

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

East Kentucky Power Cooperative, Inc.)	
Complainant,)	
)	
v.)	Docket No. EL23-74-000
)	
PJM Interconnection, L.L.C.,)	
Respondent.)	
)	

**UNOPPOSED MOTION FOR EXTENSION OF TIME, SHORTENED ANSWER
PERIOD AND REQUEST FOR EXPEDITED ACTION ON EXTENSION
REQUEST
OF PJM INTERCONNECTION, L.L.C**

PJM Interconnection, L.L.C. (“PJM”), pursuant to Rules 212 and 2008 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ respectfully requests a two-week extension of time to answer the complaint filed by East Kentucky Power Cooperative, Inc. (“EKPC” or “Complainant”) against PJM in the above captioned proceeding.² The requested extension would extend the deadline for PJM’s answer to the Complaint, currently set for June 30, 2023, to July 14, 2023.

Complainant has authorized PJM to state that the Complainant does not oppose the requested extension. Accordingly, PJM requests that the Commission waive the standard five-day answer period that would otherwise apply under 18 C.F.R. § 385.213(d)(1)(i) and grant the requested extension as expeditiously as possible. For the reasons set forth below, good cause exists for the Commission to grant PJM’s motion.

¹ 18 C.F.R. §§ 385.212, 385.2008(a).

² *East Kentucky Power Cooperative, Inc. v. PJM Interconnection, L.L.C.*, Complaint of East Kentucky Power Cooperative, Inc., Docket No. EL23-74-000 (May 31, 2023) (“Complaint”).

I. MOTION FOR EXTENSION AND REQUEST FOR EXPEDITED ACTION

The Complaint concerns Winter Storm Elliott’s³ unprecedented impacts on the PJM footprint. Among other things, Winter Storm Elliott required PJM to take multiple emergency actions on December 23 and 24, 2022 that triggered Performance Assessment Intervals (“PAIs”).⁴ A number of Capacity Resources, including certain of Complainant’s Capacity Resources, did not fulfill their capacity commitments to PJM during these PAIs. When such shortfalls occur, the Tariff requires PJM to assess Non-Performance Charges, and award corresponding credits to Capacity Resources that exceeded their obligations. Because of the duration and severity of Winter Storm Elliott, the Non-Performance Charges that PJM has calculated for Complainants, and for other parties, are substantial.⁵

Given the magnitude of the Non-Performance Charges and credits at issue, the Complaint is of obvious importance to PJM, to the various other complainants, and to many other stakeholders. The Complaint and attachments are over 190 pages long, including three separate affidavits that need to be reviewed. Upon initial review, the Complaint and attachments appear to raise difficult and consequential questions concerning PJM’s use of its emergency procedures, the extent to which parties may challenge operational decisions,

³ Winter Storm Elliott refer to a large winter storm that passed through the PJM Region between December 23 and December 25, 2022. See *Winter Storm Elliot Info.*, PJM Interconnection, L.L.C., <https://www.pjm.com/markets-and-operations/winter-storm-elliott> (last visited April 13, 2023) (collecting PJM’s public statements addressing Winter Storm Elliott’s impact on PJM’s operations and markets).

⁴ Terms not otherwise defined in this motion have the same meaning set forth in, as applicable, the Open Access Transmission Tariff of PJM Interconnection, L.L.C. (“Tariff”) or in the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C.

⁵ See *Winter Storm Elliot*, PJM Interconnection, L.L.C., (Jan. 12, 2023), <https://www.pjm.com/-/media/committees-groups/committees/oc/2023/20230112/item-02---overview-of-winter-storm-elliott-weather-event.ashx> (estimating \$1-2 billion in Non-Performance Charges); Complaint at 21 (asserting that generators in PJM are experiencing “economic distress” due to the imposition of Winter Storm Elliott-related Non-Performance Charges).

tariff interpretation matters, potential restrictions on PJM's obligations to assist neighboring systems during emergencies, the implementation of PJM's Capacity Performance construct, the scope of the filed rate doctrine, and the extent of the Commission's remedial discretion under the Federal Power Act.

Moreover, the Complaint is just one of fourteen complaints addressing similar Winter Storm Elliott-related issues that were submitted on or before June 6, 2023.⁶ In addition, there are several pending bankruptcies (each involving multiple entities) potentially seeking, among other things, relief from or adjudication of the penalty obligations. Because these complaints will all ultimately involve disputes over Non-Performance Charges and bonus credits, PJM expects that they will share certain elements in common. However, these complaints are also likely to have significant differences among them based on how PJM's and Capacity Resources' responses to Winter Storm Elliott affected individual complainants. PJM's answer in this proceeding will necessarily be informed by its review of arguments and evidence presented in the other proceedings, as well. Affording more time for PJM to respond will facilitate the orderly and efficient administration of these Winter Storm Elliott complaints, conserving resources for the Commission and litigants.

Additional time to answer also recognizes the reality of other ongoing work relating to Winter Storm Elliott. Many of the same PJM staff, attorneys, and subject matter experts that will be working to develop responses in the joint inquiry by Commission staff and staff of the North American Electric Reliability Council ("NERC") into operations of the bulk

⁶ At the time that this motion was filed, other Winter Storm Elliott-related complaints had already been submitted in Docket Nos. EL23-53-000, EL23-54-000, EL23-55-000, EL23-56-000, EL23-57-000, EL23-58-000, EL23-59-000, EL23-60-000, EL23-61-000, EL23-63-000, EL23-66-000, EL23-67-000, and EL23-75-000.

power system during Winter Storm Elliott⁷ and answers to the other Winter Storm Elliott complaints are also engaged in responding to this Complaint.

Consequently, there is good cause for the Commission to grant a two-week extension of time until July 14, 2023 for PJM, and other parties, to answer the Complaint. The standard thirty-day answer period is insufficient given the importance and complexity of the issues presented here, the extensive nature of the Complaint, and the interplay with overlapping issues in multiple other existing proceedings. A complete and robust record is necessary to inform the Commission's decision. PJM will use the additional time sought here to prepare a fully developed answer that will comprehensively address the Complaint.

The Commission has frequently granted extensions for answers in complaint proceedings that addressed significant disputes that impacted many stakeholders and had broad policy ramifications.⁸ It should follow that precedent here.

⁷ See *FERC, NERC to Open Joint Inquiry into Winter Storm Elliott*, Federal Energy Regulatory Commission (Dec. 28, 2022), <https://www.ferc.gov/news-events/news/ferc-nerc-open-joint-inquiry-winter-storm-elliott>.

⁸ The Commission has granted longer extensions to answer complaints involving comparably significant issues when there was no opposition. See, e.g., *CXA La Paloma. LLC*, Notice of Extension of Time, Docket No. EL18-177-000 (June 28, 2018) (granting an additional 45 days to answer a complaint demanding implementation of a centralized capacity market); *N.Y. Pub. Serv. Comm'n*, Notice of Extension of Time, Docket No. EL15-64-000 (May 19, 2015) (granting 30-day extension to answer complaint seeking to establish substantial new exemptions to the then-effective version of an independent system operator's rules).

II. CONCLUSION

For the foregoing reasons, PJM respectfully asks that the Commission: (i) expeditiously grant the extension requested in this motion to provide certainty well in advance of the current deadline; and (ii) set July 14, 2023, as the deadline for PJM's answer and for any other responses to the Complaint.

Respectfully submitted

/s/ Paul M. Flynn

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*Attorneys for
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 8th day of June 2023.

/s/ Krystal Tapper

Attorney for PJM Interconnection, L.L.C.