR-2023-0072. The IRC submits this request for a comment period that provides adequate time to evaluate the Proposed Rule and consider providing input to address any concerns with bulk power grid reliability. The IRC is requesting an additional 60 days, until September 22, 2023, to review, evaluate, and prepare potential comments on the Proposed Rule.

**On June 7, 2023**, in Docket No. EL23-72-000, PJM Interconnection, L.L.C. electronically submitted an Answer to the Complaint and Request for Fast Track Processing filed by Payton Solar, LLC on May 18, 2023. PJM is requesting the Complaint be denied since it seeks remedies contrary to the PJM Tariff that would result in discriminatory and preferential treatment in favor of Payton Solar.

**On June 6, 2023**, in Docket No. ER23-2078-000, PJM filed the Joint Reliability Coordination Agreement (JRCA) by and among PJM, Tennessee Valley Authority (TVA), and Louisville Gas and Electric Company (LGE) and Kentucky Utilities Company (KU) and requested that the JRCA be accepted effective August 5, 2023.

**On June 5, 2023**, in Docket No. ER23-1996-000, PJM submitted an answer to protest the motion for an extension of time filed by the Organization of PJM States, Inc.

**On June 2, 2023**, in Docket No. EL23-61-000, PJM submitted its Answer to the complaint of Old Dominion Electric Cooperative, filed on April 14, 2023 regarding assessment of Non-Performance Charges from Winter Storm Elliott.

**On June 2, 2023**, in Docket No. EL23-63-000, PJM submitted its Answer to the complaint of Energy Harbor LLC, filed on April 27, 2023 regarding assessment of Non-Performance Charges from Winter Storm Elliott.

**On June 2, 2023**, in Docket Nos. EL23-60-000, et al., PJM filed an answer to the Motion for Limited Waiver of Parkway Generation Keys Energy Center LLC, Generation Keys Energy Center LLC, and Parkway Generation Sewaren Urban Renewable Entity LLC, regarding PJM's practices for billing of Non-Performance Charges from Winter Storm Elliott.

**On May 30, 2023**, in Docket No. ER23-1996-000, PJM submitted proposed revisions to the PJM Tariff to refine the definition of Emergency Action for purposes of determining Performance Assessment Intervals. PJM requested a shortened 10 day comment period and requested that the Commission accept the proposed revisions no later than July 14, 2023, and to become effective as of June 1, 2023.

**On May 26, 2023**, in Docket No. EL23-59-000, PJM submitted its Answer to the Lincoln Complaint filed on April 6, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-57-000, PJM submitted its Answer to the Lee County Generating Station, LLC Complaint filed on April 5, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-53-000, PJM submitted its Answer to the Nautilus Complaint filed on March 30, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-54-000, PJM submitted its Answer to the ComEd Zone Complaint filed on April 4, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-55-000, PJM submitted its Answer to the Coalition of PJM Capacity Resources Complaint filed on April 4, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-56-000, PJM submitted its Answer to the Talen Complaint filed on April 5, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-60-000, PJM submitted its Answer to Parkway Generation Keys Energy Center LLC's Complaint filed on April 6, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in Docket No. EL23-58-000, PJM submitted its Answer to the SunEnergy1 Complaint filed on April 5, 2023 regarding non-performance charges stemming from Winter Storm Elliott.

**On May 26, 2023**, in ES23-39-000, the Commission issued an order accepting PJM's application under section 204 of the Federal Power Act requesting authorization for PJM to issue an amended, unsecured promissory note, evidencing borrowings, in an aggregate principal amount not to exceed \$200 million, pursuant to an existing revolving line of credit. The amendments are limited to extending the maturity of the line of credit by two years to the end of May 2025, and changing the reference interest rate from LIBOR, which is being sunset as of July 1, 2023, to the Secured Overnight Financing Rate (SOFR).

**On May 24, 2023**, in Docket Nos. EL23-54-000, et al., PJM filed a motion for adoption of a protective order to govern the provision and protection of confidential information in proceedings before the Commission regarding the

assessment of Non-Performance Charges for shortfalls in Capacity Resources' performance during Performance Assessment Intervals triggered by PJM's invocation of emergency procedures during Winter Storm Elliott. PJM requested that the Commission establish one common set of rules and procedures for handling protected information in all of these proceedings to replace the nine different protective agreements that the various complainants have tendered.

