

MC Legal Report
Summary of Significant Filings, Legal Activity and
Federal Energy Regulatory Commission (Commission) and Court Orders
(December 12, 2023 – January 12, 2023)

ORDERS

On January 10, 2024, in Docket No. ER24-402-001, the Commission issued a letter order accepting proposed changes to the Tariff to clarify the two types of Network Integration Transmission Service (NITS) currently available to Network Customers: Regional NITS, which is entirely internal to the PJM Region; and Cross-Border NITS, which has a component outside the PJM Region. The accepted revisions become effective on January 15, 2024.

On January 9, 2024, in Docket No. ER22-910-004, the Commission issued a letter order accepting the filing PJM submitted on behalf of Rockland Electric Company (RECO) of revisions to PJM Tariff Attachment H-12, Schedule 7, and Schedule 8. RECO's requested revisions will be effective as of January 1, 2024.

On December 28, 2023, in Docket No. ER24-319-000, the Commission issued a letter order accepting the filing by PJM of a clean up filing to ensure that the current eTariff record of PJM Tariff, Schedule 12 – Appendix and Appendix A, for Duquesne Light Company (section 18) and Virginia Electric and Power Company (section 20) correctly incorporate revisions previously filed and accepted by the Commission. Due to the overlapping timing of filings and effective dates, the revisions being submitted in this filing which were previously accepted will not be reflected correctly in the Schedule 12 – Appendix and Appendix A tariff records absent this clean up. PJM's revisions become effective as of February 1, 2023 and June 14, 2023 respectively.

On December 21, 2023, in Docket No. ER24-477-000, the Commission issued an order accepting PJM's Request for Waiver of Operating Agreement, Schedule 6, Section 1.5.7(f) regarding PJM's annual review of costs and benefits of constructing RTEP market efficiency enhancements and expansions.

On December 19, 2023, in Docket Nos. EL23-53-000, et al., the Commission issued an order addressing arguments raised on rehearing by Joint Petitioners, including PJM and other settling parties to the WSE Settlement. In its order, the Commission set aside its September Waiver Order, in part, to specify that the Commission's determination to grant the Chief Companies' late intervention was limited to the waiver sub-dockets (-001 and -003) and does not provide party status to the Chief Companies with respect to the complaint and settlement proceedings.

On December 19, 2023, the Commission issued an order approving an Uncontested Offer of Settlement in Docket No. ER23-2975-000. The Settlement resolves 15 complaints arising from PJM Interconnection, L.L.C.'s (PJM) assessment of non-performance charges during Winter Storm Elliott on December 23-24, 2022. The Order approves the Settlement as fair, reasonable, and in the public interest.

On December 19, 2023, in Docket No. EL23-63-000, the Commission issued an order denying a complaint filed against PJM Interconnection by Energy Harbor. In the order, FERC found that PJM did not violate its Tariff or miscalculate the Performance Shortfall and the resulting Non-Performance Charges assessed to Energy Harbor.

On December 19, 2023, in Docket No. ER24-163-000, the Commission issued a letter order accepting the filing PJM submitted on behalf of Exeleon Corporation (Exelon), on behalf of its three affiliates Baltimore Gas and Electric Company (BGE), PECO Energy Company (PECO), and Potomac Electric Power Company (Pepco), a request for authorization to recover 100 percent of prudently incurred costs associated with certain transmission projects referred to as the Brandon Shores Project (The Project) in the event the Project is abandoned or cancelled for reasons beyond BGE, PECO or Pepco's control (the Abandoned Plant Incentive). Exeleon's request granting the Abandoned Plant Incentive for the Project will effective December 20, 2023.

On December 19, 2023, in Docket No. ER12-2708-010, the Commission issued a letter order accepting the Offer of Settlement of the Potomac-Appalachian Transmission Highline, LLC, its operating companies PATH Allegheny Transmission Company, LLC and PATH West Virginia Transmission Company, LLC (collectively, the PATH Companies), and the other Settling Parties. The Offer of Settlement includes a Settlement Agreement that resolves all issues in the above-referenced dockets, including all related sub-dockets thereof. The Commission directed the Path Companies to file a compliance filing within 30 days of the effective date for the Tariff revisions filed along with Settlement Agreement.