**On May 19, 2023**, in Docket No. ER21-253-004, PJM submitted on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, a compliance filing with revisions/modifications to the PJM Open Access Transmission Tariff, at Attachments H-11A and H-11B, in compliance with the Commission's May 4, 2023 order. The revisions by Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company become effective as of January 1, 2023.

**On May 18, 2023** in Docket No. ER20-2004-004, Public Service Electric and Gas Company (PSEG) submitted a Response to a April 18, 2023 Deficiency Letter issued by Federal Energy Regulatory Commission staff regarding PSEG's Order No. 864 Compliance Filing.

**On May 16, 2023**, in Docket No. EL21-91-000, PJM filed a Motion for Adoption of Protective Order (Motion). The Motion advocates that having a Protective Order in place as soon as possible would facilitate the discovery process and thereby the settlement process in the Black Start Unit CRF Show Cause proceeding.

**On May 15, 2023**, in Docket No. AD23-3-000, PJM submitted comments in response to the Federal Energy Regulatory Commission's Notice requesting Post-Workshop Comments regarding a minimum requirement for Interregional Transfer Capability for public utility transmission providers.

**On May 15, 2023**, in Docket No. ER20-2584-002, PJM submitted on behalf of American Electric Power Service Corporation (AEPSC) on behalf of its affiliate Transource Maryland, a compliance filing to revise Tariff, Attachment H-30A, of the PJM Open Access Transmission Tariff Attachment H-30A to comply with the Federal Energy Regulatory Commission's March 16, 2023, Order on Compliance. AEPSC requested that the revisions become effective as of January 27, 2020.

**On May 12, 2023**, in Civil Action No. 1:21-cv-01101-JPW (M.D. Pa.), PJM submitted a Reply Brief in support of its Motion for Leave to File Amicus Curiae Brief to offer PJM's perspective and experience as the organization responsible for regional transmission planning in the Mid-Atlantic Region.

**On May 12, 2023**, in Docket Nos. ER22-962-001 and ER22-962-002, PJM submitted a Motion for Leave to Answer and Answer to the April 21, 2023 Protest of the Market Monitor, which was made in response to PJM's March 31, 2023 Order No. 2222 30-day compliance filing.

**On May 12, 2023**, in Docket No. ER23-1874-000, PJM submitted revisions to the Tariff, Schedule 6A, to mitigate the adverse impacts of Black Start Units potentially being unavailable during a restoration event due to fuel unavailability. This proposal provides qualification procedures, testing, performance requirements, and compensation for Fuel Assured Black Start Units. PJM requested an effective date of July 11, 2023 for the revisions.

**On May 12, 2023**, in Docket No. ER23-1221-002, PJM submitted on behalf of Duquesne Light Company an amendment to Attachment H-17A, to permit recovery of abandonment costs associated with the Dravosburg-Elrama Expansion Project. The amendment clarifies aspects of the filing that was originally made on March 2, 2023. Duquesne Light Company continues its request that the revisions to Attachment H-17A be effective as of May 1, 2023.

**On May 12, 2023**, in Docket No. ER23-1222-002, PJM submitted on behalf of Duquesne Light Company an amendment to Attachment H-17A, to permit recovery of abandonment costs associated with the Dravosburg-Elrama

Expansion Project. The amendment clarifies aspects of the filing that was originally made on March 2, 2023. Duquesne Light Company continues its request that the revisions to Attachment H-17A be effective as of May 1, 2023.

**On May 11, 2023**, in Docket Nos. ER22-957-000 and EL22-26-000 (not consolidated), PJM submitted its fifth informational update to provide the Commission with the most updated congestion pattern information on the Northern Neck Peninsula.

**On May 10, 2023**, in Docket No. ER23-1609-000, PJM submitted an answer to the various protests filed against PJM's proposal to delay the upcoming RPM Auctions. In this answer, PJM provides further justification for a delay of the RPM Auctions.

**On May 9, 2023**, in Docket Nos. EL23-53-000, et al., PJM submitted an answer to the May 1, 2023 motion to dismiss of Constellation Energy Generation, LLC. In this answer, PJM continues to request that the Commission establish settlement procedures on the pending Winter Storm Elliott complaints without further delay.

**On May 8, 2023**, in Docket No. ER23-1067-001, PJM submitted proposed minor revisions to the RAA, in compliance with 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. PJM requested an effective date of April 10, 2023 for the proposed minor revisions to the RAA, to align with the effective date granted for the rest of PJM's proposal in the April 7, 2023 Order.