On December 18, 2023, in Docket No. ER24-284-000, the Commission accepted the proposed revisions to the PJM Tariff, PJM Operating Agreement and RAA, in connection with the integration of FirstEnergy Pennsylvania Electric Company (FE PA), and Keystone Appalachian Transmission Company (KATCo) into PJM as a result of FirstEnergy Corp.'s (FirstEnergy's) proposed internal corporate reorganization (the Transaction). FE PA and KATCo anticipate that the Transaction will close on January 1, 2024, but the exact date is not known at this time. Thus, the Commission accepted the filings with an open-ended effective date of 12/31/9998 as requested. PJM is directed to notify the Commission within thirty (30) days after the closing date of the FE PA and KATCo Transaction which will be the effective date of the tariff records.

On December 18, 2023, in Docket No. ER24-285-000, the Commission accepted the proposed revisions to the CTOA, in connection with the integration of FirstEnergy Pennsylvania Electric Company (FE PA), and Keystone Appalachian Transmission Company (KATCo) into PJM as a result of FirstEnergy Corp.'s (FirstEnergy's) proposed internal corporate reorganization (the Transaction). FE PA and KATCo anticipate that the Transaction will close on January 1, 2024, but the exact date is not known at this time. Thus, the Commission accepted the filings with an open-ended effective date of 12/31/9998 as requested. PJM is directed to notify the Commission within thirty (30) days after the closing date of the FE PA and KATCo Transaction which will be the effective date of the tariff records.

On December 12, 2023, in Docket No. ER23-2809-001, the Commission issued a letter order accepting the filing PJM submitted on behalf of The Dayton Power and Light Company d/b/a AES Ohio of an amendment to its prior filing to revise Attachment H-15A of the PJM Tariff to update AES Ohio's general depreciation rates and intangible amortization rates. AES Ohio's requested revisions will be effective as of January 1, 2023.

FILINGS

On January 11, 2024, in Docket No. ER24-853-000, PJM submitted on behalf of Duke Energy Ohio, Inc. (DEO) and Duke Energy Kentucky, Inc. (together, DEOK) revisions 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 October 15, 2023.

On January 10, 2024, in Docket Nos. ER24-402-000 and -001, the Commission accepted for filing, effective January 15, 2024, PJM's November 15, 2023 submission that proposed changes to the Tariff to clarify the two types of Network Integration Transmission Service (NITS) currently available to Network Customers: Regional NITS, which is entirely internal to the PJM Region; and Cross-Border NITS, which has a component outside the PJM Region.

On January 10, 2024, in Docket No. ER24-843-000, PJM submitted proposed revisions to PJM Tariff, Schedule 12-Appendix A and Schedule 12-Appendix C, to incorporate cost responsibility assignments for 215 baseline upgrades in the recent update to the Regional Transmission Expansion Plan approved by the PJM Board of Managers on December 11, 2023. PJM requested an effective date of April 9, 2024, which is 90 days after the date of this filing, to allow a 30 day comment period.

On January 9, 2024, in Docket No. ER23-1784, PJM, in compliance with the Commission's October 26, 2023 Order on Compliance and Request for Waivers, filed to amend the PJM Tariff, section 4.2 to revise the first and second

paragraphs of Tariff, section 4.2, to add to the current list of citations to orders granting waivers a citation to the October 26 Order. Consistent with the October 26 Order, PJM requests that these revisions be made effective as of February 1, 2024. This proceeding concerns modifications to the Tariff to incorporate by reference the North American Energy Standards Board (“NAESB”) Wholesale Electric Quadrant (“WEQ”) Business Practice Standards revisions that were adopted in Order No. 676-J.

On January 9, 2024, in Docket No. ER23-1784-001, PJM, in compliance with the Commission’s October 26, 2023 Order on Compliance and Request for Waivers, filed to amend the PJM Tariff, section 4.2 to revise the first and second paragraphs of Tariff, section 4.2, to add to the current list of citations to orders granting waivers a citation to the October 26 Order. Consistent with the October 26 Order, PJM requests that these revisions be made effective as of February 1, 2024. This proceeding concerns modifications to the Tariff to incorporate by reference the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) Business Practice Standards revisions that were adopted in Order No. 676-J.

On January 5, 2024, in Docket No. EL24-18-000, PJM submitted an answer to the December 21, 2023 answer of Urban Grid Solar Projects, LLC (“Urban Grid”) to PJM’s response to Urban Grid’s complaint in this proceeding. The complaint alleges that PJM illegally terminated and withdrew Urban Grid’s projects from the queue for failure to meet the deadlines for the provision of security. In its January 5, 2024 answer, PJM stated that nothing in the complaint or Urban Grid’s December 16, 2023 answer justified the complaint or the requested relief, and asked the Commission to reject the Complaint.

On January 3, 2024, in Docket No. ER24-462-000, PJM submitted a motion for leave to answer and answer in response to comments and protests against PJM’s proposed Tariff revisions to separate ComEd into its own CONE area to address the asset life of a Reference Resource given the Illinois Climate and Equitable Jobs Act.

On January 2, 2024, in Docket No. ER24-804-000, PJM submitted on behalf of Potomac-Appalachian Transmission Highline, LLC and its operating companies PATH Allegheny Transmission Company, LLC and PATH West Virginia Transmission Company, LLC a Notice of Cancellation of Attachments H-19, H-19A, and H-19B to the PJM Interconnection, L.L.C. Open Access Transmission Tariff, Motion for Expedited Comment Period and Order, and Request for Waiver of Notice Requirement (Notice of Cancellation). The Notice of Cancellation requests that the Commission cancel Att. H-19, H-19A, and H-19B effective January 10, 2024, consistent with the Settlement Agreement approved by Commission order issued in the above-referenced dockets on December 19, 2023.

On January 2, 2024, in Docket No. ER21-2965-002, PJM submitted on behalf of Atlantic City Electric Co., Delmarva Power & Light Co. and PECO Energy Co. (the settling parties) an executed Settlement Agreement and related documents that resolve, upon the Commission’s approval of this Settlement Agreement without condition or modification unacceptable to the Parties, all issues in Docket Nos. ER21-2965-000 and ER21-2965-001. The settling parties requested that the settlement agreement be effective as of January 1, 2022.

On December 29, 2023, in Docket No. ER24-749-000, PJM filed Comments in response to the request for waiver of Lee County Generating Station, LLC (“Lee”), confirming statements made by Lee and stating that PJM does not oppose Lee’s waiver request.

On December 29, 2023, in Docket No. ER24-786-000, PJM submitted for filing revisions to PJM Tariff, Schedule 12 – Appendix, Schedule 12 – Appendix A, and Schedule 12 – Appendix C to update annual cost responsibility assignments for Regional Facilities, Necessary Lower Voltage Facilities, Lower Voltage Facilities, and State Agreement Public Policy Projects, consistent with PJM Tariff, Schedule 12. PJM requested the revisions be effective as of January 1, 2024.

On December 27, 2023, in Docket No. ER12-2708-010, PJM submitted an informational filing on behalf of Potomac-Appalachian Transmission Highline, LLC, its operating companies PATH Allegheny Transmission Company, LLC and PATH West Virginia Transmission Company, LLC (collectively, the PATH Companies) providing the effective date of December 19, 2023 for the Tariff revisions filed in the Offer of Settlement.

On December 22, 2023, in Docket Nos. EL19-58-002 and EL19-58-003, PJM submitted its second informational filing to provide the Commission with a breakdown of net energy and ancillary service revenues analyzing the impact of reserve market reforms on reserve price formation.

On December 22, 2023, in Docket No. ER24-461-000, PJM submitted an answer to the Independent Market Monitor's comments regarding PJM's Peak Market Activity Credit Requirement Enhancements proposal.

On December 22, 2023, in Docket No. ER24-754-000, PJM submitted on behalf of Baltimore Gas and Electric Company modifications to PJM Tariff, Part II of Attachment H-2A to revise its stated depreciation rates. Baltimore Gas and Electric Company is requesting that the depreciation rates set forth in proposed PJM Tariff, Part II of Attachment H-2A, be effective as of March 1, 2024.

On December 21, 2023, in Docket No. ER24-99-000, PJM submitted an answer to respond to various comments related to PJM's proposed enhancements to capacity accreditation, risk modeling, testing, and related market reforms designed to support reliability of the electric grid now and in the future amid increasingly extreme weather and a changing generation fleet.

On December 21, 2023, in Docket No. ER24-98-000, PJM submitted an answer to respond to various comments related to the proposed: (1) updates to performance payment eligibility; (2) clarifications to performance obligations during Performance Assessment Intervals (PAIs); (3) introduction of PAI Obligation Transfers; (4) process improvements on PJM's calculation of unit-specific Market Seller Offer Caps; (5) enhancements to Market Seller Offer Cap for Planned Generation Capacity Resources; (6) enhancements related to Capacity Performance Quantifiable Risk; and (7) use of a forward looking energy and ancillary service offset for purposes of the Market Seller Offer Cap and Minimum Offer Floor Price Rule.

On December 20, 2023, in Docket No. EPA-HQ-OAR-2023-0072, the Joint ISOs/RTOs (ERCOT, MISO, PJM, and SPP) provided comments to the US Environmental Protection Agency (EPA) regarding their proposed rule establishing new source performance standards and emissions guidelines for electric generating units. The comments were made in response to the EPA's Supplemental Notice of Proposed Rulemaking request for comments published in the Federal Register on November 20, 2023.

On December 18, 2023, in Docket No. ER24-545-000, PJM filed its Motion to Intervene and Comments (Comment) in response to the request for limited waiver by American Electric Power Service Corp. on behalf of its affiliates Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, and Wheeling Power Company (collectively, the AEP FRR Entities). In its Comment, PJM requested that any Commission decision to come out of this petition for waiver be limited to the facts of this case for only the 2025/2026 Delivery Year and urged the Commission not to prejudge the outcome of any potential solution that may be developed through the stakeholder process regarding the appropriate way to allocate the impact of large load additions on capacity obligations.

On December 15, 2023, in Docket No. ER24-686-000, PJM and New York Independent System Operator, Inc., (NYISO) jointly submitted proposed revisions to the Joint Operating Agreement (JOA) between NYISO and PJM that is set forth in Attachment CC to the NYISO's Open Access Transmission Tariff. The proposed revisions clarify an existing definition, improve the description of Interconnection Reliability Operating Limits (IROLs), and streamline the process for updating the list of interconnection facilities. PJM and NYISO request that the revisions be effective as of February 14, 2024.

On December 15, 2023, in Docket No. ER24-681-000, PJM submitted revisions to the PJM Tariff, Attachment L to remove ITC Interconnection, LLC as a PJM Transmission Owner. PJM requested the revisions be effective as of February 14, 2024.

On December 15, 2023, in Docket No. ER24-681-000, PJM submitted revisions to the CTOA, Attachment A to remove ITC Interconnection, LLC as a PJM Transmission Owner. PJM requested the revisions be effective as of February 14, 2024.

On December 13, 2023, in Docket No. ER22-962-006, PJM submitted a compliance filing in the Order No. 2222 compliance proceeding related to the participation of distributed energy resource aggregators in PJM's energy, capacity, and ancillary services markets. PJM's compliance filing does not contain any substantive revisions, but redates and reorganizes certain eTariff records to ensure that PJM's capacity market mitigation rules will be in effect in time for the commencement of pre-auction activities for, and prior to, the 2026/2027 Delivery Year BRA. PJM requested an effective date for the eTariff records of July 1, 2024.